



SYNTHESIS OF ISSUES AND CHALLENGES SURROUNDING THE CARIBBEAN SEA INITIATIVE

The objective of this synthesis is to provide the representatives of the ACS Member Countries to the United Nations with the most relevant aspects regarding the subject of the Caribbean Sea, thereby offering them pertinent information to seek consensus at the United Nations General Assembly, in support of the idea of a resolution declaring the Caribbean Sea a Special Area in the context of Sustainable Development.

Section 1: Situational Analysis

Conservation of the marine environment has been on the global agenda as far back as 1987 and articulated in the Brundtland Report. Several other international meetings resulted in plans and strategies such as Agenda 21, Barbados Programme of Action (BPOA), Johannesburg Plan of Implementation (JPOI), and the Mauritius Strategy. These Conferences have recognised the special situation of Sustainable Development of Small Islands Developing States (SIDS) and have attempted to support conservation of the marine environment through various multilateral environmental agreements.

To date, there are several Conventions dealing with this issue, such as the United Nations Convention on the Law of the Sea (UNCLOS) or Montego Bay Convention, the Basel Convention on the Transboundary Movement of Hazardous Wastes and their Disposal, the IAEA Code of Practice on the International Transboundary Movement of Radioactive Waste and the IAEA Regulations for the Safe Transport of Radioactive Materials. Of more relevance to the Caribbean Region are the Montego Bay Convention and the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean (Cartagena Convention) and its Protocols. The latter Conventions address specially conservation of the coastal and marine environment of the Caribbean.

Other regions such as the South Pacific, the Mediterranean and the Black Sea States, cognisant of their uniqueness, have put in place institutional arrangements to support the relevant Conventions and Agreements and have also established institutional mechanisms in the form of Commissions. In this regard, the ACS proposes to encourage sustainable use of the coastal and marine environment of the Wider Caribbean Region through the implementation

of the proposal to have the Caribbean Sea declared a Special Area in the context of sustainable development. Crucial to that implementation is the recent establishment by the Ministerial Council, of an Inter-Governmental Commission to do the strategic planning and technical follow-up for the advancement of the proposal and to formulate a work programme for the purpose, taking into account the work already undertaken in this regard by the Technical Advisory Group (TAG) and other competent regional actors.

The Caribbean Sea is a large sub-oceanic basin with an area of approximately 1.02 million square miles. It is included among the large marginal seas and bays on the western side of the Atlantic Ocean and it is a fragile and complex marine area. It is shared by some 40 countries, States and Territories of varying sizes and stages of economic development, which depend on it, to a greater or lesser degree, for their socio-economic and environmental well-being. Among these countries, States and Territories are legal archipelagos within the meaning of the 1982 United Nations Convention on the Law of the Sea, as well as littoral states, countries and territories. The countries, states and territories¹ under reference are separated by straits that are used for international navigation. With some 75 per cent of its circumference separated from the open ocean by either continental or insular land masses, the Caribbean Sea constitutes an excellent example of a semi-enclosed sea. It is itself divided into five submarine basins which are separated from each other by submerged ridges and rises. These are the Yucatan, Cayman, Colombian, Venezuelan and Grenadian Basins.

It is needless to say that the sustainable utilisation and preservation of this Sea is important. The vulnerability of this environment, in conjunction with its importance in providing income and supporting livelihoods of whole communities, highlights the need for acquiring further knowledge and formulating guidelines for coastal and marine management. The final aim of the action should be to reconcile ecological and socio-economic demands and suggest a pathway towards sustainable use.

Recognition of the implications of these challenges (and the fact that the ecosystems of the sub-region are shared among the countries located in, or bordering the Caribbean Sea), has prompted the search for a framework for cooperation towards effective management of this sea in consonance with *marine regionalism, with the attendant rights and obligations*.

In order to pursue this goal, the Caribbean Ministerial Meeting on the

¹ Antigua and Barbuda, The Bahamas, Barbados, Belize, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Venezuela, Aruba, Netherlands Antilles, Martinique, Guadeloupe, French Guiana, Turks and Caicos Islands, Anguilla, Bermuda, Cayman Islands, Puerto Rico, UK and US Virgin Islands, St. Martin, Montserrat

Programme of Action for the Sustainable Development of Small Islands Developing States (SIDSPOA), held in Barbados from 10-14 November, 1997, formulated a proposal for "*the International recognition of the Caribbean Sea as a "Special Area" in the context of sustainable development.*" What this envisaged was a concept that recognised that Article 57 of the 1982 United Nations Convention on the Law of the Sea placed enormous tracts of ocean space at the disposal of coastal States. For SIDS, this provision had an even greater impact since it placed under their jurisdiction areas of maritime space that are, in many cases several times larger than the respective land spaces. More importantly, the SIDS generally lack the financial, manpower and institutional prerequisites to enforce their rights and jurisdiction over or to utilise the resources of these areas of maritime space on a sustainable basis.

