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ENVIRONMENTALLY-HARMFUL AND TRADE-DISTORTING SUBSIDIES IN FISHERIES

Communication from the United States

I. PURPOSES

1. The major purposes of this submission by the United States are, first, to briefly review the international debate on the environmental and trade implications of fisheries subsidies, and, second, to identify categories of fisheries sector subsidies that are environmentally harmful and that distort trade.

II. DISCUSSIONS AND STUDIES

2. During the last several years, the conservation and trade effects of subsidies in the fisheries sector have been discussed in meetings of the World Trade Organization's Committee on Trade and Environment (WTO/CTE), the UN Food and Agriculture Organization (FAO), the Organization for Economic Cooperation and Development (OECD), and in the Asia Pacific Economic Cooperation (APEC) forum, and further analysed by fisheries economists and other experts in a number of non-government technical conferences.

3. In the WTO/CTE, submissions on the generally negative environmental and trade implications of fisheries subsidies were first presented in May 1997. In subsequent meetings over the last year, several other papers were presented that sounded similar general themes. During the same period, FAO paid considerable attention to the role of subsidies as one factor that contributes to overfishing and overcapacity. Specific provisions were included in the 1999 International Plan of Action on the Management of Fishing Capacity that called on FAO Members to reduce and progressively eliminate environmentally-harmful subsidies in their national and multinational capacity management plans. OECD has collected information on governmental financial transfers (GFTs) in fisheries among its Members, attempting to estimate aggregate levels of GFTs, as well as the shares that reduce costs, support revenues and incomes, and fund general services in fisheries. The APEC forum is currently completing a study of fisheries subsidies among its Pacific Rim Member Economies that will examine how the WTO Agreement on Subsidies and Countervailing Measures applies to those subsidies.

4. Individual WTO Members have also examined, or are in the process of studying, various aspects of the fisheries subsidies issue. In the United States, for example, a 1999 Congressionally-mandated study examined the roles of subsidies and other Federal programmes as factors contributing to both the expansion and reduction of harvesting capacity in domestic U.S. fisheries, concluding that some subsidies did promote an increase in capacity in certain fisheries during certain periods. The EU has also commissioned a study that examines subsidies in a number of developed countries.

III. ENVIRONMENTAL HARM AND TRADE DISTORTION

5. The United States believes that these recent discussions and studies show that there is considerable agreement on most, if not all, of the basic issues, and that a general consensus is emerging on the need for subsidies reform in the fisheries sector. In particular, there is growing support for the view that certain types of subsidies in fisheries are harmful to resource sustainability and distort trade.

1. Resource Sustainability

6. While Governments and experts are still debating the issues raised in the above fora, it does appear that there is some convergence of views on the key points. This emerging broad consensus may be briefly summarized as follows:

7. Governments and fishery management experts generally agree that overcapacity (more capacity than needed for an economically healthy fishery) and overfishing (rates of fishing mortality that exceed sustainable levels) are major problems in capture fisheries. In other words, there is general agreement that the world's fishing fleet is too large in relation to available fish stocks, or more simply, there are too many boats chasing too few fish.

8. Against this background, it is generally agreed that subsidies that affect capacity or effort have effects on resource sustainability, although views differ on their specific positive and negative impacts. Virtually everyone agrees that some subsidies have negative environmental effects: they reinforce the tendencies to overfish and overinvest, thereby exacerbating an already difficult problem and undermining remedies. These subsidies encourage overfishing and overcapacity because they: (1) reduce fixed and variable costs; (2) enhance revenues and incomes; and (3) mitigate risks. With reduced costs and risks, and enhanced prices, vessel owners will tend to pursue harvests to an unsustainable degree and as well as add capital their operations. In fisheries that are already exploited at maximum sustainable yield (MSY) or beyond MSY, additional effort and capital further dissipate rents, lead to resource erosion, and generally result in an unsustainable level of economic activity.

