

**JAPAN'S CONTRIBUTION TO DISCUSSION
ON FISHERIES SUBSIDIES ISSUE**

The following communication, dated 5 February 2003, has been received from the Permanent Mission of Japan.

I. PURPOSE OF THIS CONTRIBUTION

1. Japan has already submitted "Japan's Basic Position on the Fisheries Subsidies Issue" (TN/RL/W/11) dated 2 July 2002. The purpose of the current contribution is to propose a framework for further discussion on the fisheries subsidies issue, based on the review of the debate at the Negotiating Group on Rules in 2002.

2. In December 2002, Japan has also submitted "Japanese Proposal on Sustainable Development and the Trade of Forest and Fishery Products" (TN/MA/W/15/add.1) to the Secretariat, as addendum to its proposal on modalities concerning market access for non-agricultural products (TN/MA/W/15). From the viewpoint of sustainable use of fishery resources, the December proposal comprehensively addresses matters relevant to the fisheries sector, including the fisheries subsidies issue. The relevant excerpt is attached to this contribution for the Members' reference.

II. OVERVIEW OF DISCUSSION IN 2002

Is there any trade distortion unique to fisheries subsidies?

3. First, Members calling for strengthening the disciplines on fisheries subsidies argue that the existing Agreement on Subsidies and Countervailing Measures (ASCM) cannot adequately address distinctive trade distortion caused by fisheries subsidies. However, no proof has been provided on the alleged trade-distorting effects.

4. With respect to the assertion that "access limitation to fisheries resources" caused by fisheries subsidies generates trade and production distortions, the causality has not been clearly illustrated with concrete examples. In addition, "heterogeneous nature" is suggested as a distinctive characteristic of fisheries products. According to this suggestion, varieties of products are made even from single species, and superficially similar products can have quite different prices. Several Members, however, have shown that such heterogeneity is not peculiar to fisheries products by pointing to other heterogeneous products such as wine, clothing and electronic appliances.

5. In brief, no convincing rationales have been provided to treat fisheries subsidies in a special fashion in terms of trade-distorting effects. Accordingly, there is no need to fragment the ASCM. On the contrary, it is reasonable to discuss the clarification and improvement on disciplines under the ASCM in a cross-sectoral manner, based on the Doha Ministerial Declaration stating that the

Members agree to negotiations aimed at clarifying and improving disciplines under the ASCM, while preserving the basic concepts, principles and effectiveness of the Agreement and its instruments and objectives (paragraph 28). In this regard, Japan welcomes the recent remarks by a few of those Members calling for strengthening disciplines on fisheries subsidies which indicate the possibility to take a horizontal approach in examining the fisheries subsidies issue.

Are fisheries subsidies the major cause of over-exploitation?

6. Second, the Members calling for strengthening disciplines on fisheries subsidies discuss the fisheries subsidies issue from the standpoint of over-exploitation. They assume that subsidies are primarily responsible for over-exploitation and stock depletion. This assumption is, however, on an insufficient basis and not substantiated by evidence. According to an OECD study¹, “the effects of [government financial] transfers on resource sustainability are difficult to determine, as there are many influences on fish stock that are difficult to disentangle”. The same study also explicitly concludes that possible negative effects of fisheries subsidies can be minimized with proper fisheries management in place. Furthermore, the WTO Secretariat’s contribution to the Committee on Trade and Environment (CTE) states that “the principal cause of stock depletion is inadequate management of fisheries resources”², with reference to similar analyses made by international bodies with expertise in fisheries such as the FAO. Meanwhile, the submission of the United States argues that ineffective fisheries management contributes to over-exploitation of world’s capture fisheries, which has been even more encouraged by subsidies.³ Yet the causality between fisheries subsidies and over-exploitation has not been proven.

7. There is a view that special consideration should be paid to the roles of fisheries subsidies beneficial for resource conservation. It notes an OECD study showing that a large part of government financial transfers, i.e. 77 per cent, in the OECD countries is used for general services on research, management and enforcement, which are important for ensuring sustainable use of fish stocks and aquatic ecosystem.⁴ Japan is of the view that the policy objectives and positive effects of such subsidies deserve special attention and impartial analysis. It is essential to exhaustively examine the effects of fisheries subsidies on resources, taking into account the results of the studies conducted by the OECD, the FAO and other qualified international organizations.

