

PROPOSAL ON FISHERIES SUBSIDIES

Paper by Japan

The following communication, dated 24 September 2004, is being circulated at the request of the Delegation of Japan.

I. GENERAL PRINCIPLES

1. Fisheries resources in the world have been rapidly decreased in recent years. Recognizing this situation and aiming to conserve and utilize the world fisheries resources sustainably in accordance with the UN Convention on the Law of the Sea (UNCLOS), many nations have developed national fisheries management framework such as total allowable catch systems. Also, regional fisheries management bodies have introduced various international conservation and management measures for this end.

Consistent with the principle of the “sustainable development” provided in the Marrakesh Agreement which was reaffirmed in the Doha Ministerial Declaration, Japan makes the following proposal, aiming to clarify and improve WTO disciplines on fisheries subsidies. This proposal intends to strike the balance between promotion of the trade in fisheries products and conservation of natural resources for sustainable development while maintaining the basic concepts, principles, and effectiveness of the Agreement on Subsidies and Countervailing Measures and respecting the existing international fisheries management organizations which are established in accordance with the UNCLOS.

II. JAPAN’S PAPER IN JUNE

2. Major elements of the previous Japan’s paper presented at the June negotiation which provided the position of the Japanese government for the coming discussions on fisheries subsidies are;

(1) It is essential to thoroughly evaluate each type of existing fisheries subsidies recognizing the importance of distinguishing the subsidies to be prohibited from subsidies to be permitted, rather than a blanket ban of fisheries subsidies without any detailed considerations. More specifically, it is indispensable to discuss which subsidies are problematic due to encouraging the problems on global fisheries such as IUU (Illegal, Unregulated, and Unreported) fisheries or over-capacity and which subsidies should be permitted in order to support the sustainable development.

(2) Furthermore, the following points of view need to be taken into account in the course of discussion;

- (i) to clarify and improve WTO disciplines on fisheries subsidies using methods such as prohibition of subsidies relating to IUU fisheries and over-capacity
- (ii) to assist the sustainable development
- (iii) to take into account the importance of fisheries sector in developing countries' socio-economics
- (iv) to maintain transparency
- (v) to promote the cooperation between the WTO and other international organizations

(3) In addition, it is important to consider "special and differential" treatments to developing countries taking into account the fact that while many of developing countries are dependent on fisheries resources in their waters, some of them are also major producer of fisheries products in the world.

III. BASIC CONCEPTS OF THIS PROPOSAL

3. In this paper, Japan intends to make a more detailed proposal for the discussion of the WTO disciplines on fisheries subsidies expanding its June proposal.

4. First of all, the clarification of WTO disciplines on fisheries subsidies must aim at a win-win situation; i.e. the achievement of both proper management of fisheries resources and promotion of trade of fisheries products. The fisheries resources in the world have been rapidly decreased in recent years and FAO reported that 75 per cent of the world fisheries resources are fully or excessively exploited. Particularly, IUU fisheries on tunas and Patagonian toothfish are a matter of grave concern among world fisheries management organizations. The deterioration of the fisheries resources due to poor management, being caused by the increase of catch which is targeting international trade, must be avoided.

The stable supply of fisheries products and the promotion of their world trade cannot be achieved without the conservation and sustainable utilization of fisheries resources. The discussion for the clarification and improvement of WTO disciplines on fisheries subsidies must be conducted bearing this as the fundamental principle.

5. With regard to the issue of trade distortion, Japan has no intention to totally deny its existence. However, any real causality between fisheries subsidies and trade distortion has yet been presented. Therefore, rather than spending time for fruitless discussions on trade distortion caused by fisheries subsidies, it is much more important to realize the *conservation and sustainable utilization of fisheries resources* in order to secure the food sources for the future generation. Therefore, to achieve the *conservation and sustainable utilization of fisheries resources* should be where the WTO stands during the process of clarification and improvements of its disciplines on fisheries subsidies.

In addition, it must be pointed out that the issue of trade distortion cannot be specific to fisheries subsidies. Therefore, this issue of trade distortion should be considered in the clarification and improvement of disciplines of whole subsidies in a cross-sectoral manner.

