

August 2004



منظمة الأغذية
والزراعة
للأمم المتحدة

联合国
粮食及
农业组织

Food
and
Agriculture
Organization
of
the
United
Nations

Organisation
des
Nations
Unies
pour
l'alimentation
et
l'agriculture

Organización
de las
Naciones
Unidas
para la
Agricultura
y la
Alimentación

**TECHNICAL CONSULTATION ON INTERNATIONAL GUIDELINES
FOR THE ECOLABELLING OF FISH AND FISHERY PRODUCTS
FROM MARINE CAPTURE FISHERIES**

Rome, Italy, 19-22 October 2004

**DRAFT GUIDELINES FOR THE ECOLABELLING OF FISH
AND FISHERY PRODUCTS FROM MARINE CAPTURE
FISHERIES**

Scope, Principles, Minimum Substantive Requirements, Criteria and Procedures

Scope

1. These guidelines are applicable to ecolabelling schemes that seek to certify and promote labels for products from well-managed marine capture fisheries and focus on issues related to the sustainable use of fisheries resources.

Principles

2. The following principles [should] apply to ecolabelling schemes for marine capture fisheries:

- Be consistent with the FAO Code of Conduct for Responsible Fisheries
- Recognise the sovereign rights of States and comply with all relevant laws and regulations
- Be of a voluntary nature and market-driven
- Be transparent
- Be non-discriminatory, do not create obstacles to trade and allow for fair competition
- Establish clear accountability for the promoters of schemes and the certification bodies in conformity with international standards
- Incorporate reliable auditing and verification procedures
- Ensure equivalence of standards between countries
- Be based on the best scientific evidence
- Be practical, viable, and verifiable
- Ensure that labels communicate truthful information
- Provide for clarity
- Be based, at a minimum, on the minimum substantive requirements, criteria and procedures outlined in these guidelines.

3. The principle of transparency should apply to all aspects of an ecolabelling scheme including its organizational structure and financial arrangements.

General Considerations

4. Ecolabelling schemes should take into account that principles, minimum substantive requirements, criteria and procedures set out in this document will apply equally for developed, transition and developing countries; they should also consider equivalence of standards between countries.

5. Bearing in mind that minimum substantive requirements and criteria for ecolabelling schemes deal with fisheries management, rights and duties of States, it is recognized that the involvement of governments is desirable and should be encouraged in their application. Where appropriate, Regional Fisheries Management Organizations should also be encouraged to participate in ecolabelling schemes and their application.

6. In accordance with Article 5 of the Code of Conduct for Responsible Fisheries, recognizing that all countries should have the same opportunities, and in view of the special conditions applying to developing countries and their important contribution to international fish trade, it is acknowledged that in order to benefit from applying ecolabelling schemes, developing countries will require technical and financial assistance to develop and maintain appropriate management and monitoring, control and surveillance (MCS) arrangements that will allow them to participate in such schemes. Such assistance should consider direct support, as well as cost implications for accreditation and certification.

7. The use of ecolabelling schemes should be seen as an opportunity and a potential tool for developing countries to add value to their fish and fishery products and facilitate access to international markets, including for processed products.

Terms and definitions

8. For the purpose of these International Guidelines, the following terms and definitions apply.¹

Accreditation

9. Procedure by which an authoritative body gives formal recognition that a body or person is competent to carry out specific tasks.

(Based on ISO/IEC Guide 2:1996, 12.11)

Accreditation body

10. Body that conducts and administers an accreditation system and grants accreditation.

(Based on ISO Guide 2, 17.2)

Accreditation system

11. System that has its own rules of procedure and management for carrying out accreditation.

12. Note – Accreditation of certification bodies is normally awarded following successful assessment and is followed by appropriate surveillance.

(Based on ISO Guide 2, paragraph 17.1)

Appeal

13. Request by a person or body that was party to a complaint or by a government entity affected by a decision or finding for reconsideration and resolution by the independent panel. In cases not related to conformity assessments, appeals are dealt with by an independent committee established by the certification body, accreditation body and/or owner of the ecolabelling scheme, as appropriate.

¹ Terms and definitions which are not specifically referenced were developed by the Expert Consultation.

Arrangement

14. A cooperative mechanism established by two or more recognized groups or states.

Audit

15. A systematic and functionally independent examination to determine whether activities and related results comply with planned objectives.

(Based on Codex Alimentarius, Principles for Food Import and Export Certification and Inspection, CAC/GL 20)

Certification

16. Procedure by which a third party gives written or equivalent assurance that a product, process or service conforms to specified requirements. Certification may be, as appropriate, based on a range of inspection activities which may include continuous inspection in the production chain.

(Based on ISO Guide 2, 15.1.2 and Principles for Food Import and Export Certification and Inspection, CAC/GL 20)

Certification body

17. Body that conducts certification. A certification body may oversee certification activities carried out on its behalf by other bodies.

(Based on ISO Guide 2, 15.2)

Chain of custody

18. The concept that all relevant steps in the production chain have been inspected or certified as appropriate and that a system of tracking of certified products is in place.

