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ПРОГРАММА ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ ПО ОКРУЖАЮЩЕЙ СРЕДЕ

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## Division of Technology, Industry and Economics

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## *Fisheries Subsidies and Overfishing: Toward a Structured Discussion*

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*For the Economics and Trade Unit (ETU), United Nations Environment Programme (UNEP)*

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## Introduction

1. During the past eighteen months, the issue of subsidy reform in the fisheries sector has been introduced as part of the agenda for serious consideration in the context of the next round of multilateral trade negotiations. However, the issue clearly remains in the early pre-negotiation stage. Discussions within the World Trade Organization (WTO) Committee on Trade and Environment (CTE) have not yet moved to the stage of structured discussions aimed at building consensus on what should be done. However, such a structured approach, which focuses on a set of substantive and procedural issues to be discussed, might be useful in order to explore differences in greater depth and search for ways to accommodate those differences. A structured approach to discussions would assist in advancing the debate on fisheries subsidies.

2. This paper is aimed at providing the basis for such a structured approach to the next phase of international discussions of the issue of fisheries subsidies and sustainable fisheries management. The paper has three main sections: section I provides a brief historical overview of the issue of fisheries subsidies in the context of world trade negotiations and the evolution of WTO treatment of trade and environment issues. Section II is an analysis of the state of knowledge of the relationship between fisheries subsidies and overfishing. Section III presents a set of procedural and substantive issues that should be discussed in a more structured and systematic way in order to develop greater international consensus on the need for and feasibility of new disciplines on fisheries subsidies. The section discusses a range of options for resolving each of the issues discussed, with reference to the WTO and other relevant international organisations.

## I Historical Background: Fisheries Subsidies and World Trade Negotiations

3. International efforts to move towards agreement on removing environmentally harmful and trade distorting fisheries subsidies have not yet achieved the necessary consensus to move to the negotiation stage. During the Uruguay Round negotiations, fisheries was discussed in the Negotiating Group on Natural Resource Based Products (NRBPs) based on the recommendations in a report of a Working Party that had been established on these products (L/5895). Numerous proposals related to fisheries were submitted to the Negotiating Group, yet no agreement could be reached on how to address these different proposals, which included subsidies, tariffs, non-tariff measures and access to resources. Towards the end, it was decided to negotiate fisheries issues along with other natural resource based products as part of a broader negotiation; fisheries issues were moved to the Market Access Group along with other negotiating subjects. The work in the Negotiating Group on NRBPs was not successful for a number of reasons, partly due to the insistence of the EC, Japan and Korea on linking access to resources with access to markets. As a result of the Uruguay Round, therefore, fisheries subsidies are included under the remit of the WTO Agreement on Subsidies and Countervailing Measures (SCM), which covers all goods except for agriculture.

4. Since the establishment of the World Trade Organization in 1995, a significant change in the political context of the issue has taken place. The impetus for inclusion of fisheries subsidies on the international trade agenda has increased substantially, primarily because it has been treated not only as an issue of efficiency and equity in international trade but also as an issue of protecting natural resources from depletion. The creation of the WTO Committee on Trade and Environment (CTE), reflecting an effort by the WTO to be more sensitive to the environmental implications of trade as well as the trade implications of environmental policy measures, has allowed the first discussion of the potential environmental advantages of reducing or eliminating subsidies. In setting its work plan for 1997-98, the CTE agreed in late 1996 that fisheries subsidies would be included among the economic sectors that would be discussed by the Committee in the context of the environmental benefits of subsidy removal (WTO, 1996).

5. Discussions within the CTE on fisheries subsidies in 1997-1998 highlighted political differences on whether the evidence supported the view that fisheries subsidies have a negative impact on the status of fish stocks and whether such subsidies should be singled out for special treatment. New Zealand argued in an early submission (WT/CTE/W/52) that economic theory suggests that fishing industry subsidies accruing to fishers, vessel builders

and vessel owners "generally encourage the expansion of fishing fleet capacity." The United States also asserted in an early submission (WT/CTE/W/51) that "most subsidies have a negative impact from a conservation standpoint," citing the stimulation of additional capital investment in an already overcapitalized sector and the encouragement of overfishing by vessels already in the fisheries.

