

**FISHERIES SUBSIDIES
FRAMEWORK FOR DISCIPLINES**

Paper from New Zealand

The following communication, dated 2 March 2006, is being circulated at the request of the Delegation of New Zealand.

The submitting delegation has requested that this paper, which was submitted to the Rules Negotiating Group as an informal document (JOB(06)/38), also be circulated as a formal document.

New Zealand submits the attached paper as a contribution to the fisheries subsidies negotiations, in keeping with the timeline foreshadowed by the Director-General in JOB (06)/13 for proposals by March in the form of legal drafting.

This contribution to the fisheries subsidies negotiations builds on previous submissions. In particular, New Zealand's paper in April 2004, TN/RL/W/154, called for a broad prohibition on fisheries subsidies while recognizing the need for balance with exceptions, transitional provisions and special and differential treatment for developing countries. A further paper put forward in November 2004, TN/RL/W/166, discussed key principles in designing an approach to a broad prohibition on fisheries subsidies disciplines: simplicity and enforceability; transparency; and flexibility.

New Zealand looks forward to discussing this proposal with other interested delegations, and would expect to further refine and expand on this proposal in light of this debate.

**New Disciplines on Fisheries Subsidies: Proposed Amendments to the Agreement
on Subsidies and Countervailing Measures**

Article 3 bis

Prohibited Fisheries Subsidies

1. Except as provided for in Article 27 *bis* and Annex VIII of this Agreement, subsidies¹ within the meaning of Article 1 of this Agreement that confer a benefit² directly or indirectly on any natural or legal person engaged in the harvesting, processing, transport, marketing or sale of the fish and fisheries products listed in Annex IX of this Agreement (“fisheries subsidies”) shall be prohibited.

Article 25 bis

Enhanced Notification Requirements for Fisheries Subsidies

[Procedures for notification requirements for non-prohibited (Annex VIII) fisheries subsidies will be developed.]

Article 27 bis

Special & Differential Treatment for Fisheries Subsidies

1. The prohibition of Article 3 *bis* shall not apply to fisheries subsidies provided by a developing country Member where such subsidies do not exceed the *de minimis* level for that Member.

[To be elaborated, including the possibility of further flexibilities for LDCs.]

Article 28 bis

Existing Fisheries Subsidies Programmes

1. Fisheries subsidies which have been established within the territory of any Member before the date on which Article 3 *bis* comes into force and which are inconsistent with that Article shall be:

- (a) notified to the Committee no later than one year after the date that Article 3 *bis* comes into force; and
- (b) brought into conformity with Article 3 *bis* within three years of the date that Article 3 *bis* comes into force and until then shall not be subject to Part II.

¹ We note that Article 1.2 of the ASCM provides that a subsidy shall be subject to the provisions of Part II only if such a subsidy is specific in accordance with the provisions of Article 2. New Zealand continues to be concerned that some generally available (non-specific) subsidies could directly contribute to overcapacity and overfishing, for example a generally available fuel subsidy. We look forward to discussing textual options for addressing this concern.

² The term benefit is used here in the sense of Article 1.1(b) of this Agreement.

ANNEX VIII

Exhaustive List of Non-Prohibited Fisheries Subsidies

1. Provided that they are notified in accordance with Article 25 *bis*, nothing in Article 3 *bis* shall prevent the adoption of the following fisheries subsidies:
 - (a) subsidies to aquaculture activities provided that ...[conditions to be specified to ensure any adverse impacts on wild capture fisheries are addressed];
 - (b) subsidies for vessel decommissioning and licence retirement provided that ...[conditions to be specified to ensure permanent removal of capacity];
 - (c) subsidies to research to inform fisheries management decision makers, including data collection, surveys, data analysis and stock assessment;
 - (d) subsidies for conservation-related activities [to be elaborated];
 - (e) access payments [further conditions to be further elaborated, including consideration of additional transparency requirements for the subsidising Member]
 - (f) certain infrastructure (e.g. the provision of transport infrastructure for fishing communities);
 - (g) certain social insurance programmes (e.g. worker retraining programmes); and
 - (h) natural disaster relief [to the extent that it only restores the fishery to its pre-disaster state]
2. Government expenditures directly associated with the creation and implementation of fisheries management systems,³ and the enforcement of fisheries management rules shall not be treated as fisheries subsidies for the purposes of this Agreement.

ANNEX IX

PRODUCT COVERAGE FOR FISHERIES SUBSIDIES

1. The fish and fisheries products referred to in *Article 3 bis* and related Articles refer to:

HS Chapters/Code/Headings

HS 0509	(sponges)
HS 0511.91	(fish unfit for human consumption)
HS 03	(fish and fish products)
HS 1504.10	(fishoil)
HS 1504.20	(fishoil)
ex HS 1603	(juices and extracts of meat and fish)

³ This comprises the establishment and administration of management systems (including allocating and monitoring fishing licences, permits, quota, vessel numbers and catch returns); adjusting management settings within an existing management system; and developing amendments or additions to the existing management system.

HS 1604	(prepared or preserved fish)
HS 1605	(prepared or preserved crustaceans and molluscs)
HS 2301.20	(fishmeal)
