

OCEANS GOVERNANCE IN BARBADOS

LEGAL AND INSTITUTIONAL FRAMEWORK

By Aleeza Moseley

- ▶ Sustainable Marine Fisheries
- ▶ Sustainable Marine Aquaculture
- ▶ Seafood Processing
- ▶ Coastal and Marine Environmental Services

THE FOUR PROPOSED SECTORS

- ▶ Maritime Zones
- ▶ Defence and Enforcement in the Zones
- ▶ Environmental Protection and Conservation
- ▶ Fisheries

PILLARS OF NATIONAL OCEANS GOVERNANCE AFFECTING THE SECTORS





- ▶ Barbados' maritime zones are established by the **Barbados Territorial Waters Act, Cap. 386 (BTWA)** and the **Marine Boundaries and Jurisdiction Act, Cap. 387 (MBJA)**.
- ▶ The BTWA establishes Barbados' territorial sea limit at 12 Nautical Miles (M) from its baselines, the maximum allowed by UNCLOS, and elaborates, *inter alia*, the right of foreign ships to innocent passage through the territorial sea.
- ▶ The MBJA establishes the limit of Barbados' Exclusive Economic Zone (EEZ) at 200M from its baselines, the maximum prescribed by UNCLOS, and, *inter alia*, establishes the rights and jurisdiction vested in the Government of Barbados in relation to the EEZ.

MARITIME ZONES – LEGISLATIVE PROVISION



- ▶ S.3 (1) BTWA – establishes Barbados' territorial waters at 12 M from baselines
- ▶ S.3(2) BTWA – establishes that the territorial waters including submarine areas form part of the territory of Barbados and thus according Barbados full sovereign rights in this zone
- ▶ S.10 BTWA – establishes, for the purpose of the jurisdiction of the Court, that the territorial and internal waters form part of the territory of Barbados

GOVERNANCE - TERRITORIAL SEA



▶ INNOCENT PASSAGE

- ▶ S.6 BTWA – establishes the right of foreign ships to innocent passage subject to foreign government warships first requesting permission from the Minister of foreign Affairs to pass through the territorial sea
- ▶ S.7(1) BTWA – sets out ‘non-innocent’ activities prejudicial to the peace, good order or security of Barbados.
- ▶ The activities set out at s.7(1) correspond for the most part with the prejudicial activities described in UNCLOS but with a few notable differences:
 - ▶ S.7(1)(b) references any act aimed at collecting information relating to “economic or social conditions and circumstances” which is not contained in the corresponding provision of UNCLOS [Art. 19(2)(c)]
 - ▶ S.7(1)(e) adds the words “extracting living or non-living resources”.

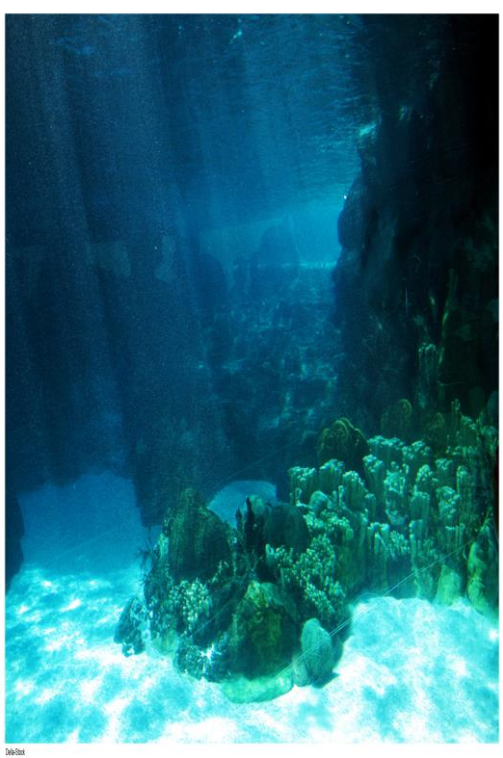
GOVERNANCE - TERRITORIAL SEA (CONT'D)



- ▶ **ENFORCEMENT**

- ▶ S.8 BTWA – where innocent passage is or is reasonably believed to have been violated, a member of the Police Force or other **authorised person** is authorised to stop and board an offending ship for the purpose of carrying out enquiries and investigations, and, without a warrant, arrest the ship and bring it into port, as well as arrest the captain and any person on board participating in prejudicial activity. Subsection 8(1)(a)-(c)
- ▶ “Authorised person may be a person authorised in writing by the Minister of Foreign Affairs according to the BTWA.
- ▶ Notably other officers are authorised to act in the territorial sea in like manner in like manner by other enactments, albeit, in some cases, with limitations to the purposes of the specific enactment:
 - ▶ The Coast Guard – Defence Act Cap. 130, Part X, MBJA, Fisheries Act
 - ▶ Marine Pollution Inspectors – Marine Pollution Control Act (limited purposes)
 - ▶ Coastal Zone Inspectors – Coastal Zone Management Act Cap. 394 (limited purposes)

GOVERNANCE - TERRITORIAL SEA (CONT'D)



- ▶ S.3(1) MBJA – establishes the breadth of the EEZ at 200M from the baselines with its inner limit being the seaward limit of the territorial sea.
- ▶ S.5 MBJA – sets out the rights and jurisdiction over the EEZ as vested in the Government of Barbados in respect of:
 - ▶ Exploration, exploitation, conservation, protection or management of natural living and non-living resources of the seabed, subsoil and superjacent waters;
 - ▶ Construction, maintenance or use of structures or devices relating to the exploration or exploitation of the resources of the EEZ, the regulation and safety of shipping, or any other economic purpose;
 - ▶ Authorisation, regulation or control of scientific research;
 - ▶ Preservation and protection of the marine environment and the prevention and control of marine pollution;
 - ▶ All other activities relating to the economic exploration and exploitation of the EEZ; and
 - ▶ All other rights in and jurisdiction over the EEZ recognised by international law.

