

FFA FISHERIES TRADE BRIEFING

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Negotiations on Rules for Fisheries Subsidies at the WTO

Small Vulnerable Economies Submission to the WTO on Fisheries Subsidies

In their continued efforts to highlight the profound need for effective Special & Differential Treatment (S&DT), PICs joined with other Small Vulnerable Economies (SVEs) to issue a statement on the developmental aspects of proposed new disciplines on fisheries subsidies. This statement on S&DT (Article III of the draft Chair's text) was jointly supported by Barbados, Cuba, El Salvador, Fiji, Honduras, Mauritius, Papua New Guinea and Tonga. Importantly, it was Tonga's first ever public submission to the WTO since it joined last year.

In short, the document highlighted the fact that some of the conditionalities contained within the Chair's text would 'prevent SVEs from benefiting from exemptions that are consistent with the realities of their fisheries'; it would block the specific 'types of subsidies which these economies offer' (i.e. for operating costs such as fuel, ice and bait); and would thus legally limit 'the developmental path which these countries wish to follow to allow for diversification of their economies'. In light of this set of problems the submission called for additional flexibility for subsidy programmes (under Article I.1.c of the draft text) that provided support for operating costs.

The statement did not specify a solution to this issue, but it did note that SVEs were undertaking ongoing work on the technical dimensions to develop such a solution.

Overview of PIC Issues at the March Fisheries Subsidies Meeting

Four major issues of particular relevance to PICs were discussed at the 26-27 March 2008 meeting on the Chair's draft text on fisheries subsidies. First was the role of fisheries management conditions in S&DT provisions. Here PICs noted that these conditions should reflect the concrete realities of developing country fisheries management systems otherwise they would effectively block the opportunity to utilize S&DT. On this note the Pacific called for a more simplified management system for small-scale commercial fisheries, consisting of only the core elements; and only an indicative management conditionality for subsistence and commercial artisanal fisheries, which allows for local conditions and indigenous institutions.

The second area for discussion was on 'other' S&DT issues. Here the Pacific re-iterated several concerns raised in prior meetings (and reported on in last month's issue of FFA Fisheries Trade Briefing), such as the need to exclude subsidies to fish processing facilities



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The submission highlighted the importance of subsidies for operating costs to PIC fisheries.

It was the first time that Tonga had aligned itself with a formal submission to the WTO.



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from any disciplines and the onerous nature of limiting subsidised vessels to within a developing country Member's EEZ because of the commercial imperative of following the fish. In a new development the Pacific supported the statement of the SVEs group on the need for the language of the legal text on fisheries subsidies to provide mandatory commitments by developed countries for technical assistance to developing countries. Currently the text reads that Members should only 'give due regard' to the technical assistance needs of developing countries, but given the fact that the draft text implies significant additional demands on PIC administrations (see below for examples) – which are already overstretched – the need for mandatory technical assistance to meet these demands is self-apparent.

The third topic was the Chair's drafting of legal commitments on notifications and surveillance in the text (Article VI). Currently this requires a WTO Member to notify the WTO secretariat and all other Members before they implement a new subsidy programme. The Pacific delegation joined most other developing countries as well as the US in highlighting that this requirement was too demanding, and that instead, countries should be allowed to submit notifications after a new subsidy is granted.

The final issue area was on dispute settlement (Article VIII). In an attempt to provide some 'teeth' to the requirement to notify subsidy programmes (the current record of WTO Members on the notification of fisheries subsidies is notoriously poor), the Chair inserted text that would automatically make a non-notified subsidy legally prohibited. Moreover, the burden of proving that that subsidy met the rules would fall on the subsidising Member, rather than on the complainant as with all existing dispute settlement procedures at the WTO. This therefore represents a radical change (and thus precedent) of the legal principles at the WTO. The Pacific delegation joined many other states (including several developing countries, Australia and others) in opposing the assumption of guilt as well as the shift in the burden of proof because it is perfectly feasible for a country to be taken to a complex dispute despite acting in perfectly good faith. However, the Pacific did recognise that some form of incentive was necessary to ensure that Members met notification requirements.

In addition to the main meeting, PIC representatives held bilateral meetings with a number of major countries so as to discuss mutual areas of concern. In each of these meetings the focus was on S&DT and fisheries management conditions.

Tuna Markets

Environment NGOs targeting retailers on sale of tuna

Two international environment NGOs – Greenpeace and WWF – have launched campaigns to target retailers on tuna conversation. These NGOs are very different in political character and associated campaigning strategy. WWF tends to focus more on lobbying and

The Pacific joined calls on the need for mandatory technical assistance to developing countries to help comply with new disciplines.

