

S&DT IN THE FISHERIES SUBSIDIES NEGOTIATIONS¹: VIEWS OF THE SMALL, VULNERABLE ECONOMIES (SVES)

Communication from Antigua and Barbuda, Barbados, Cuba, Dominican Republic,
El Salvador, Fiji, Guyana, Honduras, Jamaica, Mauritius,
Nicaragua, Papua New Guinea, and Solomon Islands

Revision

The following communication, dated 5 June 2007, is being circulated at the request of the Delegations of Antigua and Barbuda, Barbados, Cuba, Dominican Republic, El Salvador, Fiji, Guyana, Honduras, Jamaica, Mauritius, Nicaragua, Papua New Guinea, and Solomon Islands.

The co-sponsors of this document are all proponents of the WTO Work Programme on Small Economies and have tabled this document in an effort to reaffirm some of our key principles regarding the fisheries negotiations and S&DT in particular. In addition, this document is in response to the request of the Chair of the Negotiating Group on Rules for increased discussion on these issues.

We reaffirm the developmental significance of the fisheries industry to SVEs and the importance of access agreements to revenue generation in some SVEs island and coastal states.

We also recognise the challenges faced by traditional sectors in SVE states when confronted by global trade liberalisation and in this context we reaffirm the importance of industrial and semi-industrial fishing as a tool to assist these countries in the diversification of their economic base.

The SVEs are not seeking a "carve out" or dedicated rules specific to SVEs but rather wish to present certain key principles to inform the design of rules on fisheries subsidies that are appropriate for all WTO Members. In this respect, SVEs also affirm the understanding that these current negotiations are centred on creating disciplines which will apply to marine capture fisheries and will not apply to aquaculture, processing and other value added components of the fishing industry.

¹ This document is an attempt to respond to the call of the Chair of the Negotiating Group on Rules for brainstorming on S&DT issues and does not preclude the co-sponsors of this document from submitting any additional proposals on these matters.

A. INTERPRETING THE MINISTERIAL MANDATES ON FISHERIES SUBSIDIES

The Doha Ministerial Declaration 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 Hong Kong Ministerial Declaration noted 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, and call on Participants promptly to undertake further detailed work to, inter alia, establish the nature and extent of those disciplines, including transparency and enforceability. Appropriate and effective special and differential treatment for developing and least-developed Members should be an integral part of the fisheries subsidies negotiations, taking into account the importance of this sector to development priorities, poverty reduction, and livelihood and food security concerns:*

- i. The Co-sponsors of this document are of the view that the Ministerial mandates give clear instruction and guidance to negotiators on the issue of S&DT for developing and least developed countries. The Hong Kong Ministerial mandate specifically reflects the need for S&DT to be an integral component of the disciplines and recognises that the fisheries sector is of importance to developing countries for a number of socio-economic reasons.
- ii. With this in mind, S&DT must be more than an instrument to assist developing countries to implement the emerging rules, but must also allow developing countries the opportunity to take advantage of the natural resources in their maritime space and enhance their level of productivity in the area of fisheries.
- iii. In this respect S&DT in the fisheries disciplines must be more than longer implementation periods and must instead support the development of the fisheries sector in small, vulnerable economies and their potential trade in fisheries products and must not impede their capacity enhancement, management initiatives, or the processing and value added components of the industry in these economies.
- iv. The co-sponsors of this proposal recognise the environmental and sustainability effects of over fishing and overcapacity and are willing to examine possible disciplines which seek to minimise environmental and ecological damage so long as they are mutually supportive of the developmental priorities of small, vulnerable economies and other similarly situated developing countries.

B. SHOULD THE PROVISION OF S&DT BE CONDITIONAL?

- i. The co-sponsors of this document view S&DT as a fundamental principle of all WTO Agreements for developing countries and should be accorded without conditions attached. However, the co-sponsors recognise that given the environmental and sustainability element of the fisheries negotiations, there have been proposals which recommend the provision of S&DT on the basis of the individual country either acquiring certain management capacity or on ideas such as status of the fisheries and total allowable catch. Such conditionality would depart from WTO principles for according S&DT.
- ii. The co-sponsors recognise that there are wide divergences between the productive and trading capacity of developing countries in the fisheries sector and in the interests of sustainability of the marine resources are willing to consider carefully crafted parameters for S&DT which could meet this objective. It is clear however that small, vulnerable economies, LDCs and some other developing countries have had such a minimum impact on over fishing and

overcapacity that the proposed restrictions on these countries would be unduly punitive and would have the detrimental effect of impeding the legitimate growth of their fisheries industry, thereby leading to industry regression and stagnation.

