



Technical Comments: Disciplines and Conditions on Non-Prohibited Subsidies

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Structure of the Presentation

1. Sustainability criteria for exemptions and SDT
2. Setting criteria
3. A process for applying criteria
4. Conclusions

Focus of Session 2

“ non-prohibited subsidies are to be subject to certain general disciplines (Art. IV), and to certain prerequisites relating to fisheries management (Art. V). Session 2 will focus on these provisions, with emphasis on Article V, in order to examine the nature and extent of the proposed requirements.”

Some of Proposed Conditions Related to Sustainability

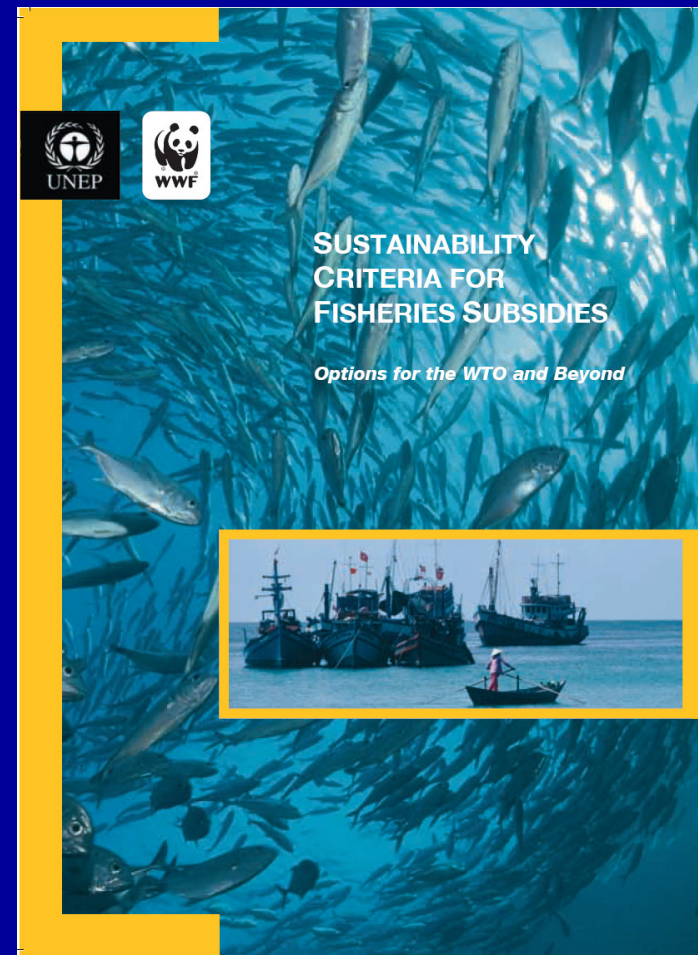
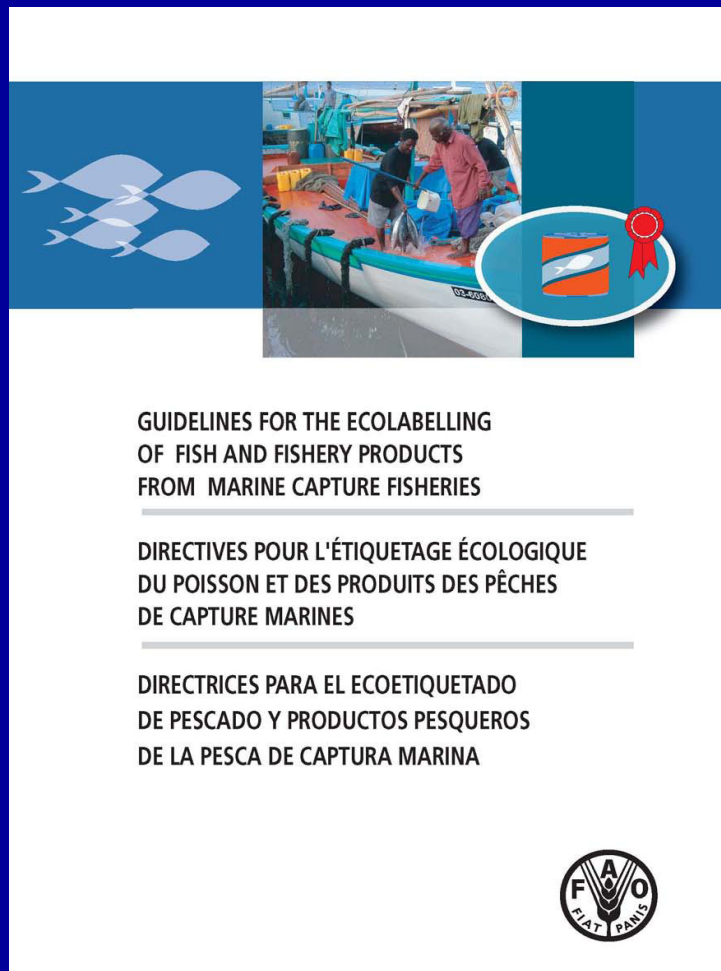
- Art I.2 'fish stocks in an unequivocally overfished condition'
- Art II (b): 'adoption of gear for selective fishing techniques;...reducing environmental impact...sustainable use and conservation'
- Art. III.2 (a): 'fisheries management measures aimed at sustainability ...should be implemented'
- Art. III.2 (b): 'those stocks have been subject to prior scientific assessment...'
- Art. IV: 'status of..best practices for fisheries management and conservation'
- Art. V: 'shall operate a fisheries management system...designed to prevent over-fishing'

