

Hon. V Alfred Gray
Minister of Agriculture and Marine Resources
Island Traders Building
East Bay Street
Nassau, Bahamas

11 November 2016

Re: China-Bahamas Joint Venture Initiative

We are writing in relation to the above-captioned proposal, published in The Guardian newspaper on Thursday November 3rd, 2016. While we understand that The Government of The Bahamas seeks to increase opportunities for Bahamians in the fishing and agricultural sectors through this Initiative, and that the Initiative has not yet been approved by Cabinet, the details that have been published raise significant concern, particularly for the sustainability of our fishing industry and marine resources. We set out these concerns below.

1. Bahamian ownership in the fishing industry

Successive governments have maintained a long-standing policy that our marine resources should benefit Bahamians, and therefore restrictions have been placed on non-Bahamians participating in commercial fishing in the jurisdiction. Section 7 of the Fisheries Resource (Jurisdiction and Conservation) Act ('Fisheries Resource Act'), states that no foreign fishing is allowed within our Exclusive Economic Zone, unless a fisheries treaty is entered into between The Bahamas and another state (s7(a)). Section 2(1) of the same Act defines 'Bahamian' in relation to ownership of fishing vessels, which means a vessel *bona fide* owned by a citizen of The Bahamas who is resident in The Bahamas, or by a company registered in The Bahamas where **all shares** are beneficially owned by citizens of The Bahamas. The proposed ownership structure in the Initiative states that a Bahamian company would be a joint venture, with 50% of its shares being owned by the People's Republic of China (PRC). This proposal violates s2(1), unless a fisheries treaty is entered into between The Bahamas and China. This represents a significant shift in the approach to commercial fisheries in the country. While the proposed ownership structure may maintain Bahamian workers on these vessels, half of the profits from commercial fishing in the country would benefit the PRC, and decisions regarding the management of the company's activities (catch sizes, vessel sizes, intensity of activities, and choice of export markets) would be made by the companies themselves, not The Government of The Bahamas.

While the Initiative does speak to increased investment through working capital, the \$2.1 billion could be either in cash or in kind. There is no proportionate allocation to either, and therefore a significant amount of the investment could be through the provision of outdated or inappropriate equipment, or 'expertise', the value of which is near impossible to quantify through international standards.

2. Legislative gaps on commercial fishing and enforcement limitations

While The Bahamas has taken great strides in establishing protected areas, marine reserves, and protecting a number of specific species such as the Nassau grouper, crawfish, marine turtles and sharks through closed seasons or prohibitions, we still have significant gaps in our legislative arrangements regarding commercial fisheries. While new fisheries legislation has been drafted, it is not publicly available at this time. The Fisheries Resource Act was progressive in prohibiting long-line fishing (s22), but it is notable that this prohibition can be excised through written permission of the Governor General. In addition, it is not clear whether the export restrictions on certain species in s70 of the Fisheries Resource Act will be retained. It is hard to imagine that the scale of commercial fishing and processing enterprises anticipated by the Initiative would abide by these limits. The Initiative contains no restrictions on the number of fishing licences to be provided to each of the Joint Venture companies, and no restrictions on the number or types of vessels that can be operated by the companies. This leaves the potential for hundreds (or more) fishing vessels to conduct commercial fishing activities within our waters.

Our current legislative arrangements on commercial fishing have no explicit catch sizes or minimum conservation reference sizes (except for a few limited species), no restrictions on the types or sizes of vessels that can operate in our waters, nor size or composition limits of catches (except as set out in s70), quotas, or maximum sizes for gillnetting, drag, cast or seine nets used for fishing. There are no explicit obligations to land catches designed for export, and no restrictions on discards or by-catches. We have no restrictions on fishing in spawning aggregation sites, other than for Nassau grouper. Our laws contain no requirements for vessel monitoring systems on fishing vessels, and contain no limits on fleet capacity or time spent at sea fishing. Our legislation does not anticipate processing at sea, and as such, there are no appropriate requirements regarding that activity. We have no extensive legislation on the protection of marine resources other than certain fisheries, and it is not clear whether resources such as coral, sponges and other marine resources would be declared as fisheries and subject to the Initiative and therefore large-scale export activities. The existing permit fees for commercial fishing licences, and penalties for violations of existing regulations are low, and do not act as appropriate disincentives for violation of our laws.

In addition, even if The Government were able to revise our legislation to enact appropriate restrictions, our human, financial, technical and material capacity constraints would make it almost impossible for us to enforce legislative restrictions on commercial fishing, including closed seasons or prohibitions on fishing certain species or in protected areas. The Department of Marine Resources has already stated that it currently lacks adequate resources to meet existing demands (Five Year Strategic Plan, 2010-2015). There are already significant complaints from fishermen regarding The Government's inability to control illegal, unreported and unregulated fishing activities. For example, on the island of Andros, the staff of the Department of Marine Resources have no vessels to patrol waters or fishing activities.

Our existing legislative and capacity constraints would indicate that our existing framework for commercial fisheries, and the monitoring and enforcement of restrictions, is not sufficiently robust to enter into an arrangement of this scale. In addition, no census has been taken on the fishing industry since 1995 (Five Year Strategic Plan, 2010-2015). As a result, it is difficult to gauge the socio-economic health of the industry, or the state of the social well-being of Bahamian fishermen at the moment, and as such, it is impossible to measure the impact that these changes to our commercial fisheries policy might have on the industry.

