CONTRIBUTION 2.3

Sustainable Fisheries Management and Development Suite of Laws for the Barbados Fisheries Sector

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Abstract

The Sustainable Fisheries Management and Development suite of laws are part of a legislative reform project for Barbados' fishing industry which commenced in 2019 under the auspices of the Ministry of Maritime Affairs and Blue Economy. This comprehensive and cutting-edge legislative framework aims to realize to the highest level the potential of Barbados' fisheries sector and chart the way forward to sustainable development. The suite of laws is two-prong. The draft Sustainable Fisheries Management and Development Act and its regulations provides the legislative framework for the pre-harvest and harvest aspects of the fisheries sector, whereas the draft Sustainable Fisheries Management and Development (Seafood Markets and Businesses) Act, and its regulations, provides the legislative framework for the post-harvest sector. The new Fisheries Management Regulations (2023) will also be subsumed under the new Act. The suite covers a wide spectrum of areas to support fisheries governance and an adaptive co-management approach. It also presents innovative legal regimes including corporate social responsibility in fisheries, fisheries-specific payment for ecosystem services schemes, seafood traceability and fraud prevention in fisheries, and the creation of the Barbados Institute for fisheries and fisheries-related studies.

The suite of laws was approved by Cabinet on 18 May 2023 after several consultations with stakeholders at different points along the fisheries value chain. Since then, the drafting instructions have been sent to the Chief Parliamentary Counsel to be formalised. Further consultation with stakeholders is anticipated after the bill is drafted, followed by the formal presentation and debate in Parliament. Once enacted, the suite of laws will repeal and replace the existing 1993 Fisheries Act, Cap. 391.

KEYWORDS: sustainable, fisheries, co-management, blue economy, legislation

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1. INTRODUCTION

The fisheries sector weaves the social fabric of coastal communities, plays an integral role in the coastal cultural heritage of the island, and forms the national identity of Barbadians (Barbados Fisheries Division 2003). This sector employs an estimated 8,800 people along the fisheries value chain, which accounts for approximately 8% of the labour force in Barbados (CRFM 2021). It is one of the major economic activities in Barbados' maritime space. Fisheries is the sum of activities engaged in by the sea-going and shore-based fishing industry. Fisherfolk and other stakeholders rely on the sector for employment, recreation, trade, and their overall economic and social well-being. In addition to being pivotal to the livelihoods of local fisherfolk, the Fisheries sector of the Blue Economy contributes to national food and nutritional security, fisheries-specific maritime trade and commerce, coastal and marine tourism, foreign exchange earnings and to the general national development of the island.

Fisheries-related activities span fishing (commercial and sport), primary and secondary processing, marketing and sales in fish and fishery products, boat building, fishing gear manufacture and preparation, fisheries research, education and training, data collection, monitoring and surveillance, and a range of other activities directly in the sector as well as activities cross-cutting other sectors.

To safeguard national interest and the interest of Barbados' fishing industry, the Ministry of Environment and National Beautification, the Green and Blue Economy (MENB), through its Blue Economy Division, has created a Sustainable Fisheries Management and Development suite of laws. This suite of laws is two-prong. The draft Sustainable Fisheries Management and Development Act and regulations provides the legislative framework for the pre-harvest and harvest aspects of the fisheries sector, whereas the draft Sustainable Fisheries Management and Development (Seafood Markets and Businesses) Act and regulations provides the legislative framework for the post-harvest fisheries sector.

The Sustainable Fisheries Management and Development suite of laws aim to promote realization of the maximum sustainable potential of the Barbados' fisheries sector. This necessitates:

a.) a holistic and integrated approach to sustainable fisheries management and development;
b.) effective implementation of regional and international fisheries instruments and standards recognized by Barbados;
c.) creation of an enabling environment that facilitates the efficient and effective use of the livelihood assets of fisherfolk;
d.) mitigates, promotes adaptation to, and builds resilience to climate change, illegal, unreported and unregulated fishing, and other natural and human-
e.) induced vulnerabilities faced by the fisheries sector;
responsible conduct of persons engaged in fisheries from pre-harvest to post-harvest;
f.) stakeholder involvement at various stages of fisheries management and development processes and activities; and
g.) new approaches to fisheries management, protection, and development, including the integration of digital technologies.

This new legislative regime is proposed to replace the existing 1993 Fisheries Act, Cap. 391 which, as a result of the developments in the fishing industry, has become an inadequate legal framework for the sustainable management of the fisheries sector.

Barbados is signatory to international conventions and fisheries instruments which strive to protect the sustainability of living marine resources while at the same time enabling States to have the economic benefits of access to these resources. These fisheries instruments include:-

- The United Nations Convention on the Law of the Sea (UNCLOS) 1982;
- Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and highly Migratory Fish Stocks (UN Fish Stocks Agreement, UNFSA) 1995;
- Food and Agriculture Organisation (FAO) Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Compliance Agreement) 1993; and
- FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA), 2009.