Following the November 1997 Caribbean Ministerial meeting, as many as four resolutions embodying the objectives of the Caribbean Sea Proposal have been adopted by the United Nations General Assembly, namely resolutions 54/225, 55/203, 57/261 and 59/230 which were adopted at the Fifty-Fourth, Fifty-Fifth, Fifty-Seventh and Fifty-Ninth Sessions respectively. To date, the call made by the Countries, States and Territories of the Greater Caribbean to declare the Caribbean Sea a special area has not yet been approved.

The ACS proposal to have the Caribbean Sea declared a special area in the context of sustainable development is made in recognition of the importance of the marine environment as a key resource of social, economic and political significance to the Caribbean reality.

Section 2: The Economic and Social Challenges

The generally open economies of some of the countries of the Caribbean, in addition to their geographical location between continents, have contributed to the growth of many ports. The massive transshipment ports in Kingston and in San Juan are only two of the major ports of call within the Caribbean. Others include Barranquilla, Charlotte Amalie, Cienfuegos, Cristobal, La Guaira, Port-of-Spain, Santiago de Cuba and Willemstad.

For Caribbean countries, the marine environment is the most important natural resource, since approximately 60% of their Gross National Product (GNP) depends on the exploitation of its resources.

Naturally, there is great interdependence between the economies of the Caribbean, the well-being of the Caribbean people and the coastal and marine

environment. For example, marine-based tourism and fisheries are major economic pursuits and the coastal area is the principal site of settlement. The core services accruing to the regions from the Caribbean Sea include aesthetic, cultural and recreational values. In the economic sphere, in most islands, tourism revenue accounts for 15-99% of goods and services.

Section 3: The Environmental Context

Among the more important implications of the varied nature of the Caribbean seascape, are the following:

- The existence of several strategic straits and their implications for sea lanes and other sea uses;
- The relationship between port development, maritime traffic and marine pollution;
- The relatively meagre resource endowment of the major portion of the Caribbean Sea area, both in terms of living, as well as non-living resources;
- The complexities of fisheries including that of migratory and straddling species and general resource management, arising from the above;
- The objective need for cooperation, whether bilateral or sub-regional, in areas such as pollution management and the conservation of living resources, among others.

The *Johannesburg Plan of Implementation (JPOI)* and the Mauritius Strategy of Implementation (MSI) recognise the inextricable link between activities conducted in the terrestrial and marine environments. In effect, the explicit expansion of the scope of application of the *sustainable development* concept, serves to highlight a number of operational areas that are of fundamental importance to the SIDS of the Caribbean. Unfortunately, these ecosystem goods and services are under threat from the following:

- The climate change and rise in sea levels;
- The deforestation and land clearing for intensive tourist development. This includes the destruction of mangroves and seagrass beds that promote soil loss and fertilizer run off leading to algal blooms, putting a lot of pressure on the coastal zones;
- The destruction of coral reefs and their associated flora and fauna;
- The pollution and especially land based sources of pollution - domestic wastes have been identified as the main source of pollution of the Caribbean coastal waters;

- The accidents from marine oil exploitation and shipment;
- Movement of nuclear and hazardous waste shipments.

In addition, the following examples illustrate some of the potential dangers to regional development:

- a) Domestic wastes have been identified as the main source of pollution of the Caribbean coastal and marine waters. In 1993, only 10% of the waste generated in the region was treated. The little coverage and poor conditions of existing systems of water treatment combined with poor public education and awareness about waste disposal have had severe impacts on coastal waters.
- b) The blasting of channels through coral reefs to facilitate the development of port facilities and marinas, pollution from internal shipping, ballast water, waste from yachts, cruise liners and large extra-regional commercial fishing vessels, compromise highly fragile ecosystems in countries where the population's livelihood is dependent on the coastal and marine resources.
- c) 50% of the world's cruise passenger traffic traverses the Caribbean Sea.
- d) The region is located in one of the seven areas of regular tropical storms, of which around 10 per year on average transform into hurricanes and at least 3 of these reach the islands and territories of the Caribbean region. Effects of storms and hurricanes will possibly increase because of global warming and its related sea level rise. This is especially important for the Small Island Developing countries in the region. The development of greater capacity to deal with even the current frequency and severity of tropical storms and hurricanes is a common concern for all the ACS States. A growing concern is also the ability to monitor the risk of tsunamis. Although historically infrequent in the Caribbean Sea, the devastation wreaked by the 2004 Indian Ocean Tsunami has raised some legitimate concerns about the survival of the millions of people in the many small and vulnerable Caribbean States.
- e) Natural resources extraction, such as fishing, will increase because of population increase and development activities that could overwhelm the yield limits or recovery rates. This increase has already put many species in danger of extinction.
- f) Land based sources of marine pollution, intensive tourism development (Tourism, in the region is responsible for more than 34% of the GNP,

generated about 2.4 million jobs) have negative environmental impacts and risks.