III. FRAMEWORK FOR ADDRESSING THE ISSUE

The Negotiating Group on Rules should focus on trade-distorting effects of fisheries subsidies

8. Prior to the launch of this round of negotiations, the fisheries subsidies issue had been discussed in the CTE. In contrast, paragraph 28 of the Doha Ministerial Declaration clearly states that the issue is treated in the context of the negotiations on the ASCM. Furthermore, since the essential part of ASCM is the provisions to rectify trade distortions, trade distortions caused by subsidies are important issues for the Negotiating Group on Rules and should be the focus of its discussion. As stated in the previous section, there is no need to create a special discipline for the fisheries sector, because no concrete evidence has been provided to support the argument that trade distortions caused by fisheries subsidies are unique. Therefore, the discussion on the fisheries subsidies issue in the Negotiating Group on Rules should treat the trade-distorting aspect of subsidies as part of cross-sectoral negotiations aimed at clarifying and improving disciplines under the ASCM. Japan proposes

¹ Government Financial Transfers and Resource Sustainability, OECD 2000.

² WT/CTE/W/167, paragraph 15.

³ TN/RL/W/21, paragraph 10.

⁴ Government Financial Transfers and Resource Sustainability, OECD 2000.

that the Negotiating Group on Rules follow this framework for further discussion on the fisheries subsidies issue.

9. If the ASCM, which provides cross-sectoral disciplines on trade-distorting subsidies, were to be changed and fragmented due to sector specific considerations, we would be gravely concerned, as this approach would go against the consistent direction of the WTO/GATT, which is to integrate different sectors to be disciplined by common rules.

How best can the WTO address the problems of over-exploitation and IUU fishing?

10. For promoting sustainable fisheries trade, it is indispensable to establish management regimes of fisheries resources, the basis for such trade. In this connection, Japan has been making utmost efforts in regional fisheries management bodies to find solutions to the problems of over-exploitation and IUU (illegal, unreported and unregulated) fishing. World fishery resources have been declining due to such practices as catches beyond stock reproduction and to IUU fishing undermining international management efforts. According to the FAO, the portion of the world fishery resources, fully or over-exploited, has been increasing up to 75 per cent in 1999.⁵

11. If the WTO is to embark on solving the critical international problems of IUU fishing and over-exploitation, it is appropriate for the CTE to take them up at its regular session. This exercise needs to have a comprehensive approach, taking into account the work conducted by the FAO and other international organizations with expertise in fisheries. Furthermore, it is critical to fully analyze the effects of fisheries subsidies on resources, without spending time on categorization of different types of subsidies.

The Group should not undertake classification of various types of subsidies

12. In the meeting last November, a Member expressed an opinion that we should start a study of classifying various types of fisheries subsidies. In Japan's view, however, such an attempt should not be initiated when the peculiarity of fisheries subsidies has not been sufficiently demonstrated. If this Group undertakes this exercise, skipping the process of steadily disentangling the complexity of issues in a step-by-step fashion, it is very likely that the scope of discussion is inappropriately expanded in a manner that creates an increased burden on this Negotiating Group.

IV. CONCLUSIONS

13. An important fact remains that, throughout the discussion on the fisheries subsidies issue during the year 2002, no persuasive explanation has been presented for the demonstration on the peculiarities of fisheries subsidies. Furthermore, the argument for sectoral treatment of fisheries subsidies brings the environmental aspect into the discussion in this Group, and is based on the unsubstantiated assumption that the subsidies are principally responsible for over-exploitation. The Negotiating Group on Rules should deal with the subsidies issue in a cross-sectoral manner in terms of trade-distorting effects.

14. In order to proceed with the discussion on fisheries subsidies in a constructive manner, Members should separate the trade distortion aspect and the over-exploitation aspect of fisheries subsidies. Therefore, Japan proposes that the discussion on the fisheries subsidies issue in the Negotiating Group on Rule be conducted in a cross-sectoral manner, focusing on the trade distortion aspect, as part of the clarification and improvement of the ASCM in accordance with paragraph 28 of the Doha Ministerial Declaration.

⁵ The State of World Fisheries and Aquaculture, FAO 2000.

15. With a view to contributing to sustainable development of fisheries trade, it is important for the WTO to address the problems of over-exploitation and IUU fishing. In this context, the WTO should examine its approach to fisheries subsidies at the regular session of the CTE, based upon the findings by international organizations with expertise in fisheries such as the FAO. The regular session of the CTE is the proper place to deal with the issue of over-exploitation of the fisheries resources and is expected to fully analyze how the subsidies affect the fisheries resources and to identify factors causing stock depletion.

ANNEX

Japanese Proposal on Sustainable Development and the Trade of Forest and Fishery Products (TN/MA/W/15/Add.1 of 6 January 2003, excerpt of fisheries related paragraphs)

BACKGROUND

1. Japan submitted, on 5 November 2002, a proposal on “Market Access for Non-Agricultural Products – Communication from Japan – (TN/MA/W/15)“. While pointing out the need to pay due attention to the protection of the environment and the promotion of sustainable development, the paper stated that “special consideration should be given, in the course of market access negotiations, to goods which have to be appropriately addressed in terms of global environment issues and the sustainable use of exhaustible natural resources. In this regard, Japan intends to make a specific proposal on this point as part of this proposal.” At the same time, Members have been discussing the issue of forest and fishery products in the Committee on Trade and Environment and in the Negotiating Group on Rules. Japan hereby submits this paper as a further contribution to the negotiations on forest and fishery products. It contains a specific proposal on the questions that are related to the market access of those products. When discussing forest and fishery products, consideration of global environmental issues and the sustainable use of exhaustible natural resources are of particular importance. In addition, this paper addresses issues concerning the trade and environment, and rules in a comprehensive manner. Japan expects to see constructive discussions on these issues in the relevant committee and negotiating groups. The points explained below are not exhaustive and Japan reserves the right to submit additional proposals.

