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Negotiating Group on Rules

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QUESTIONS AND COMMENTS FROM KOREA ON NEW ZEALAND'S COMMUNICATION ON FISHERIES SUBSIDIES (TN/RL/W/154)

The following communication, dated 7 June 2004, is being circulated at the request of the Delegation of Korea.

INTRODUCTION

1. At the April session of the Rules negotiations, New Zealand submitted a communication on fisheries subsidies (TN/RL/W/154). In that communication, New Zealand proposed a new rule, in which cost and revenue impacts serve as a basic test of whether there is overcapacity or overfishing by reason of fisheries subsidies.
2. While appreciating New Zealand's contribution to improve disciplines on fisheries subsidies, Korea finds the idea proposed by New Zealand problematic and seeks clarification by way of the following questions and comments:

QUESTIONS REGARDING THE NEW ZEALAND COMMUNICATION

Is there any causal link between cost/revenue impacts of subsidies and overcapacity/overfishing?

3. For better understanding of New Zealand's suggestion, Korea performed a simple analysis through various types of fisheries subsidies to identify a possible correlation between the cost/revenue impacts and the overcapacity/overfishing.
 - (a) *Subsidies for vessel construction and modernization, subsidies for foreign access, and subsidies contingent upon export or production:* These subsidies have direct impacts on costs and revenues and their impacts are relatively easy to quantify. Such subsidies could possibly cause overcapacity or overfishing, unless properly managed, and a possible causal link may be presumed between the cost/revenue impacts and overcapacity/overfishing for those subsidies in certain circumstances.
 - (b) *Subsidies for vessel decommissioning, early retirement and retraining of fishermen, compensation for temporary cessation of fishing for resource conservation, subsidies to aquaculture, and subsidies for natural disaster recovery:* These subsidies have direct cost/revenue impacts, but do not have any overcapacity or overfishing effects in general, and in some cases actually reduce overcapacity or overfishing. Thus, causality between them is difficult to find out.
 - (c) *Subsidies for fisheries infrastructure, development of fishing communities, resource management:* These subsidies might have indirect cost/revenue impacts, but they are not likely to cause overcapacity or overfishing.

- (d) *Subsidies to processing industry and price support subsidies:* They possibly have direct cost/revenue impacts. However, it is ambiguous whether or not there exists a causality between cost/revenue impacts and overcapacity/overfishing. If subsidies are provided to the processing sector vertically integrated with the fishing sector, they can possibly lead to overcapacity or overfishing. If not, the subsidies will not lead to overcapacity/overfishing. Also, if the price support is for the aquaculture products, the cost/revenue impacts will not cause overcapacity or overfishing.

Table - Correlation between cost/revenue impacts and overcapacity/overfishing

Types of subsidies	Cost or revenue impact	The possibility of overcapacity/overfishing
Vessel construction & modernization	Yes (direct)	Yes
Subsidies for foreign access	Yes (direct)	Yes
Export or production subsidies	Yes (direct)	Yes
Vessel decommissioning	Yes (direct)	No
Early retirement & retraining	Yes (direct)	No
Compensation for temporary cessation	Yes (direct)	No
Subsidies to aquaculture	Yes (direct)	No
Natural disaster recovery	Yes (direct)	No
Fisheries infrastructure	Yes (indirect)	No
Development of fishing community	Yes (indirect)	No
Resource management	Yes (indirect)	No
Subsidies to processing industry	Yes (direct)	Depends (case by case)
Price support subsidies	Yes (direct)	Depends (case by case)

4. As shown above, it is hard to generalize the causal link between cost/revenue impacts and overcapacity/overfishing. Empirical evidence also supports this view. In 1997, 77 per cent of fisheries subsidies in OECD countries were spent on fisheries infrastructure and on general services, such as research, management and enforcement that are essential for ensuring the sustainable use of fish stocks and the aquatic system.¹

5. In this context, Korea doubts whether a significant correlation exists between cost/revenue impacts and overcapacity/overfishing. So, **Korea requests that New Zealand provide an elaborated rationale, relevant documents and empirical evidence to support the alleged causality between cost/revenue impacts and overcapacity/overfishing.**

¹ Transition to Responsible Fisheries. OECD, 2000.

