

Fisheries subsidies

Fishing for subsidies

This is a listing of proposals of country Members of the World Trade Organization on fisheries subsidies

The Doha Round of the World Trade Organization (WTO), in November 2001, called for negotiations “to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries”. It also took note of specific subsidies in “achieving legitimate development goals” and the demand from developing countries to treat their technology research and development funding, production diversification and development, and implementation of environmentally sound methods of production, as non-actionable subsidies.

Following, in chronological order, are the submissions of WTO Members on fisheries subsidies, individually and collectively, to the Negotiating Group on Rules after the Doha Round.

Friends of Fish

Australia, Chile, Ecuador, Iceland, New Zealand, Peru, the Philippines and the United States—a group of eight countries called the ‘Friends of Fish’—argues for a separate sectoral negotiation on fisheries subsidies since the fisheries sector is governed by dynamics that are different from those of other business sectors. They further argue that subsidies and countervailing measures (SCM) rules primarily address market distortions arising from subsidization and that these rules “do not adequately address other negative trade, environment and development impacts of fisheries subsidies, particularly the distinctive production distortions subsidies can cause in the fisheries sector”. They further contend that the heterogeneous nature of fisheries products and the diffused nature of support to the sector make it harder to demonstrate the existence of market distortions of the kind envisaged by

existing SCM disciplines in fisheries. They also argue that, unlike in other sectors, subsidized fisheries production in one country could have a trade-distorting effect on another country in the form of changes to the relative competitive positions at market of producers in the respective countries. Moreover, subsidies could also distort access to shared fish stocks, limiting productive access by other participants by depleting an exhaustible resource. They argue, therefore, for improved WTO disciplines on fisheries subsidies.

China

China would like to see better recognition of diversity of subsidies in fisheries and aquaculture and where such subsidies are granted—whether they are granted in coastal waters, the exclusive economic zone (EEZ) or the high seas. It highlights the importance of recognizing the differential impact of subsidies on trade, environment and sustainable development, and argues for an early determination on the scope of fisheries subsidies to be negotiated. It emphasizes the importance of according special and differential (S&D) treatment to developing countries, particularly least developed countries (LDCs), while clarifying and improving the disciplines on fisheries subsidies. It defends subsidies that contribute to the protection of the environment and sustainable development of fisheries resources, such as those on infrastructure, disease control, scientific research and training, and alternative employment of fishers.

Japan

Japan, which gives high levels of subsidies to its fishing industry, however, argues that no special disciplines are required for fisheries subsidies. The existing SCM discipline should be seen only within the

framework of trade distortions and not as addressing distortions in access to productive resources arising from subsidies. It believes in establishing trade rules that contribute to sustainable fisheries by controlling overfishing that ignores the resource status, or fishing activities ignoring conservation and management rules.

It further argues that all factors that hamper sustainable use of resources, including fisheries subsidies, are to be examined in terms of resource conservation. It is, therefore, not for improved WTO disciplines on subsidies but for a greater role for regional fisheries management bodies and the Food and Agriculture Organization of the United Nations (FAO).

Rather than a special and separate treatment of fisheries subsidies, Japan insists on discussing fisheries subsidies from the viewpoint of trade distortion, as part of the overall clarification and improvement of the SCM Agreement.

New Zealand

New Zealand, however, argues that it is difficult to demonstrate trade-distorting effects of subsidies on market share or price due to the heterogeneous nature of fisheries products, and demonstrates the practical difficulty in applying the current SCM rules in the fisheries sector. It reiterates the submission of Friends of

Fish for specific measures to improve WTO disciplines on fisheries subsidies.

Korea

Korea fears that a sectoral treatment of fisheries subsidies, as demanded by Friends of Fish, would lead to the fragmentation of the SCM regime, and that the peculiarities of the fisheries subsidies are not of such a nature as to justify the sectoral treatment of fisheries subsidies at the risk of the fragmentation of the SCM regime. Citing a study by the Organization for Economic Co-operation and Development (OECD), Korea challenges the subsidies figures used by the Friends of Fish and argues that the actual level of subsidies of OECD countries is only less than half of the OECD members' subsidies as cited in the submission of Friends of Fish. Further citing a study by the Asia-Pacific Economic Co-operation (APEC), Korea argues that the bulk of fisheries subsidies are not, in fact, provided by OECD members, but by developing countries. Korea argues that it is premature to base WTO discussions on the assumption that subsidies, rather than inadequate management of fisheries resources, is responsible for the depletion of fish stocks.