6. On the other hand, some participants in the debate downplayed the importance of subsidies as a cause of overfishing, suggesting that it should not be singled out as a factor, that not all subsidies exert a negative impact on fishing capacity, and that sustainable fisheries management needed to be dealt with in a comprehensive manner. A European Communities note (WT/CTE/W/99) took the position that "subsidies do not necessarily exert increased pressure on fisheries resources," and that "overexploitation of stocks is not due to the subsidies regime."

7. Further impetus for inclusion of fisheries subsidies in the future round of multilateral trade negotiations developed in 1999 from the emergence of a broader international coalition in support of a WTO agreement on subsidy removal in the fisheries sector based on the fishing fleet overcapacity problem. During a special session of the General Council of the WTO on the multilateral trade round, Iceland proposed (WT/GC/W/229) that members agree to "eliminate subsidies that contribute to fisheries overcapacity, in view of the fact that they distort trade, seriously undermine sustainable utilization of fish stocks and hamper sustainable development." Nearly 20 countries expressed support for the proposal at the same meeting, including a relatively large number of developing countries. However, in its submission to the General Council on preparations for the 1999 Ministerial Conference (WT/GC/W/221), Japan held that it is "inappropriate to single out" fisheries subsidies.

8. In preparation for the multilateral trade round, a group of states calling itself "The Friends of Fish", including Australia, Iceland, New Zealand, Norway, Peru, Philippines and the United States, was formed to work on the inclusion of fisheries subsidies in the multilateral trade round. New Zealand submitted a proposal (WT/GC/W/292) on behalf of that group of states for a "work programme" on elimination of "subsidies that distort trade in fish products and impact adversely on the conservation and sustainability of global fish stocks".

9. In the final CTE meeting before Seattle in October 1999, the European Communities (EC) and Korea argued that the issue of fisheries subsidies should be dealt with in the FAO, which was in the process of identifying the factors contributing to overcapacity, including subsidies. Canada and Japan were among the delegations arguing that the issue should be

dealt with in the context of broader negotiations on improving subsidy disciplines under the Agreement on Subsidies and Countervailing Measures (WTO/CTE, 1999).

10. "The Friends of Fish" successfully pushed for inclusion of a paragraph in the draft declaration for the Seattle Ministerial calling for the formation of a negotiating group on fisheries subsidies. The proposed negotiating group would examine fisheries subsidies to identify those that "may have adverse effects on trade, environment and sustainable development" as well as those that "may have positive effects in these areas." In a later phase, the group would use this analytical work as the basis for "developing and elaborating WTO commitments and disciplines with respect to fisheries subsidies." The paragraph went to the Seattle Ministerial in brackets (WTO, 1999).

11. At the Seattle Ministerial Conference, the issue of whether and how fisheries subsidies would be integrated into the agenda of a new multilateral trade round was the subject of intensive negotiations. No agreement had been reached when the Seattle meeting broke up without any final ministerial declaration.

12. Discussions on fisheries subsidies in the CTE during 2000 continued to focus on the linkages between subsidies, overcapacity and overfishing and on how best to categorize the full range of subsidies to the fisheries sector in regard to their relationship with overfishing (WTO/CTE, 2000a).

13. Meanwhile, other international organizations are carrying out work that intersects with and contributes to the CTE's work on fisheries subsidies. In 1998, a Food and Agriculture Organisation (FAO) Technical Working Group did substantial technical work on the management of fishing capacity which addressed the role of subsidies (FAO, 1998). FAO then adopted a voluntary International Plan of Action for the Management of Fishing Capacity in February 1999 (FAO, 1999) that calls for states to develop national plans for capacity management that would "balance fishing capacity with available resources on a sustainable basis." In such plans, states should "reduce and progressively eliminate all factors, including subsidies", contributing to overcapacity. In late 2000, FAO convened an Expert Consultation on Economic Incentives and Responsible Fishing (FAO, 2001), which reviewed and issued a report on such issues as the definition of a subsidy, classification of subsidies, and the impacts of subsidies on fishery resources and on trade.