BASIC IDEASW

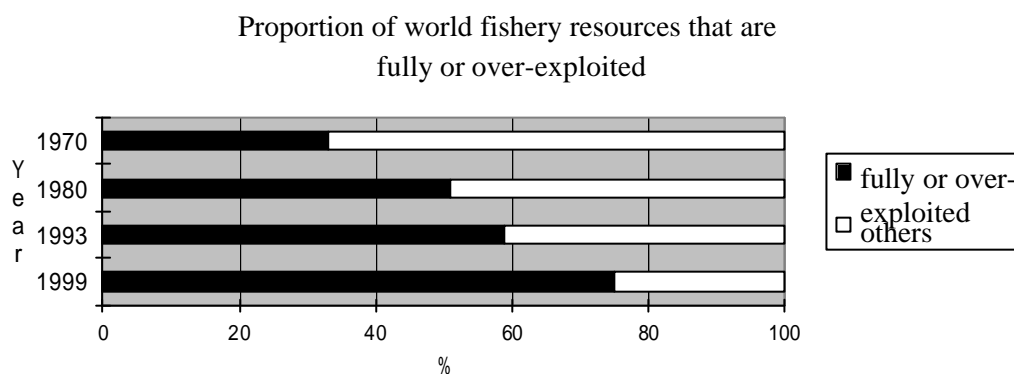
2. The Doha Ministerial Declaration firmly reconfirms the commitment to the objective of sustainable development, which is clearly stated in the Preamble of the Marrakesh Agreement. Therefore, the negotiations on forest and fishery products should aim at contributing to the objective of sustainable development. To this end, due consideration should be given to the fact that the Plan of Implementation, as well as other documents of the World Summit on Sustainable Development (WSSD), requires action at all levels to achieve sustainable forest management and sustainable fisheries. In particular, these documents emphasize the urgent need to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing. Negotiations based on the Doha Ministerial Declaration should also address how international trade can contribute to sustainable forest management and sustainable fisheries in all countries, while considering the roles of the forest in solving or improving global environmental problems, and considering the characteristic of forest and fishery resources as exhaustible, but renewable natural resources.

3. Needless to say, negotiations on the market access for non-agricultural products should be evaluated as a whole, ensuring the balance with other negotiations. It should be noted that the civil society is also concerned about the potential negative influence of a free trade regime on forest and fishery resources.⁶ It is indispensable for the WTO to promote trade liberalization, while fully acknowledging such concerns of the civil society, taking into consideration the global environmental issues and ensuring sustainable use of exhaustible natural resources.

¹ The NGOs, consumers and others expressed their anxiety of the negative influence of a free trade regime on the sustainable use of forest and fishery resources. The IUCN (International Union for Conservation of Nature) resolved at its 2nd World Conference on the Conservation of Nature, held in October 2000, to be “aware that trade liberalisation may encourage unsustainable exploitation of natural resources and the marginalization of local communities”, and that it “urges IUCN to investigate the environmental consequences of trade liberalisation”.

Sustainable fishery resource management and trade in fishery products

4. Fishery resources are exhaustible natural resources that can be depleted by over-exploitation, but they are renewable with proper fishery management. Fisheries are not only an economic activity, but are also contributive to food security, and to the maintenance and development of rural fishing communities which are dependent on fishing in many countries, in particular, Asian and island countries. It is essential to achieve the objective of sustainable development in the fishery sector, taking into account the various roles that fisheries play in each country. However, given the increasing demand for fishery products all over the world, world fishery resources have been declining due to such factors as catches being made of a capacity beyond reproduction and to IUU (illegal, unreported and unregulated) fishing undermining international management efforts. According to the FAO, the proportion of the world fishery resources, fully or over-exploited, has been increasing steadily by 40 points over the past three decades, culminating at 75% in 1999⁷. 34% of the world fishery products are subject to international trade⁸ and many catches are made for export purposes. Japan, while greatly contributing to the development of fishery trade as the largest fish-importing country, importing one-fourth of the total world fishery trade on a value basis, is also interested in the conservation of world fishery resources.



