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Voluntary Guidelines for Catch Documentation Schemes

Executive Summary

The 68th Session of the United Nations General Assembly adopted a Fisheries Resolution in December 2013 that called upon UN Member States to initiate work within FAO on the elaboration of guidelines for Catch Documentation Schemes (CDS Guidelines). In response, the 31st Session of the Committee on Fisheries (COFI 31) in July 2014 proposed that FAO undertake the development of such guidelines, including possible formats based on the six identified principles. COFI 31 further stipulated that the assessment of schemes and formats would include cost benefit considerations and take into account the CDSs already implemented by some Member States and regional fisheries management organizations (RFMOs).

Accordingly, the Expert Consultation on the CDS Guidelines was organized in July 2015 to propose draft Guidelines to the COFI Sub-Committee on Fish Trade (COFI-FT) to review. The 15th Session of COFI-FT, held in February 2016, decided to use an alternative proposal as the starting point of the Technical Consultation. The Technical Consultation on the CDS Guidelines convened for three resumed sessions in April and July 2016. The Technical Consultation agreed upon the majority of the draft CDS Guidelines, however the Technical Consultation recognized that additional discussion was necessary for the two paragraphs (5.1 and 6.3) in order to reach consensus on the whole CDS Guidelines.

In July 2016, the 32nd Session of the Committee on Fisheries (COFI 32) reviewed the progress of the development of the CDS Guidelines. COFI 32 reiterated the critical role that CDS could play in combating IUU fishing, and authorized the Technical Consultation to: i) resume its session again as soon as possible and address and resolve the two outstanding paragraphs; ii) finalize the CDS Guidelines; and iii) submit the CDS Guidelines to the FAO Conference at its 40th Session in July 2017 for final adoption.

On 4-5 April 2017, the Technical Consultation on the CDS Guidelines reconvened, discussed and resolved the two outstanding paragraphs and adopted the draft CDS Guidelines.

Suggested action by the Conference

The Conference is invited to:

- 1) approve the Voluntary Guidelines for Catch Documentation Schemes; and
- 2) call upon all Members, international organizations, civil society and private sector organizations to implement the Guidelines and use them as a reference in related activities.



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VOLUNTARY GUIDELINES FOR CATCH DOCUMENTATION SCHEMES

1. SCOPE AND OBJECTIVE

1.1. These Guidelines are voluntary and cover Catch Documentation Schemes (CDS) for wild capture fish caught for commercial purposes in marine or inland areas, whether processed or not.

1.2. These guidelines are elaborated recognizing that all available means in accordance with relevant international law and other international instruments, such as, the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) should be used to prevent, deter and eliminate illegal, unreported, and unregulated (IUU) fishing. CDS build on the primary responsibility of the flag state to prevent, deter and eliminate IUU fishing. They also constitute a valuable supplement to port state and other measures.

1.3. The objective of these Guidelines is to provide assistance to states, regional fisheries management organisations, regional economic integration organizations and other intergovernmental organisations when developing and implementing new CDS, or harmonising or reviewing existing CDS.

1.4. States should give full recognition to the special requirements of developing states when implementing CDS taking into account paragraph 7.

1.5. States, relevant international organisations, whether governmental or non-governmental, and financial institutions are encouraged, individually or through coordination, to provide assistance and capacity building, including financial and technical assistance, technology transfer and training for developing states in order to achieve the objectives of these Guidelines and to support its effective implementation, especially regarding issuance of electronic catch certificates.

1.6. CDS should account for the needs and special requirements of small scale fisheries (SSF).

2. DEFINITIONS

For the purposes of these Guidelines:

2.1 “Catch Documentation Scheme”, means a system with the primary purpose of helping determine throughout the supply chain whether fish originate from catches taken consistent with applicable national, regional and international conservation and management measures, established in accordance with relevant international obligations, hereinafter referred to as “CDS.”

2.2 “Catch certificate” means an official document accompanying a consignment and validated by the competent authority, allowing accurate and verifiable information concerning fish passing through the supply chain.

2.3 “Fish” means all species of wild capture living aquatic resources, whether processed or not.

2.4 “Consignment” means fish, which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee.

2.5 “Fishing vessel” means any vessel of any size used for, equipped for use for, or intended for use for the purposes of fishing or fishing-related activities, including support vessels, fish-processing vessels, vessels engaged in transshipment and carrier vessels equipped for the transportation of fishery products, except container vessels.

2.6 “Illegal, unreported and unregulated fishing” means the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, hereinafter referred to as “IUU fishing.”

2.7 "Landing" means the initial movement of fish from a vessel to dockside in a port or free-trade zone, even if subsequently transferred to another vessel. The offload or transfer in port of fish from a vessel to a container is a landing.

2.8 "Regional fisheries management organization" means an intergovernmental fisheries organization or arrangement, as appropriate, that has the competence to establish fishery conservation and management measures, hereinafter referred to as “RFMO/A.”