Article V: Fisheries Management

The system shall include:

- Regular science-based stock assessment;
- Capacity and effort management measures;
- Vessel registries;
- Establishment and allocation of fishing rights;
- Enforcement mechanisms;
- Species-specific quotas, seasons and other stock management measures;
- System reporting;
- Research; etc

Sustainability Criteria: Options and Examples



Basic Criteria

WWF Sustainability Criteria

- Stock-related
- Capacity-related
- Management-related

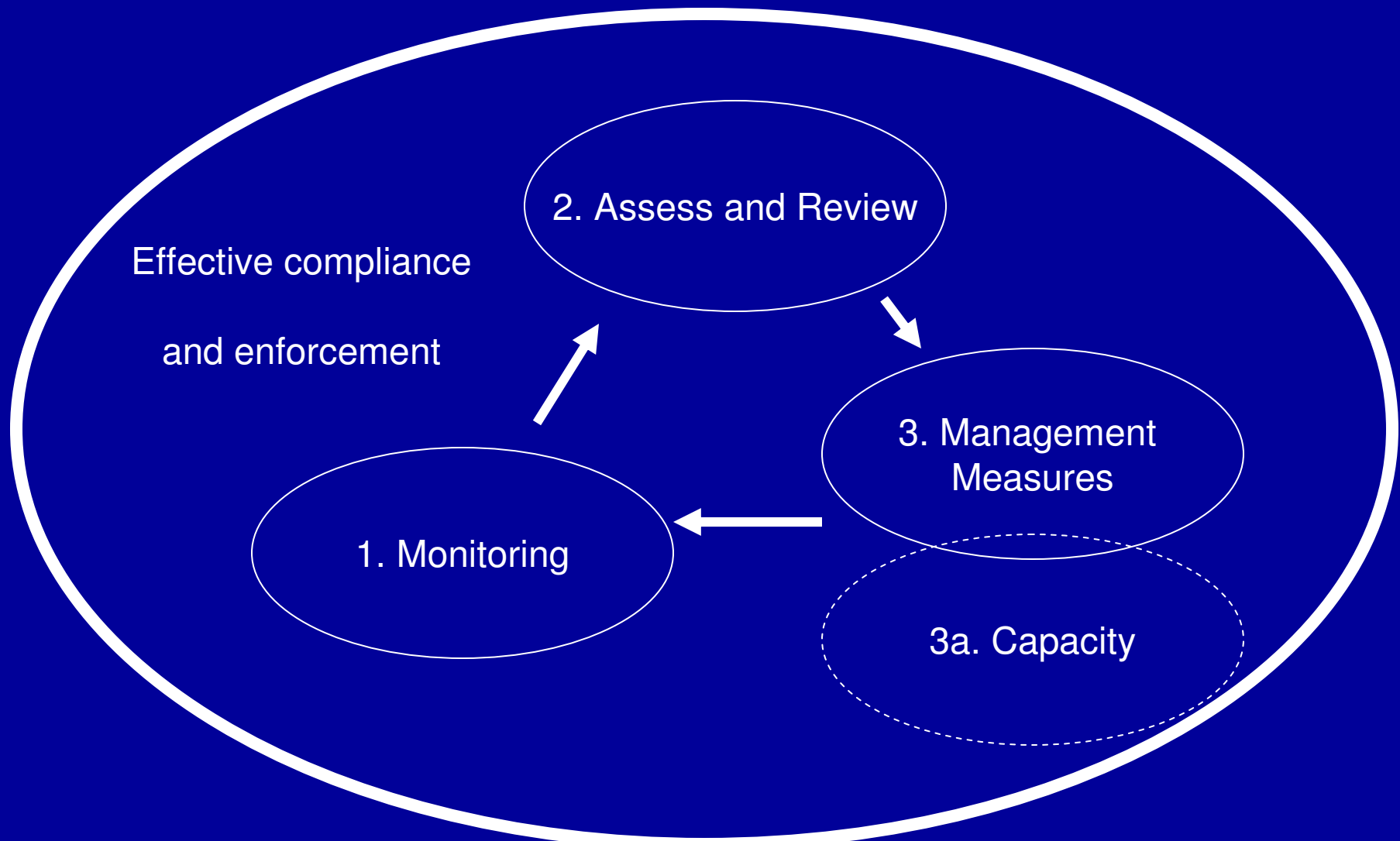
FAO Eco-labelling Criteria

- Stocks
- Impacts on ecosystem
- Management systems

Requirement: The fishery is conducted under a management system ..

- 29.1 Adequate data and/or information are collected, maintained and assessed
- 29.2 In determining suitable conservation and management measures, the best scientific evidence available is taken..., as well as .. relevant traditional knowledge...to evaluate the current state of the “stock”
- 29.3 data and information... are used to identify adverse impacts of the fishery on the ecosystem.
- 29.4 adopt appropriate measures for the conservation and sustainable use of the “stock”
- 29.5 an effective legal and administrative framework is...established and compliance is ensured
- 29.6 the precautionary approach is being implemented

Core Components of Effective Management System



Addressing the Methodological Diversity

- 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 ... Use of less elaborate methods ..should not preclude fisheries from possible certification for ecolabelling...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. (FAO Eco-labelling Guidelines para 32)

Conclusion 1

- Criteria should be specified to determine whether or not the 'minimum international criteria' for fisheries subsidies are being met but those criteria should be broad enough to allow for widely differing strategies and approaches

Small-scale and artisanal fisheries

- Small-scale/artisanal fisheries can cause over-exploitation
- WTO needs to be clear on the reasons for proposing their blanket exemption

How will the criteria be applied?

- The approach to be used must be decided by WTO members. Experience from national and international fisheries management indicates that criteria alone are insufficient and they must be interpreted by an objective body of experts
- FAO Panel of Experts for CITES: 5 days to evaluate 6 proposals

How will the criteria be applied?