(Based on IFOAM. 2002. IFOAM Accreditation Criteria for bodies certifying organic production and processing)

Complaint

19. An objection by a person or body to a decision regarding accreditation, de-accreditation, certification or de-certification.

Conformity assessment

20. Any activity concerned with determining directly or indirectly that relevant requirements are fulfilled.

21. Notes: Typical examples of conformity assessment activities are sampling, testing and inspection; evaluation, verification and assurance of conformity (supplier's declaration, certification); registration, accreditation and approval as well as their combinations.

(ISO Guide 2, 12.2)

Decision

22. Any resolution by an accreditation or certifying body or arrangement concerning the rights and obligations of a person or body.

Ecolabels

23. Ecolabels provide information on the label of the fish or fishery product about its overall environmental character, a specific environmental aspect, or any number of aspects. Purchasers and potential purchasers can use this information in choosing the products they desire based on environmental, as well as other considerations. The provider of the product hopes the ecolabel will be effective in influencing the purchasing decision in favour of its product. If the ecolabel has this effect, the market share of the product can increase and other providers may respond by improving the environmental aspects of their fish or fishery products to enable them to use ecolabels, resulting in reduced environmental stress from that product. No product life cycle assessment is implied by the use of the term ecolabel or ecolabelling in these guidelines.

(Adapted from ISO 14020: 1998, Introduction)

Standard

24. Document approved by a recognized organization or arrangement, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory under international trade rules. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

(Based on TBT agreement, Annex 1, para.2)

Standard-setting organization or arrangement

25. Organization or arrangement that has recognized activities in standardization.

(Based on ISO Guide 2, paragraph 4.3)

Target stock

26. Term used in these guidelines to refer to those stocks for which ecolabelling of product is being sought.

Third party

27. Person or body that is recognized as being independent of the parties involved, as concerns the issue in question.

(ISO/IEC Guide 2:1996)

MINIMUM SUBSTANTIVE REQUIREMENTS AND CRITERIA FOR ECOLABELS

Introduction

28. The following sets forth the minimum substantive Requirements and Criteria for assessing whether an ecolabel may be awarded to a fishery. Ecolabelling schemes may apply additional or more stringent requirements and criteria.

29. Requirements are specified for each of three areas: management systems, target stocks, and ecosystem considerations. For management systems, more specific Criteria are also listed. Although no specific Criteria are suggested for target stocks and ecosystem considerations, individual ecolabelling schemes will generally specify such criteria, as well as measurable performance indicators that can be used to assess the conformity of the fishery with the broad requirements and the more detailed criteria of their [own] standard.

Unit of certification

30. The unit of certification is a fishery or a component of a fishery, but the ecolabel applies only to products derived from one or more target biological stocks for that fishery/component. In this document, the term “target stocks” is used to refer to those stocks for which ecolabelling of product is being sought. In assessing compliance with certification standards, the impacts on the target stocks of all fisheries/components utilizing those stocks are to be considered.

Management systems

31. Requirement: The fishery is conducted under a management system that ensures the satisfaction of the Requirements and Criteria set forth below. The management system and the fishery operate in compliance with the requirements and standards of local, national and international law, including the requirements and standards of any regional fisheries management organization that manages the target stocks.

32. The following Criteria apply to management systems for any fisheries, recognizing that management systems can differ substantially for different types and scales of fisheries (e.g. artisanal through to large scale commercial fisheries):

- Data and/or information are adequate to evaluate the current state and trends of the stocks (see below: Methodological aspects).
- Scientific advice is provided in a timely manner on the state and trends of the stocks and, where appropriate, on precautionary reference points.
- Similarly, data and information are used to identify adverse impacts of the fishery on the ecosystem, and timely scientific advice is provided on the identified impacts (see below: Methodological aspects).
- The management system makes an effective response to the data, information, and scientific advice, through appropriate management measures, to meet long-term objectives.
- An effective legal and administrative framework is in place and effective monitoring and control are implemented.
- The absence of adequate scientific information is not used as a reason for postponing or failing to take conservation and management measures.

Target stocks

33. Requirement: Target stocks are not overfished, and are maintained at productive and economically viable levels, taking into account that longer term changes in productivity can occur due to natural variability and/or impacts other than fishing. In the event that biomass drops well below such target levels, catches should allow for restoration within reasonable time frames of the stocks to such levels.

Ecosystem considerations

34. Requirement: The identified adverse impacts of the fishery on the ecosystem are appropriately assessed and effectively addressed. The fishery under consideration does not substantially contribute to overfishing of other stocks. Biodiversity of aquatic habitats and ecosystems is conserved. Identified adverse impacts on protected, endangered or threatened species, as well as on sensitive biota and habitats, are avoided or minimized.

Methodological aspects

Assessing current state and trends in target stocks

35. There are many ways in which state and trends in stocks may be evaluated, that fall short of the highly quantitative and data-demanding approaches to stock assessment that are often used for large scale fisheries in developed countries. Use of less elaborate methods for stock assessment should not preclude fisheries from possible certification for ecolabelling. However it should be noted that, to the extent that the application of such methods results in greater uncertainty about the state of the resource, more precautionary approaches to managing such resources will be required. There is a variety of management measures commonly used in small scale or low value fisheries that nonetheless can achieve quite adequate levels of protection for stocks in the face of uncertainty about the state of the resource. However, in general, use of less elaborate methods will necessitate lower levels of utilization of the resource.