Section 4: Juridical Framework and Institutional Challenges

a) The Geopolitical Context:

Politically, there are, colonies (for example British Virgin Islands and Montserrat), an Associated State (Puerto Rico), Overseas Departments of France (Guadeloupe, Martinique and French Guiana), the Netherlands Antilles (Dutch) and territories belonging to the United States of America. Therefore, the many littoral Caribbean States constitute a political, cultural, linguistic and constitutional mosaic (Dutch, English, French, Spanish and Creole).

Concerning the Law of the Sea issue, challenges confronting these countries of the Greater Caribbean are, *inter alia*:

1. The development of national ocean policies, inclusive of coastal zone management, accompanied by the necessary legislation, regulations, and practices, such as would provide a framework for a comprehensive management regime;
2. The development or strengthening, as appropriate, of institutional, administrative, scientific and technological capacity to effectively manage and utilize the resources of the Exclusive Economic Zone (EEZ) on a sustainable basis;
3. The development of a comprehensive inventory of the resources of the EEZ: living, as well as non-living; and
4. The establishment of marine protected areas.

All of these matters are thus closely related to the call to have the Caribbean Sea declared a Special Area In the context of Sustainable Development.

b) The Legal, Political and Institutional Challenges:

Notwithstanding any progress that has been made, the major outstanding issue remains the definition of what is to be understood by a "special area in the context of sustainable development". The ACS States and Territories of the Greater Caribbean have to determine the envisaged regime. The ensuing represents the output of discussions by the Caribbean Sea Commission established by the ACS.

What is to be understood by a “Special Area in the Context of Sustainable Development”? What would such an arrangement look like?

The Special Area in the context of sustainable development falls within the rubric of the United Nations Convention on the Law of the Sea (UNCLOS) Articles 122 and 123, as well as being arguably compatible with the provisions of MARPOL. The Special Area conforms as well, with the Regional Seas programme of the United Nations Environment Program (UNEP) in terms of the management scope and the rights and duties of the subjects of international law to whom it applies. It is also eminently compatible with both Agenda 21 and the SIDSPOA. In its construction of the concept of the Caribbean Sea as a special area in the context of sustainable development, the Ministerial meeting of 1997 explored regional, as well as wider international instruments that might provide practical elements in international law and practice such as might be adduced in support, or in furtherance of, the proposal, including its operationalisation. It was in that context that it was indicated that the “special area in the context of sustainable development” proposal would seek to advance the Cartagena Convention, as well as MARPOL 73/78.30. With respect to the latter instrument, this is well known as a result of the designation, in 1990, in accordance with the provisions of its Annex V, of the wider Caribbean region as a “Special Area”.

With the foregoing in mind, we may therefore propose the following as a working definition of the Caribbean Sea as a Special Area in the context of sustainable development:

The Caribbean Sea as a Special Area means the semi-enclosed sea, including its resources and appurtenant coastal areas, which, for acknowledged technical reasons relating to its oceanographic and ecological condition, requires the adoption of special mandatory measures for its preservation and sustainable development, with due regard to economic, social, as well as environmental parameters.

Given the importance of this aspect of the discussion, it is more than useful to reiterate some “benchmarks” that must accompany any effort aimed at giving institutional life to the foregoing definition. They include some imperatives which have long been agreed by ECLAC and other important stakeholders. The ACS, through the Commission, recognises the need to work in the following areas:

- The adoption and implementation of a strong and well-structured regional agreement emerge as critical elements of any regional regime

for the management of coastal and marine areas. Such an agreement would define the scope and jurisdiction of the regime and endow the management process with certainty, as well as legitimacy;

- A regional agreement is also necessary for the clear definition of the obligations, duties and benefits of the respective contracting parties. A noticeable weakness of existing regional agreements is the absence or inadequacy of enforcement and compliance provisions;
- Given the international legal framework governing coastal and marine areas, any regional agreement must be in conformity with international law;
- In order to be effective, the regional agreement must be binding on all the coastal States of the region;
The common approach to regional agreements, following the UNEP model, has been to adopt framework-type conventions, supplemented by a number of detailed protocols that address specific technical issues. The more recent regional agreements have also codified the soft law of the principles embodied in the Rio Declaration on Environment and Development as fundamental elements;
- Regional agreements have the added advantage of endowing the ensuing regional action plans, strategies and policies with the force of law. As indicated earlier, some regional agreements require parties to enact national environmental and other laws and policies. Such agreements also govern the administrative functions, including secretariat responsibilities, other institutional arrangements and funding. A significant innovation in the Mediterranean region is the establishment of a Regional Environment Trust Fund as proposed by the MSI to support the implementation of the Regional Agreement, the Regional Action Plan and projects;
- The Regional Agreement should encourage the creation of centres of excellence distributed among the coastal States in the region. Such centres might focus on agreed priority areas such as pollution, climate change, coastal zone management, biodiversity, heritage and culture, fisheries; remote sensing, and technology issues.

