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Organización
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para la
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COMMITTEE ON FISHERIES

SUB-COMMITTEE ON FISH TRADE

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REPORT ON FAO ACTIVITIES RELATED TO ECOLABELS

SUMMARY

This paper provides a summary of activities related to ecolabels being undertaken by the Secretariat. These include a proposal to assess the conformity of private ecolabelling schemes with the FAO Guidelines for the Ecolabelling of Fish and Fishery Products from Marine Capture Fisheries. The paper also reports on ongoing activities related to the Guidelines for the Ecolabelling of Fish and Fish Products from Inland Capture Fisheries and guidelines for the assessment of fisheries in data-poor situations.

INTRODUCTION

1. At the last session of the Committee on Fisheries (COFI) the Secretariat was requested to suggest an approach to assess the conformity of ecolabelling schemes with the FAO Guidelines for the Ecolabelling of Fish and Fishery Products from Marine Capture Fisheries (FAO Guidelines). COFI also agreed that additional work should be undertaken in relation to the Guidelines for the Ecolabelling of Fish and Fish Products from Inland Capture Fisheries. The usefulness of developing guidelines for the assessment of fisheries in data-poor situations was also underlined.

CONFORMITY OF ECOLABELLING SCHEMES WITH THE FAO GUIDELINES

2. The conformity of private certification and ecolabelling schemes with the FAO Guidelines was discussed at the eleventh session of the Sub-Committee on Fish Trade (COFI:FT) in June 2008. This was driven by questions regarding the extent to which the FAO Guidelines were being used by private certification and ecolabelling schemes and whether claims by schemes that they were adhering to the guidelines were being checked. The Secretariat was subsequently encouraged by the COFI:FT to undertake studies to determine the conformity of private certification and ecolabelling schemes with the FAO Guidelines.

3. This issue was further discussed at the twenty-eighth session of COFI in March 2009. At COFI there were contrary views from Members on whether FAO should assess private ecolabelling schemes in relation to the criteria set out in the guidelines. COFI agreed that the Secretariat would develop a proposal under which it could assess private ecolabelling schemes. The proposal would then be submitted for consideration by the next COFI:FT. COFI:FT would then provide guidance on how to proceed with this activity.

4. At COFI, the FAO Legal Counsel advised the Committee that FAO, as an intergovernmental organization of the United Nations system, had been cautious about assessing private entities' compliance with guidelines. As a matter of principle, FAO cannot carry out activities which could involve risks for the Organization and its Members. More specifically, if FAO were to carry out any assessment of whether private certification were consistent with the guidelines, the Organization would be exposed to challenges by aggrieved parties. Insofar as FAO enjoys immunity from every form of national jurisdiction, there might be a need to waive that immunity which is a serious step with important implications. In addition, any potential liabilities, given the financing mechanisms of the Organization, would have to be shouldered by all FAO Members. FAO should therefore not exercise any form of control or supervision over specific certification systems which would inherently expose it to potential liabilities. This position has been restated on a number of occasions, including in connection with certification by FAO of whether Members complied with Codex standards.

PROPOSAL

5. The Secretariat has identified three potential options of the FAO to assess the conformity of private ecolabelling schemes with the FAO Guidelines. The options include:

6. Option 1: The Secretariat does not undertake assessments itself but reports to COFI:FT on assessments undertaken by third parties. A number of assessments of ecolabelling schemes have

been undertaken recently. These include assessments commissioned by the Fish Sustainability Information Group¹, the World Wide Fund for Nature² (WWF) and the French Government³.

7. This approach is consistent with the recommendations provided by the FAO Legal Counsel but would result in a limited role for the FAO Secretariat in the assessment of private ecolabelling schemes.

8. Option 2: The Secretariat will develop an evaluation framework to assess the conformity of schemes with the FAO Guidelines. The FAO Guidelines currently provide minimum criteria for ecolabelling schemes but there is no agreed framework to evaluate the schemes' conformity with the FAO Guidelines. The benchmarking framework would be developed in accordance with the minimum requirements set out in the FAO Guidelines. The benchmarking framework would be available for stakeholders to benchmark ecolabelling schemes against the criteria in the framework. Ecolabelling schemes that meet the requirements set out in the benchmarking framework would be considered in compliance with the FAO Guidelines. Under this approach FAO would not actually undertake the conformity assessment of ecolabelling schemes, but would provide the tools with which to undertake the assessment. Extra-budgetary resources would need to be identified to develop the benchmarking framework.