Identifying adverse impacts of the fishery on the ecosystem

36. Much greater scientific uncertainty is to be expected in assessing possible ecosystem impacts of fisheries, than in assessing the state of target stocks. This issue can be addressed by taking a “risk assessment/risk management” approach. In particular, risk assessment methods can be applied at a qualitative level in the first instance (for example by use of expert opinion utilizing existing knowledge and data) to first identify impacts of possible concern. The aim here is to ensure that most possible impacts are considered, but that only likely or potentially very high consequence impacts are actually pursued further. In practice, this approach tends to very quickly (and at relatively low cost) exclude most possible impacts from further need for consideration. The important feature of this approach, though, is that the possible impacts are given due consideration, not just ignored or discounted out of hand. Having identified a (usually) small set of impacts for further attention, this may take the form either of an immediate management response (where the impact is considered to be both likely and highly consequential, or where an easy solution is available), or further analysis of the identified risk. In the latter case, this also helps to identify priorities for research and monitoring.

PROCEDURAL AND INSTITUTIONAL ASPECTS

Introduction

37. Drawing heavily on available guides, especially those produced by the International Organization for Standardization (ISO), this chapter of the guidelines addresses the three principal procedural and institutional matters that any ecolabelling scheme should encompass: (1) the setting of certification standards, (2) the accreditation of independent certifying bodies, and (3) the certification that a fishery and the product chain of custody are in conformity with the required standard and procedures. The certification standard encapsulates the objectives that are pursued by a scheme. It is usually expressed in specific criteria that a product and/or the production process and methods would have to meet to get certified.

38. Accreditation of a certification body seeks to verify that the body is appropriate and capable for the certifying tasks. It would have to ascertain that the certification body is neutral and independent and has the technical and financial capacity to perform a certification of the conformity of a fishery with the established standard. Similar requirements apply to the accreditation body itself. The accreditation body needs to have the technical and financial capacity to undertake accreditation tasks, and perform these tasks in a neutral, non-discriminatory and independent manner.

39. The above three steps in the setting up of an ecolabelling scheme would normally have to occur sequentially in the same order whereby (2) accreditation and (3) certification would remain regular activities of the scheme once established. The scheme may also, at a regular but longer time interval, review and revise the certification standard in view of new knowledge and experiences.

Structure

40. This chapter provides first a brief discussion of possible governance structures of ecolabelling schemes. For illustrative purposes, the governance structures of the Marine Stewardship Council (MSC) and of the European Union ecolabelling scheme for industrial products (EU Ecolabel) are described in the Annex.

41. The chapter then presents the procedural guidelines in three parts entitled: 1) **Guidelines for the setting of standards of sustainable fisheries**, 2) **Guidelines for accreditation**, and 3) **Guidelines for certification**. Each of these three parts is further subdivided into four sections: i) **Purpose**, ii) **Normative References**, iii) **Functions and Structure** and iv) **Requirements**. The Requirements are the minimum requirements that a body, person or arrangement should meet to be recognized as competent and reliable in its domain. The **Principles** listed earlier in these guidelines apply equally to procedural and institutional aspects of marine fisheries ecolabelling schemes.

Options for governance structures

42. There are various options for the governance of an ecolabelling scheme. The initiative for a scheme could be taken by a government, an intergovernmental organization such as a Regional Fisheries Management Organization, a collaboration between a government and a non-governmental organization, a private industry association, a collaboration between a private industry and a non-governmental organization, and others. There are also various options for the geographical range of a scheme. It could be national, regional or international in scope.

43. The promoter/owner of a scheme may not necessarily be directly engaged in its operational affairs. These may be handled by an organization or arrangement which has been specifically set up for this purpose. It could be public, non-governmental or private. The promoter/owner of the scheme may lay down rules and regulations under which the ecolabelling arrangement or body is required to operate. The body may implement one ecolabelling scheme for one specific sector (e.g. fisheries) or may have responsibilities for various sectors (textiles; paper; etc.)

44. The promoter or implementing body could take responsibility for the accreditation of certification agencies (e.g. MSC). Alternatively, it may engage a specialist accreditation body to undertake this task on its behalf (e.g. the International Organic Accreditation Service (IOAS) operates the Accreditation Programme of the International Federation of Organic Agriculture Movements (IFOAM). The accreditation body could be private, public or an autonomous body governed by public service rules.

Guidelines for the Setting of Standards of Sustainable Fisheries

Purpose

45. The setting of standards is among the most critical tasks of any ecolabelling scheme of products from sustainable marine fisheries. The standards reflect the objectives that are being pursued through the scheme. Standards comprise quantitative and qualitative indicators of the governance system or management regime of a fishery as well as of its outcome in terms of sustainable fisheries and conservation of marine fishery resources and related ecosystems.

46. Standards should not distort global markets or international trade in ways not directly in line with the stated objectives of the standards.

