

**FISHERIES SUBSIDIES: PROGRAMMES FOR DECOMMISSIONING
OF VESSELS AND LICENCE RETIREMENT**

Communication from the United States

The following communication, dated 12 May 2005, is being circulated at the request of the Delegation of the United States..

The submitting delegation has requested that this paper, which was submitted to the Rules Negotiating Group as an informal document (JOB(05)/77), also be circulated as a formal document.

1. Members have made significant progress in the fisheries subsidies negotiations to date, with useful discussions concerning the appropriate framework for new disciplines. At recent meetings, however, Members have generally agreed that the most useful way forward would be to have a more specific discussion of the types of fisheries subsidies that are likely to be addressed in new disciplines, without prejudice to Members' views concerning the appropriate framework.

2. A number of Members have identified government-funded programmes for decommissioning vessels, retiring fishing licences and other possible "capacity-reducing" subsidies as warranting more detailed discussion in this more technical phase of the negotiations. Members advocating a broader based prohibition, including the United States, have suggested that such programmes could be a candidate for an exception to the prohibition, under defined policy conditions.¹ Other Members have proposed that these programmes could be considered for inclusion in a category of "permitted" subsidies, again subject to appropriate conditions.²

3. This submission is intended as an initial contribution to Members' understanding of the principal issues surrounding such capacity reducing subsidies, focusing in particular upon the United States' experience with these programmes.

Definition

4. In the United States, as well as in other major fishing nations, past overinvestment in fisheries has been a key factor leading to overcapacity and overfishing, with a resulting decline in key fishery stocks. Many governments, including the United States, have designed programmes (known generally as "buybacks") that are aimed at removing overcapacity in targeted fisheries. For purposes of this discussion, the United States proposes to define buybacks as government payments to vessel owners for the permanent retirement of vessels or retirement of licences from a fishery. These programmes may include both direct government assistance (grants) and loans to the fishing industry to finance the buyback.

¹ TN/RL/W/166; TN/RL/W/169.

² TN/RL/W/82; TN/RL/W/172.

Challenges and Responses

5. The fisheries literature identifies a number of problems that can occur in buyback programmes and that can lead to the return of the removed overcapacity or even an increase in capacity:

- Latent capacity or effort: the existence of inactive licences or unused vessels that could become active in the fishery after the buyback, as the fishery becomes more profitable;
- Leakage: the ability of vessels, gear, financial resources and human capital to move from the fishery subject to the buyback into other fisheries, which may sometimes also suffer from overcapacity;
- Capital stuffing: the use of profits generated by a fishery after a buyback programme to invest in capital improvements that enhance the gear or power of remaining vessels, thereby potentially increasing overcapacity;
- Perverse incentives: increased effort in anticipation of compensation through a buyback programme.³

In recent years, the United States has sought to develop appropriate programme conditions that would help address these problems.

6. Under the Sustainable Fisheries Act of 1996, buybacks are authorized only when they occur in conjunction with programme features designed to prevent the replacement of fishing capacity removed from the targeted fishery. A limited entry programme must be in place or be put in place concurrent with the buyback. Such a programme may include a moratorium on new entrants, restrictions on vessel upgrades and other effort control measures that take into account the full potential fishing capacity of the fleet (*i.e.*, latent as well as active capacity). The buybacks are financed through government grants or through government loans to industry, under which fishermen remaining in the fishery pay their competitors to withdraw their vessels or fishing licences. The Act authorizes establishment of industry fee systems to repay the loans. Under these systems, landing fees may be assessed on the ex-vessel value of fish harvested from the vessels remaining in the fishery until the loan is repaid with interest. Participation in a buyback is voluntary, but those who participate must comply with specified conditions: *e.g.*, scrapping of the bought-back vessel or other conditions that permanently and effectively prohibit its use in fishing, or permanent revocation of permits authorizing participation in the fishery.⁴

³ Because one factor determining compensation in a buyback is a vessel or licence holder's past documented fish catch (fishing history), fishermen may have incentives to increase fishing in anticipation of a buyback. These incentives may be compounded if participants become accustomed to repeated government buyback efforts.

