

# WORLD TRADE ORGANIZATION

TN/RL/GEN/114/Rev.1  
2 June 2006

(06-2643)

---

Negotiating Group on Rules

Original: English

## FISHERIES SUBSIDIES: FRAMEWORK FOR DISCIPLINES

Communication from Japan; the Republic of Korea; and the Separate  
Customs Territory of Taiwan, Penghu, Kinmen and Matsu

### Revision

The following communication, dated 1 June 2006, is being circulated at the request of at the request of the Delegations of Japan; the Republic of Korea; and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

---

This proposal is a revision of the textual proposal co-sponsored by Japan, the Republic of Korea, and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (TN/RL/GEN/114). This proposal aims to present elaborated conditions for vessel construction and modification subsidies in Annex VIII of the proposal (TN/RL/GEN/114). Therefore, revisions are being made only on Annex VIII and no other provisions have been changed.

The revised Annex VIII features the following two main changes:

- (1) 50 % reduction of (i) gross tonnage, (ii) volume of fish hold, and (iii) engine power becomes mandatory, with an aim to promote fishing capacity reduction.
- (2) Increase of gross tonnage is possible only in case of modification, not construction, with an aim to prevent possible circumventions.

With this revision, the co-sponsors believe that this proposal can contribute to the resolution of the issue of over fishing capacity.

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

**Article 1 Definition of a Subsidy**

1.1(a)(1) (iii) (add following footnote)

For the sake of clarity, creation and implementation of fisheries resources management measures do not constitute services stipulated in this sub-paragraph.

**Article 3 Prohibition**

3.1 Except as provided in the Agreement on Agriculture, the following subsidies, within the meaning of Article 1, shall be prohibited:

- (a) (no change)
- (b) (no change)
- (c) following fisheries subsidies provided for capture fisheries at sea:
  - (i) subsidies for the construction of fishing vessels, unless all the conditions set forth in Annex VIII are satisfied;
  - (ii) subsidies for the modification of fishing vessels, unless all the conditions set forth in Annex VIII are satisfied;
  - (iii) subsidies for shipbuilding yards contingent upon the construction of fishing vessels;
  - (iv) subsidies for overseas transfers of fishing vessels to non-participants of regional fisheries management organizations (referred to in this Article as “RFMOs”)<sup>1</sup>; and

1 The term “non-participants of regional fisheries management organizations” means the countries or entities who are neither contracting parties nor cooperating non-contracting parties, entities or fishing entities of any one of the RFMOs. RFMOs mean sub-regional or regional fisheries management organizations or arrangements.

- (v) subsidies relating to illegal, unreported and unregulated fishing<sup>2</sup>.

2 The term “illegal, unreported and unregulated fishing” shall be interpreted in accordance with the definition set out in paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the United Nations Food and Agricultural Organization (FAO).

**Article 8 Identification of Non-Actionable Subsidies**

8.1 Notwithstanding the provisions of Parts III and V, the following subsidies shall be understood as having no, or at most minimal, trade distorting effects or negative effects on fisheries resources management, and thus considered non-actionable:

- (a) subsidies for the fishing vessel decommissioning provided that the vessel is scrapped and its fishing license is withdrawn;

- (b) subsidies for fisheries stock enhancement and marine environment protection;
  - (c) subsidies for research and development for sustainable fisheries;
  - (d) subsidies for unemployment relief, early retirement or re-education, retraining and alternative employment assistance of fishermen;
  - (e) subsidies for social safety net for fishermen;
  - (f) subsidies for small-scale and artisanal fisheries<sup>3</sup>; and
- 3 Small-scale and artisanal fisheries in this Agreement shall be interpreted as activities carried out by fishing vessels with total length not exceeding (X) meters.
- (g) subsidies for access fee to fisheries resources in the EEZs of other countries.

**Necessary modification needs to be made on Article 8.3 – 8.5 and Article 31 of the current SCM Agreement.**

**Article 27 Special and Differential Treatment of Developing Country Members**

27.1 – 27.15 (no change)

27.16 The prohibition under sub-paragraphs (i), (ii) and (iii) of paragraph 1(c) of Article 3 shall not apply to:

- (a) developing country Members referred to in Annex VII.
- (b) other developing country Members whose production of marine capture fisheries is not more than (X) % of that of the world (or the total gross tonnage of production is not more than (X) million metric tons) in the latest (two to five) consecutive years based on the most recent data available from the FAO on the date of entry into force of paragraph 1(c) of Article 3 for such Member.

27.17 Any other developing country Members not referred to in paragraph 16(a) or 16(b) shall phase out the subsidies specified in sub-paragraphs (i), (ii) and (iii) of paragraph 1(c) of Article 3 within the (seven to ten) years since the date of entry into force of paragraph 1(c) of Article 3 for such Member.

27.18 Should developing country Members referred to in paragraph 16(b) have increased their production of marine capture fisheries to more than (X) % of that of the world (or the total gross tonnage of production is more than (X) million metric tons) for (two to five) consecutive years based on the most recent data available from the FAO, the subsidies specified in sub-paragraphs (i), (ii) and (iii) of paragraph 1(c) of Article 3 shall be phased out within (seven to ten) years since the date of entry into force of paragraph 1(c) of Article 3 for such Member or (two to five) years from the date of the publication of such data, whichever comes later.

**At this moment, new paragraph is put at the end of current paragraph 15 for convenience. Overall structure of Article 27 will be reviewed at later stage.**

## **Article 28 Existing Programmes**

- 28.1 (no change)
- 28.2 (no change)
- 28.3 Subsidy programmes which have been established within the territory of any Member and which fall under sub-paragraphs (i), (ii) and (iii) of paragraph 1(c) of Article 3 shall be:
- (a) notified to the Committee not later than 90 days after the date of entry into force of paragraph 1(c) of Article 3 for such Member and in every two years thereafter; and
  - (b) brought into conformity with the provisions of this Agreement within (six) years of the date of entry into force of paragraph 1(c) of Article 3 for such Member and until then shall not be subject to Part II.

**At this moment, new paragraph is put at the end of current paragraph 2 for convenience. Overall structure of Article 28 will be reviewed at later stage.**

### **ANNEX VIII CONDITIONS FOR VESSEL CONSTRUCTION AND MODIFICATION SUBSIDIES REFERRED TO IN SUB-PARAGRAPHS (i) AND (ii) OF PARAGRAPH 1(c) OF ARTICLE 3**

Unless all of the following conditions are satisfied, subsidies for vessel construction or modification shall be prohibited.

1. A system where a government of a Member controls the number of fishing licenses is in place and under such system:
  - each fishing vessel obtains a license from the government, and
  - each fishing vessel to be constructed or modified possesses a valid fishing license or is confirmed to obtain license after the construction or modification.
  
2. (a) In case of vessel construction, vessel(s) are withdrawn in exchange for the new vessel to be constructed. In addition, each of the following items of the new vessel is reduced by at least 50 % of (the sum of) that of the vessel(s) to be withdrawn: (i) gross tonnage, (ii) volume of fish hold, and (iii) engine power.
  
- (b) In case of vessel modification, neither (i) gross tonnage, (ii) volume of fish hold, nor (iii) engine power increases as a result of the modification.

Footnote: Increase of the gross tonnage of a vessel after modification is exceptionally deemed to satisfy the conditions of the paragraphs 2(a) and 2(b) of this Annex, provided that the purpose of the modification is the improvement of safety or the working conditions of the crew and that neither the volume of fish hold nor the engine power increases as a result of modification.

---