

**IUU FISHING AND FISHERIES SUBSIDIES**

Paper from Japan

The following communication, dated 2 June 2005, is being circulated at the request of the Delegation of Japan.

The submitting delegation has requested that this paper, which was submitted to the Rules Negotiating Group as an informal document (JOB(05)/100), also be circulated as a formal document.

**I. INTRODUCTION**

1. In the February 2005 meeting of the Negotiating Group on Rules, Japan submitted a paper as a contribution to the discussion on the framework for the new disciplines on the fisheries subsidies with the Republic of Korea and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (TN/RL/W/172). In the paper, Japan and the other co-sponsors proposed the candidates of the prohibited subsidies including those related to illegal, unreported, and unregulated ( IUU ) fishing. Japan is now submitting this paper to provide detailed information on key issues and the current situation of IUU fisheries and to share some ideas on fisheries subsidies to prevent IUU fishing.

2. This paper is submitted without prejudice to the position of Japan on this matter in the future negotiating process.

3. According to FAO, "75% of the world major marine fish stocks are overexploited, fully exploited, significantly depleted, or recovering from overexploitation". Moreover, IUU fishing is greatly threatening the conservation and management of those stocks already in peril. In order to eradicate IUU fishing, international cooperative actions have been one of the most important tasks for many international fora such as the United Nations, FAO and World Summit on Sustainable Development (WSSD) as well as regional fisheries management organizations (RFMOs).

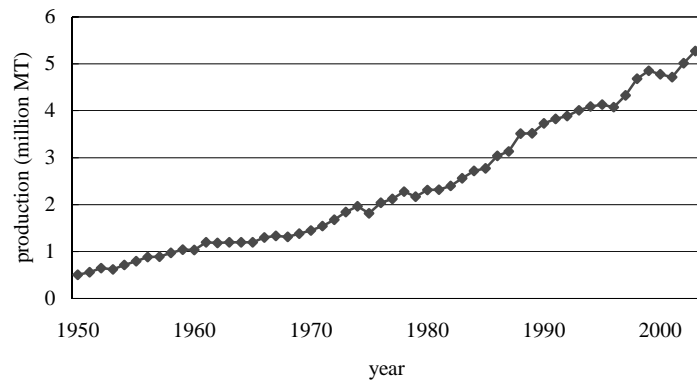
4. IUU fishing can be characterized as fisheries which do not comply with catch quotas and other regulatory measures set domestically or internationally, do not report the results and other relevant information of their operations to the appropriate authorities, and are not controlled by any management framework. Whether or not their flag states are CPCs (contracting parties, cooperating non-contracting parties, entities or fishing entities) to RFMOs does not matter to their IUU status. However, today's most serious problems related to IUU fisheries are caused by Flag of Convenience (FOC) Operations on the high seas, which are conducted by vessels temporarily re-flagged to non-CPCs which possess neither the ability nor the will to manage those vessels while the virtual owners of those vessels live in other countries. Based on this background, this paper mainly focuses on IUU operations conducted by FOC vessels on the high seas.

## II. CURRENT STATUS OF IUU FISHING

5. Currently, IUU operations on tuna species and Patagonian toothfish (*Dissostichus eleginoides*) are of the most serious global concern. Most stocks of both species are already heavily exploited and still many IUU vessels, mainly FOC vessels, are targeting those species around the world.

6. The global catch of tuna species has been multiplied by 8 times during the past fifty years and has increased by 50% since 1990 (see Fig.). With regard to longliners<sup>1</sup> which target mainly the Japanese *sashimi* (raw fish) market, there were 1,400 properly licensed longliners world wide in 2000 while 250 IUU vessels were there simultaneously. Since they frequently change their flag states, it is difficult to trace their movements. However, after considerable international efforts which will be explained below, the number of IUU longliners decreased substantially to 100 in 2002 and to 25 in 2004. Nonetheless, resurgence of IUU longliners is quite possible once the price of the Japanese *sashimi* market soars again.

Fig. World Production of Tunas



7. On the other hand, FOC tuna purse-seiners<sup>2</sup> are increasing as IUU longliners decrease. According to the South Pacific Forum Fisheries Agency, many huge FOC purse-seiners larger than 2,000 GT have been constructed in recent years and the number reached at least 15 in 2004. The fishing capacity of a large-scale purse-seiner, which exceeds 100 MT of catch per day, is by far larger than that of a longliner, which is 5-10 MT a day and, thus, FOC purse-seiners' operations are becoming increasingly of global concern.