⁴ Section 312(b) –(e), 16 U.S.C. 1861a(b)–(e); *see, generally*, UNITED STATES NATIONAL PLAN OF ACTION FOR THE MANAGEMENT OF FISHING CAPACITY (August 2004) (US NPOA/Capacity) at 21-26, available at www.nmfs.noaa.gov/sfa/domes_fish/index.htm#npoa. The US NPOA/Capacity was developed in the context of work in the U.N. Food and Agriculture Organization (FAO), which resulted in the International Plan of Action for the Management of Fishing Capacity (IPOA/Capacity) (1999). The IPOA/Capacity calls on member states to assess the state of capacity in their fisheries and to develop national plans for the management of that capacity.

Case Studies from Recent US Experience

7. Three recent federal buyback programmes may be particularly instructive in the context of this paper: (1) the Bering Sea Pollock fishery; (2) the Pacific Coast Groundfish fishery; and (3) the Bering Sea and Aleutian Islands Crab fishery. Details of these programmes are summarized in the Addendum. As the case studies illustrate, in the United States grants are giving way to industry financing as the primary funding mechanism.⁵ All three programmes were financed in large part (or, in the case of the Crab buyback, exclusively) by loans that will be repaid by fishermen remaining in the fisheries.

8. The Bering Sea Pollock buyback (completed in 1999) succeeded in permanently removing capacity from the fishery because it included significant restrictions on new entrants. In addition, the buyback was accompanied by measures to facilitate formation of a fishery cooperative, under which members were allocated a percentage of the total allowable catch in the fishery. This system is a type of “dedicated access” mechanism that helps address the fundamental problem of the “race for fish”.⁶ That is, it creates incentives for those remaining in the fishery to behave as if they had property rights in the fish catch. As a result, fishermen can fish at their own pace, instead of racing to harvest the fish before someone else does. Conversely, there will no longer be an incentive for fishermen to fish faster and harder because each could catch only his share of the total.

9. The buyback programmes in the Bering Sea and Aleutian Islands Crab and the Pacific Coast Groundfish fisheries build on this experience. Both include fee systems that allow fishermen remaining in the fishery to repay loans to buy out their competitors through assessment of fees on future landings. Both contain strict controls over entry into the fisheries, including requirements to relinquish fishing permits or licences, fish catch histories and the bought-back vessels’ worldwide fishing privileges. In addition, both programmes link buybacks to other measures to rationalize the fishery (including the use of individual fishing quotas and similar dedicated access tools in the Bering Sea Crab fishery).⁷

10. These features, in particular the use of industry financing through repayment of loans by fee systems, help address many of the problems with buyouts identified above. The restrictions on any future use of the vessel or permit limit the possibility of leakage of the withdrawn capacity into other fisheries. Requirements to surrender fishing history address the perverse incentives issue by providing that no person can use past fishing levels to qualify for any future permit programme (including individual fishing quotas and other dedicated access schemes). Because the cost of the buyback is borne by the remaining participants in the fishery, it is likely to be a “one time only” event, reducing or eliminating the possibility that one unsuccessful buyback will be followed by another. Restrictions on the reconstruction or replacement of vessels within the fishery help to limit the potential for capital stuffing. Finally, tendencies for capital stuffing or for reactivation of latent capacity are also reduced by the landing fees required to repay the loan.

⁵ See US NPOA/Capacity at 24.

⁶ A dedicated access system is a form of control in which an individual fisherman, community or other entity is granted the privilege to catch a specified portion of the total allowable catch. (The total allowable catch reflects fisheries managers’ judgment of the quantity of fish that can be harvested in a particular fishery consistent with sustainability.) There are several different types of dedicated access privileges, including cooperative schemes (as in the Bering Sea Pollock buyback), individual fishing quotas and community quotas.

⁷ The use of a landings fee to repay a government loan to buy back overcapacity has been shown to be theoretically equivalent to an individual fishing quota if set at the optimum level. See US NPOA/Capacity at 21 (“Privately funded programmes to buy out permits and/or vessels function similarly to [individual fishing quotas] in the fundamental sense that fishermen who remain in the fishery ‘pay’ for capacity reduction.”)

11. It should be mentioned that some buyback programmes may be an element in a plan to achieve objectives other than permanent removal of overcapacity from the fishery, *e.g.*, community relief provided after the collapse of the fishery. While such programmes may succeed in providing short-term financial assistance to fishermen affected by the collapse, they are not designed to achieve capacity reductions in the long term. We believe that such community relief programmes are best analyzed as a separate subsidy category rather than as capacity-reducing subsidies.