GOVERNANCE – EXCLUSIVE ECONOMIC ZONE (EEZ)



- ▶ S. 7 MBJA – establishes that all foreign ships and aircraft in and over the EEZ enjoy the right of freedom of navigation, overflight the laying of cables and pipelines and other lawful use of the sea related to navigation and communication recognized by international law.
- ▶ S.6(1) MBJA – prohibits and establishes as offences activities conducted in the EEZ without a permit or agreement from or with the Government of Barbados as follows:
 - ▶ the exploration or exploitation of any resources,
 - ▶ the carrying out of any search or excavation,
 - ▶ the conduct of any research,
 - ▶ drilling in or constructing, maintaining or operating any structure or device, or
 - ▶ carrying out any economic activity in the EEZ.
- ▶ S6(2) – exempts fishing carried out by Barbadian citizens in and from Barbadian vessels.

GOVERNANCE – EXCLUSIVE ECONOMIC ZONE (EEZ) (CONT'D)



▶ **ENFORCEMENT**

- ▶ S.14 MBJA – designates Marine Conservation Officers (MCOs) to enforce the provisions of the MBJA.
- ▶ MCOs comprise members of the Defence and Police Forces, Customs and Coast Guard officers, and any other person approved by the Cabinet.
- ▶ S.15(1) - MCOs may in the performance of their duties, exercise the powers conferred upon them by the MBJA in respect of Barbadian vessels or structures at sea or in port; or foreign vessels or structures reasonably suspected of being used in connection with any activity conducted in contravention of the MBJA.
- ▶ S.15(2) - MCO powers include, *inter alia*, powers of stop, search and seizure of vessels and equipment, requiring the production of any document or thing relating to the vessel or structure or persons on board, taking seized vessels to port, detaining suspected persons on board and as soon as practicable, and causing all detained persons within a reasonable time to appear before a Magistrate in Barbados.

GOVERNANCE – EXCLUSIVE ECONOMIC ZONE (EEZ) (CONT'D)



▶ DELIMITATION

- ▶ S.3(3) MBJA – provides that where the median line between Barbados and opposite of adjacent states is less than 200M, the outer limit of the EEZ between them must be fixed by agreement but in the absence of such Barbados take's its EEZ boundary to be the median line.
- ▶ Barbados has agreed EEZ boundaries with France (2009), St. Vincent and the Grenadines (2015) and St. Lucia (2017).
- ▶ Barbados' boundary with Trinidad and Tobago was decided by an Arbitral Tribunal constituted pursuant to Article 287 and in accordance with Annex VII of UNCLOS in the Matter of an Arbitration between Barbados and the Republic of Trinidad and Tobago (hereafter "the Barbados/ Trinidad Arbitration"), the award of which was delivered on April 11, 2006.

GOVERNANCE – EXCLUSIVE ECONOMIC ZONE (EEZ) (CONT'D)



- ▶ The Ministry with executive oversight of the BTWA and the MBJA is the Ministry of Foreign Affairs and Foreign trade as the Acts assign responsibility to the Minister responsible for Foreign Affairs.
- ▶ In this regard the Minister has power to make:
 - ▶ Orders prescribing baselines for territorial waters other than the low-water line along the coast, using a mixture of straight lines drawn from points on the coast and the low-water line (s.4 BTWA), and distances measured from the territorial water baselines other than 12M (s. 3(1) BTWA) and 200M in relation to the territorial sea and the EEZ respectively(s.3(1) MBJA)
 - ▶ Provision for ministerially prescribed baselines to be marked on maps and charts and for safe custody of said maps and charts.
- ▶ The Minister may also give directions for the disposal or release of any vessel, structure, equipment or device ordered by the Court to be forfeited under the MBJA (s. 21 MBJA); authorise persons pursuant to s.8 of the BTWA to exercise enforcement powers pursuant to that Act; and pursue redress under international law pursuant to s.9 of the BTWA.
- ▶ The Minister responsible for Foreign Affairs also has the power to make regulations under both enactments but no regulations have been made.

MARITIME ZONES - INSTITUTIONS



CONTINENTAL SHELF

- ▶ Barbados received its final recommendations for an extended continental shelf in 2012 but no legislation has been enacted, no maps or charts drawn in respect of Barbados' extended continental shelf.

CONTIGUOUS ZONE

- ▶ Barbados has not established a contiguous zone

HIGH SEAS

- ▶ No legislative provision was found detailing obligations of Barbadian nationals on the high seas with regard to general preservation of the marine environment pursuant to UNCLOS.
- ▶ However, there is provision in the Shipping (Oil Pollution) Act, Cap 296A (SOPA) providing that no owner or master of a Barbadian ship shall discharge oil or an oil mixture into any part of the sea outside of Barbados' territorial waters.
- ▶ There is provision also in the Shipping Act Cap. 296 at ss. 320 and 321 that establishes Barbados' flag state jurisdiction.
- ▶ There is also provision at s. 322 of the Shipping Act that in effect violates the flag state jurisdiction of other states contrary to UNCLOS but which is saved by s. 313 of the Act which states that where there arises any conflict between the Act and any international convention to which Barbados is party, the convention will prevail.