14. In the early 1990s, the Organisation for Economic Co-operation and Development (OECD) undertook the first analytical study of the measurement of fisheries subsidies in member countries (OECD, 1993), which included the first classification of such subsidies to

the fish harvesting sector. More recently OECD published an important study of the fisheries subsidies in OECD countries, which included an estimate of financial transfers to fishing industries in OECD member countries and an analysis of the implications of those transfers for the sustainability of fishery resources (OECD, 2000a). OECD is currently undertaking further work on the costs of government interventions to manage fisheries resources and how these costs are shared between management authorities and users of the resources (Wallis and Flaaten, 2000).

15. The Asia-Pacific Economic Cooperation Forum (APEC) Fisheries Committee commissioned a study that attempted to collect the most complete data possible on fisheries sector support programs in the APEC member economies, to categorize these support programs, and to estimate the total incidence of subsidies in the APEC economies (APEC, 2000). The APEC study did not collect or analyze evidence of the impacts of fisheries subsidies on fishing capacity or on the level of exploitation of fish stocks.

16. International efforts to reform the subsidies regime will require the cooperation of all intergovernmental organisations with relevant expertise on the subject. The FAO, the OECD, APEC and UNEP could continue to build consensus on the issue among their own members or even adopt common principles or guidelines in regard to fisheries subsidies. They could also cooperate with the WTO in the continued development of the data and methodologies for analyzing the relationships between fisheries subsidies and resources, as well as between subsidies and trade in fish products. They might collaborate with the WTO in undertaking further studies on these issues, as suggested in Section III.A.

17. The WTO could negotiate on binding trade rules regarding fisheries subsidies in conjunction with a new multilateral trade round, provided that it finds the subsidies to be trade-distorting. Any such negotiations would presumably involve the existing SCM Agreement. Discussions in the CTE could provide the necessary impetus for future action on fisheries subsidies by the WTO. The next stage of development of the CTE's work could be a structured discussion of substantive issues of fact and analysis and of analytical tools and processes that might be used to achieve greater clarity and consensus on possible policy responses to trade-related fisheries subsidies issues.

## II Fisheries Subsidies and Overfishing: Substantive Issues

18. Addressing the relationship between fisheries subsidies and the status of fisheries resources is complex but manageable, because the primary mechanism linking subsidies with the threat of overfishing and ultimate depletion is fishing fleet overcapacity. According to the most recent assessment of the state of the world's fish stocks, of the world's major fish stocks on which enough information is available for assessment, 73-75 percent were either fully exploited, over-fished, depleted or recovering slowly from depletion (FAO, 2000). That means that the fishing fleets fishing for the vast majority of the world's fish stocks either already have too much catching power or cannot add any further catching power without threatening the sustainability of those stocks. Evidence from a wide range of sources indicates that the national fishing fleets of most major fishing countries already suffer from overcapacity that is more than twice the level necessary for a sustainable level of catch (Porter, 1998).

19. Fishing fleet overcapacity has been identified by both FAO fisheries specialists and independent experts either as a major cause of unsustainable levels of fishing or as the principal threat to marine capture fishery resources (FAO, 1997; Mace, 1997; Garcia and Newton, 1997; Pauly et al, 1998; FAO, 1998; FAO, 1999b; Greboval and Munro, 1999; Kirkley and Squires, 1999). The FAO International Plan of Action for the Management of Fishing Capacity (FAO, 1999a), moreover, expressed an international consensus that "Excessive fishing capacity is a problem that, among others, contributes substantially to overfishing." Although fisheries managers have tried for decades to control overfishing, primarily by applying a range of controls on fish catch or fishing effort, such restrictions have invariably failed to prevent expansion of overall fishing effort, because fishers have found ways to compensate for restrictions on some variables by increasing their reliance on variables that are not subject to restrictions (Wilen, 1988; Arnason, 1993). The key issue for

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