8. Patagonian toothfish are being caught in sub-Antarctic ocean and their international commercial value has been steadily rising in recent years by the increase of world consumption. The species are internationally managed under the framework of CCAMLR (Convention on the Conservation of Antarctic Marine Living Resources) but the catch by IUU operations is substantial compared with the TAC (total allowable catch) set by the organization (In 2002/03 fishing season, TAC allocated to the Parties of CCAMLR was 16,262 MT while the catch by IUU vessels was estimated to exceed 10,000 MT.). Tireless monitoring and surveillance efforts made by the authorities of the Parties sometimes resulted in the pursuit and even capture of IUU vessels but these management activities under severe natural conditions in semi-polar areas are not an easy task at all. CCAMLR has identified about 15 IUU vessels for Patagonian toothfish so far, but many more are suspected to exist<sup>3</sup>.

## III. FACTORS BENEFITING IUU FISHERIES

9. The re-flagging of vessels for the purpose of reduction of tax payment or operational cost has been a common practice among commercial vessels for long time. Activities of general commercial vessels on the surface are limited and their activities, which are primarily conducted at port, are relatively easy to monitor and be managed there. Therefore, the management of FOC vessels has not created serious problems, although the responsibility of flag states is gaining attention because of the occurrence of

<sup>1</sup> Angling fishery using gear composed of main line and many branch liens with hooks

<sup>2</sup> Net fishery which encircles fish with net (purse seine) and then gradually tightens the net

<sup>3</sup> <http://www.ccamlr.org/pu/E/sc/fish-monit/IUU%20list.pdf>

environmental problems such as discharge of waste from vessels. On the other hand, the monitoring and management of fishing vessels, whose activities are primarily conducted not at port but on the surface, are substantially more difficult, especially on the high seas where management responsibility lies with flag states. When a fishing vessel is operating under the flag of a country whose management system does not work effectively enough and the owner lives in a different country, the management of such a vessel would be even more difficult, if not impossible.

10. The direct incentive of IUU fisheries is considered to be an economic benefit; the investors pursue an economic gain by operating freely outside the framework of an international management system and exporting their products caught with less cost. Due to the deterioration of commercial fish resources worldwide as mentioned at the outset, TACs set by RFMOs are gradually being reduced and naturally so are the allocations to each CPC, which sometimes require vessel decommissioning. Under such circumstances, if a vessel is re-flagged to a non-CPC, it can operate freely regardless of the ever-tightening international management measures. This financial advantage attracts not only the re-flagging of existing fishing vessels but also new investment to build vessels to be registered to non-CPCs of RFMOs with the intention to start the IUU fisheries business.

11. The following is non-exhaustive list which could be considered as the factors which benefit IUU fisheries;

- (1) Unsatisfactory control by the flag states as well as the states where the virtual owners live; (Nonfulfilment of their national responsibilities, such as maintaining insufficient vessel registrations, by the flag states or the states where the virtual owners live clearly creates an advantage for FOC vessels engaging in IUU fisheries in terms of the competition with the other vessels. We believe this has the same effect as a financial contribution to the IUU fisheries. However, since we are aware that this does not really fall into the “financial contribution” under the SCM Agreement and this is the issue for other fora , we will not pursue it further in this paper.),
- (2) Unrestricted transfer of products from IUU fisheries, especially in international trade; (When the products are consumed domestically, IUU operations would be discouraged by public surveillance. When, however, the products are primarily exported and domestic consumption is negligible, a disincentive of such inappropriate activities is not given and IUU operations expand.), and,
- (3) Subsidies; (Direct subsidies to IUU operations are inconceivable. However, certain types of subsidies might benefit IUU operations indirectly as described in paragraph 15 below.).

#### **IV. INTERNATIONAL EFFORTS TO ELIMINATE IUU FISHERIES**

12. Recognizing the factors and motivations to engage in the IUU operations mentioned above, substantial international efforts have been made to date to combat them. Most of those efforts deal with factors described in paragraph 11 (1) and (2), namely to collectively work on flag states and states where virtual owners live or to introduce trade related measures such as statistical document programmes.<sup>4</sup>

13. For example, the following measures have been taken to combat with IUU fisheries and their effects have been gradually materialized. Japan has been taking a central role for those measures to be implemented.

- (1) To announce publicly the IUU vessels list, in order to prevent those vessels from obtaining further market access or a new registry.

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<sup>4</sup> Under this programme, flag states are required to validate the name of fishing vessel, the area of catch and amount of fish for export.