Normative basis

47. The normative basis of standards of sustainable fisheries is given by international fisheries instruments and applicable national legislation. Relevant international fisheries instruments include, *inter alia*, the 1982 UN Convention on the Law of the Sea, the 1995 UN Fish Stocks Agreement and the 1995 Code of Conduct for Responsible Fisheries.

48. In procedural terms, the normative basis for standard development includes the following:

- ISO/IEC Guide 59 *Code of good practice for standardization*. 1994
- WTO TBT, ANNEX 3 *Code of Good Practice for the Preparation, Adoption and Application of Standards*
- FAO 1998. Report of the Technical Consultation on the Feasibility of Developing Non-Discriminatory Technical Guidelines for Eco-Labeling of Products from Marine Capture Fisheries, Rome, Italy, 21-23 October 1998. *FAO Fisheries Report No. 594*
- ISEAL. *P020 Guidance on ISEAL Code of Good Practice for Setting Social and Environmental Standards*. Public Draft. July 2003.
- ISEAL *Code of Good Practice for Voluntary Process and Production Method Standard-setting Procedures*, Public Draft 1, March 2003.

Functions and organizational structure

49. A standard setting organization or arrangement is assigned with the tasks of setting, reviewing, revising, assessing, verifying and approving standards. These tasks can be fulfilled through a specialized standard-setting body or through another suitable arrangement.

50. Where there is no standard-setting body, the organizational structure of a standard-setting arrangement should include, *inter alia*, a technical committee of independent experts and a consultation forum whose mandates are established. Such a committee and forum should report to legal entities such as a government agency, an intergovernmental organization such as a Regional Fisheries Management Organization, an industry or consumer association, or another governmental or non-governmental organization.

Requirements

Transparency

51. Transparency in the development of standards is necessary to guarantee and to ensure consistency with relevant international standards and to facilitate access, and participation of all interested parties, especially those of developing countries.

52. Standard-setting organizations or arrangements should carry out their activities in a transparent fashion and following written rules of procedure. Procedural rules should contain a mechanism for the impartial resolution of any substantive or procedural disputes about the handling of standard-setting matters.

53. A standard is under preparation (under review or under revision) from the moment a decision has been taken to develop, review or revise a standard until that standard has been adopted.

54. Once a standard has been adopted, it should be promptly published and should be accessible on the Internet.

55. At least once every year, the standard-setting organization or arrangement should publish a work programme containing:

- its name,
- its address,
- the list of standards currently under preparation,
- the list of standards currently under reviewing or revision and,
- the list of standards which were adopted in the preceding period.

56. A notice of existence of the work programme should be published in a national or, as may be, regional or international publication of standardization activities and/or should be accessible on the Internet whenever possible

57. On the request of any interested party, the standardizing organization or arrangement should promptly provide, or arrange to provide a copy of its standard setting procedures, most recent work programme, draft standard or final standard.

58. Translations into English, French or Spanish of standard setting procedures, most recent work programme, draft standards or final standards should be provided upon request, within the means of the standard-setting body or arrangement.

Participation by interested parties

59. Standard-setting arrangements or organizations should ensure balanced participation by independent technical experts and by representatives of interested parties in the standard development, revision and approval process. Development of standards of sustainable fisheries should, wherever possible, include representatives of fisheries management authorities, the fishing industry, fishworkers organizations, the scientific community, environmental interest groups, fish processors, traders and retailers as well as consumer associations.

60. Interested parties should be associated in the standard-setting tasks through an appropriate consultation forum or be made aware of an appropriate alternative mechanisms by which they can participate. Where more than one forum is designated, coordination requirements applicable to them should be determined.

61. Standardizing arrangements or organizations should have written procedures to guide decision-making.

Notification provisions

62. Before adopting a standard, the standardizing organization or arrangement should allow a period of at least 90 days for the submission of comments on the draft standard by interested parties. No later than the start of the comment period, the standardizing organization or arrangement should publish a notice announcing the period for commenting in a national or, as may be, regional or international publication of standardization activities and/or on the Internet.

63. The standardizing organization or arrangement should take into account, in further processing of the standard, the comments received during the period for commenting. The reply should include an explanation why a deviation from relevant national or international standards is necessary.

Keeping of records

64. Proper records of standards and development activity should be prepared and maintained. The standard setting organization or arrangement should identify a central focal point for standards-related enquiries and for submission of comments. Contact information for this focal point should be made easily available including on the Internet.

Review and revision of standards and of standard setting procedures

65. All standards should be reviewed when necessary and appropriate but at least every five years in the light of experience gained during their operation and should be revised accordingly.

66. Proposals for revisions can be submitted by any interested party and should be considered by the standard-setting organization or arrangement through a consistent and transparent process.

67. The procedural and methodological approach for setting standards should also be updated in the light of scientific and technical progress and of the experience gained in standard setting of sustainable fisheries.

Validation of standards

68. In developing and revising standards, an appropriate procedure should be put in place to validate the standard vis-à-vis the minimum requirements for sustainable marine fisheries as laid out in these guidelines. Validation is also required to ensure that standards do not encompass criteria or requirements that are of no relevance for sustainable fisheries and could cause unnecessary barriers of trade or mislead the consumer.