Barbados is also a member of several regional and international bodies concerning fisheries management. The country has benefitted from membership in agencies such as the Caribbean Regional Fisheries Mechanism (CRFM), the FAO Western Central Atlantic Fisheries Commission (WECAFC) and the International Commission for the Conservation of Atlantic Tunas (ICCAT). These entities through technical working groups develop management measures for the safe exploitation of fishery resources.

These management measures have been used as guidance for the efficient management of the industry. However to be effective these management measures, as well as the provisions of the instruments to which Barbados is a party, must be given full effect in local legislation so that the Ministry can effectively protect and sustainably manage the sector.

2. METHODS

The Sustainable Fisheries Management and Development suite of laws were developed, in consultation with stakeholders along the fisheries value chain. The development of the drafting instructions was an iterative process (***Figure 1***) that began in 2019 with a critical review of the existing legislation and a gap analysis to determine effective management measures and provisions that needed to be integrated to promote sustainable management. The gap analysis included the review of fisheries legislation in neighbouring Caribbean countries and developed countries, and relevant international and regional agreements and policies.

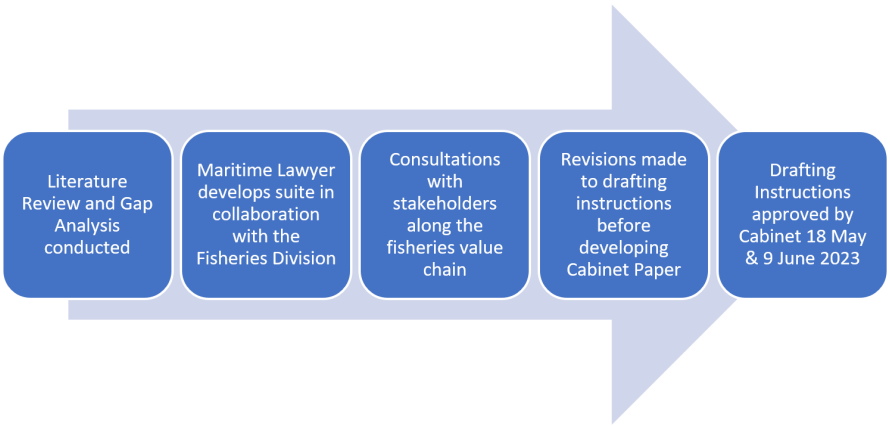

Figure 1. Collaborative Drafting Process

After the gap analysis was completed, the first draft of the legislative framework was developed by the Maritime Lawyer in collaboration with senior technical officers at the Fisheries Division. The draft was then shared with colleagues in the Blue Economy Division, and a consulting fisheries management specialist, for review and feedback. Their comments and additions were integrated into an updated version that was then shared with stakeholders in the fishing industry. In-person stakeholder review and feedback sessions were conducted in January – February 2023 which led to a revised version of the suite. Following the finalisation of the drafting instructions, a Cabinet Paper was drafted and submitted with the suite included as appendices. The Cabinet Paper was approved on 18 May 2023. Subsequent to that approval, a policy framework and regulations for Aquaculture and Mariculture were developed and presented to Cabinet on 9 June 2023.

Since then, the drafting instructions have been sent to the Chief Parliamentary Counsel to be formalised. Further consultation with stakeholders is anticipated after the bill is drafted, followed by the formal presentation and debate in Parliament.

3. RESULTS

The Sustainable Fisheries Management and Development Suite of laws comprises two Acts and subsidiary regulations. The draft Sustainable Fisheries Management and Development Act and its regulations (***Figure 2***) provides the legislative framework for the pre-harvest and harvest aspects of the fisheries sector.

Figure 2. Parent Act and Subsidiary Regulations

The pre-harvest and harvest aspects of the Sustainable Fisheries Management and Development suite of laws cover a wide spectrum of areas, including:

- Fisheries administration, including the administrative framework of the Fisheries Advisory Council (FAC);
- Fishing vessel registration;
- Licensing and permitting regimes for fishing activities;

- Pollution prevention, reduction and control by fishing vessels, including control of pollution by fishing gear;
- Data gathering in fisheries;
- Aquaculture and Mariculture;
- Transshipment of fish;
- Illegal, unreported and unregulated fishing and other fisheries-related crimes;
- Fish aggregating devices;
- Gender in fisheries;
- Corporate social responsibility in fisheries;
- Fisheries cooperatives;
- Climate change mitigation and adaptation in fisheries;
- Energy efficiency in fisheries;
- Fisheries-specific payment for ecosystem services schemes;
- Sea-moss cultivation;
- Fisheries and marine spatial planning;
- Fisheries and tourism;
- Barbados Institute for Fisheries and Fisheries-Related Studies

The regulations also incorporate the following fisheries-specific Conventions of the International Maritime Organization (IMO) and International Labour Organization (ILO), respectively:

- IMO's Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995;

- IMO's Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels; and

- ILO's Work in Fishing Convention, 2007 (No. 188).

The proposed suite of laws will give legal effect to the said international fisheries instruments, further bringing Barbados' national fisheries laws in line with international standards.

