

## Negotiating Group on Rules

## FISHERIES SUBSIDIES TO MANAGEMENT SERVICES

Paper from New Zealand

The following communication, dated 22 March 2005, is being circulated at the request of the Delegation of New Zealand.

## I. INTRODUCTION

1. Good progress has been made in recent meetings of the Rules Negotiating Group on fish subsidies. There would appear to be an emerging consensus that new language on prohibited subsidies should be added to the Agreement on Subsidies and Countervailing Measures (SCM) to cover at least some categories of fish subsidies. There are now enough common elements on the table to move forward with a detailed discussion without, at this stage, necessarily seeking to resolve the issue of the ultimate structure of fish subsidy disciplines (top down or bottom up). New Zealand proposes that this more detailed discussion proceed without prejudice to the positions of Members on the structure of the new fish subsidy disciplines.

2. The objective of this new phase of discussions is to develop common understandings with respect to the definition and treatment of various categories of fish subsidies. This will require consideration of the following elements (among others):

- (i) **Identification and definition of subsidy category.** This may require the identification of sub-categories or programme-types within a category. Relevant work undertaken in other international organisations (such as the FAO, UNEP, the OECD and APEC) may assist this process, as will information on definitional approaches taken by Members in their domestic fisheries.
- (ii) **Discussion of subsidy category.** This would include discussion of information on specific policy objectives, and the form or mechanisms used to accomplish the government transfers in question. Presentation of information regarding actual programmes within this category, and in particular the size and nature of such programmes, will be needed in order better to assess how particular types of subsidies should be treated under new disciplines.
- (iii) **Treatment under new rules.** For example, if categories or sub-categories are to be permitted under new rules, consideration as to what conditions might be attached or any particular development dimensions that need to be taken into account.

3. Drawing on the above approach this paper seeks to begin a dialogue on the issue of “fisheries subsidies to management services”.

## II. FISHERIES SUBSIDIES TO MANAGEMENT SERVICES

4. In Rules Group discussions to date, several Members, including New Zealand, have suggested that government expenditures for management frameworks should not be prohibited under new fisheries subsidies rules.<sup>1</sup> Most Members would agree on the need for government intervention in fisheries resource management. Government assistance in this area is often referred to as a “good” subsidy in that it can contribute to achieving environmental objectives.

5. Management services programmes also create benefits. Government provision of management services can benefit the fishing industry in three ways. First, management services programmes aim to manage the fish stock in a way that maximises yields over the long run. As such, they create conditions under which output can be maintained over time. Second, management services can reduce the competition for fish within a fishery, leading to a reduction in the cost per unit of effort. Third, management services can increase the fishery’s return per unit of output – for example, where a management control allows a fish to grow to a larger and potentially more profitable size before being harvested.<sup>2</sup>

6. Government management services transfers are generally not considered to contribute, whether directly or indirectly, to overcapacity, overfishing, or other trade distortions. For example, a 2004 UNEP commissioned study noted that, except for some subsidies for research, management services are not considered harmful to fisheries resources.<sup>3</sup> It is on this basis that New Zealand believes that management services subsidies are worthwhile candidates for exemption from any prohibition.

7. Members will need to engage, however, in a detailed discussion to ensure there is a common understanding of what ‘management services’ comprises. As noted above, engagement in this concrete and technical discussion of different types of subsidies does not, in our view, prejudge Members’ positions on the final structure of fisheries subsidies disciplines – whether top-down or bottom-up. These are issues that will need to be addressed whatever approach we finally take.

### *Identification and definition of subsidy category*

8. To ensure new rules are predictable and enforceable, any permitted subsidies will need to be explicitly and clearly defined. This will most likely require identification of sub-categories of specific types of programmes. Relevant questions for Members to consider are:

- How is the type of subsidy programme defined?
- Can this category be broken down into sub-categories or programme types?
- What are actual examples of current subsidy programmes in this category?

9. In seeking to answer these questions for management services, we have referred to work that has been conducted on this topic by various international bodies. The APEC study of 2000, for instance, took a broad approach to this category and examined programmes for management and conservation jointly, which included all government-funded programmes designed to enhance the fisheries resource base.<sup>4</sup>

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<sup>1</sup> TN/RL/W/166, TN/RL/W/169 and TN/RL/W/172.