Guidelines for Accreditation

Purpose

69. Accreditation provides assurance that certification bodies responsible for conducting conformity assessments with sustainability standards and chain of custody requirements in fisheries are competent to carry out such tasks. By awarding accreditation to a certification body, accreditation bodies provide assurance that the latter is able to assess and certify that a certain fish or fishery product comes from a fishery that conforms with the established standard of sustainability.

Normative Reference

70. ISO Guide 61. *General Requirements for assessment and accreditation of certification/registration bodies*. 1996.

Functions and structure

71. Accreditation is carried out on the basis of a system that has its own rules and management, **i.e. an accreditation** system. The tasks of granting accreditation following successful assessment should be undertaken by competent accreditation bodies. In order to be recognized as competent and reliable in undertaking the assessment in a non-discriminatory, impartial and accurate manner, an accreditation body should fulfill, *inter alia*, the following requirements.

Requirements

Non-Discrimination

72. Access to the services of the accreditation body should be open to all certification entities irrespective of their country of residence. Access should not be conditional upon the size of the applicant body or membership in any association or group, nor should accreditation be conditional upon the number of certification bodies already accredited.

73. Full recognition should be given to the special circumstances and requirements of certification bodies in developing countries including financial and technical assistance, technology transfer, and training and scientific cooperation.

Independence, impartiality and transparency

74. The accreditation body should be independent and impartial. In order to be impartial and independent, the accreditation body should:

- Be transparent about its organizational structure and the financial and other kinds of support it receives from public or private entities
- Be independent from vested interests, together with its senior executive and staff
- Be free from any commercial, financial and other pressures which might influence the results of the accreditation process
- Ensure that decision on accreditation is taken by a person(s) who has (ve) not participated in the assessment.
- Not delegate authority for granting, maintaining, extending, reducing, suspending or withdrawing accreditation to an outside person or body.

Human and Financial Resources

75. The accreditation body should have adequate financial resources and stability for the operation of an accreditation system and should maintain appropriate arrangements to cover liabilities arising from its operations and/or activities.

76. The accreditation body should employ a sufficient number of personnel having the necessary education, training, technical knowledge and experience for performing accreditation functions in fisheries.

77. Information on the relevant qualifications, training and experience of each member of the personnel involved in the accreditation process should be maintained by the accreditation body. Record of training and experience should be kept up to date.

78. When an accreditation body decides to subcontract work related to accreditation to an external body or person, the requirements for such an external body should be no less than for the accreditation body itself. A properly documented contractual or equivalent agreement covering the arrangements including confidentiality and conflict of interests, should be drawn up.

Accountability and reporting

79. The accreditation body should be a legal entity and should have clear and effective procedures for handling applications for accreditation procedures. In particular, the accreditation body should maintain and provide to the applicants and accredited entities:

- a detailed description of the assessment and accreditation procedure
- the documents containing the requirements for accreditation
- the documents describing the rights and duties of accredited bodies

80. A properly documented contractual or equivalent agreement describing the responsibilities of each party should be drafted.

81. The accreditation body should have:

- defined objectives and commitment to quality
- procedures and instructions for quality documented in a quality manual
- an established effective and appropriate system for quality

82. The accreditation body should conduct periodic internal audits covering all procedures in a planned and systematic manner to verify that the accreditation system is implemented and effective.

83. Qualified personnel, attached to the accreditation body's team, should be nominated by the accreditation body to conduct the assessment against all applicable accreditation requirements.

84. Personnel nominated for the assessments should provide the accreditation body with a report of its findings as to the conformity of the body assessed to all of the accreditation requirements. The report should provide sufficiently comprehensive information such as:

- the qualification, experience and authority of the staff encountered
- the adequacy of the internal organization and procedures adopted by the certification body to give confidence in its services
- the actions taken to correct identified nonconformities including, where applicable, those identified at previous assessments

85. The accreditation body should have policy and procedures for retaining records of what happened during the assessment visit for a period consistent with its contractual, legal or other obligations. The records should demonstrate that the accreditation procedures have been effectively fulfilled, particularly with respect to application forms, assessment reports and other documents relating to granting, maintaining, extending, reducing, suspending or withdrawing accreditation. The records should be identified, managed and disposed of in such a way as to ensure the integrity of the process and confidentiality of the information.

Resolution of complaints concerning accreditation of certifying bodies²

86. The accreditation body should have a written policy and procedures for dealing with any complaints in relation to any aspect of the accreditation or de-accreditation of certifying bodies.

87. The procedures should include establishment, on an ad hoc basis as appropriate, of an independent and impartial committee to respond to a complaint. If possible, the committee should attempt to resolve any complaints through discussion or conciliation. If this is not possible, the committee should provide a written ruling to the accreditation body, which should transmit it to the other party or parties involved.

88. The accreditation body should:

- a) keep a record of all complaints, and remedial actions relative to accreditation
- b) take appropriate corrective and preventive action
- c) assess the effectiveness of remedial actions
- d) safeguard confidentiality of information obtained during the investigation and resolution of complaints.

89. Information on procedures for handling complaints concerning accreditation should be made publicly available.

90. The above does not exclude recourse to other forms of legal processes as provided for in national legislation or international law.