IV. PRINCIPLES AND CLASSIFICATION OF FISHERIES SUBSIDIES TO BE PERMITTED AND TO BE PROHIBITED

6. Japan proposes to establish a classification of fisheries subsidies as follows based on the principle of the “conservation and sustainable utilization of fisheries resource”. Following list is provisional and does not preclude further discussions or proposals by the Japanese Government.

Subsidies to be permitted (green)

(i) fisheries subsidies which promote the conservation and sustainable utilization of fisheries resources

7. Followings are the list of areas for subsidies which can promote the *conservation and sustainable utilization of fisheries resources* and thus should be permitted as “green” subsidies. It should be noted that subsidies used for those areas are primal tools for fisheries policy used by many governments.

(1) measurers for conservation and sustainable utilization of fisheries resources, including vessel reduction for the purpose of matching fishing capacity to the status of resources

Those include the establishment of management plan for the recovery of fisheries resources, establishment of Total Allowable Catch (TAC) and Total Allowable Effort (TAE, a regulation to limit fisheries effort), introduction of new environmental-friendly fishing gears, industry based voluntary suspension of fishing, monitoring, control and surveillance for the compliance of fisheries management regulations, and implementation of regulations under international management agreement.

(2) survey and research on fisheries resources

Those include the research on ecology and distribution of fisheries resources, assessment of the status of resources, and projection of their future trend.

(3) enhancement of fisheries resources

This includes the development of larvae production technology of fisheries resources, and resources enhancement by release of aqua-cultured larvae.

(4) conservation and improvement of habitats of fisheries resources

Those include the recovery of seaweed grounds which are the nursery of fisheries resources, construction of artificial breeding grounds, and establishment of protected areas.

(5) rationalization of the utilization of fisheries ground and fisheries products

This includes the monitoring, control, and surveillance aiming at more rational utilization of the fishing grounds and fisheries resources and improvement of the utilization of currently unutilized fish.

(6) development and diffusion of technologies contributing to the “conservation and sustainable utilization of fisheries resources”

Those include the development and diffusion of new technologies to reduce the catch of unintended small fish or untargeted species.

(7) protection of environment

This includes the assistance for introduction of the above mentioned new technologies to reduce the by-catch of unintended small fish or untargeted species

- (ii) fisheries subsidies which are provided within the framework of the conservation and the sustainable utilization of the fisheries resources and, therefore, are recognized to have no real adverse effects to the status of resources although they have potential to exacerbate the status of resources

8. Where fishing activities are properly managed, certain types of subsidies will not result in the deterioration of the resources even if they have potential to exacerbate the status of resources and therefore, they should be permitted. According to the report of OECD (Government Financial Transfers and Resource Sustainability: OECD 2000), “some direct payments and cost reducing transfers can encourage a build-up of capacity and an expansion of fishing activity. However, many of these effects can be avoided if there are adequate management systems in place”. For example, if the fisheries resources are sufficiently managed, the subsidies for improvement of fisheries business management such as enhancement of revenue and cost reduction should be permitted.

Subsidies to be prohibited (red)

- (iii) fisheries subsidies related to IUU fisheries and fishing vessel construction engaging in poorly managed fishery, which are against the conservation and sustainable utilization of fisheries resources and encourage the fishing activities that exacerbate the status of the resources

9. Certain types of subsidies should be prohibited from the view point of the *conservation and sustainable utilization of fisheries resources*. Based on our previous paper, Japan proposes to prohibit subsidies which induce or encourage IUU fisheries and over-capacity.

10. IUU fisheries are fisheries which do not abide by management rules set by national or international authorities, not regulated, and not reporting the information regarding fisheries appropriately. A typical IUU fishery is FOC (Flag of Convenience) operation which moves the vessel registration from a member country of an international fisheries management organization to a non-member in order to avoid the application of its conservation and management measures but is still operated by the owner living in a country where the vessel was originally registered. Based on the recognition that IUU fisheries is the common evil for the global sustainable utilization of fisheries resources, many international fora have taken measures to deal with this issue mainly focused on the country where the vessel is being registered, such as import restriction from the country where FOC vessel is being registered. It is difficult, however, to solve this problem because FOC vessel owners hop the country where their vessels to be registered. In accordance with the Plan of Implementation of World Summit on Sustainable Development in 2002, it is an important task for the WTO to combat with IUU fisheries by way of eliminating the fisheries subsidies for those fisheries.