MARITIME ZONES (CONT'D)



- ▶ **INSTITUTIONS**

- ▶ Ministry of Maritime Affairs and the Blue Economy (MABE)

- ▶ Coastal Zone Management Unit (CZMU)
- ▶ Fisheries
- ▶ Shipping

- ▶ Ministry of Environment and National Beautification (MENB)

- ▶ Environmental Protection Department (EPD)
- ▶ National Conservation Commission (NCC)

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT



- ▶ **INSTITUTIONS (CONT'D)**
- ▶ CZMU – Execution and enforcement of the Coastal Zone Management Plan (CZMP).
- ▶ Fisheries – Manages the fishery resource and prohibits certain methods of fishing that are detrimental to the resource and to the marine environment
- ▶ Shipping – *Inter alia*, provides for the seaworthiness of ships in mitigation of pollution coming from ships.
- ▶ EPD – Regulation and investigation of land-based sources of pollution
- ▶ NCC – Preservation and management of beaches, public parks and gardens, places and structures of national interest, marine reserves.

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)

▶ **CURRENT POLICY DOCUMENTS**

- ▶ The Environmental and Natural Resources Management Plan – Barbados Ministry of Health and the Environment, November 1998 (ENRM);
- ▶ Institutional Strengthening of the Environmental Unit and Other Institutions: Environmental Management and Land Use Planning for Sustainable Development, final Report – Barbados Ministry of Health and the Environment, November 1998 (ISR);
- ▶ National Biodiversity Strategy and Action Plan for Barbados – Barbados Ministry of Physical Development and Environment, July 2002 (NBSA);

GOVERNANCE - PROTECTION AND
CONSERVATION OF THE MARINE
ENVIRONMENT (CONT'D)



▶ **LEGISLATION**

- ▶ Marine Pollution Control Act, Cap. 392A (MPCA)
- ▶ Coastal Zone Management Act, Cap. 394 (CZMA)
- ▶ National Conservation Commission Act, Cap. 393 (NCCA)
 - ▶ Marine Areas (Preservation and Enhancement) (Restricted Areas) Regulations 1981
- ▶ Shipping Act, Cap. 296
- ▶ Shipping (Oil Pollution) Act, Cap. 296A (SOPA)

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)



- ▶ **LEGISLATION (CONT'D) – MPCA**

- ▶ An Act to prevent, reduce and control pollution of the marine environment from whatever source - Preamble.
- ▶ The MPCA:
 - ▶ prohibits the release of any pollutant into the environment in violation of any applicable standards, conditions or requirements specified under the MPCA or regulations thereunder, and provides that contravention of this provision constitutes an offence. S.3
 - ▶ provides for the investigation and collection of data by the Director of the “Environmental Engineering Division” which is now the EPD as soon as practicable after the entry into force of the MPCA in respect of the extent of pollution and significant sources thereof from land-based sources, seabed activities, dumping activities, and airborne sources affecting the environment generally as well as such premises as the Director deems necessary. S.4(1)
 - ▶ provides for the Director to maintain a Register of Pollutants and to develop and implement with the approval of the Minister, a programme for prevention, reduction and control of pollutants, inclusive of registration of significant sources of ongoing or intermittent release of pollutants into the environment. S4(2) and (3)

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)



- ▶ **LEGISLATION – MPCA Enforcement Provisions**

- ▶ Enforcement provisions include:

- ▶ Designation of marine pollution control inspectors (MPCIs) to assist the Director
- ▶ Power of MPCIs (as extensions of the Director) with the approval of the Minister and by order to, *inter alia*, require of persons deemed responsible for sources of pollution to take measures necessary to reduce the level of concentration of the pollutant to acceptable levels, and to enter on the land and carry out any work necessary to accomplish the terms of the order at the expense of the person deemed responsible for the pollutant where such person fails to comply.
- ▶ Conferral on the Director and every inspector, the powers, privileges and protection of a member of the Police Force in the performance of their enforcement duties and functions.
- ▶ Powers of stop, entry and search in respect of any place (except a dwelling-house), vehicle or vessel reasonably believed by the inspector to infringe, imminently infringe, or contain evidence of infringement of marine protection laws (inclusive of the MPCA), and to require the production of any documents reasonably believed by the inspector to contain information relevant to said infringements or imminent infringements. S.10
- ▶ Additional financial penalties and related provisions are set out at section 17 in respect of operators of businesses that commit offences under section 3 and profit from the commission of said offences. The Director, a member of the Police Force or an inspector may, pursuant to section 18 of the MPCA, institute proceedings in a court of law in respect of any offence created by the Act.

