

Committee on Trade and Environment

ENVIRONMENT-RELATED ISSUES IN THE NEGOTIATIONS ON WTO RULES

Statement by Mr. Jan Woznowski¹ at the Regular Session of the
Committee on Trade and Environment of 29-30 April 2003

Paragraph 51

I. INTRODUCTION: NEGOTIATING MANDATE ON WTO RULES

1. Following prior discussions and consideration by Members, including in the CTE, Ministers at Doha agreed on the following negotiating mandate in respect of WTO Rules:

"28. In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. **In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.**"

2. The most explicitly environmental issue encompassed within this mandate is that of fishery subsidies, the subject of the specific language shown in highlighted text. While the focus of the fishery subsidies mandate is subsidy disciplines, the reference to "paragraph 31" of the Ministerial Declaration is a recognition of the environmental aspects of this issue as well (paragraph 31 being in the section of the Declaration concerning trade and the environment). Thus, while the primary focus of the fishery subsidies negotiations will of necessity be the subsidy disciplines (i.e., trade) aspects, the mandate also takes note of the environmental aspects of this issue. In addition, certain other potentially environment-related issues also have been flagged in the negotiations, but have not been developed as yet.

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II. THE NEGOTIATIONS

A. FISHERY SUBSIDIES

3. The issue of fishery subsidies was originally raised in the CTE some years ago. The demandeurs on this issue have consistently maintained that it has trade, environmental and development aspects, all of which should be addressed by new, enhanced, subsidy disciplines². On the other side of this debate, certain participants question the relevance of environmental concerns in the context of the SCM Agreement, as well as the link between subsidies and environmental damage to fisheries, which they attribute instead to inadequate fisheries management³. These participants argue that any inadequacies in the SCM Agreement should be addressed on a horizontal basis rather than sectorally, to avoid fragmentation of subsidies disciplines.

4. The main environmental damage attributed by the demandeurs to fishery subsidies, via the fostering of overcapacity and overfishing, is the depletion of world fish stocks. The demandeurs cite estimates of subsidization at 20-25 per cent of total sectoral revenues, and argue that these subsidies not only finance overcapacity directly (e.g., through shipbuilding subsidies) but also by reducing the costs and risks of investing in this sector (e.g., through income and price supports, insurance subsidies, etc.). Participants on the other side of the issue argue that the asserted link between fishery subsidies and fish stock depletion has not been convincingly demonstrated, citing *inter alia* studies showing a much smaller magnitude and different nature of subsidies (i.e., the majority being for general services and infrastructure, rather than for harvesting). For these participants, the real cause of fish stock depletion is inadequate fisheries management. In response, the demandeurs argue that reductions in fishery subsidies would complement and positively reinforce enhanced fisheries management efforts.

5. Participants on all sides of the debate recognize the potentially positive environmental effects of some kinds of fishery subsidies, such as subsidies for retiring obsolete fishing vessels, research subsidies for sustainable use and renewal of fish stocks, and subsidies for fisheries management enforcement. In this regard, the demandeurs have put forth information and proposals on various possible categorizations of certain fishery subsidies according to their assessments as to these subsidies' trade- and environment-distorting effects, as a first step toward elaborating possible disciplines on such subsidies. Under these proposals, the strongest disciplines would apply to the fishery subsidies with the most harmful effects on the environment, with environmentally-friendly subsidies exempt from disciplines. Participants on the other side of the debate question the rationale for any subsidy disciplines based on environmental considerations, arguing that the only appropriate categorization of subsidies is the existing one, based on trade distortive effects.

6. The demandeurs argue that the basic environmental problem, stock depletion due to subsidization, also constitutes a trade distortion, which is not addressed by the existing rules. They see stock depletion as a trade distortion in the sense that competition for the (depleted) shared resource takes place between subsidized and non-subsidized fisheries from different countries, both within Exclusive Economic Zones (EEZs) and on the open seas. They argue that stock depletion and subsidies also distort both production and sales quantities and price levels of fish products, including in export markets, but that these volume and price distortions are inadequately addressed by the disciplines of the SCM Agreement, in particular the adverse effects rules, due to the peculiarities of

² A number of participants, individually and in various groupings, have submitted papers elaborating on the issues and problems that they view as related to fishery subsidies which they believe should be addressed in the negotiations, and suggesting approaches for the negotiations: TN/RL/W/3, TN/RL/W/9, TN/RL/W/12, TN/RL/W/21, TN/RL/W/58, and TN/RL/W/77.

³ The submissions by these participants can be found in the following documents: TN/RL/W/11, TN/RL/W/17, TN/RL/W/52, and TN/RL/W/69.

the sector (heterogeneity of fish products, high fish consumption and low levels of exportation by subsidizing countries). Because of the heavy dependence of many developing countries on the fisheries sector, the demandeurs also consider stock depletion to constitute a development problems attributable to fishery subsidies, and in this context suggest exempting from any new disciplines subsidies to artisanal fisheries of developing countries. The participants taking the opposite view on the need for new disciplines again question the link between subsidies and stock depletion, and argue as well that stock depletion as such is not a trade distortion, nor is the fishery sector unique and in need of sector-specific subsidy disciplines.

7. Differing views have been expressed in the negotiations as to which forum or fora should address the environmental aspects of fishery subsidies. The demandeurs believe that the Rules Negotiating Group is the appropriate forum to develop disciplines to address these aspects, and that this is precisely what the mandate intends. Those on the opposite side of the debate argue that the Rules Group should exclusively concern itself with the trade aspects of such subsidies, and only on a horizontal, not sectoral, basis, and that the environmental aspects should be taken up in the CTE and other multilateral and international bodies, such as the OECD, the FAO and the UN.

B. OTHER ENVIRONMENT-RELATED ISSUES

8. During the Uruguay Round, certain environment-related provisions were introduced into the SCM Agreement, although on a provisional basis. In particular, in something of a deviation from the "polluter pays" principle, certain subsidies for adaptations to new environmental standards were defined as non-actionable. This provision, along with the other non-actionable subsidy provisions, lapsed at the end of 1999, due to the absence of a consensus among Members to extend them. In the negotiations, there are now some proposals to revive the non-actionable category, with one possibility being to reinstate this category as it was. This issue is at a very preliminary stage, however, as no detailed discussion has yet been held.

9. Finally, it is possible that at some point, other environmental issues may be raised during the subsidy negotiations. One indicator in this regard is the increasing pressure from NGOs to bring environmental issues into WTO disputes concerning subsidy and countervail issues, as well as increased activity among certain environmental NGOs in respect of subsidy issues in the DDA. Over time, these views from civil society may eventually find their way into the negotiating positions of certain participants.
