

FISHERIES SUBSIDIES
EXHAUSTIVE LIST OF NON-PROHIBITED FISHERIES SUBSIDIES

Paper from New Zealand

The following communication, dated 1 June 2006, is being circulated at the request of the Delegation of New Zealand.

New Zealand submits the attached paper as a contribution to the fisheries subsidies negotiations in accordance with the request from the Chair of the Rules Negotiating Group that delegations elaborate their proposals for prohibited and non-prohibited subsidies. This contribution builds on previous submissions, in particular New Zealand's paper of March 2006 proposing a framework for disciplines (TN/RL/GEN/100). The present paper is intended to be read as an elaboration of that paper's proposed Annex VIII of the Agreement on Subsidies and Countervailing Measures (ASCM), which is the exhaustive list of non-prohibited fisheries subsidies.

Members will note that this elaboration of the earlier proposal includes additional categories of non-prohibited subsidies (e.g. vessel and crew safety). Members will also note that New Zealand has drawn on language from other proposals in order to elaborate its categories of proposed non-prohibited subsidies. New Zealand would like to make three comments in relation to the text:

1. Notwithstanding the fact that New Zealand has so far not proposed a specific clause to that effect, we remain interested in exploring other Members' proposals directed at preventing the circumvention of new fisheries subsidy disciplines. In New Zealand's view, exemptions from the prohibition should not result in overall increases to fishing capacity or effort.
2. For the sake of clarity, New Zealand has no intention to cover general infrastructure under its prohibition (as per Article 1 of the ASCM). Although, to date, there has been a lack of engagement on fisheries infrastructure subsidies (originally raised in TN/RL/GEN/70), this paper suggests a way forward on this question by identifying those subsidies that should be non-prohibited, but remain actionable and subject to enhanced transparency provisions.
3. Responding to concerns expressed by developing countries, New Zealand proposes to treat subsidies to artisanal fishing as non-prohibited. With regard to access payments, New Zealand has sought to clarify that the new disciplines would focus only on the subsidy provided by fishing nations to their long distance fishing fleets to access the fishing resources of developing countries. Such subsidies would not be prohibited, but would be subject to particular Article 25 bis transparency provisions. These may include an obligation to notify the text of any agreement, the amount of any fixed and variable payments, total allowable catches, and the proportion of costs recovered from industry. New Zealand is also aware that

appropriate Special and Differential Treatment provisions will need to be developed, in addition to the exemptions provided in Annex VIII.

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.

ANNEX VIII

Exhaustive List of Non-Prohibited Fisheries Subsidies

1. Provided that they are notified in accordance with Article 25, nothing in Article 3 *bis* shall prevent the adoption of:

- (a) subsidies to aquaculture¹ activities, provided that there are no capture fisheries involved;
- (b) subsidies for vessel decommissioning programmes, provided that:
 - (i) the vessels subject to such programmes are scrapped or otherwise permanently and effectively prevented from being used for fishing anywhere in the world;
 - (ii) the fish harvesting rights associated with such vessels are permanently revoked and may not be reassigned;
 - (iii) the owners of such vessels are required to relinquish any claim associated with such vessels that could qualify such owners for any present or future harvesting rights in any fishery; and
 - (iv) there are in place fisheries management control measures designed to prevent over-fishing in the targeted fishery, such as limited entry systems, catch quotas, limits on fishing effort or allocation of exclusive quotas to vessels, individuals and/or groups.
- (c) subsidies for research to inform fisheries management decision makers, including data collection, surveys, data analysis, and stock monitoring, sampling and assessment;
- (d) subsidies for fisheries stock enhancement, marine conservation, and marine protection, including marine environment restoration, hatcheries for breeding, artificial reefs and by-catch mitigation devices;
- (e) subsidies for access to the fisheries resources of developing countries;
- (f) subsidies to the construction and maintenance of infrastructure for:
 - (i) fishing communities, such as the provision of housing, transport infrastructure, water and sanitary waste systems;
 - (ii) wharves and port facilities for vessel moorage, loading, unloading, cleaning, sanitation and repair; and
 - (iii) transport infrastructure, water and sanitary waste systems serving processing facilities for fisheries products.

¹ Aquaculture is the farming of aquatic organisms, involving intervention in the rearing process to enhance production.

- (g) subsidies for unemployment relief, early retirement, worker retraining or re-education, and alternative employment assistance for fishermen;
- (h) subsidies for the replacement of fishing capacity following a natural disaster where fleet capacity has been reduced, provided that capacity is not restored beyond its pre-disaster state;
- (i) subsidies to artisanal fishing²; and
- (j) subsidies aimed solely at improving vessel and crew safety³, provided that:
 - (i) there is no increase to the volume of fish hold or engine power of a vessel subject to such programmes; and
 - (ii) the improvement is undertaken to comply with international or domestic standards.

2. Governmental activity directly associated with the creation and implementation of fisheries management systems⁴, and the enforcement of fisheries management rules shall not be treated as fisheries subsidies.

² Artisanal fishing is a traditional fishing activity related to the subsistence of fishermen and their families. Artisanal fishing is performed on an in-shore basis with non-automated gear-retrieval devices.

³ Programmes or activities aimed primarily at vessel modernisation or repair do not fall within this sub-paragraph. The construction of vessels is not permitted under this sub-paragraph.

⁴ 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.