

Give some, take some

In the new round of WTO negotiations, the issue of fisheries subsidies will have to fit into a mosaic of national trading interests

The Geneva-based World Trade Organization (WTO) is essentially a forum where countries engage in an 'institutionalized' tussle for access to one another's markets. This mercantilist behaviour sees governments bargaining for access to export markets, even as they seek to protect their own markets from imports. Since governments cannot expect greater access to foreign markets, without giving, in exchange, others access to their own markets, the WTO negotiations boil down to a give-and-take in products and markets. Countries will demand market access for products that they think they can export, and they will, in return, give other countries access to their own markets for products that they think are unimportant or that they are inefficient in producing.

The result of all these negotiations gets formalized in WTO agreements. So, whatever the claims and counterclaims about trade and efficiency, trade and welfare, and trade and economic growth, the WTO is, ultimately, an overseer of mercantilist arrangements in international trade between countries.

Earlier, market access was typically about lowering import duties (tariff barriers) or dismantling import restrictions, which took the form of standards and quantity restrictions (non-tariff barriers). As the nature of world trade changed and as governments looked to use the WTO to expand the definition of 'market access,' new 'products' and national policies that were traditionally not considered to be within the purview of the General Agreement on Tariffs and Trade (GATT), the precursor to the WTO, or the WTO itself, were brought into the ambit of the organization. To give two examples, Intellectual Property Rights (IPRs, a new 'product') came under the province of the

WTO in the 1990s, as did national laws on environment, which were subject to discussion, if not negotiation.

As give-and-take, reciprocity and negotiations became increasingly complex, the WTO processes began to be characterized by two features—cross-sectoral linkages and the 'single undertaking' of agreements. This meant, for example, that a government would offer to reduce its import tariffs on agricultural products and, in return, demand (usually implicitly) of its trading partners that they lower non-tariff barriers on trade in industrial products. Negotiations, in this example, then cut across the two sectors of agriculture and industry; they were not confined to reciprocal offers within each sector.

The second and related feature was the notion of 'single undertaking'. This, in simple language, means that all agreements negotiated in a particular round are to be treated as one package. For example, negotiations in the Uruguay Round of 1986-93 led to a WTO agreement on agriculture, an agreement on IPRs and 14 other individual agreements. Each of these was legally separate, but governments could not pick and choose to sign those they liked and reject the ones they disliked. They had to take the entire set as one package, even if each treaty was ratified separately. The idea behind the single undertaking approach is to facilitate (some would say to tie in) countries to engage in cross-sectoral offers on market access.

Uruguay Round

One past example of cross-sectoral linkages in the WTO was the Uruguay Round negotiations on IPRs and textiles. Developing countries, which had opposed the inclusion of IPRs in the former

GATT, were finally offered the prospect of a dismantling of the Multifibre Agreement (MFA) on textiles, if they were to agree to a treaty on IPRs. Some of the developing countries had been separately seeking an abolition of the MFA, a demand opposed by the United States (US), European Union (EU), Canada and Japan.

The final outcome was that the Uruguay Round package had an agreement on IPRs and another on removal of textile quotas as contained in the MFA. The terms of the two may have been different, and some see an imbalance in the two agreements; but cross-sectoral linkages did lead to these two agreements. That one (IPRs) was strong and the other (textiles) weak reflects on the relative bargaining power of the two groups. The cross-sectoral linkages were institutionalized in the Uruguay Round package of agreements, which all WTO member-countries had to accept as 'a single undertaking'.

Likewise, the agenda of the new WTO round that is now under way is itself the result of cross-sectoral negotiations. The EU finally agreed to negotiate a further liberalization of trade in agriculture once it was also able to place foreign investment, competition policies and aspects of the environment on the negotiating agenda. The EU saw agriculture as a possible 'loss', and, therefore, identified other areas where it could 'gain'. In much the same fashion, fisheries subsidies came to be placed on the agenda as part of the negotiations on 'WTO Rules'.

Fisheries subsidies had been discussed for years at the WTO, largely in the Committee on Trade and Environment. It was argued that subsidies had contributed to overcapacity, which, in turn, was causing overfishing. In 1999, a group of countries had, in fact, asked that a WTO working group be set up to first study these issues and then draw up WTO commitments on these subsidies. The countries that, at the time, wanted this issue to be negotiated included Australia, New Zealand, Iceland and the US. Those who explicitly opposed it were Japan and South Korea. This demand for negotiations was contained in the draft ministerial declaration, which finally

could not be passed at the 1999 Seattle Ministerial Conference of WTO.

