



National Consultations on CARICOM Framework Public Procurement Policy

Montserrat 19–20 September 2011

Presentation III

POLICY – (a) Scope and General Provisions

The Framework Regional Integration POLICY on Public Procurement (FRIP)

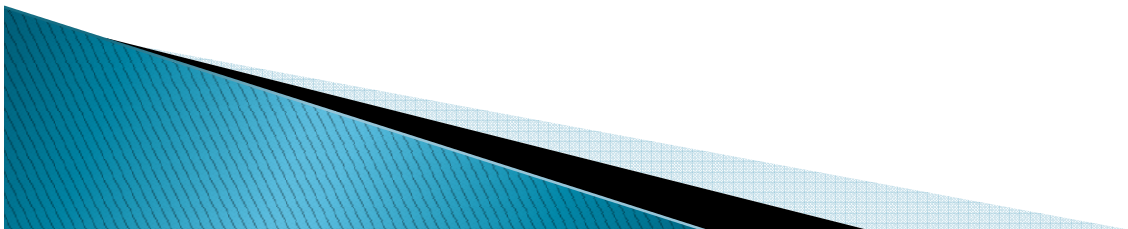
»» (a) Scope and General Provisions

The FRIP

- ◉ The Policy is expected to provide the basic instruction to draft legally binding obligations, rules and other disciplines on Public Procurement in order to effect its inclusion in the Revised Treaty, in accordance with the intention of Article 239, which states: *“The Member States undertake to elaborate a Protocol relating...to....government procurement....”*

CONTENTS OF THE POLICY

- ◉ PART ONE – General Provisions
- ◉ PART TWO – Substantive Provisions
- ◉ PART THREE – Temporary Safeguards and Technical Cooperation and Assistance
- ◉ PART FOUR – Institutional Provisions
- ◉ PART FIVE – Final Provisions

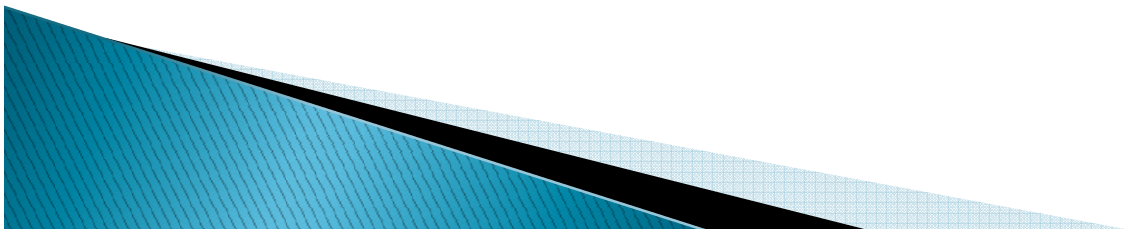


PART ONE

GENERAL PROVISIONS

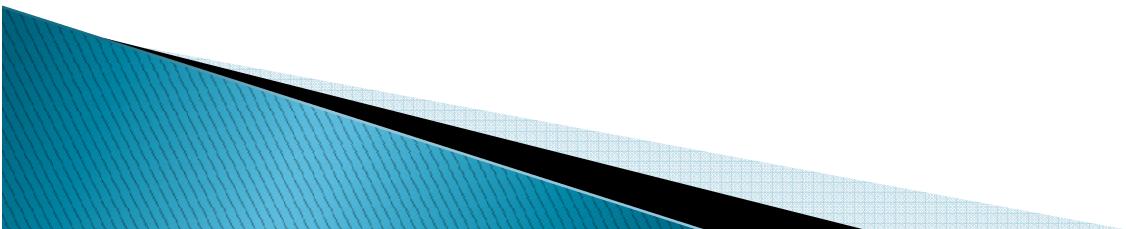
objectives

- ◉ The primary objective of the Community Policy on Public Procurement is to identify and set out the conditions necessary for full integration of the national procurement markets of the Member States into a single, unified and open area through the designing and implementation of a regional best practice regime for Public Procurement that would bolster the CSME in a key aspect of economic growth and development.