11. Nations are required, by the “Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks” and/or FAO resolutions, to participate to or, if unable to do so, cooperate with international fisheries management organizations for the management of highly migratory species such as tunas and straddling stocks. Reregistering a vessel to the countries/areas which do not cooperate with international fisheries management organizations would be suspected of having a clear intention of IUU fishing operation.

Subsidies or assistance for those reregister and export will result in the expansion of IUU fisheries and over-capacity in reregistered/import countries and should be abolished.

12. Furthermore, any subsidies for those operators who are involved in IUU fisheries in any way should be prohibited. Most of IUU fisheries are conducted by FOC vessels, whose practical owners, in many cases, own properly licensed vessels as well in their home land. In these circumstances, subsidies for those owners would directly benefit the activities by their FOC vessels. Therefore, subsidies for owners who own both FOC vessels and properly licensed vessels should be prohibited.

13. As to the issue of over-capacity, vessel construction subsidies are the centre of the problem. In the fisheries industry, the biggest challenge for operators is how to renew their fishing vessels when the vessel came to end of its life, which consists the single biggest fixed asset. In some cases, supports from the government might be desirable for small and family-run operator to obtain an expensive fishing vessel. If, however, a vessel with over-capacity is constructed using the subsidies and the newly constructed vessel engages in poorly managed fisheries, it will have a negative effect on the resource. Therefore, vessel construction subsidies for vessels engaging in poorly managed fisheries should be prohibited.

On the other hand, if the fisheries are properly managed and if subsidies will not result in the increase of the total fishing capacity there, these subsidies for vessel construction should be permitted as they do not result in the deterioration of resources. For example, if the purposes of the vessel construction are the improvement of the safety of crew, improvement of residential environment, improvement of the quality of products, installation of environmental-friendly fishing methods, and improvement of energy efficiency and the fishing capacity does not increase, a subsidy for this vessel construction should be permitted even if the vessel enlarges in size. Another example is a case such as to scrap two vessels with a fishing capacity of 100 respectively and build one vessel with a fishing capacity of 150. Subsidies for this case should also be allowed. It is important, however, to have a reliable method to evaluate the fishing capacity.

“Fisheries are properly managed.” referred to in this paper means that the fisheries are under management in accordance with the UNCLOS, regional fisheries management agreements, and national regulations, i.e.;

- (a) when the fishing activities abide by its management regulation, in case of the fisheries which target the resource subject to the management of an regional fisheries management organization, or*
- (b) when the fishing activities are managed under effective resources management framework such as licensing and community-based management based on a proper evaluation of the resource, in other cases.*

General Subsidies outside of the fisheries subsidies

14. Subsidies for following activities are aiming at the socio-economic stability and development of the local communities and do not have any direct relations to the *conservation and sustainable utilization of fisheries resources*. Therefore, they are not considered as fisheries subsidies.

- (1) capacity building/human resources development

This includes the securing successors of local fisheries and promotion of the vocational training for women and elderly people. Those are important for the development of local communities.

- (2) relief from natural disaster

This includes the financial compensation for the damage caused by natural disaster such as typhoon or red tide. Those assistances would have no adverse effect to the “conservation and sustainable utilization of fisheries resources” and do not result in the increase of the fishing capacity.

- (3) structural adjustment assistance and regional development assistance which do not push the deterioration of fisheries resources

Those include the reorganization of fisheries cooperatives, structural adjustment in the industry caused by the reduction of fishing capacities including vessel reduction and voluntary suspension of fisheries, and assistance to deter the depopulation in geographically disadvantaged areas.

Government payments outside of the SCM Agreement

15. With regard to the improvements of infrastructures such as fishing ports, residential amenities including roads and water systems in fisheries town, and shore protection, are aimed at assuring of the safety of regional vessel operations, improvements of sea and land transportations by establishing local hubs, improvements of living environments, and the prevention of natural disasters and beneficial to general public. Therefore, the subsidies for the improvements of those infrastructures are considered to be a part of subsidies for general infrastructure and are outside the definition of a subsidy in the current SCM Agreement. .

V. APPLICATION TO DEVELOPING COUNTRIES

16. Further discussion is necessary on how the above disciplines should be applied to developing countries. However, it is important to balance the conservation of resources and sustainable utilization considering the fact that some developing countries are among the world’s largest fishing and/or fisheries products exporting countries.