United States

While agreeing that ineffective fisheries management regimes in many cases has contributed to the levelling off of marine capture fisheries production as well as

trade in fish and fish products, the US believes that global levels of subsidies have played a significant role in the decline of certain fish stocks. According to the US, the OECD and the APEC studies, quoted by Korea, had limitations that underestimated the magnitude of subsidies. Even a conservative estimate of global level of subsidies at a level of US\$10-15 bn—somewhere between 15 and 20 per cent of aggregate dockside revenues of US\$70-80 bn—is three to four times higher, the US argues, than the five per cent threshold for presuming 'serious prejudice' under the now lapsed Article 6.1 of the SCM Agreement.

Since subsidies appreciably reduce costs and/or increase revenues, it inevitably encourages more fishing effort and investment in overfished and depleted fisheries, especially in developed countries. There is also export of excess fishing capacity from developed to developing countries, which curtails the potential of these countries to develop their own fisheries. Finally, the US argues that subsidies make management matters even more difficult by exacerbating the problem of resource overexploitation and overcapitalization.

Group of Six Members

The Group of Six Members, namely, Argentina, Chile, Iceland, New Zealand, Norway and Peru—also members of Friends of Fish—observes, in its submission, that different positions on subsidies in the fisheries sector have now been well aired and that it is time to start looking in more detail at the actual subsidies. It further observes that it is important to have a breakdown of subsidy programmes by type as a basis for future work on clarification and improvement of WTO disciplines affecting the fisheries sector. Its proposal supports categorization of fisheries subsidies instead of addressing all 'fisheries subsidies' in an undifferentiated manner. In this context, it surveys the APEC, OECD, US, FAO, and United Nations Environment Programme (UNEP) proposals for classification of fisheries subsidies.

Korea

Korea suspects the submission by the above Group of Six Members and

suggests that the Negotiating Group on Rules should embark on its own categorization of fisheries subsidies. After reiterating its earlier reservation on discussions on fisheries subsidies in the Rules Group, and the need for special and separate treatment for fisheries subsidies, Korea questions the submission of the Group of Six Members and argues that the Group has not provided sufficient reasoning why such a categorization is necessary. If at all any categorization is necessary to assess the trade effects of various subsidies, Korea insists on the 'traffic light' categories of prohibited, actionable and non-actionable subsidies as provided in the SCM Agreement. If a categorization of fisheries subsidies is necessary, then FAO or OECD would be the right place to do so, argues Korea, since they have far longer and deeper institutional experiences in the study of fisheries subsidies issues, in comparison with the Rules Negotiation Group.

United States

In a yet another submission, the US demonstrates more flexibility in its position on fisheries subsidies, and recognizes that, while some government programmes promote overcapacity and overfishing, others might help to reduce, and contribute to, fisheries sustainability. The latter is not the focus of the negotiations in the Rules Group, says the US, nor is it artisanal fisheries in developing countries. The government programmes that promote overcapacity and overfishing, or have other trade-distorting effects, are subsidies that have harmful effects by reducing the costs of inputs (money, goods or services) below what would otherwise be the case under normal market conditions, or enhancing revenues and income beyond what would otherwise be earned.

Towards clarifying and improving WTO disciplines on fisheries subsidies, the US proposes expanding the prohibited, or 'red light' category subsidies, to include subsidies that directly promote overcapacity and overfishing, or that have other direct trade-distorting effects. The US also proposes a new 'dark amber' category of subsidies, which is modelled after the now-expired paragraph 1 of Article 6 that reverses the burden of proof. These subsidies would be presumed to be

harmful unless the subsidizing country could unequivocally demonstrate that no overcapacity/overfishing or other adverse trade effects have resulted from the subsidies.

Towards better assessment and categorization of subsidies, the US highlights the need to improve the quality of fisheries subsidies notifications under the SCM Agreement, as well as the need to provide fishery-specific information such as management regimes. It also talks of making notifications of fisheries subsidies under SCM Agreement more complementary of existing fishery-related notifications in other forums, for example, on fishing capacity at the FAO. The US also calls upon other Members to consider making the fisheries subsidies notification requirement more effective.

European Communities

The European Communities (EC) observes that the emphasis of the debate on fisheries subsidies is more on highlighting the specific areas of concern on fisheries and the position of most members in relation to these concerns, and less on specific solutions to the problems that are identified. In its submission to take forward the process in the Rules Group, the EC is for creating conditions for environmentally, economically and socially sound fisheries and aquaculture activities and for the sustainability of the fisheries and aquaculture sector. It

believes in matching capacity to the available fish stocks, thus contributing to sustainable exploitation of fishery resources.

The EC talks about policy adjustments in its fisheries to withdraw capacity by scrapping of fishing vessels and by phasing out of subsidies for fleet renewal by 2004. It informs that its support measures for the equipment and modernization of fishing vessels are currently limited to improve safety, product quality or working conditions or switch to more selective fishing techniques.