Source: Review of the State of World Fishery Resources, FAO 1997, The State of World Fisheries and Aquaculture, FAO 2000

5. It is a prerequisite for each country to implement adequate resource management in a cooperative fashion in order to promote fishery trade in a sustainable manner under the multilateral trading system. Japan believes that sound fishery resources are the fundamental basis for the development of fishery trade, and that the implementation of proper resource management and the development of fishery trade on a medium to long-term basis will follow the objectives of sustainable development, which were firmly endorsed by the Doha Ministerial Declaration. In this regard, due consideration should be given to the roles and functions of fisheries and fishing communities, which contribute to the sustainable development of resources, in order to prevent them from collapsing.

⁷ The State of World Fisheries and Aquaculture, FAO 2000
Review of the State of World Fishery Resources, FAO 1997

⁸ FAO Yearbook of Fishery Statistics - Commodities 1999

SPECIFIC POINTS TO BE DISCUSSED ON FISHERY PRODUCTS

Levels of tariffs

6. When conducting negotiations regarding tariffs on fishery products, as part of the negotiations on market access for non-agricultural products, in accordance with the Doha Ministerial Declaration, due consideration should be given to the following points:

- (i) It is crucial to ensure that each Member retains flexibility among products when determining the level of tariffs, taking into account the level of fishery resources and the status of fishery management;
- (ii) A zero-for-zero approach in the fishery sector should not be pursued since it will abolish all tariffs regardless of the level of fishery resources, the management status and the importance of fisheries and fishing communities in each country. It will also add an extra pressure to the resources through inducing catches beyond the renewable capacity of resources, thereby impeding sustainable development of fisheries.

Special and differential treatment, and capacity building for developing countries

7. Japan's general idea regarding the special and differential treatment of developing countries, as well as capacity building, is set out in its proposal (TN/MA/W/15). In order to assure the long-term development of fisheries and fishery trade, it is important to provide adequate technical and financial assistance, which will contribute to the promotion of sustainable fishery resource management in developing countries.

Conservation and management measures for resources and trade measures

8. The market access of fishery products, together with trade and environment, should be considered in common, from the standpoint of the promotion of sustainable development, with regard to the roles and necessities of trade-related measures that could complement conservation and management measures for fishery resources.

Fisheries subsidies issue

9. The Rules Negotiating Group has been discussing the trade-distorting aspects of fisheries subsidies. However, no concrete cases have been provided⁹ to demonstrate that trade distortions caused by fisheries subsidies are unique, and it is obvious that trade distortion is not limited to the fishery sector alone. There is, therefore, no need to create a special discipline for the fishery sector from a trade-distorting point of view. It is necessary, however, in accordance with Paragraph 28 of the Doha Ministerial Declaration, to conduct negotiations aimed at clarifying and improving disciplines under the Agreement on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of the Agreement and its instruments and objectives, and taking into account the needs of developing and least-developed participants. As agreed at the WSSD, elimination of IUU fishing and solving the problem of over-capacity are two important issues for achieving the sustainable development of fisheries. Comprehensive efforts should be made towards achieving a solution to these issues, taking into full account the discussions had in specialized

⁹ The report of the FAO expert consultation on fisheries subsidies held in November 2000 states, "Information regarding effects of fisheries subsidies on trade is limited". Also, no evidence has been provided in recent discussions of the WTO on this topic that a certain subsidy affects trade.

organizations, such as the FAO.¹⁰ Japan is prepared to make a maximum contribution for the purpose of promoting discussions, and urges other concerned Members to also partake in discussions conducted by those organizations having expertise. Taking into account the work of these organizations, the WTO should examine how to address fisheries subsidies at the Regular Session of the Committee on Trade and Environment, for the purpose of solving IUU fishing and over-capacity issues.

Labelling for environmental purposes in the fishery sector

10. The trade and environment section of the Doha Ministerial Declaration lists up labelling for environmental purposes as one of the items to be studied at the Regular Session of the Committee on Trade and Environment. The Committee has, therefore, the duty to report to the 5th Ministerial Conference and to make recommendations, including on the desirability of negotiations regarding this item. In the fishery sector, labelling for environmental purposes is likely to contribute to the sustainable use of fishery resources by way of stimulating a voluntary and proper choice by consumers if implemented properly. Arbitrary labelling, which does not consider impartial and scientific criteria, would pose the risk of an unjustifiable restriction of trade. Therefore, the FAO, having expertise on fisheries should first try to establish scientific and objective guidelines in order to implement labelling for environmental purposes in the fishery sector.¹¹ The WTO should consider how to deal with this issue from a trade viewpoint, taking into account the established guidelines.

¹⁰ The FAO held the 2nd expert consultation on fisheries subsidies in December this year, to be followed by a governmental consultation. The Fisheries Committee of the OECD will launch a comprehensive study on government financial transfers next year.

¹¹ Labelling issues, including that for environmental purposes in the fishery sector, will be discussed at the FAO Committee on Fisheries to be held in February 2003.