The Pacific firmly opposed the Chair's proposal on the pre-notification of subsidy programmes

The Chair's text proposed a radical new precedent at the WTO, which would represent a shift in the legal burden of proof away from 'innocent until proven guilty'



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working with governments and industry, while the more radical Greenpeace also pursues advocacy campaigns but also engages in direct action.

These two NGOs previously both pursued 'behind-the-scenes' strategies for improving the sustainability of tuna fisheries via the lobbying of relevant governments. Due to the perceived limited successes of this approach they have shifted their emphases to highly publicised market-based approaches, particularly via the targeting of retailers. The current focus of the WWF campaign is on the status of the Mediterranean bluefin fishery. The evidence behind this campaign is detailed in a major new technical report released in March called *Race for the Last Bluefin*. The thrust of the market-based approach is to encourage supermarkets to stop selling Mediterranean bluefin until the fishery becomes sustainable. One of the objectives is to reduce purse seine capacity targeting bluefin in the Mediterranean by a third from the current level of 617 vessels. At current levels the purse seine fleet alone (i.e. not including longliners, bait boats, etc) would need to catch an estimated 42,000mt of tuna to cover operating costs, this would illegally take the fishery 13,000mt over the quota set by the International Commission for the Conservation of Atlantic Tunas (ICCAT), while scientific estimates advise that the level should be set at 15,000mt to avoid stock collapse. So far four chains in five countries have agreed to stop selling Mediterranean bluefin: Auchan in France, Carrefour in Italy, Coop in both Italy and Switzerland, and ICA in Norway.

Greenpeace International, which does not necessarily represent the views of national Greenpeace chapters, launched a new campaign in March 2008 that targets retailers on the sale of tuna. This campaign draws upon two reports on global tuna fisheries published by Greenpeace International in 2007. The first, *Taking Tuna Out of the Can*, offers an interesting critical analysis of the current state of access agreements and recommendations on how island and coastal developing countries might improve the level of sustainable socio-economic benefits flowing to them from the resource (i.e. through improved South-South cooperation, enhanced domestication efforts, etc). The second report, *Closing Time for Pirate Fishing: Creating Pacific Marine Reserves*, makes a case for the conversion of the high seas 'donut holes' in the middle of inter-locking PIC EEZs into marine protected areas.

Greenpeace International's new campaign on *Retailer's Roles in Rescuing the World's Favourite Fish* is far more ambitious than the targeted approach of WWF on bluefin, which is based on very detailed research. Following from the limited research put into this new Greenpeace International campaign, the demands on retailers are probably unrealistic. The NGO calls for a total ban on bluefin sales until stocks fully recover and a ban on sales of bigeye and yellowfin until the 'fishing effort of these fisheries is reduced to sustainable levels'. In short, while it is highly unlikely that retailers will ban canned yellowfin sales, if they did the implications for existing yellowfin fisheries in PIC EEZs are disastrous in socio-economic terms. Potential problems such as this indicate the need for PIC governments to establish and/or maintain good working relations with environmental NGOs. Such

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products might
turn out to be
unrealistic**



a strategy would help to ensure more nuanced outcomes in the development of future campaigns (i.e. campaigns that adequately reflect the necessary balance between developmental and environmental concerns).

PNG continues to push tuna industry development

Following the signing of an Interim EPA with the EU and the subsequent continuation of uninterrupted duty-free market access there was a flurry of media reports on tuna industry development in PNG. The PNG government recently injected USD7 million to take the development of the Pacific Marine Industrial Zone Park in Madang forward to its projected opening in 2010. According to the PNG Minister of Trade and Industry the Industrial Zone is able to accommodate ten tuna factories and could lead to the creation of more than 30,000 jobs, as well as myriad spin-off opportunities. RD Tuna Cannery continues to produce a range of tuna products in Madang for export to the EU.

Turning to Frabelle (PNG) Ltd based in Lae, the firm announced plans for expansion of the plant and infrastructure based there. It estimated that production capacity will expand from the current 60mt per day to 120mt by mid-2008, with an associated increase in employment from 1,100 to over 2,000. This expansion is based primarily on access to the EU market. However, industrial relations experienced problems in February when around 1,000 of the existing workers collectively stopped work. This was a protest to improve work organisation, safety measures and pay.