<sup>2</sup> We recognize that there may be some differences in views regarding whether some types of government expenditures relating to management services actually constitute a “subsidy” under Article 1 of the SCM Agreement. In our view, the key point is to ensure that we develop clarity and a common understanding in this regard. Such clarity will only emerge through a discussion of specific types of fish subsidy programmes.

<sup>3</sup> Porter, G (2004), “*Analysing the Resource Impacts of Fisheries Subsidies: A Matrix Approach*”, commissioned by Economics and Trade Branch, United Nations Environment Programme, p. 45.

<sup>4</sup> This joint classification comprised: vessel buybacks; permit buybacks or license retirement; stock enhancement programmes; fisheries management programmes; fisheries enforcement programmes; stock

10. With the objective of creating well-defined categories for any list of permitted subsidies, New Zealand proposes that capacity reduction programmes (such as vessel decommissioning) and effort reduction programmes (such as permit buybacks and licence retirement) should be treated as separate categories to, and discussed separately from, management services. Similarly, we would propose that subsidies for conservation, such as stock enhancement programmes, be treated as a distinct category as well. We therefore have not considered these types of subsidies in this paper, but would welcome contributions from other Members on these topics.

11. The OECD has developed a comprehensive approach to classifying management services subsidies, which usefully breaks down the category into the following three sub-categories.<sup>5</sup> This categorisation has been referenced in FAO work, and a similar definitional approach has been adopted in UNEP commissioned work on fisheries subsidies.<sup>6</sup> New Zealand proposes that these three sub-categories be incorporated in any list of permitted subsidies.

(i) Research to inform fisheries management decision makers

This sub-category includes data collection, surveys, data analysis and stock assessment. The objective of these activities is usually to meet the information needs of the decision makers implementing the management rules.

New Zealand believes that the following research programmes fall outside the category of 'research to inform fisheries management decision makers', given the clear commercial nature of the activities and their ability to increase fishing effort:

- R&D for exploratory fishing;
- R&D for the identification and development of new fisheries; and
- R&D for the development of new fisheries technologies

(ii) Creating and implementing fisheries management systems

This sub-category comprises programmes oriented towards policy development, process and procedure. It can be disaggregated further into the following three functions:

- (a) Establishing and administering management systems. For example, monitoring fishing licences, permits, vessel numbers and catch returns
- (b) Adjusting management settings within an existing management system. For example, the annual process of setting the 'total allowable catch' for a fishery
- (c) Recommending amendments or additions to the existing management system. For example, introducing new effort or output controls.

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assessment programmes; programmes to identify and develop new fisheries; R&D programmes for developing new fisheries technologies; and other fisheries management and conservation programmes. PriceWaterhouseCoopers LLP (2000), "*Study into the Nature and Extent of Subsidies in the Fisheries Sector of APEC Members' Economies*".

<sup>5</sup> Flaaten, O. and P. Wallis (2000), "*Fisheries Management Costs: Concepts and Studies*", OECD. See also Cox, A. (2003) "*The Costs of Managing Fisheries*", OECD. Milazzo also refers to three major elements to governments' costs of managing the resource: fisheries management, the supporting science, and enforcement. Milazzo, M. (1998) "Subsidies in World Fisheries: A Re-Examination", *World Bank Technical Paper 406*, p. 56.

<sup>6</sup> Westlund, L. (2004), "Guide for Identifying, Assessing and Reporting on Subsidies in the Fisheries Sector", *FAO Technical Paper 438*, p. 38. Porter, G (2004), *op. cit.*

(iii) Enforcing fisheries management rules

This sub-category includes government expenditures for the surveillance of compliance with fisheries laws and the prosecution of non-compliers.

**Discussion of Subsidy Category - Management Services**International Estimates

12. The most recently available figures for costs of managing fisheries in OECD countries are for 1999 and are set out below.<sup>7</sup>

Sub-category	US\$ million (OECD countries only)
Research services	832.9
Management services	647.9
Enforcement services	972.0
<i>Total</i>	<i>2,452.8</i>

The APEC 2000 study estimated APEC Members' fisheries programmes for 1997 for the following sub-categories as follows:<sup>8</sup>

Sub-category	US\$ million
Fisheries Management Programmes	151.8
Fisheries Enforcement Programmes	52.5
Fish Stocks Assessment Programmes	2.9

New Zealand's Management Services Programmes

13. Information is provided in Annex I to this submission on New Zealand's own management services programmes, using the framework identified above. Reciprocally, we would be interested to hear from other Members on their views and practices in this area. Such an exchange will be important to ensure Members' develop common understandings of what types of programmes actually fall within the different sub-categories identified above. This information may also inform Members' views on how different subsidies should be treated under the new rules.

