

WORLD TRADE ORGANIZATION

TN/RL/W/196
22 November 2005

(05-5525)

Negotiating Group on Rules

Original: English

FISHERIES SUBSIDIES

Paper from Brazil; Chile; Colombia; Ecuador; Iceland;
New Zealand; Pakistan; Peru and the United States

The following document communication, received on 22 November 2005, is being circulated at the request of New Zealand.

Introduction

1. Over the past year, the Negotiating Group on Rules has made good progress in responding to the Doha Declaration call for improved disciplines in fisheries subsidies. Such progress is welcome, although Members will clearly need to intensify their work following the Hong Kong Ministerial meeting if we are to achieve a substantial result.
2. The reasons for singling out fisheries subsidies for particular focus in the Rules negotiations remain as valid now as they did at Doha. Concerns about the potentially harmful trade, development and environmental effects of fisheries subsidies have increased as the undisputed crisis facing global fisheries worsens.
3. WTO negotiators are tasked with addressing those subsidies that are a major contributing factor to this global crisis. The effects of around US\$15 billion a year in subsidies, equivalent to twenty per cent of global industry revenues, are obvious. The FAO has found that a quarter of the world's most valuable commercial fisheries are overexploited or significantly depleted. Another 50% are fully exploited. It is now widely recognized in the literature that subsidies are one major contributing factor. Subsidies are part of the problem, and the WTO (as the international organization with both the ability and responsibility to take action on subsidies) must therefore be part of the solution.
4. Negotiators appear to agree that the task of strengthening WTO disciplines on fisheries subsidies is not a substitute for work in other specialist bodies, particularly in improving fisheries management. But it will provide an essential complement and support to the work of other inter-governmental organizations, and environment and conservation groups around the world. As Ministers have recognised, the WTO is the international organization with the ability and responsibility to take action on subsidies that affect trading opportunities and negatively affect this global resource.

Progress to Date

5. Following up on a suggested work plan from Argentina, Chile, Ecuador, New Zealand the Philippines and Peru in November 2004¹, over this last year Members have contributed to discussions addressing most of the areas suggested as "next steps in the negotiation". These include detailed submissions reviewing parameters that need to be considered for management services, vessel decommissioning and licence retirement, and fisheries infrastructure [respectively JOB(05)/44, TN/RL/GEN/41 and TN/RL/GEN/70]. The one major area yet to be addressed in detail is the category of "certain fisheries-related social insurance programmes".

6. Several other substantive contributions have focused on special and differential treatment, including from Brazil (TN/RL/GEN/56) and a group of small economies for the Caribbean and the Pacific (TN/RL/GEN/57/Rev.2), which included discussion of key issues such as the treatment of artisanal and small scale fishing, and the question of subsidised access fees.

7. Other important contributions over the year came from Japan, Korea and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (TN/RL/W/172 of 22 February 2005) on the framework for disciplines on fisheries subsidies, and from Japan on IUU fishing. The European Communities also submitted a proposal on the question of enforcement and transparency (TN/RL/GEN/30 of 12 May 2005). Aquaculture was discussed in TN/RL/GEN/54.

8. These papers provide a strong basis for eventually reaching a common understanding of the definitions and treatment of various categories of fisheries subsidies, and for related discussions on the nature and extent of disciplines that will be needed.

9. The Rules Negotiating Group has taken an important step forward and devoted time to engaging in detailed discussions of fish subsidies through the exchange of information on various fish subsidy programs, which has enabled Members to learn more about current Member fish subsidies practices.

10. It will be important to continue to develop a better common understanding of Members' fisheries subsidies programs. While there have been useful exchanges over the past year, it has been apparent during the discussions that there is a lack of transparency concerning some Members' activities on fish subsidies - another reminder of the extent to which transparency is lacking in this sector. As the negotiations begin to concentrate on text, it will be imperative for Members to provide more detail on their fisheries subsidies practices, which will facilitate more focused discussions. Enhanced transparency of fisheries subsidies practices must be one of the outcomes from these negotiations.

Next Steps

11. While there has been good coverage of a broad range of fisheries subsidies programmes, these discussions have identified a number of areas that remain to be addressed. These include:

- conservation subsidies (e.g. artificial reefs, aid for restocking of fish resources and potentially fisheries enhancement expenditure);
- regional development programmes;
- fisheries-related social insurance programmes (e.g. job training to assist the transition out of the industry);
- research and development programmes.

¹ TN/RL/W/166

12. We will need to deepen the analysis on the issues we have already covered, and in addition, further work will be necessary on the scope of the disciplines (e.g. clarification of the treatment of inland fisheries), and in further elaborating on special and differential treatment under the new disciplines. We would welcome further contributions from other Members in these and other areas.

Text-based proposals

13. Regardless of whether there are any further contributions from Members under the present "issue identification" stage, however, the negotiations should move quickly after the Hong Kong Ministerial into a second phase directed to producing a text-based outcome for the new disciplines. Accordingly, this discussion will depend on Members' contributions focused around textual proposals. In order to complement this work, and to provide a framework of reference for text-based proposals, Members will need to return to the question of structure of the disciplines, characterised by the choices between the two approaches, "top down" (a broad prohibition with exceptions) and the "bottom up" (prohibition of subsidies explicitly listed).

14. Members will also need to return to the appropriate approach for disciplines. In this context, the cosponsors endorse the following principles to guide the development of the new disciplines. The new rules:

- need to be simple and enforceable;
- should provide for a far greater level of transparency than under current rules;
- should be both flexible and responsive, not just in the structure of the disciplines but in accommodating and reflecting the dynamic nature of the fishing industry, and evolution in the nature and extent of fisheries subsidies policy and practice;
- must be consistent with the Doha mandate;
- must recognise the importance of this sector for developing countries through appropriate special and differential treatment.

15. The co-sponsors continue to support strongly the concept of a broad-based prohibition as the best means for delivering on the Doha mandate. The principles noted above are all consistent with a broad-based prohibition.

Conclusions

16. We note that ambition in other areas of the Doha negotiations is cast in terms of seeking "commercially meaningful" results. In the context of fisheries subsidies, this can be translated into seeking an outcome that effects both policy change, and change in practice. The end result must be significant reductions to the levels of distorting subsidies provided to this sector, as well as appropriate checks to ensure against circumvention.

17. A limited number of countries provide the vast majority of distorting subsidies, not only encouraging unsustainable fisheries practices but also depressing global prices in a way that adversely affects Members' interests, including developing country interests.

18. We are committed to achieving a substantial result on fisheries subsidies disciplines in this Round. This is a one-time opportunity for the WTO to make a real, effective contribution to resolving the crisis facing global fisheries. We do not have the luxury of incrementalism - the race for the last fish may be over before the WTO delivers results from a tenth multilateral round. Given the importance of this sector for developing countries, both as an export earner and as a significant domestic industry, effective and strong disciplines on fisheries subsidies will make a major contribution to ensuring that this truly is a "development" Round.