In an effort to maintain the current momentum of onshore industry development a delegation of PNG government officials, led by the Minister of Trade and Industry, visited the Philippines in February to encourage investors to take advantage of PNG's strategic location. On its part, representatives of the Philippine government and industry have expressed interest in establishing a bilateral fisheries access agreement with PNG and Nauru. However, the primary motivation behind this proposal is not facilitate onshore processing in PNG, but is intended to improve supply of tuna to processors based in the Philippines. A resolution of the 9th National Tuna Congress held in General Santos (the main site of tuna processing in the Philippines) in 2007 declared that: 'The domestic tuna catch cannot sufficiently supply the requirements of the tuna canneries and processing plants, which are increasingly dependent on the supply of tuna caught outside the Philippine Exclusive Economic Zone'. Therefore, the resolution continued: 'The establishment of more fishing access arrangements is essential to further boost the competitive advantage of the Philippine tuna industry'. However, the extent to which these efforts will be successful in regard to PNG are open to question given the PNG's current emphasis on fisheries relations with distant water fishing nations and fleets that are committed to domestic industry development.



Philippine industry pushes value added tuna products

The Philippines tuna fishing and processing industry suffered hard times in the first quarter of 2008 due to a 19 percent reduction in landings at the General Santos City Fish Port (the Philippine Fisheries Development Authority requires that vessels land their catch there). Nonetheless, the number of Philippines-based firms focussing on value added processing (rather than canning) grew by 37 percent between 2006 and 2007 to a total of 85 firms. Even before this expansion, value-added tuna exports from the Philippines totalled USD27.6 million in 2006.

This strategy is not new. For example, a similar approach was highlighted as a potential strategy for the global tuna industry by the General Manager of the New Zealand firm Sealord at the INFOFISH Tuna 2006 conference in Bangkok. He said that 'we should look at value added products that use less tuna but create more profit'. In light of concerns over the health of stocks of certain tuna species in the WCPO, this advice may well be the way forward for several firms based in PICs.

India as an emerging tuna producing country?

Total seafood exports from India dropped by over 19 percent over the last three-quarters of 2007, but tuna exports grew by over 44 percent with the majority flowing to the EU and Southeast Asia. This boom has encouraged representatives of the Indian government's Marine Products Export Development Authority to explore opportunities for fisheries access and sales with Middle Eastern countries.

Authorities in the Indian island territories of Andaman & Nicobar and Lakshadweep are planning to develop their tuna fisheries and processing capacity, including the expansion of relevant infrastructure. It is estimated that Andaman & Nicobar alone has an annual landing potential of 64,500mt of tuna. At present these island territories are only exploiting fisheries resources at 10 percent of their estimated potential. Local and federal level authorities are involved in plans for the construction of a fishing harbour meeting international standards, the creation of more landing centres, the introduction of vessels with improved capacity (including collector vessels), and the establishment of cold storage facilities. In addition, at the India International Seafood show in Kerala in February, the Kerala Minister for Fisheries suggested that firms should target reportedly untapped tuna resources.

However, in a different region of India, existing export-orientated tuna firms around the Bay of Bengal have been experiencing rejection by Japanese importers on quality grounds. There have also been reported vessel tie-ups by the local longline industry because of insufficient catch, the appreciation of the Rupee (which has made exports less competitive), and harsh competition from Taiwanese fleets. This is despite a 50 percent subsidy on the acquisition of longline vessels from the Marine Product Export Development Agency.

India's tuna exports grew by over 44 percent in 2007



The European Commission's 'DG FISH' becomes 'DG MARE': On 29 March the Directorate-General for Fish was renamed the Directorate-General for Maritime Affairs and Fisheries (or DG MARE). The principal shift here was the creation of three Directorates to deal with managing the Common Fisheries Policy and the recently unveiled EU Integrated Maritime Policy (October 2007) based upon the EU's three geographic maritime regions. In addition, a new Directorate focussing on horizontal co-ordination and policy development was formed. The Directorate for External Policy (which handles the remit for all EU fisheries relations with outside countries, including access agreements) and the Directorate for Resources and Legal Affairs continue their activities largely untouched. DG MARE will turn its attentions to focus more on IUU issues (which will be assessed in next months FFA Fisheries Trade Briefing) and on fisheries in the Mediterranean.

Coming in the next issue (April 2008, Vol. 1: Issue 5)

- Update on status of the WTO Doha Round on fisheries subsidies
- Analysis of draft EC Regulations on IUU fishing
- Overview of fisheries aspects of new China-New Zealand FTA



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