**Treatment under new rules**

14. As noted above, subject to further discussion of definitions and types of programmes that fall within these definitions, New Zealand believes that subsidies to management services should not be prohibited under new disciplines on fish subsidies. We are open, however, to discussions on the desirability of maintaining some form of actionability, or requirements with respect to notification.

<sup>7</sup> Cox, A. (2003), *op. cit.*

<sup>8</sup> The APEC 2000 study estimated the total value of APEC fisheries programmes and subsidies at US\$12.6 billion. PriceWaterhouseCoopers LLP (2000), *op. cit.* p. 11.

**ANNEX I: NEW ZEALAND'S MANAGEMENT SERVICES PROGRAMMES****(i) Research to inform fisheries management decision makers**

Government expenditure in this category relates to gathering and analysing data on New Zealand's fisheries to support decisions about sustainable utilisation and the provision of information on the biodiversity of New Zealand's marine environment.

Policy Objective: To provide the information required to make decisions on the sustainable utilisation of New Zealand's fisheries resources.

<b>Programme Name</b>	<b>Description</b>	<b>Government Expenditure, 2003/04, NZ\$</b>
Fisheries research	Research includes: <ul style="list-style-type: none"> <li>- Stock assessment research determining estimates of biomass, sustainable yields for fish stocks and non-commercial harvest levels</li> <li>- Investigations into the effects of fishing on the aquatic environment, including biodiversity and bycatch species</li> <li>- Analysis of the social, cultural and economic factors that may be included in the management decision process</li> </ul>	\$15,841,000
Biodiversity research	Marine biodiversity research includes: <ul style="list-style-type: none"> <li>- Surveys and descriptions of marine communities</li> <li>- Analysis of species composition, abundance and richness</li> <li>- Investigations of tools used for the collection of marine biodiversity data</li> </ul>	\$4,108,000
Observer collected research data	Fisheries observers are used to collect research data to inform fisheries management decisions. Data collected includes: <ul style="list-style-type: none"> <li>- Biological specimen collection</li> <li>- Observations of seabird and marine mammal interactions with fishing activities</li> <li>- Catch composition data</li> </ul>	\$2,187,000
Biosecurity research	Marine biosecurity research includes: <ul style="list-style-type: none"> <li>- Baseline biodiversity surveys to support border control</li> <li>- Risk profiling for invasive marine species;</li> <li>- Monitoring of ballast water exchange</li> <li>- Analysis of incursion response systems</li> </ul>	\$2,119,000
<b>Total</b>		<b>\$24,255,000</b>

(ii) Creating and implementing fisheries management systems

Policy Objective: To provide a framework within which the sustainable and efficient utilisation of fisheries can occur.

<b>Function</b>	<b>Programme Name</b>	<b>Description</b>	<b>Government Expenditure, 2003/04, NZ\$</b>
Administering the existing management system	Ministerial services	Providing services to the Minister responsible for Fisheries	\$1,391,000
	International agreements	Implementing domestically decisions made by Regional Fisheries Management Organisations	\$578,000
	Customary applications	Processing and evaluating applications from stakeholders to manage customary access	\$974,000
	Cost recovery	Determining fisheries management costs recovered from the commercial fishing industry	\$1,536,000
	Statutory decisions	Processing, evaluating and deciding on applications from stakeholders to farm aquatic life and to harvest aquatic life outside normal rules	\$1,884,000
	Registry services	Monitoring and delivery of contracted registry services	\$6,241,000
Adjusting management settings within an existing management system	Domestic utilisation and sustainability advice	Evaluating stock assessment advice and stakeholder views, and providing recommendations on decisions regarding the utilisation and sustainability of fisheries resources	\$5,779,000
Recommending amendments or additions to the existing management system	Policy advice	Reviewing, developing and providing policy advice to enable the sustainable and efficient utilisation of fisheries resources	\$3,329,000
<b>Total</b>			<b>\$22,712,000</b>

(iii) **Enforcing fisheries management rules**

Policy Objective: To promote compliance with fisheries laws and lead to detection of those involved in illegal fisheries activities.

