

## International work on fishing subsidies — an update

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This paper is an update of one prepared for the First Workshop of the EU Concerted Action on Economics and the Common Fisheries Policy, 28-30 October 1998, Portsmouth, U.K., organised by the Centre for the Economics and Management of Aquatic Resources (CEMARE) of the University of Portsmouth. Funding for that workshop was provided by the European Commission's FAIR Programme. The original paper is published in *Overcapacity, Overcapitalisation and Subsidies in European Fisheries* (Aaron Hatcher and Kate Robinson, eds.), Centre for the Economics and Management of Aquatic Resources, University of Portsmouth, U.K, 1999. Permission to adapt the paper is gratefully acknowledged.

# International work on fishing subsidies — an update<sup>1</sup>

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**Abstract:** This paper surveys current international work in the area of subsidies to the fisheries sector, with particular reference to ongoing activities in the OECD, the FAO, the CSD, APEC and the WTO. Looked at broadly, it is clear that there is a considerable international interest in issues relating to fishing subsidies. Significantly, many of the studies described herein will be substantially completed by the end of 1999, and can be expected to inform the various multi-lateral discussions on fisheries capacity, sustainability and trade expected to take place over the coming years.

**Keywords:** government financial transfers to fisheries, fisheries subsidies, inter-governmental organisations.

## 1. INTRODUCTION

It is widely recognised that many fish stocks are over-exploited and that corrective measures need to be implemented to restore their productivity. Lack of well-defined property rights, subsidies, and technical advances in fishing equipment have all contributed to the problem.

Despite the many improvements in management systems that have been introduced, the state of the world's fisheries remains worrisome. In some widely publicised cases, fish stocks have deteriorated to such a degree that fishing operations have had to be sharply curtailed or even totally halted. The situation is reversible, however. The FAO has estimated that, globally, marine

fisheries production could potentially reach 125 million tonnes a year — a 40 million tonne increase on the 1990-94 average of 83 million tonnes. Some 8 million tonnes of the 40 million tonne increase could be achieved through better management.<sup>2</sup>

Better management implies more than limiting production from a fishery, however. It also means dealing with chronic structural imbalances in the sector — in particular, those that tend to prevent capacity and production from adjusting in line with fishing opportunities and thus frustrate responsible management initiatives. Many government financial transfers have contributed to such structural imbalances. But others appear to have helped reduce them. Social and labour-market policies can be seen in a similar light: some have probably hindered adjustment; others have helped to lubricate its path.

There is also a financial cost to taxpayers of supporting the fisheries sector. This cost has been estimated by one independent researcher to be on the order of US\$14-20.5 billion a year world-wide, of which at least half he estimates is provided by OECD countries alone.<sup>3</sup> Support to the fisheries sector takes many forms: grants for the construction of new vessels, or for the modernisation of new ones, and preferential credit and tax treatment for the same purposes; payments to foreign countries for access to fisheries; reduced prices or tax breaks for purchased inputs, notably fuel, bait and ice; and public expenditure on infrastructure and services used by the industry. A considerable amount of money is also spent by governments on decommissioning

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<sup>2</sup>FAO Fisheries Department, *Review of the State of World Fishery Resources: Marine Fisheries*, FAO Fisheries Circular No. 920, Rome, 1997.

<sup>3</sup>Matteo Milazzo, *Subsidies in World Fisheries: A Reexamination*, World Bank Technical Paper No. 406, The World Bank, Washington, D.C., April 1998.

fishing vessels. Finally, fishers' gross revenues are increased in some countries by market price support — i.e., transfers of money from consumers to producers resulting from policies that raise the price of fish or fish products (e.g., through tariffs, other trade barriers, administered pricing arrangements, or some combination of the three).

Over the past two years numerous discussions have taken place at the international level, and work programmes been launched in inter-governmental organisations (IGOs) and non-governmental organisations (NGOs) to study the effects of fishing subsidies on trade, the sustainability of fishery resources, or both. The purpose of this paper is to describe the background to, and the status of, these activities as of end-May 1999.

## 2. OECD

The Organisation for Economic Co-operation and Development is an intergovernmental organisation with a current membership of 29 countries, including all 15 Member States of the European Union.<sup>4</sup> Its main purpose is to provide governments a setting in which to discuss, develop and perfect economic and social policies. Member countries meet and exchange information in committees, which bring together representatives from either national administrations or their permanent delegations to the OECD. All committees are subsidiary to the OECD Council.