In addition, The Bahamas entered into a bilateral agreement for the promotion and protection of investments with the PRC in 2009. State-based ownership through joint ventures by the PRC would provide the PRC with a vested interest in protecting their investment, and therefore ensuring unfettered access to our marine resources. Any changes to regulations that The Government may want to undertake in order to protect or conserve marine resources, could expose The Government to dispute resolution proceedings from the PRC on the basis that regulation of access to marine resources detrimentally affects the PRC's investment in commercial fishing activities. If the PRC's action were to be successful, The Government could be subject to an order for damages, and be prohibited from enacting any future marine conservation or other environmental legislation.

3. Risks to marine resources

The Bahamas has managed to maintain relatively healthy stocks of some marine resources due to our small population size and restrictions that successive Governments have placed on commercial access to our resources. However, we have not undertaken any significant stock assessments and have a lack of biological data on our marine resources (Five Year Strategic Plan, 2010-2015). Some initial, informal stock assessments we have undertaken indicate that stocks of some species are less than 10% of historical levels. While anecdotal information from fishermen indicate that they have to work harder and travel further to fish is indicative of stocks falling, we have no real idea of what the level of health and sustainability of our existing marine resources are. Without that information, we cannot create sustainable yield limitations.

Opening the industry to non-Bahamian ownership and expanded fishing fleet capacity could have permanent and irreversible negative impacts on our marine resources. Before The Government enters into any agreement of this kind, it is our strong recommendation that independent experts be retained to undertake multi-year studies, including stock assessments of species. The Department of Marine Resources is currently in the process of drafting a new Strategic Plan and stock assessments have been included as an important activity at the request of Bahamian stakeholders in the industry.

In addition to existing risks, the impacts of climate change are highly likely to result in adverse changes to marine resources. Rising sea temperatures and increasing ocean acidity will have detrimental impacts on marine and coastal ecologies, which our marine resources are heavily reliant upon. Coral reefs and mangroves, which are crucial to the development of marine resources, will be negatively affected by changing environmental conditions, resulting in possible significant decreases in fisheries. Marine resources also provide important carbon sequestration functions. It is essential that marine resources are accessed in a sustainable manner as the impacts of climate change begin to affect the marine and coastal environment.

The Bahamas has the sovereign right in its Exclusive Economic Zone to explore and exploit its resources, but also has the obligation to conserve and manage living and non-living resources. This is not only a legal obligation, but also a moral obligation of The Government of The Bahamas to ensure that present and future generations of Bahamians have access to healthy stocks of marine resources for our own food security and enjoyment. Our marine resources have been and continue to be an important source of nutrition for Bahamians, particularly on our Family of Islands where many Bahamians fish to feed their families.

The Ministry's Five Year Strategic Plan sets out a vision based on an ecosystem approach to fisheries:

"Our mission for the fisheries and aquaculture sectors is development through sustainable use and integrated management of the fishery resources, coastal zone, and marine/freshwater environment for the well-being of current and future generations of all Bahamians." (p. 21).

It is clear that the Initiative anticipates quick profits "within months" of commencement from the sale of seafood, which is wholly inconsistent with sustainable catches, or the sustainable use of our marine resources. This statement in the Initiative clearly indicates that large and quick profits for the few Bahamians invested in the companies, and the PRC, are the major goal of the Initiative in terms of commercial fisheries. This approach takes no account of the interests of Bahamians who are not able to participate in these ownership structures, or those who may depend on marine resources for their livelihood or subsistence. Without regulations on catch or vessel sizes, or the capacity to enforce any of these restrictions, our marine resources could easily be entirely decimated well within a ten-year period, leaving nothing for future generations of Bahamians.

While it is not our intention to prohibit increased capacity and employment opportunities for Bahamians, we would suggest that approaches to commercial natural resource harvesting be approached in a gradual manner, based on principles of sustainability (including the precautionary principle), and sound scientific information. Natural resource harvesting of sustainable and renewable resources can be established as industries for the benefit of Bahamians, but only once appropriate baseline data has been obtained with the assistance of independent expert advice, consultation with the Bahamian public, and based on sound scientific information, to ensure that we undertake these activities sustainably, and in a manner beneficial to both current and future generations of Bahamians. We have too many examples in the Caribbean region and globally where marine stocks have collapsed because countries failed to do this. We therefore implore you to not let us join this long list of failed fisheries sectors.

Yours sincerely,



Thomas

Lisa Benjamin and Dr Adelle Thomas, Assistant Professors and
Co-Founders, **The Climate Change Initiative at The University of The Bahamas**

cc. Hon. Kenred Dorsett
Minister of the Environment and Housing

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Organizations:

Bahamas Reef Environment Educational Foundation (BREEF)

The Bahamas National Trust (BNT)

Bahamas Commercial Fishers Alliance

Andros Conservancy and Trust (ANCAT)

Friends of the Environment, Abaco

Ocean Crest Alliance, Long Island

EARTHCARE, Grand Bahama

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Citizens for a Better Bahamas

The Organization for Responsible Governance (ORG)

Cape Eleuthera Island School and Cape Eleuthera Institute

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