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FISKERI- OG KYSTDEPARTEMENT

*Royal Ministry of Fisheries and Coastal Affairs*

Food and Agriculture Organization of the United Nations  
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Att: Rohana P. Subasinghe room F506

Your ref.

Our ref.  
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Date  
03 FEB. 2009

**FAO Subcommittee for aquaculture – Comments to the draft Technical Guidelines on Aquaculture Certification**

Dear Sir/Mdm,


Norway acknowledges the work done by the FAO on the current draft Technical Guidelines on Aquaculture Certification (Guidelines), but as stated during the meeting of the Sub-Committee on Aquaculture in Puerto Varas in October 2008, the document needs further development before it is acceptable to Norway.

The guidelines, as currently drafted, are certifying the policies underlying a country's management framework. This is based on a different philosophy, and thus incoherent with the wild fish ecolabelling guidelines. Norway believes this is an inappropriate approach.

Please find enclosed the Norwegian comments to the draft Guidelines for Certification of Aquaculture, as discussed during the meeting in Puerto Varas in October 2008.

Norway looks forward to receiving a redrafted version for further comments in accordance with the agreements reach in Puerto Varas.

Yours sincerely,

  
Magnor Nerheim  
Director General

enclosure:

## **General remarks**

Norway acknowledges the work done by the FAO on the current draft Technical Guidelines on Aquaculture Certification (Guidelines), but as stated during the meeting of the Sub-Committee on Aquaculture in Puerto Varas in October 2008, the document needs further development before it is acceptable to Norway.

It is clear from the scope of the document (paragraph 6) that the intention is to establish a common approach for any certification body, organisation etc who wishes to develop an aquaculture certification scheme. The impact of private standards on trade is a sensitive issue under the WTO. If a FAO Member State makes recommendations compulsory by national law, in order for its aquaculture industry to implement them, the content of these draft Guidelines, *de facto* becomes national law. National law which impacts on trade should be consistent with the rules for trade under the WTO-agreement. For the time being, Norway would point out that certain parts of the current draft Guidelines contains elements that seems to go beyond the WTO-agreements.

Furthermore, Norway would like to see the current draft Guidelines drafted more in line with the agreed Guidelines for ECO-labelling. There seems to be a number of discrepancies between the agreed Guidelines for ECO-labelling and the current draft Guidelines.

Norway therefore requests the FAO to submit a redrafted version for a full Technical consultation, which will give FAO Member States an opportunity to undertake a full assessment and comment on the resubmitted draft Guidelines.

## **Detailed comments (in the order of appearance in the draft Guidelines)**

For the purpose referred to above, Norway believes that it is of importance that the definitions in the draft Guidelines are in line with the relevant definitions in the WTO-agreement (including SPS- and TBT-agreements), as well as the international standard-setting organisations referred to by the WTO, like the Codex Alimentarius, OIE, and IPPC (all referred to in the SPS-agreement). This seems not to be the case in the current draft Guidelines.

Norway would highlight that:

- The definition of aquaculture includes “production and transport”. This could be read in such way that the transport of aquaculture products (for example farmed fish from processing plant to retail or supermarket) is included in the scope of these draft Guidelines. Norway believes that this draft Guidelines should not cover the value chain beyond the step of processing.
- There is a definition referring to Codex Alimentarius. Since these draft Guidelines covers animal health and welfare, a similar reference/definition must be made to the World Organisation for Animal Health (OIE). Furthermore, since the draft Guidelines also covers aquaculture with plant material, a similar reference/definition should also be made to the IPPC.
- Since these draft Guidelines, beyond doubt will influence on trade, it is important that the definition of a precautionary approach is identical to that of the WTO. As far as we can see, the current definition is not in line with the definition in the SPS-agreement.