9. These harmful subsidies tend to have their worst environmental effects in open access fisheries, somewhat less negative effects in regulated open access fisheries, and the least negative effects in rights-based fisheries.[1] It may be noted that pure open access fisheries have declined significantly in number in most countries in the last few decades, and that the large majority of commercial fisheries fall in the regulated open access category, since they are managed with various effort controls and/or limited access. At the other end of the spectrum, only a handful of WTO Members have established rights-based systems (usually, individual transferable quotas) comprehensively in their fisheries sectors. These same countries provide minimal subsidies. Therefore, the large majority of environmentally-harmful fisheries sector subsidies are given to fleets that operate in regulated open access fisheries, and have undesirable implications to one degree or another for resource conservation.

10. The environmental impacts of the subsidies are felt not only within the exclusive economic zone (EEZ) of the subsidizing coastal state, but also wherever that country's fishing fleet operates, such as in the high seas and the EEZs of other coastal states. Hence, there is an international dimension to the impacts of these subsidies on resource conservation.

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[1] For purposes of this submission, the United States defines these management categories as follows: Open access fisheries have no effective controls on inputs (e.g. the number of fishers, the type of gear used, etc.) or outputs (the size of the catch), nor on participation; regulated open access fisheries have limits on inputs and/or outputs, and possibly restrictions on participation; rights-based fisheries have limits on the outputs for the fishery and specified harvest rights for individual participants or well-defined communities.

11. Subsidies may also promote the transfer of excess capacity from fishery to fishery, including from a fishery in one EEZ to another EEZ, or from an EEZ fishery to a high seas fishery. Therefore, some subsidies have the effect, intended or not, of moving overcapacity from domestic to high seas or foreign waters, compounding the "spillover" or "leakage" phenomenon that is already present in ineffectively managed fisheries.

12. Many fisheries throughout the world lack adequate controls on: (1) capacity levels (including both new entrants and increased capacity by existing participants); and/or (2) effort levels (again, including new effort and expanded effort by existing participants). As a result, the "spillover" or "leakage" effect is a common problem. That is, overcapacity in one fishery may find its way into other fisheries. This spillover effect is compounded by the policies of some coastal States that even encourage these transfers. In conclusion, the environmental harm associated with some fisheries subsidies crosses jurisdictions and has serious domestic and international components.

2. Trade

13. Subsidies in capture fisheries may also distort trade, although these precise adverse effects have not been carefully assessed by non-government experts, international organizations or in WTO disputes. Nevertheless, it is reasonable to infer that these impacts are not insignificant.

14. Capture fisheries still account for about two-thirds of world production of fish and shellfish. In this traditional sector, global harvests have fluctuated between 85 and 90 million tons and, according to FAO, have even declined modestly in the late 1990s. Products made from fish and shellfish are heavily traded, with about 40 per cent (by their unprocessed weight) sold in foreign markets. Approximately 70 per cent of global seafood trade goes to three major markets (Japan, EU, and the USA).

15. However, worldwide trade in seafood commodities, after growing strongly through the mid-1990s, has plateaued at about $50 billion annually during the last five years. Since aquaculture accounts for a growing share of trade in seafood products, it follows that trade in seafood products made from wild-caught fish has declined modestly.

16. Given the level of trade in fish and fish products, the fisheries subsidies have trade-distorting effects. While these adverse effects have not yet been carefully assessed by non-government experts, international organizations, or in WTO disputes, available evidence indicates that most subsidies in fisheries tend to promote harvesting operations and capitalization by reducing fixed and variable costs and supporting prices and incomes. Only rarely do they directly promote exports. Further, it seems that cost reducing subsidies far outweigh subsidies that support incomes and prices, so their aggregate trade effect is usually to suppress prices.

IV. SUBSIDIES THAT PROMOTE OVERFISHING/OVERCAPACITY AND DISTORT TRADE

17. The United States provides the following examples of environmentally-harmful and trade-distorting subsidies. These categories of fisheries subsidies reduce fixed and variable costs and/or support incomes and prices. Therefore, they tend to promote excessive levels of fishing effort and harvesting capacity, and tend to distort prices and trade.