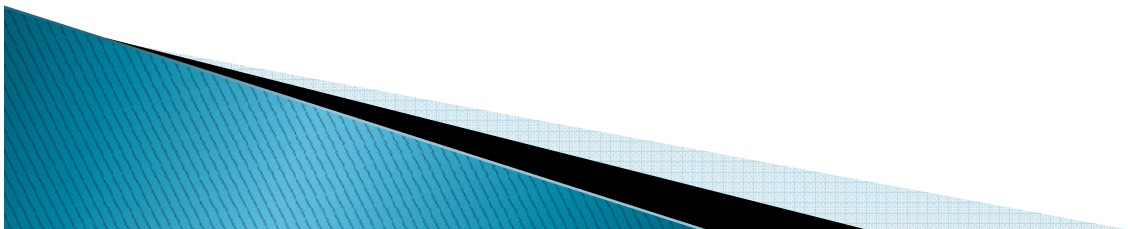
Secondary objectives

- ▶ Creation of the necessary competitive and non-discriminatory conditions to facilitate achievement of value for taxpayers' money.



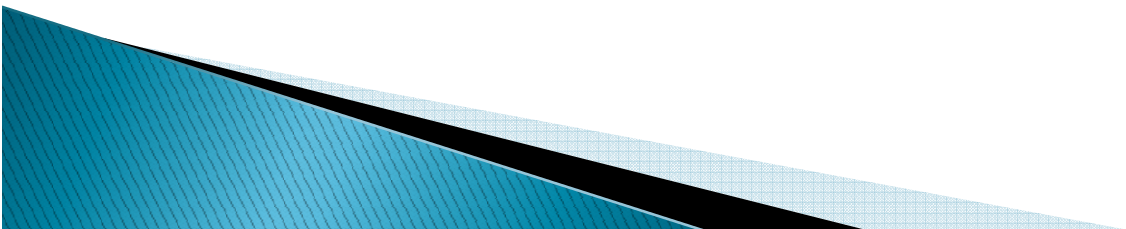
Secondary objectives

- ▶ Provision of opportunities for access to a single market with regional sales opportunities.



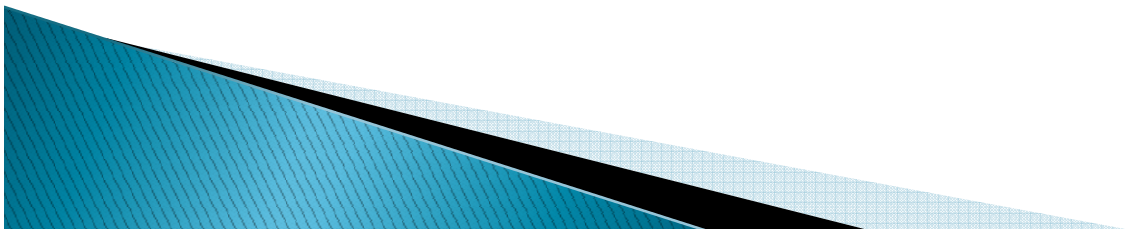
Secondary objectives

- ▶ Strengthening the competitiveness of the regional supplier base and encourage the rational use of scarce resources.



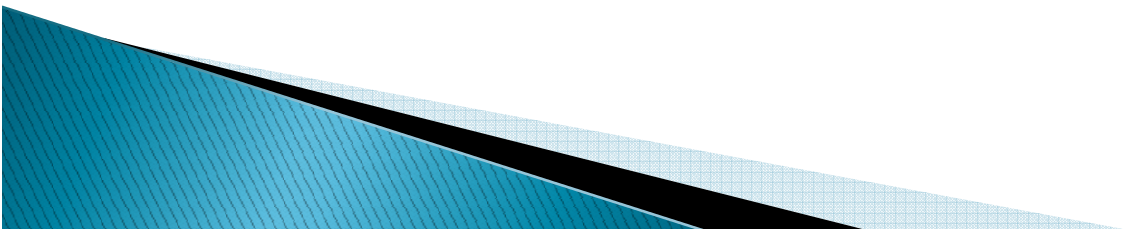
Principles

- ▶ Free entry and participation in the Public Procurement markets for goods, services and works;
- ▶ National Treatment and Most Favoured Nation Treatment;
- ▶ Transparency; and
- ▶ Procedural Fairness.