Norway would question the phrasing of paragraph 7, where it is stated that these draft Guidelines cover the range of issues that should be considered relevant for a certification scheme. An aquaculture certification scheme drawn up in accordance with these draft Guidelines may address one or all of the issues mentioned. This is unfeasible and creates uncertainty, as a certification scheme covering only one of the issues (for example animal health), is in line with these draft Guidelines. However, it is the merit of the OIE as the standard setting body appointed by the WTO to set standards for the certification of animal health relevant for trade. Therefore, we believe that a certification scheme developed under these draft Guidelines must follow strictly those of the WTO/SPS standard-setting international organisations.

Norway is of the view that environmental integrity as referred to in Article 12 is beyond the scope of the WTO. Based on an assumption that a certification scheme drawn up in accordance with these draft Guidelines will influence on trade, it may cover issues which can become sensitive in a potential trade dispute between FAO Member States.

It is stated in paragraph, point h, that the certification schemes must ensure traceability of certified aquaculture products. Recognising that traceability is an extremely complex exercise, in particular when Article 18, point h, says “must ensure”, Norway sees some conflict of interests between Article 18, point h, and Article 18, point k. In Article 18, point k, special consideration should be given to poor small-scale farmers, to ensure their participation. Full traceability can be difficult, if not impossible to achieve for poor small-scale farmers.

Furthermore, Norway raises an issue with the interpretation of paragraph 18 k. As for poor small-scale farmers, is it understood that the draft Guidelines should be applied “*mutadis mutandis*”? In such case, Norway foresees some challenges when certification schemes drawn up in line with these draft Guidelines becomes the core issue in a potential trade dispute.

#### Paragraphs 20-30: Minimum substantive criteria - Animal health and welfare

Norway points to the fact that the issue of drawing up standards for certifying aquatic animal health and welfare is the responsibility of the OIE. Therefore these draft Guidelines should to a much greater extent refer to the OIE. We would also draw the attention to the fact that very few paragraphs deals with animal welfare.

Furthermore, we would like to point out that while paragraph 22 mentions “trade”, paragraph 23 mentions “movements”. It is not clear if this difference is unintentional.

Paragraph 24 says that preference should be given to the use of certified healthy or disease free aquatic animals. We agree with the principle. However, certifying disease freedom in accordance with OIE standards is expensive and usually takes 2-4 years (or more). This seems therefore to be in contradiction to paragraph 18, point k, unless the FAO has other provisions/standards for achieving this. From Norway’s point of view, the latter is not recommendable. Finally, it is not clear what the FAO means with “certified healthy” in paragraph 24 compared to “certified disease free”. Consistent with the OIE, there is no difference between the two, as healthy means absence of pathogen in the terminology of OIE.

In paragraph 25, Norway would like to point out that “system disinfection and fallowing” is not always possible to apply, for example in extensive pond farming of carps. Furthermore,

the OIE Code for the time being has no Chapter or Appendix on Disinfection of aquaculture establishments.

It is impossible to comply with paragraph 27, since not all diseases in aquatic animals are possible to treat with veterinary medicines. Stamping out (culling) is often the only possible way of combating viral diseases, and is in our view not a “treatment of a disease”.

Paragraphs 31-41: Minimum substantive criteria - Food safety

Norway would like to point out that the requirement in paragraph 32 i.e. that aquaculture should not be carried out in areas where the presence of potentially harmful substances that would lead to an unacceptable level of such substances in the products unacceptable. We do agree with the intention, but in the way it is phrased, it means that rearing molluscs in water with intermediate quality, followed by relaying/purification, would not conform to these draft Guidelines. This is not acceptable.

In paragraph 33, Norway would like to point out that the use of fish silage is normally in itself a sufficient treatment of fish by-products to avoid potential hazards when used as feed. Norway would rather like to see that this is reworded to something like: “Fish silage, trash fish and offal from fish used for feed production should not contain harmful substances of pathogens, which can be a hazard to fish or to humans consuming the fish”.

In paragraph 34, Norway would recommend that Medicated feeds should not be stored at the fish farm in excess, not only “stored separately”. Furthermore, this paragraph is a good example of a potential problem arising from the application of these draft Guidelines: Paragraph 34 says that feed should only contain substances permitted by national competent authority. What would happen if the exporting State permits a substance, being banned in the importing State?