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)



▶ **LEGISLATION – CZMA**

- ▶ The CZMA provides for the preparation of a coastal zone management plan (CZMP) and an order delimiting a coastal zone management area and provides for the draft CZMP and draft order to be approved by the Minister as soon as possible after enactment of the legislation.
- ▶ To date the CZMP remains in draft form although it is used as a guide for coastal zone management and planning.
- ▶ The former Town and Country Planning Act (TCPA) also made references to provisions of the CZMA given their connectivity with regard to planning and physical development.
- ▶ The new Planning and Development Act 2019 (PDA) now repealing and replacing the TCPA references the provisions of the CZMA with more frequency and has in addition amended certain provisions in the CZMA itself. In this regard, provision in the CZMA for the CZMP to contain policies, strategies and standards in terms of environmental impact assessment for development affecting management and conservation of coastal resources was removed, and the provisions concerning an appeals tribunal are revised.

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)



LEGISLATION – CZMA Enforcement Provisions

- ▶ The CZMA:
 - ▶ establishes the power of arrest, search and seizure possessed by coastal zone inspectors or police officers in matters where items have been unlawfully removed from restricted areas.
 - ▶ provides that the Minister may also make regulations concerning restricted areas and the NCC may, subject to Ministerial approval, make regulations in respect of underwater parks and art centres which it may establish in consultation with the Director of the CZMU.
 - ▶ provides for protection of coral reefs in the territorial sea and EEZ and establishes unlawful interference therewith as an offence. However, permits may be obtained on application to the Minister for harvesting, import, export, or trade in coral for scientific study and research purposes. Appeals of denied permit applications and penalties for different offences concerning interference with coral reefs are also addressed. Ss. 25-27
- ▶ With regard to its additional provisions concerning beach protection, offences are also established and penalties prescribed. Ss. 28-32
- ▶ The Act also sets out the powers and functions of the Director and coastal zone inspectors. Ss. 33 – 38

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)



▶ **LEGISLATION (CONT'D) – NCCA**

- ▶ An Act to revise and consolidate the law relating to public parks, beaches and related matters, and to make provision for the conservation of sites and buildings of national interests. -Preamble
- ▶ The NCCA ultimately fleshes out the composition, functions, powers and administration of the NCC which plays a role in the management and conservation of coastal areas pursuant to the CZMA but it also repeals and replaces the former Beach Protection Act and the Marine Areas (Preservation and Enhancement) Act. In this way, the Act provides for the conservation of sites and buildings of national interest.
- ▶ In the exercise of its functions the NCC must have regard to the CZMP (referred to in the CZMA).
- ▶ The Act also elaborates the licensing process and regulations with regard to vending in public parks, public gardens and beaches.
- ▶ The NCCA also establishes offences and prescribes penalties for contravention of its provisions.

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)



▶ **LEGISLATION – NCCA Regulations**

- ▶ National Conservation Commission (Control of Horses on Beaches) Regulations 1993 – speak to beach beautification and regulating the handling of and cleaning up after horses on the beach, among other things.
- ▶ Marine Areas (Preservation and Enhancement) (Designation of Restricted Areas) Order 1981 and the Marine Areas (Preservation and Enhancement) (Restricted Areas) Regulations 1981 – originally made under the Marine Areas (Preservation and Enhancement) Act Chapter 392 of the Laws of Barbados and preserved when the Act was repealed and replaced by the NCCA. A number of *Beach Protection Orders* were also preserved upon the repeal of the Beach Protection Act, and continue to have the force of law.

▶ **Marine Areas (Preservation and Enhancement) (Restricted Areas) Regulations 1981**

- ▶ Management of the *Barbados Marine Reserve* also known as Folkstone Marine Park.
- ▶ Reserve is carved into zones and some 17 destructive acts and activities conducted within the zones or the Reserve are established as offences punishable by fine and/ or imprisonment upon summary conviction.
- ▶ Any person seeking to engage in activities other than sightseeing must apply for and obtain a permit from the NCC, such permit being non-transferrable and subject to whatever conditions the NCC may impose.
- ▶ That notwithstanding, persons or organisations such as the Bellairs Research Institute or Coral Reef Club wishing to engage in scientific research approved by the NCC are entitled to apply for a special permit for access to the beach or a mooring. No permit is required for the conduct of any activity necessary for the protection of life, property or the environment.
- ▶ Prohibition of fishing boats entering into any of the zones, and boats used for sightseeing, sport, pleasure or scientific research may not enter the Reserve unless the owners or persons in charge of such boats apply to the NCC for registration thereof.
- ▶ Describes certain marine areas in the schedule thereof and designates them as restricted areas to be delineated by spherical plastic buoys of size, colour and placement as prescribed by section 4 of the Order.

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)



- ▶ **LEGISLATION – NCCA Enforcement Provisions**
- ▶ These regulations also permit any member of the Coast Guard to institute proceedings in the Magistrate's Court against any person who contravenes the provisions thereof, and any person who contravenes them or fails to comply with any direction given by a Coast Guard officer or by any person authorised by the NCC is guilty of an offence, punishable on summary conviction to fine and/ or imprisonment unless a penalty is otherwise provided for.
- ▶ Ss27 and 28

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)