These challenges, together with the fact that the ecosystems of the sub-region are shared among the countries located within, or on the littoral of, the Caribbean Sea, have prompted the search for a framework for cooperation towards effective management of the Caribbean Sea area towards its sustainable development in the context of *marine regionalism*. Hence, Caribbean countries still asking the international community to declare the Caribbean Sea to be a "Special Area in the Context of Sustainable Development."

Section 5: The Role of the ACS

Now it is also appropriate to place into the discussion, firstly, the recent decision taken by the Ministerial Council of the Association to establish, according to the agreement 6/06, a Follow Up Commission to the Initiative of the Caribbean Sea to prosecute the fundamental goals, that is to say to recognise the Caribbean Sea as a Special Area in the Context of the Sustainable Development.

Among other things, the Agreement defined the mandate of the entity, which has been re-named the Caribbean Commission, as follows:

To do the strategic planning and technical follow-up work for the advancement of the Caribbean Sea Initiative and to formulate a practical and action-oriented work programme for the further development and implementation of the Initiative taking into account the work already undertaken by the TAG and other relevant regional stakeholders.

Conclusion:

On behalf of the people of the Greater Caribbean for whom the Caribbean Sea is patrimony, the ACS intends to persevere with its legitimate demand that the international community recognise and accept that the Caribbean Sea be declared a Special Area in the context of sustainable development. The ACS has made a number of proposals, including providing a working definition on the concept of the "special area"; by establishing the key institutional mechanism, commencing discussions on the financial sustainability of the Commission, as well as entrusting to it the task of elaborating a legal framework for regional and international acceptance.

THE ASSOCIATION OF CARIBBEAN STATES (ACS)

The **Convention** Establishing the Association of Caribbean States (ACS) was signed on July 24, 1994 in Cartagena de Indias, Colombia.

Functions include the strengthening of the regional co-operation and integration process, with a view to creating an enhanced economic space in the region; preserving the environmental integrity of the Caribbean Sea which is regarded as the common patrimony of the peoples of the region; and promoting the sustainable development of the Greater Caribbean.

Focal Areas: Trade, transport, sustainable tourism and natural disasters.

Organisation: The main organs of the Association are the Ministerial Council, which is the principal organ for policy-making and direction of the Association, and the Secretariat.

Special Committees focus on: Trade Development and External Economic Relations; Sustainable Tourism; Transport; Natural Disasters; and Budget and Administration. There is also a Council of National Representatives of the Special Fund responsible for overseeing resource mobilisation efforts and project development.

Member States have the right to participate in discussions and to vote at meetings of the Ministerial Council and Special Committees of the Association. The Member States are: Antigua and Barbuda, Bahamas, Barbados, Belize, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Suriname, Trinidad and Tobago, Venezuela.

Associate Members have the right to intervene in discussions and vote at meetings of the Ministerial Council and Special Committees on matters which affect them directly, falling within their constitutional competence. The Associate Members are: Aruba , France (on behalf of French Guiana , Guadeloupe and Martinique), the Netherlands Antilles and the Turks and Caicos Islands.

Founding Observers: CARICOM, CTO, ECLAC, SELA, SICA and SIECA.

Observers: Argentina, Brazil, Canada, Chile, Ecuador, Egypt, Finland, India, Central American Economic Integration Bank (CABEI), Italy, the Kingdom of the

Netherlands, Korea, Morocco, Peru, Russia, Spain, Turkey, Ukraine, and the United Kingdom.

MEMBERSHIP OF THE CARIBBEAN SEA COMMISSION

Member States and Associate Members:

Antigua and Barbuda
Bahamas
Barbados
Belize
Colombia
Costa Rica
Cuba
Dominica
Dominican Republic
El Salvador
Grenada
Guatemala
Guyana
Haiti
Honduras
Jamaica
Mexico
Nicaragua
Panama
St. Kitts and Nevis
St. Lucia
St. Vincent and the Grenadines
Suriname
Trinidad and Tobago
Venezuela

France (in respect of French Guiana, Guadeloupe, Martinique)
Aruba
Netherlands Antilles

Experts:

Prof. John Agard
The United Nations Environment Programme (UNEP)

Permanent Members:

The Secretary General of the ACS

The United Nations Economic Commission for Latin America and the Caribbean (UNECLAC)

Caribbean Community (CARICOM)

Latin American Economic System (SELA)

Central American Integration System (SICA)

Permanent Secretariat for the General Agreement on Central American Economic Integration (SIECA)

Caribbean Tourism Organization (CTO)