The OECD Fisheries Committee (henceforth “the Committee”), which has been in existence since 1961, meets twice yearly. It is composed of delegates from 25 of the OECD's 29 Member countries (i.e., all but those from the land-locked countries participate), the European Commission, observers from the FAO and the Council of Europe, and official observer countries.<sup>5</sup>

The Committee's primary tasks are to help advise its Members on ways to increase the economic benefits from improved fisheries management and from trade in fish products, and to identify strategies for enhancing the future availability of fish resources. Its work is normally carried out via three activities: (i) reviewing fisheries policies and market developments in Member countries; (ii) conducting workshops; and (iii) undertaking special studies on topics of timely interest to policy makers.

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<sup>4</sup>The other Member countries are: Australia, Canada, the Czech Republic, Hungary, Iceland, Japan, Korea, Mexico, New Zealand, Norway, Poland, Switzerland, Turkey and the United States.

<sup>5</sup>Currently, Russia as an observer to the work relating to the *Review of Fisheries in OECD Countries*, and Argentina is a full observer to all the Committee's activities.

The OECD has been working on issues relating to fishery subsidies on and off since 1965, when the newly-formed Committee published its first compilation of *Financial Support to the Fishing Industry*. Earlier, in a survey published in September 1960, the Organisation for European Economic Co-operation (the OECD's predecessor) had called for a detailed appraisal of “all subsidies and other forms of financial aid ... with the object of ... reducing and ultimately abolishing those which are not consistent with the principle of co-operation within the framework of the O.E.E.C.”<sup>6</sup> A second edition of *Financial Support* was issued in 1971. Thereafter, monitoring of financial support to OECD fishing industries was less vigorously pursued. The last of the series, which was published in 1980, was purely descriptive of each country's measures, covered only one year (1979), and contained no conclusions or recommendations.

The Committee returned to the subject of economic assistance to the fishing industry in the late 1980s and early 1990s, establishing an Ad Hoc Expert Group to study it. Among the questions with which it grappled was whether the producer subsidy equivalent (PSE) method, which had been successfully applied to the agricultural sector, could also be applied to fisheries. The exercise became bogged down in controversy, however, and eventually it was abandoned altogether.<sup>7</sup>

Currently, the Committee is addressing support to the fisheries sector in the context of two activities: (i) the *Review of Fisheries in OECD Countries*; and (ii) a study on “The impact on fisheries resource sustainability of government financial transfers” (hereinafter, the “GFTs study”).

### 2.1 The Review of Fisheries in OECD Countries

Fisheries policies in Member countries have been monitored annually since 1967 in the *Review of Fisheries in OECD Countries*.<sup>8</sup> The *Review* contains chapters on each Member country and an overview discussion of current and emerging policy issues. It also

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<sup>6</sup>OEEC (1960), p. 258.

<sup>7</sup>Rory McLeod, “The New Zealand Seafood Trade Access Project”, Report of Proceedings, Symposium on *The Interrelationship between Fisheries Management Practices and International Trade*, Wellington, N.Z., 24-26 November 1996; Milazzo, *supra* note 3, p. 16.

<sup>8</sup>Prior to 1996, the title was *Review of Fisheries in OECD Member Countries*. Recently the Committee decided to move to a biennial cycle for the *Review*, and an annual cycle for statistics. The *Review* covering the developments through 1997 will thus be the last published according to an annual cycle.

reports statistics on landings, production from aquaculture, trade, and the structure of the fishing fleet.

For the most recent *Review*, Member countries were asked to furnish more information on government financial transfers (GFTs) than they had in previous exercises, and to provide such information according to a recommended classification scheme. This scheme, which is identical to the one recommended for the ongoing study on the effects on resource sustainability of government financial transfers (see next section), basically classifies GFTs as either revenue-enhancing direct payments, cost-reducing transfers, or general services. The latter includes government expenditures on such services as research, and the monitoring and enforcement of fishing regulations.

It is expected that the edition of the *Review* covering 1997 will be published in the fourth quarter of 1999.