▶ **LEGISLATION (CONT'D) – Pollution from Ships**

- ▶ The Shipping Act regulates conditions and other factors that affect ship safety and minimise the risk of pollution from ships contaminating the sea and the Shipping Oil Pollution Act (SOPA) prohibits the discharge of oil and oil mixtures from Barbadian vessels in waters beyond the territorial sea.
- ▶ The key international provisions affecting ships and safety of ships at sea are contained in instruments adopted under the auspices of the International Maritime Organisation (IMO).
- ▶ The Shipping Act provides for certification and other matters concerning seaworthiness, and speaks to certain conventions regarding marine pollution from ships, For the purposes of this study small commercial vessels are the vessels of concern with regard to pollution in the Territorial Sea and EEZ of Barbados. It is however, also important to recall that Barbados has flag state duties with respect to its vessels in the high seas.
- ▶ Part VA of the Shipping Act makes provision for the regulation of the use of small commercial vessels and passenger ferries within the EEZ, including watersports craft. Such regulations may include provision for, *inter alia*, the prevention of marine pollution by small commercial vessels and passenger ferries. No regulations under the Shipping Act directly addressing pollution from ships was found but the MPCA's provision for powers of stop and search, without a warrant in respect of infringement of marine pollution laws serves this purpose to an extent.
- ▶ The Shipping Act also provides for marine resource protection at section 300A(2)(a) of the Act by making it an offence for any person involved in diving operations to damage any coral reef as a result of the operations, and expressly invoking the application of section 27 of the Coastal Zone Management Act as if the offence was committed under that Act. Commission of this offence and contravention of any regulations made under section 300A(2)(a) is punishable on summary conviction by fine and/ or imprisonment.
- ▶ Another way of reducing pollution from ships is by enforcing maritime and ship safety standards which are as aforementioned provided for by the Shipping Act including in relation to small commercial vessels.

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)

SUMMARY AND COMMENTS

- ▶ Re coastal conservation and preservation an integrated approach has been taken with regard to the development aspects, prevention of pollution and managing public use and access.
- ▶ The three main institutional stake holders – the CZMU for coastal development and conservation, the NCC regarding management and preservation of public beaches and national interest sites, and the EPD regarding control of land-based and other sources of marine pollution – consult and in some instances work together in this regard.
- ▶ The CZMP is a common thread to which the established institutions or Ministers with responsibility for the administration of the respective enactments are required to give consideration. The CZMP itself takes an integrated approach to coastal zone management.
- ▶ Although MPCIs and Coastal Zone Inspectors (CZIs) are authorised to carry out enforcement measures with all the powers of a police officer this is not done in practice as they have not been trained accordingly. While they conduct inspections and give instructions to remedy breaches the police is generally called when law enforcement functions need to be carried out.

GOVERNANCE - PROTECTION AND CONSERVATION OF THE MARINE ENVIRONMENT (CONT'D)



INSTITUTIONS – National

- ▶ The Fisheries Division, formerly of the Ministry of Agriculture, is now part of MABE. That notwithstanding, the roles of the Chief Fisheries Officer (CFO) and of the Fisheries Advisory Council remain intact, as do the processes and procedures elaborated by the Fisheries Act.
- ▶ The current policy on fisheries is contained in **the Barbados Fisheries Management Plan 2004-2006: Schemes for the Management of Fisheries in the waters of Barbados.**
- ▶ The Fisheries Division has produced the **Barbados Fisheries Sector Management and Development Policy** setting out, *inter alia*, the purpose, scope, substantive objectives and policies concerning the fisheries sector and touching on matters of legislative reform, infrastructural development, resource sustainability and livelihood sustainability of fisherfolk.
- ▶ With regard to international standards and protocols that may not be legislatively implemented, they are followed as guiding principles and as far as practicable pursuant to policy. As such, Barbados, through the Division of Fisheries keeps abreast of, and is guided by instruments identified in the Management and Development Policy, which includes UNCLOS, FAO Compliance Agreement 1993, the UN Fish Stocks Agreement 1995, the FAO Ecosystem Approach to Management, the Caribbean Community Common Fisheries Policy 2014 (CCCFP), and the FAO Code of Conduct for Responsible Fisheries 1995.
- ▶ This policy is currently undergoing revision which is not complete and therefore will likely contain information that was unavailable at the time of the production of this report

FISHERIES

▶ INSTITUTIONS – Regional

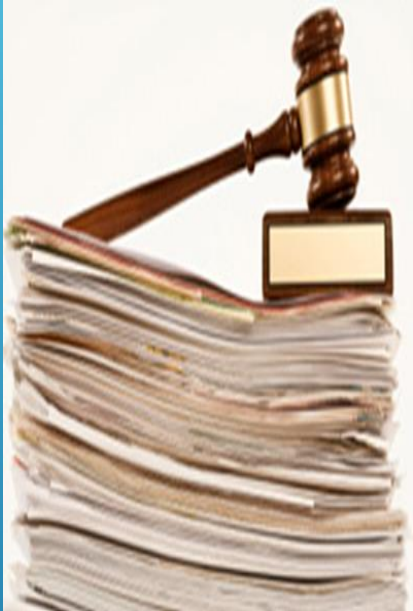
- ▶ National fisheries policy may be affected or influenced by decisions taken at the regional level through the Caribbean Regional Fisheries Mechanism's (CRFM) CARICOM Ministerial Council or by the CCCFP.
- ▶ CRFM – an intergovernmental organisation comprising CARICOM and other Caribbean States, established by the **Agreement Establishing the CRFM** signed on 4 February 2002.
- ▶ Mission – to “To promote and facilitate the responsible utilisation of the region's fisheries and other aquatic resources for the economic and social benefits of the current and future population of the region”.
- ▶ Provides technical support and advisory services to member States towards capacity building and enhancement of fisheries and aquaculture sectors.