Confidentiality

91. The accreditation body should have adequate arrangements, consistent with applicable laws, to safeguard confidentiality of the information obtained in the course of its accreditation activities at all levels of its organization, including committees and external bodies acting on its behalf.

92. Except as required, information about an applicant certification body should not be disclosed to a third party without a written consent of the body. Where the law requires information to be disclosed to a third party, the body should be informed of the information provided, as permitted by the law.

Maintenance and Extension of Accreditation

93. The accreditation body should have arrangements to ensure that an accredited certification body informs it without delay of changes in any aspects of its status or operation.

94. The accreditation body should have procedures to conduct reassessments in the event of changes significantly affecting the capabilities, or scope of accredited activities of the accredited body or the conformance with any other relevant criteria of competence specified by the accreditation body.

95. Accreditation should be re-assessed at sufficiently close intervals to verify that the accredited certification body continues to comply with the accreditation requirements. The periodicity for carrying out reassessments should not exceed five years.

Suspension and Withdrawal of Accreditation

96. The accreditation body should specify the conditions under which accreditation may be suspended or withdrawn, partially or in total, for all or part of the scope of accreditation.

² Procedures by the accreditation body on the resolution of complaints and appeals concerning certification are provided in the following chapter on Guidelines for Certification.

Change in the accreditation requirements

97. The accreditation body should give due notice of any changes it intends to make in its requirements for accreditation.
98. It should take account of views expressed by interested parties before deciding on the precise form and effective date of the changes.
99. Following a decision on, and publication of, the changed requirements, it should verify that each accredited body carries out any necessary adjustments to its procedures within such time as, in the opinion of the accreditation body, is reasonable.
100. Special considerations should be given to accredited bodies in developing countries.

Proprietor or licensee of an **Accreditation** Symbol or a Logo³

101. The accreditation body which is proprietor or licensee of a symbol or logo, intended for use under its accreditation programme, should have documented procedures describing its use.
102. The accreditation body should not allow use of its Accreditation mark or logo in any way which implies that the accreditation body itself approved a product, service or system certified by a certification body.
103. The accreditation body should take suitable action to deal with incorrect references to the accreditation system or misleading use of accreditation logos found in advertisements, catalogues, etc.

³ The provisions on the use and control of a certification claim, symbol or logo is addressed in the Guidelines for Certification.

Guidelines for Certification

Purpose

104. Certification is the procedure by which a third party gives written or equivalent assurance that a product, process or service conforms to specified requirements. Certification is an integral and indispensable part of any ecolabelling scheme of products from sustainable marine fisheries. It provides assurance to buyers and consumers that a certain fish or fishery product comes from a fishery that conforms with the established standard for a sustainable fishery. Impartial certification based on an objective assessment of all relevant factors ensures that ecolabels convey truthful information. This is a necessary condition for the ecolabelling scheme to attain its objectives.

Scope

105. Certification is required of the fishery itself and of the chain of custody between the time the fish is harvested and the time the fish or fishery product is sold to the final consumer. Separate certificates may be issued for the fishery and for the chain of custody.

106. Two types of assessments are required for certification:

- a) **conformity assessment** of whether a fishery conforms with the standard and related certification criteria;
- b) **chain of custody assessment** of whether adequate measures are in place to identify, and keep segregated, fish from a certified fishery at subsequent stages of fish processing, distribution and marketing.

107. Fish and fishery products that are labelled to indicate to the consumer their origin from a sustainable fishery require both types of assessments and certificates.

Normative References

108. ISO Guide 62, *General Requirements for bodies operating assessment and certification/registration of quality systems*. 1996.

109. ISO/IEC Guide 65, *General requirements for bodies operating product certification systems*. 1996.

110. WTO. Agreement on Technical Barriers to Trade, Article 5.

Functions and structure

111. The tasks of carrying out conformity and chain of custody assessments should be undertaken by recognized and accredited certification bodies. In order to be recognized as competent and reliable in undertaking the assessments in a non-discriminatory, impartial and accurate manner, a certification body has to fulfill, *inter alia*, the following requirements.

Requirements

Independence and impartiality

112. The certification body should be legally and financially independent from the promoter/owner of the ecolabelling scheme.

113. The certification body and its assessment and certifying staff, whether directly employed by the certification body or sub-contracted by it, should have no commercial, financial or any other interest in the fishery or chain of custody to be assessed.

114. The certification body should ensure that a decision on certification is made by a person or persons who have not participated in the assessments.

115. The certifying body should not delegate authority for granting, maintaining, extending, reducing, suspending or withdrawing certification to an outside person or body.

Non-discrimination

116. Access to the services of the certification body should be open to all types of fisheries whether managed by a regional, governmental, parastatal or non-governmental fisheries management organizations or arrangement. Access to certification should not be conditional upon the size or scale of the fishery nor should certification be conditional upon the number of fisheries already certified.

Human and financial resources

117. The certification body should have adequate financial resources and stability for the operation of a certification system and should maintain appropriate arrangements to cover liabilities arising from its operations and/or activities.

118. The certification body should employ a sufficient number of personnel having the necessary education, training, technical knowledge and experience for performing conformity and/or chain of custody assessments in fisheries.