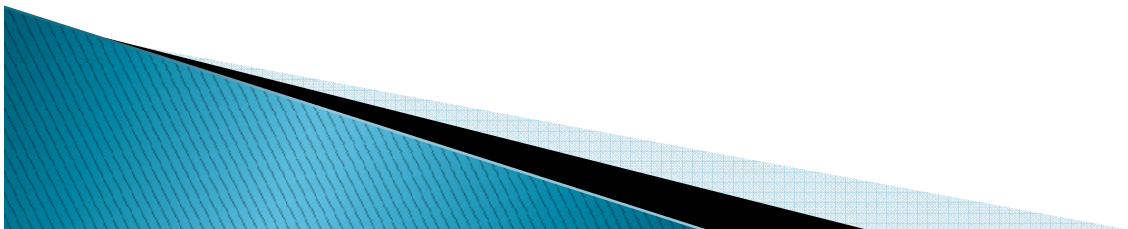
Threshold Policy

- ▶ Within a fully implemented and operational single market, such as the CSME, it could be expected that all values of procurement would be open to competition i.e., the market access threshold would be zero (0).



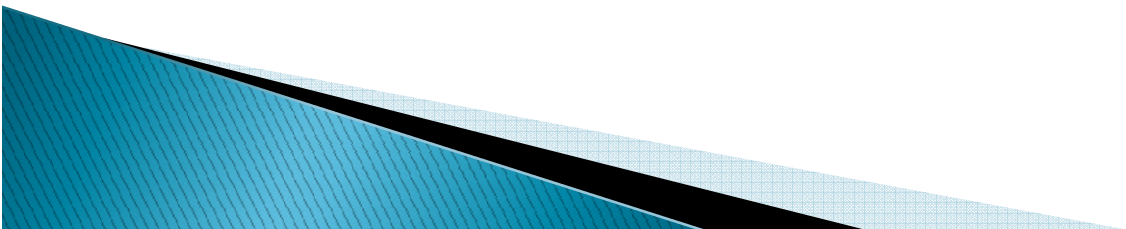
Threshold Policy

- ▶ Despite this expectation, CSME implementation is not a single but an on-going undertaking and as such, the CSME is not yet fully implemented. Consequently, CARICOM Member States do not yet enjoy full market access within the CSME.



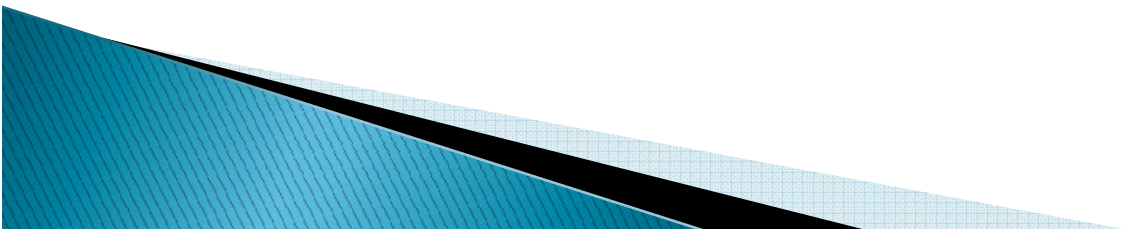
Threshold Policy

- ▶ It should however be noted that CARICOM countries currently do not directly discourage suppliers from other Member States from bidding for contracts which values fall under the efficiency thresholds.



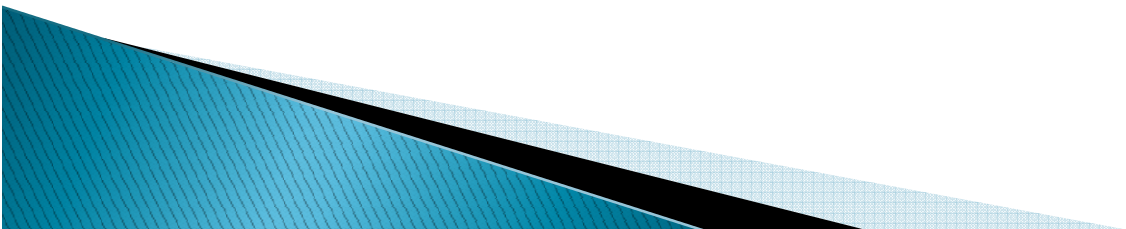
Threshold Policy

- ▶ This practice is expected to be continued as part of agreement within this framework policy.