FISHERIES (CONT'D)

▶ **CARICOM COMMON FISHERIES POLICY**

- ▶ The CCCFP – a treaty which is binding on CARICOM member states by virtue of having been confirmed as a final policy document for the Community by COTED. The policy speaks to (1) biodiversity protection in the regional marine environment; (2) increased regional food and nutrition security; (3) better research supporting fisheries development, and management; (4) greater income for fishers and wealth creation through social and economic development of the sector; (5) more investment opportunities in the fishing industry for CARICOM entrepreneurs; (6) integrated regulation and enforcement to minimise any regional sectoral conflicts; (7) increased regional market and economic competitiveness for the sector; (8) unified standards for quality assurance and food safety; (9) improved regional fisheries monitoring, control and surveillance to reduce illegal fishing; (10) coordinated regional and national data and information systems for better data sharing and open access to all; and (11) recognition of the Caribbean Sea as a special area of sustainable development.
- ▶ Where the policy emanating from the CCCFP is not embodied in national legislation. The institutional administrators of the respective aspects thereof ensure Barbados' compliance as far as practicable as a matter of policy.

FISHERIES (CONT'D)



▶ LEGISLATION

- ▶ There is a regulatory and management framework within which the existing fisheries industry operates under the Fisheries Act Chapter 391 and related regulations.
- ▶ The Act also gives officers stop, board and search powers in order to enforce licensing, registration, fishing and gear standards and other provisions. It also establishes Barbados' ability to enter into fisheries access agreements with other States; establishes offences and corresponding penalties; provides for inspection certificates certifying boat worthiness and makes provision for action to be taken in the event of accident or collision at sea, including for a magisterial enquiry to be held where a vessel is reported lost, stranded, abandoned or materially damaged at sea. This Act also provides for the making of regulations.
- ▶ A register is kept for fishing vessels and managed by the Chief Fisheries Officer separate and apart from that kept by the Director of Maritime Affairs.
- ▶ The Fisheries Act is "an Act to provide for the management and development of fisheries in Barbados". It provides for the appointment of a Chief Fisheries Officer (CFO), responsible primarily for the management and development of fisheries in Barbados and for the administration of the Fisheries Act. The express objective of fisheries management and development under this Act is to ensure optimum utilisation of fisheries resources in Barbados' territorial sea and EEZ for the benefit of the people of Barbados.
- ▶ Fisheries Advisory Committee to advise the Minister

FISHERIES (CONT'D)



▶ **LEGISLATION (CONT'D)**

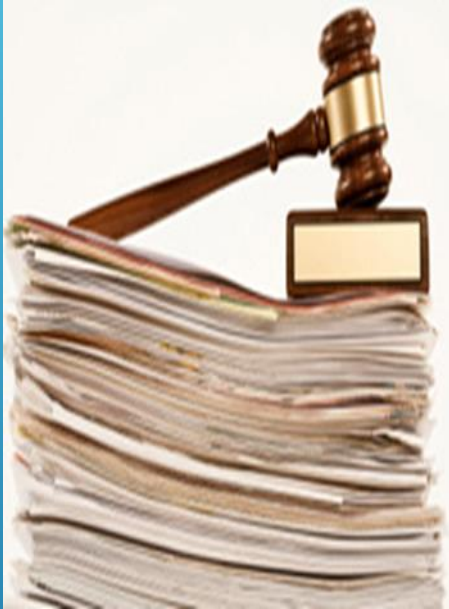
- ▶ Licensing for: (1) Local fishing vessels to be used for fishing or related activities; (2) vessels to be engaged in sport fishing; (3) persons seeking to engage in commercial fishing; (4) foreign vessels to be used for fishing or related activities in the territorial sea and EEZ of Barbados. Each of these types of licences are applied for and granted or refused based on the criteria set out in the respective sections of the Act under which they are established. I
- ▶ in respect of sport fishing licences, the CFO must be satisfied that the vessel is properly registered and recorded under the *Shipping Act* and that the vessel's registration or record thereunder has not been suspended.
- ▶ There is a requirement as well that persons engaged in fish marketing, processing or distribution keep records and supply information in such forms as CFO may require regarding the amount and species of fish received, processed, marketed or distributed. In this regard, there is prescribed a penalty for the offence of failing to do so.
- ▶ Persons or institutions other than approved local research institutions may not undertake fisheries-related research or survey operations in Barbados waters without the prior written permission of the Minister or conduct such operations in Barbados' EEZ unless they represent an international organisation or agency of which Barbados is a member subject to the terms of a detailed international project to which Barbados has given its formal approval.

FISHERIES (CONT'D)



- ▶ **LEGISLATION – Tuna and Swordfish**
- ▶ The Fisheries Management Regulations provide for regulated fishing of Tuna but no other rules were found pertaining to tuna and swordfish

FISHERIES (CONT'D)



▶ **LEGISLATION (CONT'D)**

- ▶ The Fisheries Act also establishes offences.
- ▶ These provisions may be enforced by “authorised officers”, that is, any fisheries, customs or police officer or any officer or soldier of the Barbados Defence Force serving as a member of the Barbados Coast Guard.
- ▶ Authorised officers have stop, board and search powers with regard to foreign vessel in Barbados waters and any local vessel in and out thereof. They may require production of any licence or other document, or production for examination of any net or other fishing gear on board. They may also enter and search without a warrant any premises other than premises used exclusively as a dwelling house and stop and search any vehicle in relation to which they reasonably believe that fish or aquatic flora is being stored or transported illegally, in which case authorised officers may arrest suspects involved and exercise powers of seizure in relation to the vessel or any gear, fish, aquatic flora, explosives or poison held in contravention of the Act or reasonably believed to have been used in the commission of the suspected offence.
- ▶ There are a number of draft bills being considered for enactment to amend or update the legal regime on fisheries to meet global, in particular European Union, standards for export, including a Fisheries (Amendment) Bill which aims at amending the *Fisheries Act* and is currently undergoing the approval process.