119. Information on the relevant qualifications, training and experience of each member of the personnel involved in the certification process should be maintained by the certification body. Record of training and experience should be kept to date.

120. When a certification body decides to sub-contract work related to certification to an external body or person, the requirements for such an external body should be no less than for the certification body itself. A properly documented contractual or equivalent agreement covering the arrangements including confidentiality and conflict of interests, should be drawn up.

Accountability and reporting

121. The certification body should be a legal entity and have clear and effective procedures for handling applications for certification of the fishery and/or the chain of custody. In particular, the certification body should maintain and provide to the applicants and certified entities:

- a detailed description of the assessment and certification procedure
- the documents containing the requirements for certification
- the documents describing the rights and duties of certified entities

122. A properly documented contractual or equivalent agreement describing the rights and duties of each party should be drafted between the certification body and its clients.

123. The certification body should have:

- defined objectives and commitment to quality
- policies and procedures for quality documented in a quality manual
- an established effective, appropriate system for quality

124. The certification body should conduct periodic internal audits covering all procedures in a planned and systematic manner to verify that the certification system is implemented and effective.

125. The certification body should have a policy and procedures for retaining records for a period consistent with its contractual, legal or other obligations. The records should demonstrate that the certification procedures have been effectively fulfilled, particularly with respect to application forms, assessment reports and other documents relating to granting, maintaining, extending, reducing, suspending or withdrawing certification. The records should be identified, managed and disposed of in such a way as to ensure the integrity of the process and confidentiality of the information.

126. The certification body should ensure that, in the event of changes, all affected parties are notified.

127. The certification body should make appropriate documents available on request.

Certification Fees

128. The certification body should maintain a written fee structure for applicants and certified fisheries which should be available on request. In establishing the fee structure and in determining the specific fee of a certification assessment, the certification body should take into account, *inter alia*, the requirements for accurate and truthful assessments, the scale, size and complexity of the fishery or chain of custody, the requirement of non-discrimination of any client, and the special circumstances and requirements of developing countries.

Confidentiality

129. The certification body should have adequate arrangements, consistent with applicable laws, to safeguard confidentiality of the information obtained in the course of its certification at all levels of its organization.

130. Except as required, information about a particular product or fishery should not be disclosed to a third party without a written consent of the client. Where the law requires information to be disclosed to a third party, the client should be informed of the information provided, as permitted by the law.

Maintenance of Certification

131. The certification body should carry out periodic surveillance and monitoring at sufficiently close intervals to verify that certified fisheries and/or certified chains of custody continue to comply with the certification requirements.

132. The certification body should require the client to notify it promptly of any intended changes to the management of the fishery, or the chain of custody, or other changes which may affect conformity.

133. The certificate body should have procedures to conduct reassessments in the event of changes significantly affecting the status and management of the certified fishery, or the chain of custody, or if analysis of a complaint or any other information indicates that the certified fishery and/or the chain of custody no longer comply with the required standard and/or related requirements of the certification body.

134. The period of validity of a certificate should not exceed five years in the case of a fishery and three years in the case of the chain of custody. The validity of a certificate cannot be extended beyond these periods from the initial issue of a certificate, as a result of a partial reassessment only.

Renewal of Certification

135. On the basis of prior regular monitoring and auditing exercises and a full reassessment, the validity of certification can be renewed up to the time limits of five years in the case of a fishery and three years in the case of the chain of custody.

Suspension and Withdrawal of Certification

136. The certification body should specify the conditions under which certification may be suspended or withdrawn, partially or in total, for all or part of the scope of certification.

137. The certification body should require that a certified fishery and/or chain of custody upon suspension or withdrawal of its certification (however determined), discontinues use of all advertising

matter that contains any reference thereto and returns any certification documents as required by the certification body.

Maintaining the Chain of Custody

138. Chain of custody procedures are implemented at the key points of transfer. At each point of transfer, which may vary according to the type of fish or fishery product traded, all certified fish or fishery products must be identified and/or segregated from non-certified fish or fishery products.

139. The certification body should ensure that a recipient of certified fish or fishery products should maintain pertinent chain of custody records, including all records relating to shipment, receipt and invoicing.

140. The certification body should have documented procedures defining auditing methods and periodicity of audits. The periodicity of audits should depend on:

- the technical processes undertaken at the point of transfer,
- such risk factors as the value and volume of the certified output.

141. Any breach or apparent breach of the chain of custody identified during an inspection/audit should be explicitly recorded in the inspection/audit report together with:

- an explanation of the factors that allowed the breach to occur;
- an explanation of the corrective actions taken or required to ensure that a similar breach does not re-occur.

142. All inspection/audit records should be incorporated into a written inspection/audit report that is available to pertinent parties and filed at the certification body office.

143. The inspection/audit report should contain as a minimum:

- the date of the inspection/audit
- the name(s) of the person(s) responsible for the report
- the names and addresses of the sites inspected/audited
- the scope of the inspection/audit
- comments on the conformity of the client with the chain of custody requirements

Use and Control of a **Certification** Claim, Symbol or a Logo

144. The certification body, accreditation body or promoter/owner of the ecolabelling scheme should have documented procedures describing the requirements, restrictions or limitations on the use of symbols or logos indicating that a fish or fishery product comes from a sustainable fishery. In particular, the ecolabelling scheme is required to ensure that symbols or logos should not relate to claims that are of no relevance for sustainable fisheries and could cause unnecessary barriers of trade or mislead the consumer.

