

# VOLUNTARY GUIDELINES FOR CATCH DOCUMENTATION SCHEMES

**DRAFT FOLLOWING THE RESUMED TECHNICAL CONSULTATION SESSION OF 14 JULY 2016**

## **1. SCOPE AND OBJECTIVE**

- a) 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.
- b) 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.
- c) 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.
- d) States should give full recognition to the special requirements of developing states when implementing CDS taking into account Chapter 7.
- e) 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.
- f) CDS should account for the needs and special requirements of small scale fisheries (SSF).

## **2. DEFINITIONS**

For the purposes of these Guidelines:

- a) “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.”
- b) “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.
- c) “Fish” means all species of wild capture living aquatic resources, whether processed or not.

- d) "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.
- e) "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 trans-shipment and carrier vessels equipped for the transportation of fishery products, except container vessels.
- f) "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."
- g) "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.
- h) "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."
- i) "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.
- j) "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

- a) Be in conformity with the provisions of relevant international law;
- b) Not create unnecessary barriers to trade;
- c) Recognize equivalence;
- d) Be risk-based;
- e) Be reliable, simple, clear and transparent; and
- f) 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:

- a) 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;

- b) 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 section 4 (e);
- c) 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
- d) 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:
  - i. 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;
  - ii. 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;
  - iii. 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
  - iv. 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.
- e) 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:
  - i. catch certificates should be user friendly and contain verifiable information that is relevant, necessary and readily available; and
  - ii. 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 websites<sup>1</sup>. Such notice should include an explanation of how domestic and imported products are treated to ensure even-handedness.
- f) Secure electronic systems should be used to reduce the risk of falsification. The systems should:
  - i. serve as the mechanism of issuance and, validation of catch certificates by the competent

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<sup>1</sup> 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.

- authority and should function as the repository of catch certificate and supply chain data to allow verification of information;
- ii. Ensure that accurate and verifiable information is available along the supply chain through cooperation of states involved in it;
  - iii. be based on agreed international standards and formats for information exchange and data management, ensuring that its components provide for interoperability;
  - iv. 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;
  - v. include secure access by use of logins and passwords or by other appropriate means;
  - vi. 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;
  - vii. facilitate the documentation flow;
  - viii. provide for greater flexibility in the information requirements; and
  - ix. assure support for developing States in the development and implementation of secure electronic systems.

## 5. COOPERATION AND NOTIFICATION

1. [Regional or multilateral CDS [and in particular existing schemes] are preferred over unilateral measures taken by individual importing states, in order to provide a high level of inclusion, consistency, and involvement of relevant parties and to facilitate trade for the operators affected by the measure. To this end, states are urged to seek regional or multilateral arrangements, based on the risk assessment approach and cost-effectiveness considerations, before introducing unilateral measures. [ ] ]

This section could be revised following these options:

**Option 1:** Keep original text (without the brackets)

**Option 2:** Keep first bracket and the following bracket below:

[Whenever a multilateral CDS arrangement already exists it should take precedence over an equivalent unilateral CDS]

**Option 3** (from Resumed TC 08 July 2016):

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.

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.
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

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.
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.
3. [ ]

This section has the following options:

**Option 1** (from TC Session of 18-22 April 2016 and all bracketed text from the Resumed TC Session of 14 July 2016):

The CDS should define at which levels of the supply chain validation by a competent authority is required and the role of states concerned in accordance with relevant international laws, instruments and obligations. Validation of the information to the catch should be done by a competent authority.

According to the specific circumstances of the fisheries, catch certificates should be validated by competent authorities of the relevant states, which may include:

- a) the flag state;
- b) the coastal state for fishing vessels authorised to fish within waters under national jurisdiction;
- c) [the chartering coastal state for chartered fishing vessels authorised to fish solely within waters under national jurisdiction, or in areas beyond national jurisdiction, provided that the catch is landed in and is exported by the chartering coastal State, who is also responsible for issuing the fishing authorization; or]

*alternative c)* [the coastal chartering state, provided that the chartering operation is consistent with the framework on chartering operations of a relevant RFMO and that the catch is landed in and exported by the chartering coastal state; or]

d) the port state.

Importing states may request verification by the authorities validating the catch certificate.

### **Option 2:**

The CDS should define at which levels of the supply chain validation by a competent authority is required and the role of states concerned in accordance with relevant international laws, instruments and obligations. Validation of the information to the catch should be done by a competent authority.

In the validation process, cooperation mechanisms should be developed amongst all States concerned to ensure that all necessary information is available to confirm the legal status and provenance of the fish.

The responsibility for the validation of the Catch Certificate is with the authority of the flag state. In addition, coastal States could take part in the validation of information in the Catch Certificate upon agreement with the flag state when the coastal State has authorised vessels not flying its flag operating in areas under its jurisdiction, in accordance to relevant international law, international instruments and national rules. Due account should be taken of the sovereign rights of the coastal States over these areas.

Importing states may request verification by the authorities validating the catch certificate.

### **Options 3 + 4** (from Resumed TC Session of 08 July 2016 and all bracketed text from the Resumed TC Session of 14 July 2016):

The CDS should define which competent authority amongst all relevant states[, such as flag States[, chartering States, port States] or coastal States.] can validate a catch certificate, in accordance with relevant national and international laws and regulations and taking into account the specific circumstances of the fisheries. The CDS should also define at which level of the supply chain validation of the relevant information by a competent authority is required. [~~Competent authorities should assist the importing states' competent authorities in the verification of catch information.~~] [In determining validation requirements, due consideration should be given to all roles which are necessary in preventing the illegal harvest, landing and trade of fish products, including but not limited to, control of fishing operations and fishing vessels, and confirmation of catch at landing. Importing states may request verification by the authorities validating the catch certificate.]

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.

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. 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**

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.

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.

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 paragraph 7.2.

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 paragraph 7.2.

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

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**

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:

- Unique and secure identification of document
- Information on catch and landing (fishing vessel or vessel group (SSF), species, catch area, landing information etc.)
- Transshipment at sea or in port, as appropriate (donor and receiving vessel, area, date)
- Description of exported product(s) (product type, weight)
- Issuing Authority validating the catch certificate, including contact details
- Exporter identity and contact details
- Importer identity and contact details
- Export and transport details

In addition to the core elements, elements unique to re-export and processing:

- Link to originating catch certificate
- Description of imported products(s)
- Description of re-exported or processed product(s)
- Issuing Authority validating the re-export or processing statement, as appropriate, including contact details