FISHERIES (CONT'D)

LEGISLATION - Regulations



- ▶ The current regulations under this Act are the Fisheries (Management) Regulations 1997 which provide for the protection of certain species of fisheries and regulate certain methods of fishing. The Fisheries (Management) Regulations 1997 provide for the conservation of certain endangered species thereby prohibiting fishing outside of the prescribed season, the taking of their eggs, and the employment of certain fishing methods. These regulations also establish offences for the contravention of these provisions and prescribe penalties therefor.
- ▶ An initiative has commenced to amend Fisheries Act and introduce additional regulations under fisheries legislation in order to satisfy European Union and other import regulations and gain access to European and other markets. In this regard, an amendment bill, and new draft regulations have been produced. These include the draft: (a) Fishing Vessel Safety Regulations; (b) Fisheries (Fishing Vessel) Regulations; (c) Fisheries (Fishing Vessel) (Fees) Regulations; (d) Fisheries (Fishing Vessel) (Safety Equipment) Regulations; and (e) Fisheries (Fishing Vessel) (Stability and Associated Seaworthiness) Regulations; (f) Fisheries (Fishing Vessel) (Machinery and Electrical Installation) Regulations; (g) Fisheries (Fishing Vessel) (Inspection and Certification) Regulations; (h) Fisheries (Fishing Vessel) (Identification Marks) Regulations; (i) Fisheries (Fishing Vessel) (Fire Protection) Regulations; and (j) Fisheries (Fishing Vessel) (Equipment) Regulations.

FISHERIES (CONT'D)



MABE

- ▶ Responsibility for issues of maritime transport was also transferred to the MABE.
- ▶ MABE's role with regard to shipping is mainly regulatory in terms of safety, security and maritime pollution. MABE works with a number of other Government agencies and institutions, namely, the Coast Guard, the Barbados Port Inc. and the Police with regard to enforcement and regulations. MABE also works with the Environmental Protection Department (EPD) in the Ministry of Environment in relation to pollution, and with Fisheries and with the CZMU which are both now part of MABE.
- ▶ The MABE is also the focal point for the IMO and international maritime conventions to which Barbados is party and, therefore, has oversight of matters pertaining to SOLAS and MARPOL among others. These international conventions have not been fully incorporated into the national legislative framework although they are followed in practice as far as practicable.
- ▶ IMSAS audit was carried out by the IMO around June 2018 pursuant to the IMO Member State Audit Scheme (IMSAS) which came into effect in January of 2016. and concluded that although Barbados had been following the requirements there was no formal structure in place and very little legislative implementation. Therefore, a corrective action plan based on the findings and recommendations of the audit is currently being crafted for approval by Cabinet and subsequent submission to the IMO.

SHIPPING - INSTITUTIONS



- ▶ Pursuant to the Shipping Act there is a designated Director of Maritime Affairs
- ▶ The Director of Maritime Affairs does not register fishing vessels which are registered pursuant to the Fisheries Act and, thus, by the Chief Fisheries Officer.
- ▶ In any event, the MABE is now the overarching Ministry under which both are registered even if there is no consolidation of the process or the channels by which registration of these two types of vessels is effected
- ▶ There is also a Maritime Inter-Agency Committee which was established in 2006 to assist the Minister with the cross sectoral aspects of shipping and maritime affairs.
- ▶ This Committee which is headed by the Director, comprises officers and representatives from various Ministries.

SHIPPING – INSTITUTIONS (CONT'D)



▶ SUSTAINABLE MARINE FISHERIES

▶ Applicable Legislative Provisions

- ▶ Fisheries Act and Fisheries Management Regulations with regard to direct regulation of vessels, licensing, the use of permissible gear and permissible methods of fishing.
- ▶ The MPCA and the NCCA are also applicable in terms of balancing fishing activities with environmental preservation and conservation obligations..
- ▶ MABE is the executive Ministry responsible for issuing fishing and other licenses or permits pursuant to the Fisheries Act, registering vessels and certifying their seaworthiness for the purposes of the Fisheries Act.
- ▶ The MENB also plays a significant role in this sector as executive Ministry for the NCC which is responsible for enforcing conservation regulations concerning Folkstone Reserve and which issues permits for activities other than site-seeing and those expressly prohibited by the Marine Areas (Preservation and Enhancement) (Restricted Areas) Regulations.
- ▶ The legal provisions of the CRFM and the CCCCPC provide for state parties to implement measures to the best of their capabilities to enhance the development of fisheries and aquaculture sectors. The CCCCPC also makes provision for recording licences and authorisations in the aquaculture sector but for the time-being these do not apply to Barbados without the legislative mandate to give effect to such activities.
- Art. 10 of the CCCCPC; Art. 5(f) of the CRFM

GOVERNANCE FRAMEWORKS APPLICABLE TO SECTORS



▶ **SUSTAINABLE MARINE AQUACULTURE**

- ▶ No legislation with direct application to aquaculture was found. However, the Fisheries Act provides that the Minister may make regulations in this regard, regulations may be enacted thereunder.
- ▶ The institutions with responsibility for operations in this sector would be the MABE given its mandate concerning maritime affairs and ocean-related economic matters. Other ministries would likely be involved in the sector but it cannot be said with any certainty which Ministries or to what extent they would be involved without legislative provisions establishing the requirements and the activities.
- ▶ As a matter of policy, aquaculture is promoted and encouraged as a means of diet and income diversification. This policy is guided by the 1995 FAO Code of Conduct for Responsible Fisheries.
- ▶ Aquaculture is also emphasised in the CCCCCP.