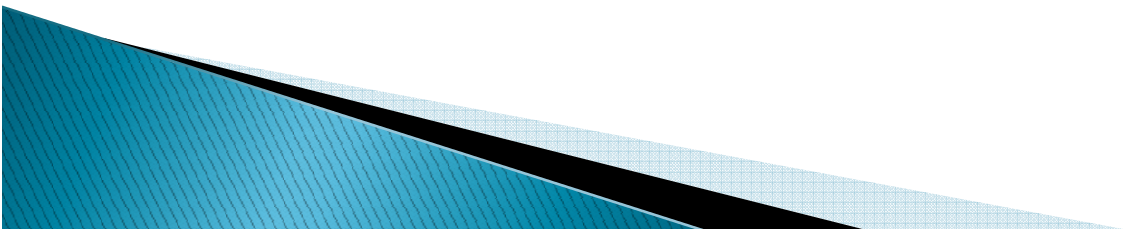
Threshold Policy

- ▶ The CSME is intended to be a domestic space with CARICOM Member States enjoying full market access.



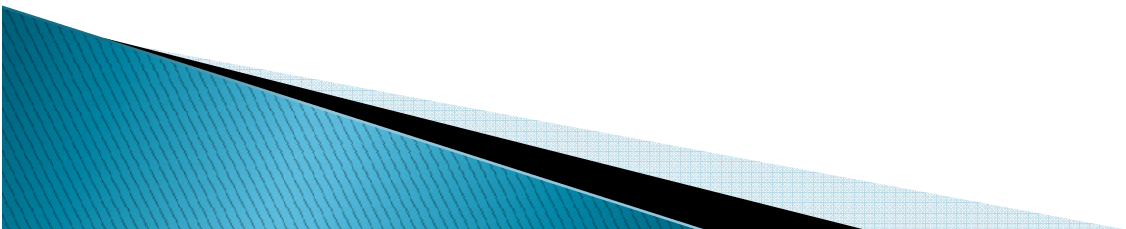
Threshold Policy

- ▶ As such, within this single procurement market only efficiency thresholds and transparency rules should exist. Market access thresholds are not proposed within this policy.




Threshold Policy

- ▶ This Policy focuses on the harmonized transparency thresholds for goods, services and works



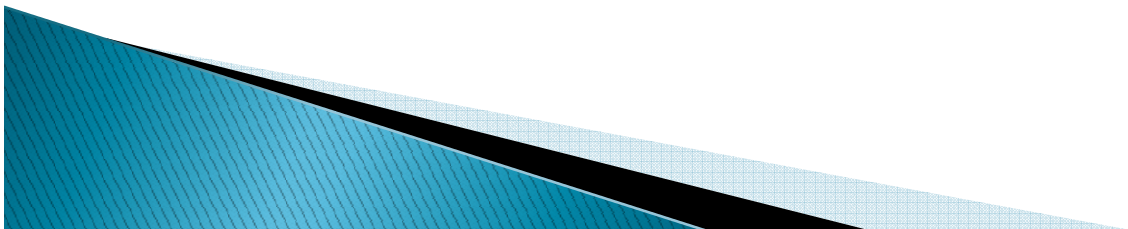
CONTRACT VALUE THRESHOLDS

 Caribbean Community (CARICOM) Efficiency and Transparency Threshold Proposal 2011			
CSME	General Government		
	GOODS	SERVICES	WORKS
USD	100,000	100,000	1,000,000
EC	271,000	271,000	2,710,000

Scope of application

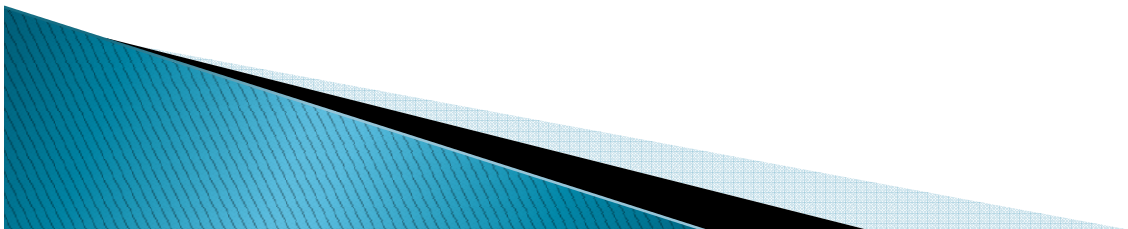
This policy applies to

- a) laws, regulations, rules, procedures and practices that relate to Public Procurement;
- b) procurement by the covered entities of the Member States of goods, services, works or any combination thereof;
- c) (c) levels of government; and