2.9 “Supply chain” means a sequence of processes involved in the production and distribution of fish from catch to the point of import in the end market, including events such as landing, transshipments, re-export, processing, and transport.

2.10 "Transshipment" means the transfer of fish that have not previously been landed, from one vessel directly to another, at sea or in port.

3. BASIC PRINCIPLES

The Guidelines are based on the principles that CDS should:

- 3.1 Be in conformity with the provisions of relevant international law;
- 3.2 Not create unnecessary barriers to trade;
- 3.3 Recognize equivalence;
- 3.4 Be risk-based;
- 3.5 Be reliable, simple, clear and transparent; and
- 3.6 Be electronic, if possible.

4. APPLICATION OF BASIC PRINCIPLES

The application of the principles set out in paragraph 3 should be guided by the following:

- 4.1 Any measure taken should be in conformity with the relevant provisions under international law, *inter alia* the World Trade Organization agreements, the United Nations Convention on the Law of the Sea, and should take into account the FAO Code of Conduct for Responsible Fisheries;
- 4.2 To avoid unnecessary barriers to trade, a CDS should clearly define its objective, be the least trade-restrictive measure to achieve its objective, and be designed to minimize the burden on those affected by its requirements. A CDS should be applied on a non-discriminatory basis and notified in accordance with subparagraph 4.5;
- 4.3 Different CDS could be recognised as equivalent for the purpose of achieving the objectives of the guidelines if they result in equivalent outcomes. In addition, existing schemes should be taken into account; and
- 4.4 Every effort should be made to ensure that CDS are only implemented where they can be an effective means to prevent products derived from IUU fishing from entering the supply chain. To that

end CDS should be implemented from within the context of an effective fisheries management regime. CDS should be designed and implemented based on risk analysis and be proportionate to the risk that IUU fishing poses on the relevant stocks and markets. A risk assessment should include:

- (a) the systematic and transparent identification of risk and the implementation of all measures necessary for limiting exposure to risk. This includes activities such as collecting data and information, analysing and assessing risk, prescribing and taking action, including regular monitoring and review;
- (b) consideration of any IUU fishing activities within, *inter alia*, fish stocks, fleet, geographical area, or fishery that impact negatively on management and control measures, fisher's income and livelihood, markets and other relevant factors;
- (c) consideration of whether the vessels or fleets in question are flying the flag of a state that has not implemented relevant international obligations and guidelines; and
- (d) in the case of CDS to be developed within a RFMO, the RFMO should additionally consider the ability of CDS to address the IUU risk due to potential gaps in its existing conservation and management regimes, including the effectiveness of current monitoring, control and surveillance (MCS) measures.

4.5 To improve the transparency of the supply chain and markets CDS should ensure accurate and verifiable information along the supply chain. To ensure CDS are reliable, simple, clear and transparent:

- (a) catch certificates should be user friendly and contain verifiable information that is relevant, necessary and readily available; and
- (b) a proposed measure should be publicized and a reasonable time for comments should be given before the measure is adopted. Adopted measures should be made available on relevant websites¹. Such notice should include an explanation of how domestic and imported products are treated to ensure even-handedness.

4.6 Secure electronic systems should be used to reduce the risk of falsification. The systems should:

- (a) serve as the mechanism of issuance and, validation of catch certificates by the competent authority and should function as the repository of catch certificate and supply chain data to allow verification of information;
- (b) ensure that accurate and verifiable information is available along the supply chain through cooperation of states involved in it;
- (c) be based on agreed international standards and formats for information exchange and data management, ensuring that its components provide for interoperability;
- (d) be flexible, user friendly and minimise the burden on users. Functions such as routines for uploading of scanned documents, printing of documents, cancelling documents, and data queries should be considered;
- (e) include secure access by use of logins and passwords or by other appropriate means;
- (f) define roles and responsibilities for data inputs and validation and specify which parts, functions and levels of the system the individual user or user group may have access to;
- (g) facilitate the documentation flow;
- (h) provide for greater flexibility in the information requirements; and
- (i) assure support for developing States in the development and implementation of secure electronic systems.

¹ For the purpose of these Guidelines, such notifications should, as a minimum, be made available on the website of the State proposing or implementing a measure and on the WTO and FAO websites.

5. COOPERATION AND NOTIFICATION

5.1 CDS are most effective when all states involved cooperate in the schemes. States should seek wide multilateral engagements in the development and implementation of CDS, based on the risk assessment approach and cost-effectiveness considerations. Multilateral or regional CDS are preferred.

5.2 States should make every effort to cooperate in the design, implementation and administration of CDS. Such cooperation should aim to:

- (a) ensure that the risk assessment is based on clear objective criteria;
- (b) ensure that imports of fish originate from catches made in compliance with applicable legislation;
- (c) facilitate the importation of fish and the verification requirements of catch certificates; and
- (d) provide for the establishment of a framework for the exchange of information.