GOVERNANCE FRAMEWORKS APPLICABLE TO SECTORS



▶ SEAFOOD PROCESSING

- ▶ Section 25 of the Fisheries Act applies to this sector though to a limited extent from the perspective that the definition of “processing” in that section is narrower than the discussed scope of this sector. In any event, food handling requirements under the Health Services Act Chapter 44 of the laws of Barbados and to some extent the Markets and Slaughterhouses Act Chapter 265 of the laws of Barbados, neither of which pertain to ocean governance, apply to this sector.
- ▶ The Ministry of Health will play a role this sector due to the food handling and processing requirements in this sector and the MABE will also have a stake as the Ministry primarily concerned with maritime affairs and ocean-related economic activities.
- ▶ Article 6 of the CCCCPC includes production, processing marketing and trading of fishery and aquaculture products as within the scope of the CCCCPC and, accordingly, encourages state parties to implement measures in their national systems to facilitate and regulate the same.

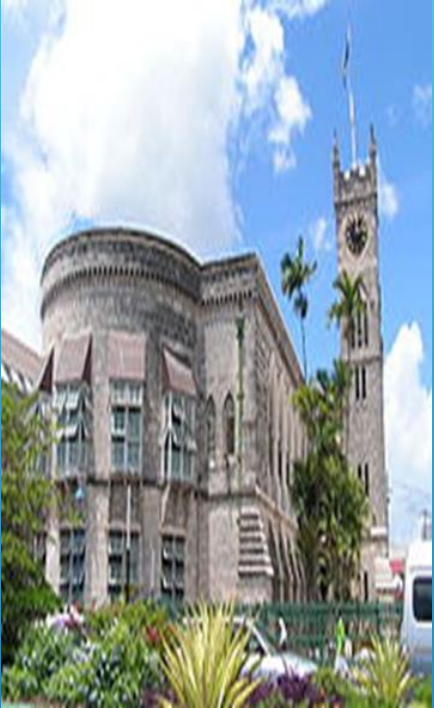
GOVERNANCE FRAMEWORKS APPLICABLE TO SECTORS



▶ COASTAL AND MARINE ENVIRONMENTAL SERVICES

- ▶ Applicable to this sector are the MPCA, the NCCA, the CZMA, the Fisheries Act and their respective regulations, not necessarily in terms of regulating the sector but in terms of the subject matter of the sector. For the purposes of this sector any number of services may be provided in respect of coastal zone management such as beach beautification, coastal zone and environmental technical and legal services, or participating in projects for conducting marine scientific research.
- ▶ Provision of these services would be subject to the provisions of these enactments and regulations requiring preservation of the marine environment during the provision of any given service. In addition, as a service-oriented sector the Employment Rights Act 2012 and common law rules on contract have a more direct bearing on this sector than the other trade-oriented sectors.
- ▶ The institutions with administrative responsibility in this sector are mainly the MABE as principal ministry concerned with maritime affairs and ocean-related economic matters, as well as being an agency that may employ or contract persons in this sector. The MENB is also an applicable institution in this regard, as one that may require the services of person's in this sector through the NCC and the EPD. These Ministries also have in their employ, persons who are qualified to provide services of this nature. The Ministry responsible for Labour is also of relevance to this sector with regard to rights and obligations arising from employment contracts.
- ▶ The University of the West Indies (UWI), a CARICOM institution, through CERMES provides a good example of services rendered in this sector. The faculty members at CERMES are qualified to conduct MSR in marine flora and fauna and do, in fact, offer such services.

GOVERNANCE FRAMEWORKS APPLICABLE TO SECTORS



- ▶ Cross-cutting legislative and institutional interactions can be seen across the sectors and across the ocean governance landscape of Barbados in general.
- ▶ Environmental preservation and conservation – connections between the TCPD (part of the MHLR and totally unrelated to ocean governance) and the CZMU which a part of the MABE, yet the closely intertwined nature of their work with regard to physical development is recognised and established by legislation.
- ▶ The CZMU, the NCC and the EPD are linked and at times will consult or collaborate with regard to coastal pollution and general environmental health and integrity of the coast. In addition, the CZMA makes provision for the synergy between the CZMU and the NCC with regard to coral preservation.
- ▶ Synergies also occur between the CZMU and the EPD where investigations are being carried out into land-based sources of pollution that are affecting the coastal marine environment.
- ▶ Institutional collaboration is also evident in the composition of the Fisheries Advisory Committee and the Maritime Inter-agency Committee.

CROSS-CUTTING GOVERNANCE FRAMEWORKS

QUESTIONS???

THE END

