

ITEM 6: THE FISHERIES SECTOR

Submission by New Zealand

I. INTRODUCTION

1. Pursuant to the Singapore Ministerial Declaration, the Committee on Trade and Environment is tasked with continuing to examine the scope for complementarities between trade liberalization, economic development and environmental protection. Under Item 6 of its Agenda, the Committee has been specifically tasked with examining "the effect of environmental measures on market access, especially in relation to developing countries and in particular to the least developed among them, and the environmental benefits of removing trade restrictions and distortions." In this regard, New Zealand welcomes the presentation of a Secretariat background paper that provides an overview of a number of specific sectors where the removal of trade restrictions and distortions can be shown to have both significant environmental as well as trade benefits.

2. The Secretariat paper seeks guidance on the further analyses that should be undertaken in the sectors covered by the paper or in additional sectors. New Zealand considers that fisheries is one such sector. In our view it is both timely and appropriate to examine the relationship between trade distortions in the fisheries sector and problems of fisheries resource sustainability. Such an examination will also assist in identifying the expected benefits for the marine environment in removing trade distortions.

3. We believe that the preparation by the Secretariat for a further paper, covering, *inter alia*:

- (a) the WTO Articles that have a bearing on fishing industry subsidies; and
- (b) the extent to which the WTO rules adequately regulate subsidies in the fisheries sector;

would provide a useful basis for further work by the CTE in clarifying the salient issues and formulating appropriate recommendations for inclusion in its report on Item 6.

II. FISHING INDUSTRY SUBSIDIES: CONTRIBUTORS TO OVER-CAPACITY AND OVER FISHING

4. Many observers perceive world fisheries to be in a "state of crisis". The FAO has estimated that at the beginning of the 1990s, about 69 per cent of the world's conventional fish species were fully exploited, overexploited, or in the process of rebuilding as a result of depletion. The FAO comments that this situation is globally non-sustainable and major ecological and economic damage is already visible.<sup>1</sup>

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<sup>1</sup>The State of World Fisheries and Aquaculture, FAO Fisheries Department, Rome, 1995, p. 7.

5. The causes of this decline, depletion and damage are many. It can be argued that trade distortions have been significant contributors to this problem. These factors provide the inappropriate incentives which lead to the build up of fishing capacity, over-capitalization and over-exploitation of fish stocks. At its meeting on 17-20 March 1997, the FAO Committee on Fisheries identified fishing capacity as a major issue. The Committee urged that the issues of excessive fishing capacity and fishing effort leading to overfishing should be given special consideration by FAO and its Member Countries.<sup>2</sup>

6. A recent study by the OECD Fisheries Committee pointed to fisheries management failure as a reason for fleet over-capacity, but in doing so noted that incentives for increased participation in the fisheries sector, particularly the use of inappropriate assistance measures, have aggravated this problem.<sup>3</sup>

7. Fishing industry subsidies are widespread and accrue to fishers, vessel builders and vessel owners. Economic theory suggests that this form of trade distortion generally encourages the expansion of fishing fleet capacity. By providing additional revenue or reducing costs, the returns from fisheries are inflated beyond normal economic levels of exploitation. In the case of a fisheries resources, the normal economic rate of exploitation will often be above the long term sustainable biological rates of yield. The inflated return from fisheries encourages new participants and expansion of fishing effort and capacity. These effects are exacerbated in situations where there are ineffective conservation and management measures.

8. The following extract from David Doulman, Senior Liaison Officer in FAO's Fisheries Department, paints a sobering picture of the quantum of subsidies provided to the world's fishing fleets.

“Information about subsidies is poor, piece-meal and often confidential, and governments, if they are in a position to make such information available, are generally reluctant to do so. However the FAO has estimated that in 1988 the global value of the industrial fishing fleet was US \$320 billion and the operating cost of the fleet for the year was US \$92 billion. With an assumed rate of return on capital of 10 per cent (i.e. US \$32 billion), and total revenue from fishing of US \$70 billion, a deficit of US \$54 billion would have been sustained. This deficit represents 77 per cent of the value of fish harvested by the fleet in 1988. This figure indicates the magnitude of industrial subsidies paid world-wide to industrial fishing fleets.”<sup>4</sup>

9. While FAO's methodology has been criticized as an oversimplification of the situation, even if the figures are only approximations, they are still substantial. Some countries also argue that there is no systemic link between subsidies and over-capacity. From an economic theory perspective this is a difficult argument to maintain. It is difficult to understand how the artificial inflation of fishers returns does not affect their level of activity and thus affect the health of the marine environment. As mentioned above, the OECD Management Study commented negatively on the adverse effects of assistance measures on participation in the fisheries sector.

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<sup>2</sup>*Report of the 22nd Session of the FAO Committee on Fisheries*, Rome, 17-20 March 1997, p. iii.

<sup>3</sup>*Statement on the Study on the Economic Aspects of Management of Living Marine Resources*, OECD Fisheries Committee, October 1996.

<sup>4</sup>David J. Doulman, *An Overview of World Fisheries: Challenges and Prospects for Achieving Sustainable Resource Use*, April 1996, p. 16.

