

**PROPOSAL ON FISHERIES SUBSIDIES  
SPECIAL AND DIFFERENTIAL TREATMENT  
ARTISANAL FISHERIES - ARTICLE III.2(A)**

Communication from Ecuador and Peru

The following communication, dated 17 January 2011, is being circulated at the request of the delegations of Ecuador and Peru.

**I. INTRODUCTION**

The aim of this paper is to present a proposed text on disciplines for artisanal fisheries subsidies within the framework of the exceptions that form part of special and differential treatment for developing countries in the WTO Doha Development Agenda negotiations.

This proposal is consistent with the mandate of the Hong Kong Ministerial Declaration, which asked Members to "*strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing*", while providing that "*appropriate and effective special and differential treatment for developing and least-developed Members should be an integral part of the fisheries subsidies negotiations, taking into account the importance of this sector to development priorities, poverty reduction, and livelihood and food security concerns*".

As the sponsors of this communication, we reaffirm our commitment to the full implementation of this mandate, including appropriate and effective special and differential treatment for developing countries; accordingly, we propose that the disciplines in question allow for the development of sustainable artisanal fisheries.

Although an internationally recognized definition of artisanal fishing does not exist, the activity is undoubtedly of major importance to the developing countries in general, as demonstrated in the recently published United Nations Environment Programme (UNEP) report entitled "Fisheries Subsidies, Sustainable Development and the WTO", which states that this type of fishing provides direct and indirect employment for tens of millions of people and accounts for 90 per cent of all fishing jobs worldwide, even though it represents barely a quarter of the world catch.<sup>1</sup> It also provides a source of protein-rich food for hundreds of millions of people across the globe. Artisanal fishing concerns mainly small, underdeveloped and often severely impoverished fishing communities, the survival of which depends on their ability to continue a type of fishing activity that they have, in some cases, been practising for centuries.

---

<sup>1</sup> United Nations Environment Programme (UNEP): *Fisheries Subsidies, Sustainable Development and the WTO; The Special Case of Artisanal Fisheries*, English edition, 2010.

In the case of the countries sponsoring this paper, artisanal fishing represents an important source of livelihood, employment and food security for their populations. We therefore seek to promote the sustainable development of artisanal fisheries through various measures such as the provision and maintenance of basic infrastructure, the improvement of fishing vessels, and training for fishermen, as well as through programmes aimed at enhancing the management of such fisheries.

In the current negotiations, Members have frequently expressed an interest in including artisanal fisheries under special and differential treatment.<sup>2</sup> However, in the Chair's text (document TN/RL/W/213 of 30 November 2007), the exemption under paragraph 2(a) of Article III on special and differential treatment refers only to subsistence fishing and would not therefore cover the artisanal fishing that predominates in the majority of developing countries, i.e. fishing activity that seeks not only to meet the basic food requirements of fishermen, but also to reduce poverty and ensure the development of local communities through trade.

According to the UNEP report<sup>3</sup>, highly mechanized industrialized fleets bear the main responsibility for the crisis in many of the world's major fisheries, so the focus of the ban on subsidies should be on that type of fishery.

Considering the contribution of sustainable artisanal fishing to food security, the development of local communities and poverty reduction, it should be granted flexible treatment, in accordance with the negotiating mandate. Nonetheless, in some situations subsidies to artisanal fisheries could have undesirable effects, such as the depletion of the fisheries' own resources. Therefore the flexibility proposed should go hand in hand with criteria and conditions defining the scope of the subsidies and ensuring that they are sustainable and have no or no more than a minimal impact on trade.

In brief, the text below contains a proposed amendment to Article III.2(a) of the text submitted by the Chair of the Negotiating Group on Rules in 2007. This proposal does not prejudge the sponsors' position regarding the other Articles in the Chair's text, but does reflect their agreement with, and continued support for, the structure of that text as a basis for the negotiation of new disciplines on fisheries subsidies, namely a broad ban on subsidies that contribute to overcapacity and over-fishing, with limited general and specific exceptions subject to fisheries management requirements which ensure the sustainability of marine resources.

The sponsors reserve their right to modify this proposal.

## II. EXPLANATION OF THE LEGAL TEXT

**Introduction.-** In order to define the scope of this proposal relating to special and differential treatment, explicit reference is made to the objectives of "food security", "development of local communities" and "poverty reduction", these being the elements of the Hong Kong mandate most closely linked to artisanal fisheries.