- (2) To work on flag states internationally to deal with the issue. To identify states responsible for IUU fisheries at RFMOs, if necessary.
- (3) To return the registry of FOC vessels to the country where the owner lives, in order to control them under the domestic management scheme of the country including scrapping them when excess capacity exists.
- (4) To strengthen the management by flag states through the introduction of appropriate measures such as a vessel registry system, a licensing system, as well as monitoring the location of fishing vessels by the Vessel Monitoring System which uses satellites.
- (5) To eliminate products by IUU operations from markets.
  - Trade restriction of fisheries products targeted by IUU operations from countries which are identified by RFMOs to undermine the effectiveness of the conservation and management measures of such RFMOs.
  - Issuance of statistical documents by the appropriate authorities of flag states to the products caught by duly authorized fishing vessels. Only products accompanied by such certificates can be imported. This scheme has been introduced by many international fisheries management organizations such as ICCAT, IOTC, IATTC, CCSBT<sup>5</sup> (for tuna), and CCAMLR (for Patagonian toothfish).

14. However, further actions are needed to eradicate IUU fisheries more effectively. In 2001, FAO members adopted the International Plan of Action to Prevent, Deter and Eliminate IUU Fishing<sup>6</sup>, which reads that “states should, to the extent possible in their national law, avoid conferring economic support, including subsidies, to companies, vessels or persons that are involved in IUU fishing”. The Plan of Implementation of WSSD approved in Johannesburg in 2002 has requested the elimination of subsidies that contribute to IUU fisheries.<sup>7</sup> More recently, the FAO Ministerial Declaration adopted in March 2005, calls “to identify, reduce and ultimately eliminate the economic incentives that lead to IUU fishing”.<sup>8</sup>

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<sup>5</sup> ICCAT: International Convention for the Conservation of Atlantic Tunas  
 IATTC: Inter-American Tropical Tuna Commission  
 IOTC: Indian Ocean Tuna Commission  
 CCSBT: Convention for the Conservation of Southern Bluefin Tuna

<sup>6</sup> [http://www.fao.org/documents/show\\_cdr.asp?url\\_file=/DOCREP/003/y1224E/Y1224E00.HTM](http://www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/003/y1224E/Y1224E00.HTM)

In the International Plan of Action, IUU fishing is defined as follows;

3.1 Illegal fishing refers to activities:

3.1.1 conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;

3.1.2 conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or

3.1.3 in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

3.2 Unreported fishing refers to fishing activities:

3.2.1 which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or

3.2.2 undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

3.3 Unregulated fishing refers to fishing activities:

3.3.1 in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or

3.3.2 in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

<sup>7</sup> [http://www.johannesburgsummit.org/html/documents/summit\\_docs/131302\\_wssd\\_report\\_reissued.pdf](http://www.johannesburgsummit.org/html/documents/summit_docs/131302_wssd_report_reissued.pdf)

<sup>8</sup> [http://www.fao.org/newsroom/common/ecg/100200\\_en\\_mm.iuu.pdf](http://www.fao.org/newsroom/common/ecg/100200_en_mm.iuu.pdf)

Therefore, the discussion at the WTO to eliminate fisheries subsidies benefiting IUU fisheries will certainly contribute to the international requirements in the battle against IUU fisheries.

## **V. FISHERIES SUBSIDIES AND IUU FISHERIES**

15. Reflecting on what is mentioned in paragraphs 9 and 10, the most typical subsidies which might benefit IUU fisheries would be subsidies for overseas transfers of fishing vessels to non-CPCs of RFMOs. Overseas transfers of fishing vessels to non-CPCs of RFMOs could directly result in IUU fisheries and therefore subsidies for those activities should be prohibited. Furthermore, the re-transfer to non-CPCs through CPCs of RFMOs is also problematic. Such a case can be prevented by establishing an appropriate bilateral arrangement between exporting and importing countries. Subsidies for overseas transfers of fishing vessels to CPCs of RFMOs might also be among the prohibited subsidies, unless such a bilateral arrangement exists.

16. There should be other types of fisheries subsidies which are not direct subsidies to IUU operations, but still benefit those operations. Input from other Members on these types of fisheries subsidies will be appreciated. In addition, information from Members on how they design their fisheries subsidies in order not to facilitate or contribute to IUU fisheries should be shared in this Group, to further elaborate on this issue. For example, in the case of Japan, no subsidies are provided to the construction of the fishing vessels which have capacity to operate on the high seas without proper authorization for fishing. Also, the vessel subject to the decommissioning programme must be scrapped including its engine and equipment in order to avoid the leakage of vessels and gears to other fisheries. In addition, the fishing licenses associated with the decommissioned vessels have to be withdrawn.

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