Which fisheries subsidies are covered by the proposed new rule?

6. New Zealand's proposal also raises several questions regarding the scope of subsidies subject to the new rule.

- (a) According to the FAO, about 25 per cent of world fish stocks are not overexploited.² **If subsidies that have cost/revenue impacts are provided with regard to the under-exploited fisheries, should these subsidies also be prohibited on the basis of the cost/revenue test?**
- (b) Support programmes such as assistance to fishing households with low income levels and small-scale fisheries are provided as a part of social welfare policy. **Should those subsidies be prohibited just because they would have cost/revenue impacts?**
- (c) Subsidies for resource management and subsidies to aquaculture and processing industries are not directly responsible for overcapacity or overfishing, but may cause trade distortions. **Should those subsidies also be prohibited if they have cost/revenue impacts?**

New Zealand's proposal presupposes some exceptions as a counter balance to the broad prohibition. Korea hopes that **New Zealand can provide a clear picture of the exceptions it has in mind.**

Relations between "cost/revenue impacts" test and the definition of subsidies in the ASCM

7. According to Article 1.1 (Definition of a Subsidy) of the ASCM, subsidies exist if there is a financial contribution and a benefit is thereby conferred to recipients. In other words, all the subsidies under the ASCM have cost or revenue impacts on the recipients in a direct or indirect manner. From this perspective, Korea does not believe that there is any substantial difference between the proposed "cost/revenue impacts" test and the "benefit" test of the ASCM. If that is the case, New Zealand's proposal can be eventually presumed to prohibit fisheries subsidies without any test on the questions such as overcapacity, overfishing or other trade distortions.

8. At the last meeting, New Zealand mentioned that although there is indeed a large overlap, there could be subsidies that do not have cost or revenue impacts and were not of a commercial nature.³ **Could New Zealand explain what kind of subsidies can possibly be included in that category?**

COMMENTS

9. Subsidies do not inevitably contribute to resource depletion; nor are they inherently good or bad.⁴ The effects of subsidies depend on their purposes and circumstances in which they are provided. What is important in regulating subsidies is to identify the actual effects they would have. Therefore, it is not appropriate to try to regulate subsidies simply because they exist or have cost or revenue impacts. It should be noted that the ASCM also regulates subsidies on the basis of their adverse effects on international trade.

10. Likewise, new disciplines on fisheries subsidies should be based on the harmful impacts on fisheries resources and the degree of those impacts. In addition, because such impacts differ

² The State of World Fisheries and Aquaculture 2002. FAO.

³ Summary report of the meeting held on 26 & 28 April 2004 (TN/RL/M/14).

⁴ Update of FAO activities related to fisheries: Report of the Expert Consultation on Economic Incentives and Responsible Fisheries (WT/CTE/W/189, paragraph 42).

according to the types of subsidies, the effectiveness of resource management regimes and the level of fish stocks, an integrated approach to fully reflect such factors must be made in establishing the new disciplines on fisheries subsidies.

11. Korea is ready to join the international efforts to enhance mutual supportiveness between trade and the environment by clarifying and improving the WTO disciplines on fisheries subsidies. Korea is of the view that such new disciplines on fisheries subsidies should be pursued while maintaining a balance among trade, environment and socio-economic development. It should also be noted that a wide spectrum of differences exist among the world's fisheries, compared with the manufacturing sectors. Small-scale subsistence fisheries still coexist side by side with large-scale commercial fisheries, and traditional coastal fisheries with modernized distant water fisheries.

12. Korea is of the position that these different types of fishing and the circumstances surrounding them should be duly reflected in the future negotiations, with particular considerations given to the special needs of developing Members.
