

Fisheries subsidies and the WTO negotiations

Policy Brief 9



This insert to the Fisheries and Subsidies policy brief provides an update on the ongoing World Trade Organisation (WTO) negotiations to impose rules and restrictions on subsidies to the fisheries sector.

Background and history

The issue of fisheries subsidies first came onto the international agenda in the 1990s as a result of studies carried out by the FAO, UNEP and WWF, and the World Bank.

The Declaration of the fourth WTO Ministerial Conference (Doha, 2001) states that 'in the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries'. The Declaration of the sixth WTO Ministerial conference (Hong Kong, 2005) further recalled the commitment 'to enhancing mutual

supportiveness of trade and environment', noting 'that there is broad agreement that the Group should strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing'. It also noted the need for 'appropriate and effective special and differential treatment for developing and least-developed Members ... taking into account the importance of this sector to development priorities, poverty reduction, and livelihood and food security concerns'.

The World Summit on Sustainable Development in Johannesburg (2002) also called to 'eliminate subsidies that contribute to illegal, unreported and unregulated fishing (IUU) and to over-capacity'.

Negotiations are ongoing in the WTO, and a number of key issues related to disciplines on fisheries subsidies are outlined in Box 1. The latest state of play of the negotiations is described below.

Box 1: Key issues in the WTO subsidies negotiations

Which subsidies should be prohibited

There are two main negotiating positions:

- 'Top-down approach' by the 'Friends of Fish', who argue that all fisheries subsidies should be prohibited apart from certain exemptions. Members of this group include Australia, Chile, Ecuador, Iceland, New Zealand, Peru, Philippines and the US.
- 'Bottom-up approach' which argues that all subsidies should be allowed, apart from those that are specifically prohibited. Members of this group include Japan, Korea, Taiwan and the EU.

There is general agreement that subsidies that support capital costs should be prohibited (e.g. the acquisition, modification or construction of fishing vessels). However, it is also important to restrict subsidies for operating costs such as fuel, ice and labour. The position on subsidies for infrastructure, income support, price support and access agreements is not clear.

Special and differential treatment (SDT) for developing countries

The importance of the fisheries sector for developing and least-developed countries must be taken into account through the use of appropriate and effective SDT. China, India and Indonesia have called for exemptions from subsidies disciplines for developing country small-scale fishermen infrastructure, capital and operating costs. Many countries have highlighted the need for them to encourage development of their domestic fisheries and

fish processing infrastructure. Some developed countries have also requested exemptions for their small-scale fisheries. However, it must be remembered that small-scale does not necessarily mean small impact, and effective management measures are also needed.

For SDT to be implemented, a number of issues will need to be resolved: the criteria to be used in identifying eligible fisheries for SDT; territorial limits on the use of SDT; the need for effective management of subsidised fisheries; how access rights for foreign fleets should be treated; and how to differentiate between developing countries that have different levels of development in particular industries.

Transparency and enforcement

There has been poor reporting by Members of the WTO on the fisheries subsidies they currently provide. There are currently no legal consequences if a government fails to provide notification of subsidies. Therefore there are specific calls for new rules to cover issues of transparency and enforcement. This raises questions of: how to deal with subsidies that are not being notified; to what extent notifications should include information about the management conditions of subsidised fisheries; and how rules on notification can be enforced.

State of play of the WTO negotiations

The Doha Round of trade negotiations has experienced a series of delays and set-backs, mainly as a result of disagreements on agriculture and industrial tariffs.

At the end of November 2007, and after a number of formal and informal talks on key issues, the Chair of the WTO Negotiating Group on Rules (the group dealing with fisheries subsidies) issued a draft text on the subjects covered by the Rules chapters of the WTO framework. If adopted, this would prohibit subsidies that encourage overcapacity, while permitting subsidies that help to remove capacity that is in excess of available fish resources (Box 2).

There was a lack of consensus on the draft text and points of disagreement 'went to the very concepts and structure of the rules'. This included whether all subsidies should be prohibited, with certain exceptions, or whether all subsidies should be permitted, unless specifically prohibited (Box 1). There was also disagreement over how to classify and define 'small-scale' fisheries that could be eligible for Special and Differential Treatment (SDT). The Small, Vulnerable Economies Group (SVEs) did not agree with the limited and unrealistic scope for SDT set out in the draft. However, discussions continued into 2008 and some agreements were reached.

In December 2008, a new 'Roadmap' for discussions was issued [1], with the aim of reaching sufficient agreement among the Members so as to prepare a new draft text. A meeting was held in Geneva on 2–3 February 2009 to discuss the Roadmap.

There were still a number of disagreements, but there is a general understanding that the scope of the disciplines on subsidies would only cover marine capture fisheries (not aquaculture or inland fisheries), and would not extend to downstream elements such as on-shore fish processing.

Next steps

WTO is the only institution that can effectively address fisheries subsidies, being international in its scope and with the mechanisms in place to enforce its agreements. It is therefore vital that WTO negotiations reach agreement on them. However, fisheries subsidies agreements also depend on the outcomes of other ongoing WTO negotiations, in particular those on Agriculture and Non-Agriculture Market Access that are negotiating the reduction of tariff barriers.

Regardless of the approach taken, it is important that the negotiations result in the banning of 'bad' subsidies. However, developing countries must be given the flexibility they need, without endangering the future sustainability of fish stocks and the fishers who rely on them.

Box 2: Summary of the Chair's draft of November 2007 and the December 2008 Roadmap

The **draft text** on fisheries subsidies from November 2007 includes:

- Prohibiting a broad range of capacity- or effort-enhancing subsidies, as well as subsidies that affect fishing on 'unequivocally overfished stocks';
- Exemptions for specific types of subsidies from the prohibition (e.g. for vessel safety or reducing vessel capacity);
- Only allowing permitted fisheries subsidies where basic fisheries management systems are in place;
- Allowing developing countries to use most prohibited subsidies, subject to fisheries management and other conditionalities;
- Creating a mechanism for involving FAO in the review of measures taken to fulfil fisheries management criteria;
- Strengthening WTO reporting rules for subsidies.

The **Roadmap** (December 2008) contains the following main elements:

- Prohibited subsidies must be listed, with an explanation of why they contribute to overcapacity and overfishing.
- For a specific subsidy not to be prohibited, there will have to be an explanation of why it does not contribute to overcapacity and overfishing.
- If special and differential treatment (SDT) is allowed for developing states, subsidies must not contribute to overcapacity or overfishing. How conditionalities might be applied, monitored and enforced will be a serious consideration.
- Also to be seriously considered are fisheries management conditionalities. Evidence would be needed to take action against an illegally-subsidising Member, and scientific and technical expertise drawn on in the event of a dispute.
- Notification mechanisms must be formulated for Members to report on subsidies they are providing.

Sources: WTO Document TN/RL/W/213 (30 Nov 2007), Annex VIII, from [2]; [3].

References

- [1] TN/RL/W/236 'New Draft Consolidated Chair Texts of the AD and SCM Agreements. 18 December 2008. Available at www.wto.org
- [2] UNEP (2008) Fisheries Subsidies: A critical issue for trade and sustainable development at the WTO. An introductory guide.
- [3] Campling (2009) FFA Fisheries Trade News. Volume 2: Issue 1. January 2009.