5.3 The acceptance of catch certificate should be subject to the notification by the validating state that:

- (a) it has in place national arrangements for the implementation, control and enforcement of laws, regulations and conservation and management measures that must be complied with by fishing vessels; and
- (b) the competent authority is empowered to attest to the veracity of the relevant information contained in catch certificates and to carry out verifications of such certificates on request from the importing state. The notification should also include the necessary information to identify and contact the authority. If the information provided in the notification is incomplete, the importing state or RFMO should indicate to the state validating the catch certificate, without delay, which elements are missing and request that it provide a new notification as soon as possible.

All states involved in events in the supply chain in the CDS should designate a competent authority to ensure availability of accurate and verifiable information along the supply chain.

6. RECOMMENDED FUNCTIONS AND STANDARDS

6.1 The CDS should be based on a clearly defined objective, enabling determination of the level of traceability and functions required. It should be designed to meet its objective and minimize the burden on users.

6.2 The CDS should clearly specify the species and stocks concerned, wherever applicable, product types, and exemptions associated with the scheme, and list all applicable Harmonized System (HS) classifications.

6.3 In the CDS validation process, different roles of relevant states to authorise, monitor, and control fishing operations and verify catch, landing, and trade should be fully recognized, consistent with relevant national and international law, multilateral measures, instruments and obligations. Validation of the catch documentation information should be done by a competent authority. According to the specific circumstances of the fisheries, all relevant states could take part in the verification of information in the catch documentation. Importing states may request verification by the competent authorities validating the catch documentation.

6.4 The CDS should include requirements for unique, secure document numbers. In the case of split consignments, or processed products, clear links to the underlying catch certificate should be available to facilitate verification by importing states.

6.5 When establishing a CDS, due consideration should be given to:

- (a) applicable monitoring, control and surveillance requirements;
- (b) relevant standards for information exchange and data confidentiality;
- (c) use the operative languages necessary to the efficient and effective function of the CDS; and
- (d) user manuals for various user groups and provide appropriate training, taking into account, the special requirements of developing states.

6.6 Core information elements for CDS are set out in the Annex. To ensure the link between the catch and the products, information along the supply chain should be included as appropriate. In specific instances, CDS may incorporate additional elements as necessary to achieve their objectives.

7. COOPERATION WITH AND RECOGNITION OF THE SPECIAL REQUIREMENTS OF DEVELOPING STATES

7.1 States should give full recognition to the special requirements of developing States, in particular the least-developed among them and Small Island Developing States (SIDS), to ensure that they have the ability to implement these Guidelines.

7.2 In this regard, States may, either directly or through international organizations, including RFMO/As, provide assistance to developing States in order for them to enhance their ability to, *inter alia*:

- (a) develop, implement and improve practical and effective CDS;
- (b) develop an adequate legal and regulatory framework for CDS;
- (c) strengthen institutional organization and infrastructure needed to ensure effective implementation of CDS;
- (d) build institutional and human resource capacity including for monitoring and control purposes and for training, at the national and regional levels, for CDS; and
- (e) participate in international organizations.

7.3 States may, either directly or through FAO, assess the special requirements of developing States to implement these guidelines including the needs for assistance identified in subparagraph 7.2.

7.4 States may cooperate to establish appropriate funding mechanisms to assist developing States to implement these guidelines. These mechanisms may be directed specifically towards the needs for assistance identified in subparagraph 7.2.

7.5 States may establish an ad hoc working group to periodically report and make recommendations on the establishment of funding mechanisms.

7.6 Cooperation with and among developing States for the purposes set out in these guidelines may include the provision of technical and financial assistance, including South-South Cooperation (SSC).

ANNEX**INFORMATION ELEMENTS FOR CATCH CERTIFICATES AND
ADDITIONAL INFORMATION ALONG THE SUPPLY CHAIN**

1. When considering the data elements to be included in the catch certificates, due consideration should be given to the fisheries concerned, the outcome of the risk assessment, the objective of the CDS and the complexity of the supply chain. Core elements include:
 - (a) Unique and secure identification of document
 - (b) Information on catch and landing (fishing vessel or vessel group (SSF), species, catch area, landing information etc.)
 - (c) Transshipment at sea or in port, as appropriate (donor and receiving vessel, area, date)
 - (d) Description of exported product(s) (product type, weight)
 - (e) Issuing Authority validating the catch certificate, including contact details
 - (f) Exporter identity and contact details
 - (g) Importer identity and contact details
 - (h) Export and transport details
2. In addition to the core elements, elements unique to re-export and processing:
 - (a) Link to originating catch certificate
 - (b) Description of imported products(s)
 - (c) Description of re-exported or processed product(s)
 - (d) Issuing Authority validating the re-export or processing statement, as appropriate, including contact details