- iii. An effective management regime for fisheries is an important component of a country's fisheries policy. However, it must be recognised that not all developing countries, especially the SVEs and the LDCs, have the capacity to enact a management regime which can produce statistics, analyse data or secure its waters from IUU fishing to the extent that major fishing nations do. In light of this relatively limited capacity, any S&DT conditionality in the area of management regimes should not unduly punish these countries for their capacity constraints and should be examined in light of their relatively small productive and trading share of world fisheries.
- iv. The FAO Code of Conduct has been suggested as an appropriate guideline for countries to follow with regards to their management regimes and the co-sponsors of this document concur that it has many important elements. However as it is a voluntary instrument, the Code of Conduct should not be simply imported into a WTO agreement as a binding discipline. Rather it may be appropriate for developing countries to illustrate the existence of a management plan, either a national management plan or a regional management plan. If the architecture of these plans is found to be significantly lacking, the developed countries and international organisations with necessary levels of capacity and competence in these areas for improvement should provide technical and financial assistance to these developing countries to enhance their management plans.
- v. Environmental criteria such as the level of exploitation of the fisheries species or the level of exploitation in certain waters have been suggested as conditions for developing countries to use certain subsidies. The co-sponsors are concerned about the accuracy of data and unwarranted penalisation of small economies as a result of the exploitation of fisheries species outside of their waters by larger fleets of countries with greater capacity. The idea of utilising total allowable catch as a mechanism is one which must also take into account the need to accord flexibility for developing countries as well as to safeguard the future growth prospects of their fishing industry.

C. ARTISANAL AND SMALL SCALE FISHERIES

- i. The co-sponsors of this document recognise that there has been a great degree of discussion on this issue within the negotiating group. Despite this, there does not appear to be any agreement on a definition for these types of fisheries nor how they should be treated in the disciplines.
- ii. SVEs have consistently stated that their domestic definitions and practical industry realities do not recognise a clear distinction between artisanal and small scale fisheries. In the majority of cases there is a small profit trade involved in the fisheries and in some cases it is part of a small productive chain especially in those countries dependent on tourism. These small fisheries may also be organised into cooperatives and hence there could be an economic component to the fisheries transactions notwithstanding the traditional nature of the fishery and its livelihood and food security aspect.
- iii. With this in mind the co-sponsors believe that any definition of artisanal must take into account this economic aspect if it is really to result in any benefits for the developing countries. It has been recognised however that a cumulative view of small artisanal and small scale fishing fleets may result in certain environmental and sustainability impacts and we are willing to further discuss how this impact can be minimised including discussions on

the assistance which can be provided by relevant international organisations and developed country members in this area.

- iv. Some proposals have sought to use physical characteristics for determining artisanal and small scale fishing and the co-sponsors are of the view that any definition based on physical attributes should recognise the following if it is to take the reality of SVEs artisanal and small scale fisheries into account:
 - Any definition using the length of vessel should take into account the domestic definitions used by SVEs,
 - Allowances should be made for a certain level of modernisation such as engine horsepower of up to 300hp, the use of navigation and safety equipment and mechanised fishing gear as improved technology becomes available.
- v. Socio-economic considerations must also be taken into account if seeking to define artisanal and small scale fisheries such as the importance of the sector to employment, food security, poverty reduction and nutrition.
- vi. The co-sponsors recognise that the issue of "small programmes" has also been raised in the negotiations. Any treatment for "small programmes" should be a component of the S&DT for developing countries and its architecture could be based on a level of financial amount, the size of the fleet and/or the share of the country in world fisheries trade.

D. OTHER AREAS OF S&DT

- i. The co-sponsors believe that there are other areas in the disciplines where S&DT should apply. These include:
 - 1. Appropriate flexibilities for industrial and semi-industrial fishing for SVEs
 - 2. notification requirements
 - 3. length of time to implement the agreement
 - 4. Greater opportunity for consultation before any DSB cases
 - 5. technical assistance and capacity building for enhancing management regimes

The co-sponsors of this document are willing to continue to work with other members to find solutions in these areas which take into account the trade, development and environmental elements of the fisheries negotiations.