Conclusion

12. In the view of the United States, buyback and similar programmes designed to permanently remove overcapacity from fisheries are strong candidates for an exception to an expanded prohibition of fisheries subsidies in the WTO, provided that appropriate programme conditions are attached. The Negotiating Group on Rules will need to develop an understanding of such programme conditions.

13. The conditions developed in the recent US programmes discussed above may be instructive in this regard. The US Sustainable Fisheries Act and other relevant US legislation set forth general principles for constructing buyback programmes, while allowing fisheries managers the flexibility to develop specific requirements for particular fisheries.

Addendum: Examples from US Experience

Bering Sea Pollock fishery

The Bering Sea Pollock fishery off of Alaska is the largest US fishery measured in terms of the pounds of fish caught. The National Marine Fisheries Service (NMFS) purchased nine of 30 factory trawlers (large vessels that harvest and process fish on board) and their associated permits. The total cost of the buyback was approximately \$90 million, with approximately \$15 million from a federal grant and the remaining \$75 million from a government loan to Alaskan Pollock fishermen. Eight of the nine vessels were scrapped and the ninth prohibited from fishing in US commercial fishing waters. Use of the remaining trawlers in other fisheries was also limited.

The buyback was also accompanied by measures encouraging the formation of a fishing cooperative by the owners of the remaining 21 factory trawlers. This measure helped address the underlying problem of the race for fish by allocating a specific amount of fish to members. As a result, rather than having an incentive to catch available fish before someone else did, members were able to fish at their own pace. The fishermen remaining in the fishery caught their allocation with fewer vessels (voluntarily withdrawing four trawlers), at lower cost and increased profits. Thus, capacity removed through the buyback has not returned to the fishery.

Pacific Coast Groundfish fishery

The Pacific Coast Groundfish buyback programme set a maximum amount available for the buyout at \$46 million, of which \$10 million was funded through a grant and \$36 million through a government loan. Voluntary participants relinquished their fishing permits or licences, their fish catch histories and their vessels' worldwide fishing privileges. These relinquishments were in return for payments in amounts determined through a bidding process. NMFS in July 2003 invited bids from fishery permit holders. NMFS then scored each bid's amount against the bidder's past ex-vessel revenues and, in a reverse auction, accepted the bids whose amounts were the lowest percentages of the revenues.⁸ Bid offers totalled \$59,786,471, and NMFS accepted bids totalling \$45,662,471 (under the programme's maximum cost). The accepted bids involved 91 fishing vessels as well as 239 fishing permits and licences

NMFS held a referendum to determine whether the remaining participants in the fishery were willing to accept a fee system to repay the loan. The referendum approved the fee system. In December 2003, NMFS required all accepted bidders permanently to stop all further fishing with the vessels and permits. Permits were subsequently cancelled and measures were taken to prevent the vessels from fishing anywhere in the world.

Bering Sea and Aleutian Islands Crab fishery

The Bering Sea and Aleutian Islands Crab buyback programme's maximum cost was \$100 million consisting of a 30-year loan to be repaid by fishermen remaining in the fishery through fees on future fish landings. Each of the six crab fisheries involved pay fees at different rates. Voluntary participants in the crab buyback programme relinquished their fishing permits and licences, their catch histories and their vessels' worldwide fishing privileges in return for a payment an amount determined through a bidding system. Ultimately, through NMFS' reverse auction procedures, fifty-five licence holders submitted bids totalling \$225,954,284. NMFS accepted 25 bids totalling approximately \$97.4 million (within the maximum cost). The accepted bids involved 25 fishing

⁸ Using a reverse auction (dividing the vessel's bid price by its actual catch revenue over a specified time period and accepting the lowest ratios first) ensures that the most proven capacity is bought for the lowest price possible.

vessels as well as 62 fishing licences or permits. NMFS allocated portions of the prospective \$97.4 million loan to the six fisheries, subject to approval by a referendum of permit holders on the fee system for repaying the loan. The referendum approved the fee system. On 27 December 2004, NMFS began making payments to the accepted bidders to permanently stop all further fishing with the vessels and permits.⁹ The buyback was developed in conjunction with a Crab Rationalization Programme including individual fishing quotas and allocations to designated communities and cooperatives.¹⁰

⁹ For details of the process, *see* www.fakr.noaa.gov/sustainablefisheries/crab/faq.html.

¹⁰ *See* www.fakr.noaa.gov/sustainablefisheries/crab/crfaq.htm.