In paragraph 35 it is said that control of diseases with drugs should be carried out only on the basis of an accurate diagnosis. First of all, it is not clear what the FAO means with an accurate diagnosis. Does this mean genotyping of a bacterial strain, or is it sufficient to identify the bacteria to the genus level? Norway therefore considers this sentence impossible to comply with. We recommend that it is rephrased to something like: “Control of diseases with drugs should be carried out only on the basis of a diagnosis made by qualified veterinary services”.

In paragraph 36, second sentence, it appears that the FAO has accepted the theory of “zero-risk”, as farms should not be sited where there is a risk of contamination. There is always a risk of contamination. We propose a rewriting in line with: “During the process of planning the siting of a farm, the risk of contamination of water....., should be considered”.

The same applies to paragraph 37, which says “avoid the potential hazards”. To us, avoiding potential hazards brings us into a level of zero-risk. Norway would recommend redrafting this in line with the principles proposed in paragraph 35.

Norway would like to point out that HACCP is a complex and expensive principle to introduce in aquaculture production, in particular in primary production. Again, there seems to be inconsistency between paragraph, point k, and other parts of the draft Guidelines, in this case, paragraph 39. In the same paragraph, we propose to look into the wording as regards “pest control”. In the WTO/SPS agreement, the word “pest” also refers to pathogens. Finally, paragraph 39 recommends that diseased animals are quarantined when necessary. This seems

to be in contradiction with paragraph 27. Norway would recommend that quarantine is used for animals with unknown disease status, in line with the OIE Code.

Paragraphs 42-47: Minimum substantive criteria - Environmental integrity

In paragraph 43, Norway would like to ask what the difference is between the terms “exotic species” and “alien species”, as both are used.

In the same paragraph, Norway welcomes the phrase “managed or mitigated to an acceptable level”. This wording should also be included elsewhere in these draft Guidelines where risk-mitigation is addressed.

Norway is concerned about introducing the precautionary approach in Article 45, since the definition of precautionary approach in paragraph 5 differs to that of the WTO/SPS.

Norway questions how a certification scheme can support management of the most probable adverse environmental impacts, as stated in paragraph 48. Who decides?

Norway opposes to include paragraph e 49. As defined, aquaculture operations can be anything relating to aquaculture, including transport/movement of live animals and products thereof. Even for a relatively well developed aquaculture country, it is far beyond what is achievable to employ environmental impact assessment prior to approval of all aquaculture operations. Norway recommends that environmental impact assessments are undertaken before the siting of an aquaculture establishment (fish farm/mollusc farming area, etc) is approved.

The requirement of routine monitoring in paragraph 51 can be expensive, and hence not in line with paragraph 18, point k.

Norway questions the inclusion of the element of “high conservation value”, in paragraph 52. Who decides? International organisations like CITES? National authorities (i.e. national law), or the organisation drawing up the certification scheme?

Norway opposes paragraph 54 as long as “encourage restoration of damages impacted by previous uses” is a “Minimum substantive criteria”. We do not oppose the intention, but cannot see how this can be a substantive criteria that must be complied with.

Paragraph 56 must be re-written, as it is impossible to apply in relation to mollusc farming, and sea-ranching.

Norway would ask the FAO to explain how manure is used in aquaculture in a responsible way, as proposed in paragraph 61.

Norway would like a further explanation of how the FAO foresees the implementation and interpretation of paragraph 63 on responsible use of energy.

Paragraphs 64 – 74: Minimum substantive criteria - Social responsibility

Norway supports the emphasis on social responsibility. However, we would underline the normative aspects of social responsibility. If these aspects generate commitments of a legal nature, they may be difficult to comply with as well as posing challenges for the bodies that certifies the production. We would also like to draw the attention of the FAO to the fact that

differentiation based on gender (as can be interpreted proposed in paragraph 67) is banned by law in many countries.

Norway believes that the parts of the draft Guidelines describing Institutional and Procedural Requirements in general seems to be acceptable

Norway would ask the FAO to carefully assess the current wording of paragraph 95, compared to that of “equivalence” under the WTO.