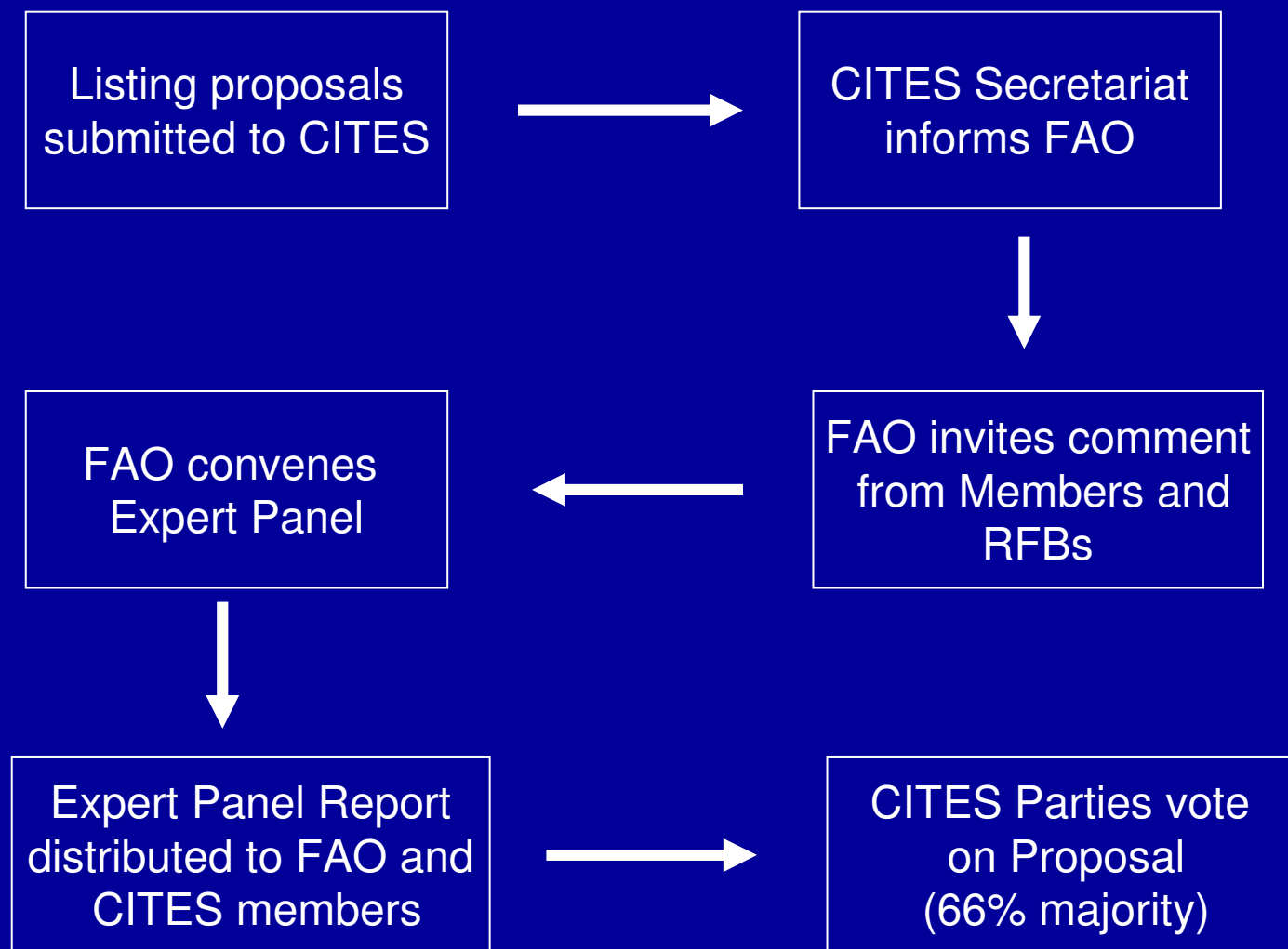
WWF/UNEP Options

1. Not creating new mechanisms... making good use of the right to experts.
2. A standing body of Fisheries Experts wholly under the auspices of the WTO.
3. Creating an obligation on panels to consult with relevant IGOs.
4. Entering into formal relationships with existing external IGOs (such as FAO or RFMOs)

FAO-CITES as an Example of Process

1. CITES text requires consultation on listing proposals with relevant inter-governmental fisheries bodies
2. 2001 - COFI adopts recommendations for listing criteria and forwards those to CITES.
3. 2004 - CITES CoP includes the FAO recommendations in revised listing criteria.
4. 2004 - COFI authorises FAO Secretariat to establish an 'ad hoc Advisory Panel' to evaluate listing proposals.
5. Prior to each CoP (2004 & 2007)
 - FAO Secretariat convenes Panel & informs FAO Members and CITES Secretariat of recommendations of Panel
 - CITES Secretariat informs CITES Parties who vote on listing proposals at CoP
6. COFI periodically reviews quality and effectiveness of Panel recommendations.

The Decision Process



Conclusions

1. Consideration of sustainability criteria for exceptions and Special and Differential Treatment is, in principle, implementable.
2. A pre-requisite for implementation will be technical and political agreement on sustainability criteria (fairly general to allow for diversity of possible approaches).
3. Each application for or challenge to an exemption will need to be evaluated by a technically competent and unbiased body to advise WTO.
4. FAO is an appropriate body with the necessary expertise to undertake that advisory function should it be so requested.



Sustainability Considerations in the Eco-labelling Guidelines

MINIMUM SUBSTANTIVE REQUIREMENTS AND CRITERIA FOR ECOLABELS:

“Requirements are specified for each of three areas: management systems, the stock or stocks for which certification is being sought (subsequently referred to as “stock under consideration”), and consideration of serious impacts of the fishery on the ecosystem. Criteria and related measurable performance indicators and a corresponding monitoring system should be established in order to assess the conformity of the fishery concerned with the requirements and the criteria of the ecolabelling scheme.” (para 27)

Status of the Stock

- The “stock under consideration” is not overfished, and is maintained at a level which promotes the objective of optimal utilization and maintains its availability for present and future generations taking into account that longer term changes in productivity can occur due to natural variability and/or impacts other than fishing. (para 30)

Ecosystem considerations

- Requirement: Adverse impacts of the fishery on the ecosystem should be appropriately assessed and effectively addressed.. (para 31)