9. The benchmarking framework would identify the key requirements that ecolabelling schemes must comply with in order to be consistent with the guidelines. These would include requirements related to principles, minimum substantive requirements and criteria for ecolabels and procedural and institutional aspects.

10. The actual benchmarking process can be used as a self assessment tool by the ecolabelling scheme holder (private or public). It can also be used by parties with an interest in assessing the conformity of ecolabelling schemes with the guidelines. These would include governments, consumers, retailers, processors and harvesters that are seeking to make their own assessments against the agreed criteria.

11. An advantage of this approach is that schemes can be benchmarked against the key requirements of the guidelines at any point in time. A benchmarking exercise to determine the relative quality of schemes might only provide a snapshot in time. Schemes may modify their operational procedures to improve performance or as a result of the evaluation process. This will require updating the assessment of the schemes to take into account these changes.

12. This proposal has been developed taking into account the concerns expressed by some FAO Members and also takes into consideration the concerns identified by the FAO Legal Counsel. It may be useful to recall in this connection that, in the context of the Codex Alimentarius Commission, a number of comparable schemes and procedures have been developed.

13. Option 3: The Secretariat actively assesses the conformity of private ecolabelling schemes against the FAO Guidelines. Under this option FAO would convene a group of experts to undertake an assessment of existing private ecolabelling schemes. The review will provide an assessment of the consistency of private schemes with the FAO Guidelines at the time the review is made. Follow-up assessments may be required if new private schemes are introduced or if existing private schemes are modified. Extra-budgetary resources would need to be identified: 1) to develop the methodology required for the assessments; and 2) to undertake the assessments.

¹ http://www.marketing.stir.ac.uk/News/FSIG_Report.pdf.

² http://assets.panda.org/downloads/full_report_wwf_ecolabel_study_lowres.pdf.

³ <http://www.senat.fr/rap/r08-132/r08-132.html>.

14. This approach would give FAO a role in assessing the conformity of private ecolabelling schemes with the FAO Guidelines. This approach could, however, potentially expose FAO to challenges by aggrieved parties and therefore has been objected to by the FAO Legal Counsel.

GUIDELINES FOR THE ECOLABELLING OF FISH AND FISHERY PRODUCTS FROM INLAND CAPTURE FISHERIES

15. The need for harmonization, as far as possible, has been stressed between the ecolabelling guidelines for marine and inland capture fisheries and guidelines on aquaculture certification. Progress on the draft Guidelines for the Ecolabelling of Fish and Fishery Products from Inland Capture Fisheries has therefore been delayed in view of the forthcoming Technical Consultation on the Technical Guidelines on Aquaculture Certification, in an attempt to ensure consistency of definitions used in the guidelines.

16. Nevertheless, a departmental working group is engaged in advancing the further development of the draft Guidelines for the Ecolabelling of Fish and Fishery Products from Inland Capture Fisheries. A consultant is being engaged to prepare a background paper which will review all previous work undertaken on the draft guidelines, taking account of comments provided by COFI and the Sub-Committee on Fish Trade and those of the 2008 Expert Consultation. An Expert Consultation to finalize a draft text of the guidelines is expected to take place during the period from mid-May to end of June 2010.

ASSESSMENT OF DATA-POOR FISHERIES

17. The Fisheries and Aquaculture Department is engaged in a variety of activities in relation to assessment and management of data-poor fisheries, including the recent publication of Fisheries Technical Paper No. 515 "Towards integrated assessment and advice in small-scale fisheries" (FAO, 2008. pp84). In addition, a workshop of expert practitioners is planned to be held during the period from mid-February to mid-March 2010 to produce a preliminary draft of guidelines on the assessment of data poor fisheries. A consultant is being engaged to prepare a background paper for this workshop which will review and synthesize this work by FAO, as well as work by other countries and organizations that are making progress on the topic.

SUGGESTED ACTION BY THE SUB-COMMITTEE

18. The Sub-Committee is invited to:

- provide comments on the options identified by the Secretariat to assess the conformity of ecolabelling schemes with the FAO Guidelines and give guidance to the Secretariat on how to proceed on this matter; and
- give any recommendation on future work related to the Guidelines for the Ecolabelling of Fish and Fishery Products from Inland Capture Fisheries and assessment of data-poor fisheries.