### III. OTHER EFFECTS OF FISHING INDUSTRY SUBSIDIES

10. Fishing industry subsidies encourage the use of fisheries resources above normal economic rates of exploitation. Inflated returns encourage excess capacity and overfishing, particularly in poorly managed fisheries. This activity has implications for the supply of fish to consumers and processors. These supply distortions place downward pressures on world seafood prices.

11. These depressed prices affect the ability of developing countries to achieve economic returns from their fisheries resources. In addition to competition from subsidized industries, developing countries face tariff escalation at the border. Tariff escalation is often used to protect domestic seafood processing industries. Combined with the effects of subsidized competition, this form of tariff structure denies developing countries the opportunity to realize economic returns which would afford them the opportunity to enable sustainable development of their fisheries resources. Also, by depressing economic returns, these trade distortions can compromise the ability of developing countries to provide infrastructure to ensure sustainable development.<sup>5</sup>

12. Within the economy, the use of fishing industry subsidies has resource allocation implications. The use of trade distortions encourages participation in the fishing industry.<sup>6</sup> Investment decisions within the economy are distorted, resulting in sub-optimal economic performance and lower than potential income and welfare standards. These economic losses can be critical if a country is struggling to find the necessary resources to ensure the sustainable management of fisheries resources. The OECD notes that, by providing economic growth, trade liberalization can have positive scale effects in providing resources (through economies of scale) which may be used for environmental protection as well as promoting investment in environmental technology.<sup>7</sup>

### IV. CURRENT TREATMENT OF FISHING SUBSIDIES UNDER WTO TRADE RULES

#### A. Fisheries under the Subsidies Agreement

13. Under WTO trade rules, the only sector which is specifically excluded from the Agreement on Subsidies and Countervailing Measures is the agriculture sector. As fisheries was delinked from agriculture during the Uruguay Round of Negotiations, the sector is subject to the WTO Agreement on Subsidies and Countervailing Measures. The Agreement introduces the concept of a "specific" subsidy, i.e. generally a subsidy available to an enterprise, industry or group of industries within the territory of a Member Country. Only specific subsidies are subject to the disciplines set out in the Agreement. Subsidies are defined in terms of a "financial contribution" which confers a benefit.<sup>8</sup>

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<sup>5</sup>*Report of the Committee on Trade and the Environment*, World Trade Organization, Geneva, 18 November 1996, p. 20.

<sup>6</sup>*Statement on the Study on Economic Aspects of Management of Living Marine Resources*, OECD Fisheries Committee, October 1996.

<sup>7</sup>*Report on Trade and Environment to the OECD Council at Ministerial Level*, OECD Environmental Policy Committee/Trade Committee, Paris, May 1995, p 18.

<sup>8</sup>R. McLeod, *Seafood Trade Access Study*, New Zealand Fishing Industry Board, 1996, p. 78.

B. Application of the Subsidies Agreement

14. Essentially, the Agreement establishes three categories of subsidy.

- (a) Prohibited Subsidies - These are contingent on export performance or the use of domestic over imported goods. Such subsidies are subject to automatic and rapid dispute settlement procedures;
- (b) Actionable Subsidies - While not prohibited, these subsidies have "adverse effects" on the interests of other Member Countries, i.e. they may cause injury to an industry or nullify or impair the benefits accruing to other Members under the GATT. Actionable subsidies are subject to automatic dispute settlement and may be subject to countervailing action; and
- (c) Non-actionable Subsidies - These can be non-specific subsidies or specific subsidies involving assistance under defined conditions for industrial and applied research, disadvantaged regions or for certain environmental purposes.<sup>9</sup>

15. In relation to fisheries, actionable subsidies provide the most useful area for examination. No Member Country shall cause adverse effects to the interests of other Member Countries through the use of subsidies. Among the definition or clarification of "adverse effects", includes a situation where a subsidy causes serious prejudice to the interests of another Member.<sup>10</sup> Serious prejudice is deemed to exist in the case of:

- (a) the total *ad valorem* subsidization of a product exceeding 5 per cent;
- (b) subsidies to cover operating losses sustained by an industry;
- (c) subsidies to cover operating losses sustained by an enterprise; and
- (d) direct forgiveness of debt, i.e. forgiveness of government-held debt, and grants to cover debt repayment.<sup>11</sup>

16. These provisions appear to provide a strong set of disciplines to tackle many of the subsidies which are provided to the world's fishing fleets. However, while the Agreement does provide disciplines, until the scope and range of fishing industry subsidies becomes clearer, the ability of WTO rules to address these forms of assistance through these practical disciplines will not be known. A consideration of the adequacy of the current Subsidies Agreement to regulate the range of fishing industry subsidies therefore represents a useful focus for future work.

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<sup>9</sup>*The Results of the Uruguay Round: The Legal Texts*, WTO, Geneva, June 1994, p. 266-277.

<sup>10</sup>*Ibid.*

<sup>11</sup>*Ibid.*

V. CONCLUSIONS

17. There are strong reasons from the trade and environment perspective to examine fishing industry subsidies and how they relate to WTO trade rules. Fishing industry subsidies affect the marine environment, the interests of developing countries and the ability of countries to ensure sustainable development. There is scope for valuable work in clarifying which WTO Articles have a bearing on fishing industry subsidies and considering whether these Articles adequately regulate these subsidies. New Zealand believes that consideration by the CTE of these issues could constitute a practical and timely contribution to work under Item 6.