145. The certification body, accreditation body or promoter/owner of the ecolabelling scheme should not issue any license to affix its mark/claim/logo or issue any certificate for any fishery or fishery product unless it is assured that the product bearing it is in fact produced from certified sources.

146. The certification body, accreditation body or promoter/owner of the ecolabelling scheme should exercise proper control over ownership, use and display of certification mark and logos.

147. If the certification body, accreditation body or promoter/owner of the ecolabelling scheme confers the right to use a symbol or logo to indicate certification, the fishery and any fish or fishery product from such fishery may use the specified symbol or logo only as authorized in writing by it.

148. The certification body, accreditation body or promoter/owner of the ecolabelling scheme should take suitable action to deal with incorrect references to the certification system or misleading use of symbols and logos found in advertisements, catalogues, etc.

149. All certificates issued should include:

- the name and address of the accreditation body or promoter/owner of the ecolabelling scheme
- the name and address of the certification body
- the name and address of the certification holder
- the effective date of issue of the certificate
- the substance of the certificate
- the term for which the certification is valid
- signature of the issuing officer

Resolution of complaints and appeals

150. The certification body, accreditation body or promoter/owner of the ecolabelling scheme should have a written policy and procedures for dealing with any complaints and appeals in relation to any aspect of certification or de-certification.

151. The procedures should include an independent and impartial committee to respond to any complaint. If possible, the committee should attempt to resolve any complaint through discussion or conciliation. If this is not possible, the committee should provide a written finding to the certification body, accreditation body or promoter/owner of the ecolabelling scheme as appropriate, which should transmit the finding to the party or parties involved.

152. Where the finding does not resolve the matter, the certification body, accreditation body or promoter/owner of the ecolabelling scheme as appropriate should allow that the appellant take an appeal concerning the **conformity assessment** to the independent panel.

153. The above does not exclude recourse to other forms of legal processes as provided for in national legislation or international law.

Independent Panel

Establishment

154. If a party to a complaint or a government entity affected by a decision or finding object to the finding of the independent committee, the party or entity may request in writing that FAO convene an independent panel. The request for the establishment of an independent panel should identify the matter at issue and provide a brief summary of the basis of the appeal sufficient to present the problem clearly. The basis of an appeal shall be that the appellant believes that the finding of the highest independent committee in the system of an ecolabelling scheme in applying the facts of the case to the procedures, standards, requirements and criteria of such ecolabelling scheme, was so flawed that the finding should be reversed.

Terms of reference

155. Terms of reference for the panel should be developed by it. The terms of reference should also establish the working procedures, including on timetable for the panel process and communication with the panel, or prescribe how such procedures should be established.

Composition

156. Panels should be composed of well-qualified individuals with appropriate experience and background including individuals with experience in the certification of fisheries. Panel members should be selected with a view to ensuring the independence and objectivity of the members and they should not have any vested interests in the matter at hand. The panel members will participate in the panel in their individual capacities and will not take instructions from any of the parties to the appeal. [To assist in the selection of panel lists FAO shall maintain a roster of individuals experienced in the certification of fisheries]. The Panel should be composed of 3 panel lists. FAO should propose nominations for the panel, promptly inform the parties to the appeal of the nominations and give the parties a possibility to comment on the nominations. The panel will be served by an FAO Secretariat composed of a technical Secretary and a Rapporteur.

Functions

157. The function of the panel is to make an objective ruling on the conformity of the certified fishery with the principles, criteria and standards of the ecolabelling scheme in question.

Procedures

158. Panel procedures should provide sufficient flexibility so as to ensure high-quality panel rulings, while not unduly delaying the panel process. As a general rule it should not take more than 6 months from the date of the submission of the written request by the appealing party to the date of the final ruling.

Confidentiality

159. The panel should have adequate arrangements, consistent with applicable law, to safeguard confidentiality of the information obtained in the course of the handling of an appeal submitted to it.

Communication

160. The panel should set precise deadlines for written submissions by the parties to the appeal and the parties should respect those deadlines. The written submissions should be deposited with FAO for immediate transmission to the panel and the other party or parties to the appeal.

Expenses

161. All expenses of the FAO and the independent panel incurred by way of convening and holding the independent panel shall be borne by the [appellant, disregarding the outcome of the appeal]. If FAO so requires the [appellant] shall make a deposit to FAO, of such sum as may be specified, in advance of any action taken to convene or hold the independent panel.

Keeping of records on complaints and appeals concerning certification

162. The certification body, accreditation body or promoter/owner of the ecolabelling scheme should:

- e) keep a record of all complaints and appeals, and remedial actions related to certification
- f) take appropriate corrective and preventive action
- g) assess the effectiveness of remedial actions
- h) safeguard confidentiality of information obtained during the investigation and resolution of complaints and appeals concerning certification.

163. Information on procedures for handling of complaints and appeals concerning certification should be made publicly available.