While fisheries subsidies have been strongly discussed at the WTO, they were always located in the context of environmental issues. The way they came to be included in the Doha Agenda under 'WTO Rules' illustrates cross-sectoral linkages. WTO Rules refer to the clauses on anti-dumping duties, subsidies and countervailing measures. The provisions and application of anti-dumping duties have always been a source of controversy among developed and developing countries. But the biggest tension is between Japan and the US, with the former accusing the latter of a lack of transparency in its use of anti-dumping duties. Japan has, for years, been asking for fresh negotiations on the WTO clauses on anti-dumping duties so that they can be made more transparent and cannot be used as an instrument of protection.

During the last stage of negotiations in the second half of 2002 during the preparations for Doha, the US, presumably, found that the tide in the WTO was in favour of new negotiations on anti-dumping duties. It then obtained the specific mention of fishing subsidies in the draft agenda section on WTO Rules. This was the first time that these subsidies came to be mentioned under WTO Rules. The intention of the US here was clearly to neutralize Japanese demands on anti-dumping duties with its own demand on fisheries subsidies. And the US was able to enlist the support of Iceland, New Zealand and Australia, who were all keen on negotiating rules on fisheries subsidies.

Japan's agenda

After initially voicing its opposition, Japan finally agreed to an agenda that mentions fisheries subsidies as well. One can only presume that in Japan's calculation, it had a stronger interest in anti-dumping duties and was, therefore, willing to consider negotiating rules on fisheries subsidies. Alternatively, it may have felt that it would be able to stall demands on fisheries subsidies during the actual negotiations. Similarly, the US calculation may have been that by raising the fisheries issue, it could bog Japan down in the WTO Rules negotiations and

thereby continue with the present practices on anti-dumping duties.

In the early skirmishes of actual negotiations, Iceland has attempted to take fisheries subsidies out of the larger WTO Rules talks and put them on a 'separate track'. The aim is self-evident. By removing any possibility of cross-sectoral linkages within the WTO Rules area, Iceland hopes to focus talks on this subject, neutralizing the possibility of it being held hostage to progress in the area of anti-dumping duties, and thereby possibly obtaining a clear set of rules on fisheries subsidies and their reduction. Iceland's proposal has not been passed, at least not by March 2002.

One can only speculate on how the talks on fisheries subsidies will evolve. There is now a larger grouping of rich and poor countries, called the 'Friends of Fish', comprising Australia, Bangladesh, Chile, Ecuador, Iceland, New Zealand, Peru, Philippines, Thailand, US and Venezuela. On the other side are Japan and South Korea, with the EU reportedly being internally divided on pitching in.

During the negotiations, proposals and counter-proposals will be made on clarifying the disciplines on fisheries subsidies, which, in common language, means developing rules and agreements to govern fisheries subsidies. Progress on the negotiations will depend on the strength of each side to advance or block proposals. What happens in fisheries subsidies will depend on progress on anti-dumping duties, subsidies and countervailing measures—all the WTO Rules. The shape the final agreement takes will also depend on what happens in the other subjects on the agenda of the new WTO Round.

Consider a completely hypothetical situation. If the lines are only being drawn on fisheries subsidies, they are even sharper in agriculture. For decades, the EU, Japan and South Korea have sought to protect their agriculture with large subsidies, high tariffs and non-tariff barriers. Ranged against them are Canada, Australia, New Zealand and some developing countries. The US is now on the side of the liberalizers. Agriculture is being negotiated again in the new round.

Suppose, for a variety of reasons, the EU, Japan and South Korea agree to open up their agriculture to foreign trade to some extent, and suppose too that this offer is ultimately acceptable to the US and the other farm liberalizers of Australia and New Zealand. It is quite possible that, in such a situation, Japan may demand a price in the form of either a postponement of the fisheries subsidies issue or the enactment of a WTO agreement with very weak disciplines. The farm liberalizers may well agree to pay this price, which would leave Iceland in the cold. Fisheries subsidies may not then disappear from the WTO agenda; it may only be postponed to the next round. This, in fact, is the story of agricultural subsidies, which were papered over in the Uruguay Round and have now surfaced with new vigour.

Such are the negotiating processes at the WTO that the final outcome depends so much on each country's economic strength and how it can set one issue off against another, play one country against another, and build cross-sectoral alliances. The legitimacy of the proposals, and the rights and wrongs do not, ultimately, matter. It is these processes that will determine the final result, both in fisheries subsidies and tariffs on fish and fish products. **3**

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