The EC believes that subsidies that encourage investment in fishing fleets not only work against the objective of achieving and maintaining fisheries resources at sustainable levels, but also produce negative economic effects in the fishing industry, and promote oversupply of capital by artificially reducing the costs and risks of investment. It is for considering capacity-enhancing subsidies, like those for fleet renewal, and for the permanent transfer of fishing capacity to third countries, including under joint venture regimes, as prohibited subsidies. It recognizes that a short transitional period is required to allow the fishing industry to adapt to the new situation. It, however, defends as permitted subsidies—meaning non-actionable—those subsidies for retraining

of fishers, earlier retirement schemes and diversification, improving safety, product quality or working conditions or to switch to more selective fishing techniques, for stopping fishing activities due to natural calamities, for scrapping of vessels and for withdrawal of fishing capacity.

The EC supports S&D treatment for developing countries to achieve legitimate development goals and to draw up rules that take into account the distinct needs of developing countries in fisheries. It also highlights the importance of greater transparency in the notification of fisheries subsidies so that there could be better analysis of the magnitude and the impacts of subsidies. The EC would like to see improved transparency as one of the main objectives and outcomes of the negotiations on subsidies. It proposes that subsidy programmes meeting the terms of the 'permitted' subsidies would have to be notified to the WTO Committee on SCM to fully qualify for this category. It also proposes that the WTO Secretariat should keep a 'scoreboard', accessible to the public, of notifications per Member and per type of programmes.

Japan

Responding to the submissions of the US and the Group of Six Members, Japan would like to know if there is indeed consensus, as suggested by the US submission in the Negotiating Group on Rules, on subsidy reforms to achieve capacity reduction and sustainable fisheries. It also seeks to clarify the meaning of 'artisanal' in the US submission—whether or not it means small-scale coastal fisheries, and, if that were the case, if subsidies to the medium- and large-scale fisheries in developing countries would be subject to discussion or not. Japan is not sure why the Group of Six Members would like to proceed with categorization of fishing subsidies, although there is no consensus in the Negotiating Group on Rules on how to view various types of government programmes in the fisheries sector.

China

China welcomes the US submission proposing a 'traffic lights' approach and it believes it provides the conceptual solution for the negotiations on fisheries

subsidies and the ways to classify fisheries subsidies. China would, however, like WTO members to intensely discuss an acceptable method of classifying various existing fisheries subsidies and, in this context, it proposes that the Negotiating Group on Rules should also discuss the classification methods on fisheries subsidies of OECD and FAO. While appreciating the role of such an approach in improving disciplines on government programmes that promote overcapacity and overfishing, China seems to consider the management of fisheries subsidies only to be a national/regional responsibility.

China further seeks mechanisms to strengthen the notification procedure on fisheries subsidies so that Members notify their fisheries subsidies in an efficient and comprehensive manner.

China considers the protection and development of aquaculture of importance, considering the poor status of marine capture fisheries resources and it believes that "full consideration should be given to the specificity of aquaculture, particularly the nature of agricultural products embodied in aquatic products".

Korea

In response to the US submission on 'traffic lights' approach to fisheries subsidies, Korea wonders if clarification and improvement of WTO rules on fisheries subsidies as mandated by the Doha ministerial indeed warrants "to provide better disciplines on government programmes that promote overcapacity and overfishing, or have other trade-distorting effects", as proposed by the US.

Korea considers it premature to introduce a 'traffic lights' system before there is agreement on whether or not fisheries subsidies cause resources depletion, whether it is difficult to address the trade-distorting effects of fisheries subsidies by the current SCM Agreement, and whether and why there is a need for special classification schemes only for fisheries subsidies. "Looking ahead without clearing these basic issues is as dangerous as building a structure on flawed foundation", argues Korea. Korea has reservations about a 'traffic lights'

system to address environmental effects in addition to trade effects since it believes that the WTO Agreements are “nothing but trade agreements”. It is also of the view that the negotiations on fisheries subsidies lack proper principles and definitions, which are yet to be established.

Since resource depletion is an environmental aspect, Korea argues that it is outside the scope of the work of the Rules Group and concludes that “WTO is simply not the place to lay the groundwork for the environmental effect of subsidies, not can it responsibly create and enforce adequate disciplines on the subject.”

Chile

In the context of subsidized high-seas fleet operations of some countries for highly migratory fish stocks, Chile argues that the effect of such subsidies is to limit access to common fisheries resources for non-subsidizing fleets and countries and to highly migratory fisheries resources under national jurisdiction.

Limited access unquestionably constitutes a barrier to trade, contends Chile, for all non-subsidizing countries and diminishes their opportunities to participate in international fish trade on equal terms. Moreover, Chile is also concerned about the loss of share in the markets of subsidizing countries that are self-sufficient, thanks to the harvests

made by their subsidized fleets. Since it is difficult to demonstrate the damaging trade effects of fisheries subsidies, in the context of the existing SCM Agreement, Chile believes it is important to improve SCM disciplines.

