



COMMITTEE ON FISHERIES

SUB-COMMITTEE ON FISH TRADE

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PRODUCT LEGALITY AND TRANSPARENCY FROM A TRADE PERSPECTIVE

Executive Summary

This document provides an update on activities undertaken by FAO since the last Session of the COFI Sub-Committee on Fish Trade (COFI:FT) in 2017 in relation to seafood product legality and transparency. This covers work on catch documentation schemes, collaboration with the Fisheries Transparency Initiative and activities related to food fraud in general and fish fraud specifically.

Suggested action by the Sub-Committee

- Comment on the recent work of FAO on product legality and transparency;
- Provide information on relevant national, regional and inter-regional experience in seafood product legality and transparency;
- Provide guidance for FAO's further work on seafood product legality and transparency, in particular on capacity-building for developing countries and the small-scale sector;
- Note the progress achieved on these issues in collaboration with other organizations, and suggest actions in the future.



INTRODUCTION

1. Transparency of information throughout the supply chain, and associated market tools are important elements to support product legality of fish and fish products. FAO has been developing instruments and providing technical expertise to international meetings to foster transparency within the principle of not creating unnecessary barriers to trade.
2. Many of the existing instruments in the area of fisheries and aquaculture, including the Voluntary Guidelines for Catch Documentation Schemes (CDS Guidelines), are elements of an international framework aiming to achieve sustainable fisheries and to prevent the trade of products originated from illegal, unreported and unregulated (IUU) fisheries.
3. Contemporary issues linked to product legality, like food fraud, while not a new phenomenon, have come under the spotlight in recent years. Major initiatives have been underway in many countries, both at governmental and private sector levels, to combat food fraud. Fisheries and aquaculture sectors are highly vulnerable to food fraud given the complexity and multiplicity of species and their corresponding value chains.

CATCH DOCUMENTATION SCHEMES

4. The CDS Guidelines are the direct output of a series of meetings and consultations from 2015 to 2017 and were officially adopted by the FAO Conference in July 2017. The definition of catch documentation schemes is directly linked to transparency and legality since they focus on whether the catch product is consistent with national, regional, and international conservation and management measures.
5. Therefore, effective implementation of CDS Guidelines by Members, meeting their objectives and complying with their requirements, will increase transparency and the level of traceability, reducing the possibility of illegal products entering into the markets.
6. In this regard, since the last Session of COFI:FT FAO promoted several regional and international workshops to raise the awareness of CDS Guidelines, by fostering the exchange of national and regional implementation experiences.
7. These workshops included "International fish trade, market and governance" held in Shanghai, China, in December 2017; three FAO regional workshops in 2018 for Small Island Developing States (SIDS) on "Effective Fish Trade and Sustainable Development" held in Victoria, Seychelles, for the African and Indian Ocean SIDS, in Auckland, New Zealand, for the Pacific SIDS, and in Bridgetown, Barbados for the Caribbean SIDS; an FAO "International Seminar on Sustainable Seafood Value Chain: Traceability" held in Shanghai, China in November 2018; and an FAO gap analysis workshop for the "Elaboration of a National Strategy and Roadmap for the Effective Implementation of the 2009 FAO's PSMA" in San José, Costa Rica, in February 2019.
8. In addition, FAO is also developing a practical guidance document for the CDS Guidelines as a critical and integral part of its implementation plan. This guidance document will provide an in-depth explanation of key technical and practical aspects of the CDS Guidelines and compile valuable guiding information for Members when establishing trade measures to combat IUU fishing. The funding support for this guidance document has been already submitted to the European Union for approval, including the organization of an international consultative workshop to finalize the development process.
9. Taking into consideration their complementarities, CDS Guidelines had been included in the FAO umbrella program to support the implementation of the 2009 Port State Measures Agreement (PSMA) to combat IUU fishing, coupled with other complementary instruments, mechanisms, guidelines and tools. The section of "Market State Measures" in the pre-assessment questionnaire was updated to better define national capacity building demand under the FAO IUU Umbrella Program.

One section specifically designated to CDS has become standard in PSMA implementation workshops on gap analysis or capacity building. The practical guidance document being developed for the CDS Guidelines could also be a reference specifically on trade measures for capacity building activities under the FAO IUU umbrella program.

10. Furthermore, a report on "seafood traceability for fisheries compliance: country-level support for catch documentation schemes"¹ was published in late 2017, with funding support from the Government of Japan.