18. Excluded from this list are, *inter alia*, Government programmes for fisheries management, science, enforcement, and most publicly financed port and landings facilities. Government-funded programmes that facilitate the transition to sustainable fisheries are also not included in this list. Examples of these activities are publicly-funded programmes that: reduce fishing capacity (buybacks); enhance resources (hatcheries); support the development and adoption of clean harvesting technology (bycatch reduction devices); and facilitate adjustment to the economic distress

associated with resource declines. While some experts advocate recovery from resource users of some management, science and enforcement costs, many policymakers and industry representatives believe that these activities are Governmental functions that should not be constrained by a WTO agreement on subsidies.

A. SUBSIDIES THAT REDUCE CAPITAL (FIXED) AND OPERATING (VARIABLE) COSTS

(i) Domestic Fisheries

19. These types of subsidies reduce fixed and variable costs in both domestic and international fishing operations, but, since about 90 per cent of global capture fishery harvests are taken inside EEZs, they generally have greater effort- and capacity-promoting effects in domestic fisheries.

(1) Government-Funded Commercially Applicable Research and Development

20. The next three categories may reduce the costs of capital, a key item in a sector in which the costs of acquiring and financing a vessel play such a major role.

(2) Government Loans and Loan Refinancing at Below Market Rates

(3) Government Loan Guarantees that Facilitate Below Market Rate Loans

(4) Government Forgiveness of Government-Funded Loans

21. The next three categories reduce income and sales taxes, with the result that profit margins are inflated and additional effort encouraged.

(5) Investment Tax Credits

(6) Income Tax Deferrals/Accelerated Depreciation Allowances

(7) Exemption from National Sales and Fuel Excise Taxes
(unless the tax is a user fee that funds a non-fishery programme such as highway construction and maintenance).

22. The next category is a classic example of a risk mitigating and cost reducing measure that tends to promote fishing operations.

(8) Government-Supported Marine Insurance at Below Market Rates Where Such Insurance is Commercially Available

23. The next two categories of programmes are relevant in just a handful of nations with centrally-controlled fisheries sectors.

(9) Government Ownership/Management of Fishing Enterprises if Inconsistent with Market Terms

(10) State Trading if Inconsistent with Market Terms and Customary Business Practices

This category is not a fisheries sector subsidy *per se*, but, to the degree that subsidies provided to shipyards assist the fishers who buy the vessels, this type should also be considered.

(11) Assistance to Shipbuilding when the Benefits Accrue Specifically to Fishers

(ii) International Fisheries

24. These types of subsidies explicitly promote international fisheries, including operations on the high seas and in the EEZs of other coastal States, often supporting the operations of redundant vessels in ineffectively patrolled EEZs of developing countries:

(1) Government-funded Foreign Access Payments

(2) Government Assistance to Foreign Fishery Joint Ventures

(3) Government-supported Fishing Vessel Exports

(4) Government-supported Below Market Risk Insurance for Foreign Fishery Investments

B. SUBSIDIES THAT SUPPORT INCOMES AND PRICES

25. These types of subsidies in fisheries support incomes and prices. Based on presently available information, including WTO subsidies notifications, it seems that these income and price-enhancing subsidies are less common than the aforementioned cost-reducing types.

26. The first two types are explicit price support programmes, and have the general effect of promoting operations beyond an optimal point and sustaining marginal producers.

(1) Domestic Price Support Programmes

(2) Government Purchases for Above Market Remuneration

27. The next two types are directly trade-promoting subsidies, and do not appear to be widely practiced.

(3) Rebates of Certain Taxes on Inputs if the Finished Product is Exported

(4) Government-Funded Export Subsidies

28. The last two categories are sector-specific social assistance programmes which may be harmful if they are implemented in ways that effectively encourage fishers to remain active even when sufficient fishery resources are no longer available.

(5) Sector-Specific Income Maintenance Programmes

(6) Regional Economic Development, if effectively Fisheries Sector-Specific