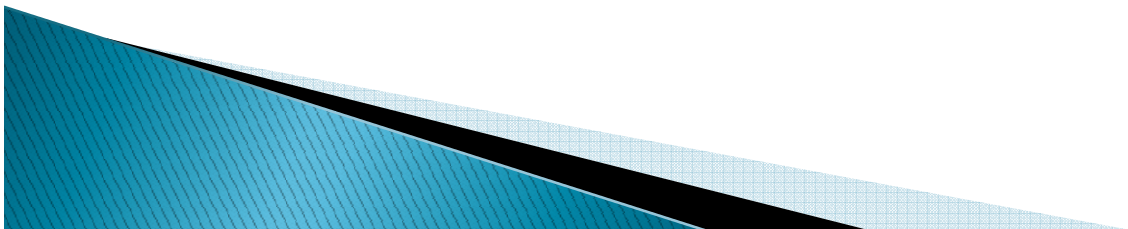
This policy applies to

- d) procurement methods and/or contractual means, including:
 - i) purchase,
 - ii) lease,
 - iii) rental, and
 - iv) concession arrangements



The Environment

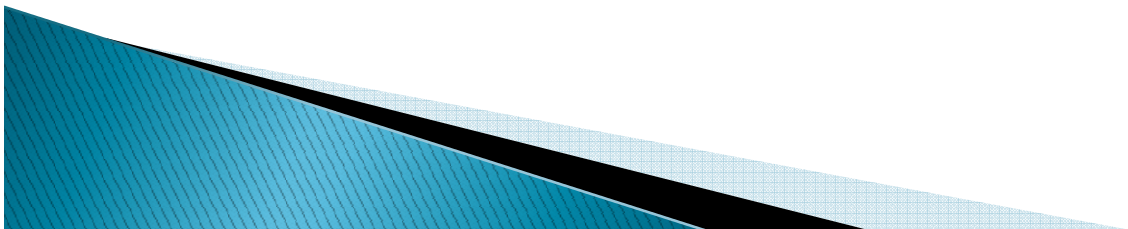
- ▶ Member States are encouraged to give effect to the inter-relationship between environment and procurement policies. Covered entities should make best efforts to incorporate green procurement considerations, as far as practicable, in their procurement activities.



Temporary Restrictions, technical Cooperation Assistance

Temporary Restrictions

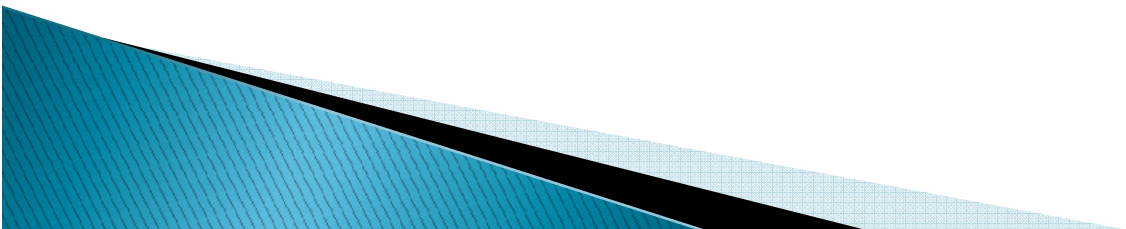
- Having regard to Article 47 of the Revised Treaty entitled “*Restrictions to Resolve Difficulties or Hardships arising from the exercise of rights,*” ..., a Member State adversely affected thereby may, subject to the provisions of Article 47 of the Revised Treaty, apply such restrictions on the exercise of rights as it considers appropriate in order to resolve the difficulties or alleviate the hardships.
- *Paras 196–205*



Temporary Restrictions

“Temporary safeguards or restrictions that may be applied, ... include:

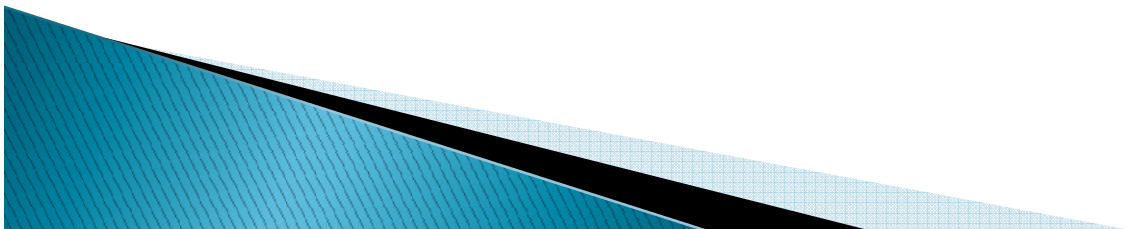
- Offsets, including counter-trade measures, or specific requirements for local labour and/or material content in the good or service being procured;
- Higher thresholds, thereby allowing for a larger exclusion of the domestic market from the regional market;
- Sectoral exclusions, for example the exclusion of a particular sector or sectors from coverage; and
- Price preferences for domestic suppliers. “



Technical Cooperation and Assistance

- ◉ The **Community shall be responsible for**, upon the request of any disadvantaged country, region, sector and/or less developed country, **providing technical cooperation** and assistance for the purposes of enabling such disadvantaged country, region, sector and/or less developed country **to participate in the Community regime** and to discharge responsibilities there-under.

Paras 206–207



Dispute Settlement

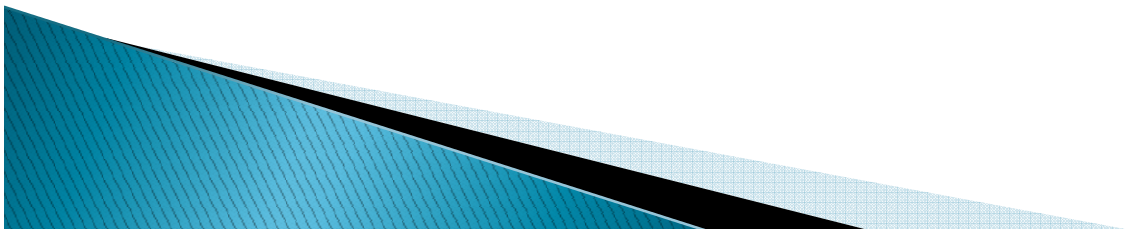
- ▶ The dispute settlement procedures as contained in Chapter 9 of the Revised Treaty shall apply to the review and resolution of State-to-State disputes: (Para222) RTC ARTICLES 187– 224

FINAL PROVISIONS

General Exceptions

- ◉ The General Exception measures as contained in Articles 225 and 266, respectively, of the Revised Treaty shall apply to the Community Regime on Government Procurement

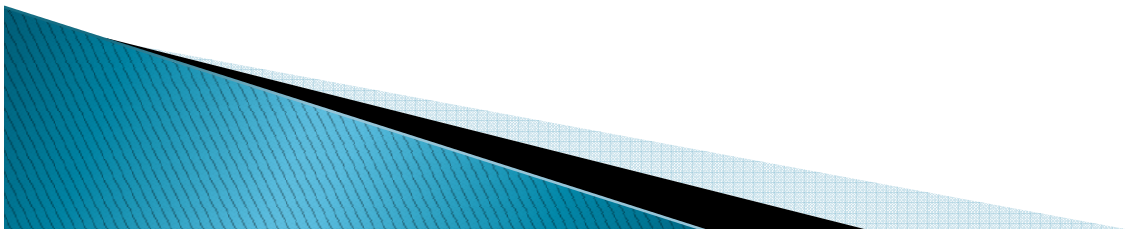
Paras 223–225



Amendments and Modifications

- ◉ Member States shall, ..., in writing, requests to modify and/or amend to the COTED, with the advice of the COFAP, prior to the taking of any such action. Where prior notification is not possible, Member States shall notify the COTED and COFAP, in writing, as soon as possible following on any such action, together with any proposed compensation measures in cases of reduced coverage.

Paras 226–231



▶ For More information contact

- ▶ Sharlene Shillingford McKlmon
- ▶ Deputy Programme Manager, CSME
- ▶ CARICOM Secretariat – CSME UNIT BARBADOS
- ▶ Tel: 1 (246) 429 6064
- ▶ sharlenesm@csmeunit.org

www.caricom.org