FOOD FRAUD

11. Studies in the United States of America and the European Union have shown the seafood sector to be in the top two or three most vulnerable food sectors to fraudulent activity. A major recent EC/Interpol/Europol coordinated action², simultaneously run across 11 European countries, detected fraudulent practices of species substitution. In this case, tuna intended for canning was sold as fresh and, as a result, more than 51 tonnes of tuna were seized with five criminal cases initiated.

12. In 2019, the Codex Committee on Food Import and Export Certification and Inspection (CCFICS) established an electronic working group on food fraud to determine how to progress work in this area. FAO, across several departments, has initiated work on food fraud in this last biennium to start to address this increasingly important area of work.

13. In 2018, FAO published an "Overview of food fraud in the fisheries sector"³. The report highlighted that combating fish fraud is a complex task requiring the strengthening of national food regulatory programmes, the development of effective, science-based traceability systems, and improved methods for fish authenticity testing. It also emphasized the need for the fish industry to develop and implement systems for fish fraud vulnerability assessment to identify potential sources of fish fraud within their supply chains, and to prioritize control measures to minimize the risk of receiving fraudulent or adulterated raw materials or ingredients.

14. Focusing on broader food fraud issues, FAO has initiated a comparative legal analysis of how food fraud is regulated in different jurisdictions. The purpose of this analysis is to identify the regulatory elements that countries should take into consideration to address food fraud in their legislation (including elements for a definition of food fraud) to integrate food fraud governance in food control systems and to enable appropriate identification, control and enforcement mechanisms. The work takes into consideration different regulatory approaches to food fraud identification and control, including general food control systems (food safety and quality legislation), general consumer protection legislation and general fraud prosecution through criminal law. It also pays attention to food fraud in different sectors, including fisheries, special quality products (such as organic food or foods with geographical indication) and other food products. For this purpose, FAO has collaborated with the Resnick Centre for Food Law and Policy, University of California (UCLA) School of Law, and is also collaborating with Vermont Law School.

15. In addition, an expert workshop on food fraud is being held in Rome in November 2019 to contribute to the development of a comprehensive approach to tackling food fraud. During this workshop, FAO staff and invited food fraud experts will explore the multifaceted aspects of food fraud and identify key measures, tools and procedures in place to combat food fraud across various value chains. Specifically, the purpose of the workshop will be to agree on key elements that contribute to a

¹ Further details of this report is included in the document "Traceability - FAO Recent Work and the Future".

² https://ec.europa.eu/food/sites/food/files/safety/docs/food-fraud-reports_20180518_pres02.pdf

³ <http://www.fao.org/3/i8791en/i8791EN.pdf>

definition of food fraud and to identify the elements, institutions and mechanisms that a country should put in place to effectively address food fraud.

16. Finally, the 24th Session of the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS), held in October 2018, agreed to establish an Electronic Working Group (EWG), chaired by the United States of America and co-chaired by the European Union and the Islamic Republic of Iran. China has recently joined as a co-chair. The EWG is to further consider the role of CCFICS with respect to tackling the challenge of food fraud in the context of food safety and fair practices in the food trade; and conduct a comprehensive analysis of existing relevant Codex Alimentarius texts within and outside of CCFICS to avoid overlapping or intrusion onto the mandate of other Codex general subject or commodity committees. If the EWG identifies gaps in existing CCFICS texts, it may propose new work, within the scope and mandate of CCFICS, for consideration at CCFICS25. The EWG will also consider what definitions need to be developed; and propose definitions that may be needed in any future project document, consistent with existing Codex texts, scope and mandate for use in prospective project documents as appropriate.

INITIATIVES ON TRANSPARENCY

17. FAO continues to technically support the Fisheries Transparency Initiative (FiTI)⁴. The FiTI is a multi-stakeholder initiative, with equal representation and participation from government, companies and civil society, complementing and supporting other national, regional and global efforts for achieving responsible fisheries governance and access to information. The FiTI provides a global framework to support countries to increase the credibility and quality of national fisheries information and demonstrate their commitments to improved fisheries governance, by using a standard with clear requirements on what is expected from countries regarding transparency and multistakeholder participation in fisheries. In May 2019, the FiTI International Secretariat was officially opened in Victoria, Seychelles. More recently, the FiTI secured a grant from the Gordon and Betty Moore Foundation to support its activities until June 2021, with specific year targets to have the commitment of new countries to adhere to the Initiative.

⁴ www.fisheriestransparency.org