<b>Programme Name</b>	<b>Description</b>	<b>Government Expenditure, 2003/04, NZ\$</b>
Enforcement of commercial, customary and recreational fishing rules	A compliance capability is provided to take action in commercial, customary and recreational fisheries to encourage compliance and deter offending. Enforcement activities conducted include: <ul style="list-style-type: none"> <li>- Monitoring of commercial, customary and recreational fishing activity, including commercial fishing activity through a satellite Vessel Monitoring System</li> <li>- Analysis of fishing returns to detect offending</li> <li>- Inspection of commercial fishing vessels and Licensed Fish Receivers</li> <li>- Education of commercial, customary and recreational fishers</li> <li>- Co-ordinating and managing special approval and statutory vessel notification requirements</li> <li>- Provision of recommendations to prosecute</li> </ul>	\$14,903,000
Deterrence of black market and poaching activities	Actions taken to apprehend poaching and black market offenders through monitoring and detection of poaching and black market activity	\$3,558,000
Prosecution	Fisheries-related prosecutions	\$3,608,000
<b>Total</b>		<b>\$22,069,000</b>

## ANNEX II: NEW ZEALAND'S FISHERIES MANAGEMENT REGIME

### *Characteristics of the New Zealand Fishing Industry*

About 130 species are fished commercially within New Zealand waters. Seafood production is dominated by deepwater species (including hoki, ling, orange roughy, oreo dories, squid and silver warehou) as well as spiny rock lobster, paua, green-lipped mussels and snapper. Approximately 750,000 tonnes greenweight of seafood is harvested annually. 70% of this seafood is taken from deepwater and midwater stocks, 11% from pelagic stocks (such as mackerel and tuna) and 10% from farmed species. The inshore fisheries provide a base for the majority of owner-operated fishing businesses.

### *Fisheries Management in New Zealand*

Management of New Zealand's fisheries resources is governed by the Fisheries Act 1996. The purpose of the Fisheries Act is to provide for the utilisation of fisheries resources while ensuring sustainability. In the Fisheries Act, 'ensuring sustainability' means to maintain the potential of fisheries resources to meet the reasonably foreseeable needs of future generations whilst avoiding, remedying or mitigating any adverse effects of fishing on the aquatic environment. 'Utilisation' means conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic and cultural well-being.

The purpose of the Fisheries Act provides for two outcomes sought when the legislation was enacted. The first outcome, "providing for utilisation" sets out the expectation that access to fisheries resources will be provided and the second outcome, "ensuring sustainability", sets the parameters for utilisation. The Fisheries Act is intended to facilitate the activity of fishing while having regard to the sustainability of harvests and mitigating the effects of fishing on the environment. Therefore, it deals with fisheries resources that can be harvested and used sustainably either now or in the future.

The objectives of utilisation and sustainability are achieved for commercially valuable fisheries through the Quota Management System (QMS), designed in the 1980s to address increasing domestic concerns around the over-fishing of some inshore species and to provide for the rationalisation of fishing capacity. The QMS is a property rights based management framework that applies output controls to promote sustainable utilisation.

The Act includes an environmental focus by introducing environmental and information principles which require decisions to be based on the best available information and to take account of the wider ecosystem in which fisheries exist. While the setting of sustainable catch limits, based on scientific research, continues to underpin sustainable stock management, efforts have increasingly focused on delivering ecosystem-based management. As of October 2004, 95 commercially harvested species are managed within the QMS.

### *Cost Recovery*

Approximately NZ\$70 million is expended annually on managing New Zealand's fisheries resources. This expenditure is shared between the Government and fisheries rights holders. New Zealand recovers from fishers certain costs associated with managing the resource. A set of rules enacted under the Fisheries Act determine whether, and to what extent, costs associated with managing fisheries can be recovered from the industry. The cost recovery rules limit cost recovery to the costs associated with fisheries and conservation services, such as research and registry services. Under this model, public good services in fisheries management, such as policy advice, are not cost recovered from the fishing industry. In 2003, 43 per cent of the Government's total direct expenditure on managing fisheries was directly cost recovered from the New Zealand fishing industry.

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