Chile also believes in a ‘traffic lights’ approach to fisheries subsidies and proposes prohibited, or ‘red light’, subsidies similar to those proposed by the US. They, *inter alia*, include (i) subsidies designed to transfer a country’s fishing vessels for operation in the high seas or in the waters of a third country; (ii) subsidies that contribute to the purchase of fishing vessels, whether new or old; (iii) subsidies to help modernize an existing fleet; (iv) subsidies that contribute to reducing the costs of production factors; (v) subsidies that confer tax benefits to the fishery industry in the realms of production, processing and marketing; and (vi) subsidized credit. All other subsidies would be in the ‘amber’, or actionable, category, subject to compulsory notification requirement. Any country extending subsidies that are not notified should be asked to demonstrate that the subsidy in question does not cause trade injury to the Complaining Member.

Chile, however, observes that the onus to demonstrate trade injury is on the Complaining Member in the case of subsidies that may not affect a third country and may be necessary to conserve

fisheries resources, and social development of communities. Chile mentions two subsidies in this context: one, subsidies of a social nature, the final purpose of which is to resolve problems affecting small-scale fisheries, for the benefit of the coastal communities and with a view to improve the quality of life; and, two, subsidies relating to fisheries management, including research and administrative and other measures, the sole purpose of which is to ensure the sustainability of marine living resources and their environment.

With regard to notification of fisheries subsidies, Chile proposes notification of fisheries subsidies complementing existing notifications in other forums, especially the FAO. Notifications relating to fisheries subsidies should be mandatory, argues Chile, in particular the subsidies in the 'amber' category. Chile also endorses the EC proposal on keeping a 'scoreboard' of fisheries subsidy notifications of Members.

Group of Small Vulnerable Coastal States

The submission of Antigua and Barbuda, Belize, Fiji Islands, Guyana, the Maldives, Papua New Guinea, Solomon Islands and St Kitts and Nevis, a group of small vulnerable coastal States that has a relatively high dependence on both domestic and export fisheries, is to address the sustainable development concerns of small vulnerable coastal

States and to seek operationalizing proposals with regard to S&D treatment in fisheries for developing coastal States in general, and small vulnerable coastal States in particular.

In this context, the Group endorses the Chinese proposal on S&D treatment in fisheries subsidies negotiations. It argues that fisheries management issues are not an appropriate subject matter for the WTO and that these issues should be discussed in more appropriate forums such as the FAO.

The submission of the Group gives an introduction to the fisheries activities of small vulnerable coastal States. These States (i) depend on revenue generation from access fees for distant-water fleets; (ii) have domestic and foreign industrial fishers operating for export in the EEZ and territorial waters to supply canneries, loining facilities and domestic processing facilities; and (iii) have artisanal fishers in the EEZ and territorial waters for the domestic and the export market.

The governments of these States have been attempting to localize the distant-water fisheries as well as develop linkages between inshore fishery in the territorial sea and other sectors of their economies, which include tourism, a substantial consumer of both domestic and imported marine products to coastal States.

The small vulnerable coastal States argue that significant government revenue has been generated from access fees from developing and developed-country distant-water fishing fleets in many LDCs in particular that have practiced prudent fisheries management policies, where there are stocks in excess of the existing sustainable catch capacity of the domestic fleets. The access fees provide invaluable development assistance, particularly to marine resource rich small vulnerable coastal States, and, therefore, if negotiations on fisheries subsidies follow the logic of the submission of the Friends of Fish, they are concerned it would result in disciplines on fisheries access fees.

Some of the small vulnerable coastal States, although they do not offer access to distant-water fishing nations, nevertheless have sought to develop domestic capacity to use their own marine resources for development purposes. Many of them have developed strategic alliance with distant-water nations to develop and land their catches from their own EEZs.

In order to attract local and foreign investment, many of them have offered incentives to both local and foreign fishers to supply domestic processing facilities. These incentives are vital if the small vulnerable coastal States are to develop their fisheries sectors and they warn that they would oppose any new disciplines that either directly or indirectly undermine their development efforts in the fisheries sector.

The artisanal fisheries sector remains central to the subsistence and 'monetized livelihood' of coastal populations in the developing world. The small vulnerable coastal States further argue that any new disciplines on fisheries subsidies should exempt government programmes to raise income levels of artisanal fishers.

Under S&D treatment, they propose clarification of Article 1 of the SCM Agreement to explicitly exclude (i) any development assistance granted to small vulnerable coastal States by developed or more advanced developing countries to facilitate sustainable fisheries management; (ii) incentives granted for

the development and 'domestication' of their fisheries by small vulnerable coastal States; and (iii) measures undertaken by governments of small vulnerable coastal States to assist their artisanal fisheries sector.

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