The pre-harvest-and-harvest aspects of the Sustainable Fisheries Management and Development suite of laws will provide the following benefits to Barbados:

- A comprehensive administrative and management framework for various fisheries-related activities such as vessel registration, licensing and permitting regimes, use of fish aggregating devices, species-specific fisheries planning, fisheries education and training;

- Interactive governance of the sector through an adaptive co-management approach;

- The management of fisheries-specific anthropogenic activities and their environmental impacts;

- The development of data driven solutions to support decision-making in fisheries;

- The sustainable development of aquaculture (land-based fish farming) and mariculture (marine-based fish farming) subsectors of the fishing industry;

- The promotion of responsible trade and commerce in fisheries, including transshipment of fish, fisheries related crime including illegal, unreported and unregulated fishing;

- The strengthening of linkages between fisheries and tourism, via creating fisheries oriented tourism products, as well as opening avenues for use of fish and fishery products in spa and beauty services;
- Climate Resilience building against impacts of climate variability and change including the encouragement of alternative energy systems in fisheries;
- Reduction of conflicts between fishing activities and other maritime uses through marine spatial planning, and where practicable integration of fisheries with other marine uses;
- Continual national development and human capacity building in fisheries through gender mainstreaming activities across the entire fisheries value chain; in keeping with international development agenda which recognizes that gender equality is central to realizing the potential of fisheries, aquaculture and mariculture to increase fish production, improve livelihoods and strengthen nutrition security, especially for the most nutritionally vulnerable;
- A regulatory regime for the pre-harvest and harvest fisheries sectors that is livelihood supportive, environmentally sustainable, economically viable, equitable and inclusive, change and transformation embracing, guided by international best practices, but tailored to local circumstances.

The draft Sustainable Fisheries Management and Development (Seafood Markets and Businesses) Act and its regulations (***Figure 2***) provides the legislative framework for the post-harvest aspects of the fisheries sector.

Figure 3. Sister Act and Subsidiary Regulations

The post-harvest aspects of the Sustainable Fisheries Management and Development suite of laws cover areas, including:

- regulation of public fish markets;
- regulation of seafood businesses;
- fish processing industry, including factory trawlers and fish processing vessels;
- seafood supply chain traceability;
- export of fish and other seafood products;
- seafood handling, quality and safety standards; and
- seafood inspections, certification, and compliance verification procedures.

The post-harvest aspects of the Sustainable Fisheries Management and Development suite of laws will bring various benefits to Barbados, including:

- Access to premium export markets;
- Increased foreign exchange earnings;
- The creation of value-added products that promote a circular economy;
- Support for the creation of eco-labels targeting a premium growing market of responsibly caught fish;
- Innovation in the development of hardware and software solutions to support primary and secondary processing; and
- A regulatory regime for the post-harvest fisheries sector that will facilitate regional and international fisheries trade and commerce.

4. DISCUSSION

The changing national, regional, and international state of fisheries warrants flexibility in delivering a rapid response to the implementation of fisheries management measures to address issues including the impacts of climate variability and change. The legislative reform project was timely in providing the support needed to develop a modern legislative framework that will revolutionize the Barbados Fisheries Sector through the inclusion of transformative approaches to sustainable fisheries management and development.

The suite legislation covers a wide spectrum of areas to support fisheries governance and an adaptive co-management approach. It presents innovative legal regimes including corporate social responsibility in fisheries, fisheries-specific payment for ecosystem services' schemes, seafood traceability and fraud prevention in fisheries, and the creation of the Barbados Institute for fisheries and fisheries-related studies. Thus, making it an integral part of the legislative framework to promote blue economy development in Barbados.

The process of formalisation is in progress and officers of the Chief Parliamentary Counsel have met with the Fisheries Division to clarify a few details. Further consultation with stakeholders is anticipated after the bill is drafted, followed by the formal presentation and debate in Parliament.

Next steps include the development of an implementation strategy and action plan to support monitoring, control, and surveillance (MCS) and formulation of a communications strategy and plan to engage relevant regulatory agencies and increase public awareness.

The implementation strategy and action plan will detail the importance of the development of an updated national fisheries management plan that will detail schemes for the management of

fisheries in the waters of Barbados. The national plan will guide the development of species-specific management plans that will provide specific interventions informed by science and traditional knowledge.

The legislation also outlines the need for an Aquaculture and Mariculture Sector Plan to guide actions and processes relating to aquaculture and mariculture activities in Barbados. Additionally, the development of a FAD management plan is necessary to identify the characteristics of the FAD fishery and specify the objectives to be achieved in the management of the fishery. The plan will also outline the management and development strategies to be adopted and provide for the regulation of the FAD fishery, including specific requirements for the registration and marking of FADs, whether anchored or drifting.

Finally, strategic plans for increasing the staff complement of the Fisheries Division, including establishment of a post for a Fisheries Legal Officer, have been developed and will be submitted for approval to ensure the effective implementation of the legislation and furthermore that there is a dedicated person on staff with the expertise to continue the development of additional legislation as required. Collaboration with partners at local, regional, and international levels is paramount in the finalisation and effective implementation of this cutting-edge legislative framework to ensure that the maximum sustainable potential of the local Fisheries Sector is realized.

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