---

<sup>2</sup> India (document TN/RL/W/203 of 6 March 2006), "Friends of Fish" group (document TN/RL/W/243 of 7 October 2009), Brazil, China, Ecuador, Mexico and Venezuela (document TN/RL/W/241/Rev.1 of 1 October 2009), Brazil, China, India and Mexico (TN/RL/GEN/163 of 11 February 2010).

<sup>3</sup> UNEP, *op. cit.*, pages 213 and 215.

**Geographical scope.-** We propose that the geographical area in which artisanal fishing activity is practised be defined as the "*waters under the national jurisdiction of the Member States*".

Artisanal fishing activity, which was traditionally limited to the maritime areas or zones closest to the shores of coastal States, has now extended to other maritime areas. This proposal seeks to reflect the reality of many marine wild capture fisheries, where artisanal fishermen venture beyond coastal waters and into the jurisdictional waters of the Member, in the search for the resource.

**Conditions.-** The following cumulative conditions are proposed:

- (1) In order to reflect the reality of the artisanal fisheries sector, we have kept the term "associations" and have added "micro-enterprises", meaning a form of business organization with a limited number of workers, and "other forms of small producer organizations", which would cover non-traditional types of organization.
- (2) Together with the "small-scale trade" criterion in the Chair's text, we propose that artisanal fishery products be "*mainly destined for direct human consumption*", taking into account the Hong Kong Ministerial mandate regarding food security. Fishery products for direct human consumption should be understood to mean those intended for direct feeding of the population, as opposed to those used to manufacture fishmeal and oil.<sup>4</sup>
- (3) While recognizing that there is no uniform criterion for the size of artisanal vessels and that the inclusion of this physical and static parameter could be arbitrary, we consider it necessary to establish an objective criterion that fishermen and authorities would find easy to apply and monitor. A size that might be considered for vessels is "*15 metres in length*".
- (4) With regard to fishing equipment and operations, we propose that operations be "*carried out using simple fishing gear, tools and techniques and involve predominantly manual labour*", as such criteria objectively define the nature of artisanal fishing operations.
- (5) Lastly, and in view of the priority given by the proponents to the sustainable development of these fisheries, it is proposed that destructive fishing practices be banned in accordance with the Code of Conduct for Responsible Fisheries, which provides that:

*8.4.2. States should prohibit dynamiting, poisoning and other comparable destructive fishing practices.*

**Additional considerations:**

1. In order for Members to apply this regime, it is mandatory that they establish a fisheries management system, which could be simplified compared to that provided for in Article V, and contains flexibilities and ad hoc mechanisms, and which ensures the sustainability of resources. To this end, the disciplines must provide for a five-year period to implement such a system.
2. These subsidies must be notified and actionable, in accordance with Article 5 of the Agreement on Subsidies and Countervailing Measures.

---

<sup>4</sup> See <http://www.fao.org/fishery/topic/424/en> Viewed on 7 January 2011.

**III. PROPOSED TEXT:**

ANNEX VIII

FISHERIES SUBSIDIES

Article III

*Special and Differential Treatment of Developing Country Members*

III.2 For developing country Members other than LDC Members:

- (a) Subsidies referred to in Article I.1(a), (c), (d) and (e) shall not be prohibited where they are granted for the purpose of promoting food security, the development of local communities and poverty reduction and where they relate exclusively to marine wild capture fishing performed within waters under the national jurisdiction of the Member States, provided that all the following conditions are met: (1) the activities are carried out on their own behalf by fishworkers, on an individual basis, which may include family members, or organized in associations, micro-enterprises or other forms of small producer organizations; (2) the fishery product does not go beyond a small-scale trade and is mainly destined for direct human consumption; (3) the vessels are not greater than 15 metres in length overall; (4) the operations are carried out using simple fishing gear, tools and techniques and involve predominantly manual labour; and (5) no destructive fishing practices are used.<sup>[1]</sup>

Fisheries management measures aimed at ensuring sustainability, such as the measures referred to in Article V, shall be implemented in respect of the fisheries in question within a period of not more than (5) years, adapted as necessary to the particular situation, including by making use of ad hoc and indigenous fisheries management institutions and measures.

---

<sup>[1]</sup> "Destructive fishing practices" refers to those practices recognized as such in Article 8.4.2 of the Code of Conduct for Responsible Fisheries.