## 2.2 The “Impact on Fisheries Resource Sustainability of Government Financial Transfers” study

In April 1997 the Committee embarked on a new three-year work programme, under the theme “The Economic Impacts of the Transition to Responsible Fisheries” (the “Transition Study”). The objective of this work programme is to examine in-depth a suite of issues that affect the ability of fisheries managers to put their fisheries onto a sustainable footing. Work is focused on four major questions:

- I. What are the potential gains and costs involved in the transition to responsible fisheries?
- II. What are the impacts on fisheries resource sustainability of government financial transfers?
- III. What are the implications of post-harvesting policies and practices on responsible fishing?
- IV. What are the social implications of moving towards more responsible fisheries?

The other three elements of the Transition Study are described elsewhere<sup>9</sup>; what follows is a brief summary of work relating to the impacts on fisheries resource sustainability of government financial transfers.

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<sup>9</sup>See Ronald Steenblik and Paul Wallis, “The OECD’s Programme of Work in the area of Fishery Policies”, in *IIFET’98 Tromsø Proceedings*, Vol. 2, (Arne Eide and Terje Vassdal, eds.), pp. 595-600, International Institute of Fisheries Economics and Trade, Dept. of Agricultural and Resource Economics, Oregon State University, Corvallis, Oregon, USA, December 1998.

The basic aim of the GFTs study is to analyse the relationships between government financial transfers, fishing capacity and activity, and fish stock status. As with the other elements of the Transition Study, the work will draw heavily on country case studies, which are being prepared under the direction of the Member countries themselves. Some countries have chosen to look at GFTs to their fisheries sector as a whole; others have focused on specific fisheries.

In preparing their contributions, Member countries have been requested to follow four steps:

- Measure and classify financial transfers from governments to fishers, vessel builders, vessel owners and processors.
- Compare these transfers with changes in the levels of fishing effort employed in fisheries where GFTs are or have been used, and in fisheries to which effort is (or has been) transferred as a result of GFTs.
- Collect information on changes in fish stock status in these fisheries.
- Conduct an empirical analysis of the relationship between different types of GFTs, fishing effort and fisheries resource sustainability.

At its October 1997 meeting, the Committee approved a classification scheme to be used as a guide in collecting information on transfers. The scheme, shown below, is based on objective “implementation criteria” — i.e., how each transfer is provided — rather than the purpose it is intended to serve. This approach enables consideration of how capacity and effort may be affected by the transfer, and avoids having to arbitrarily select one overriding purpose from among the often perplexing array of stated policy intentions that accompany government programmes.

### Classifying financial transfers to the fisheries sector

*Revenue-enhancing transfers in the form of market price support (i.e., financed by consumers):*

- Transfers generated by tariffs (optional)

*Revenue-enhancing transfers in the form of direct payments (from Government budgets):*

- Payments based on the level of production or sales
- Per-vessel payments
- Income-based direct payments
- Other direct payments

*Cost-reducing transfers*

- Transfers related to productive capital
- Transfers related to intermediate inputs
- Other cost-reducing transfers

### *General services (net costs incurred by governments)*

- For fisheries management
- For research
- For other general services

To date, draft case studies have been prepared, or are in the process of being prepared, by Australia, Canada, the European Community, Iceland, Japan, New Zealand, Norway and the United States.<sup>10</sup> A report that analyses and synthesises this information is being prepared by the Secretariat, in close co-operation with the Committee. The aim is to provide useful insights that can help policy-makers understand the full implications of GFTs from a resource management perspective. It is hoped that the findings of the study will promote improved policy coherence, in particular between resource conservation and structural adjustment policies.

It is envisaged that the study will be substantially completed by the 4th quarter of 1999. As an early indication of the high-level interest in this work, the OECD Council, meeting at Ministerial level from 26-27 May 1999, adopted the following statement in its Official Communiqué:<sup>11</sup>

*Effective and sustainable management of fishery resources and the relationship between resource management and trade require timely international agreement and action. Ministers welcomed the FAO's International Plan for the Management of Fishing Capacity, and endorsed the OECD's ongoing examination of the impacts of government financial transfers and other relevant factors on fishery resources sustainability, including over-fishing.*

## 3. FAO

The Food and Agricultural Organisation, headquartered in Rome, Italy, is the largest autonomous agency within the United Nations system, with 175 Member Nations plus the European Community and more than 1 500 professional staff. Its principal mandates are: to raise levels of nutrition and standards of living; to improve the productivity of agriculture, forestry and fisheries; and to better the condition of rural populations. Encouraging the sustainable conservation and management of natural resources is one of the specific priorities of the Organisation.

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<sup>10</sup>A revised version of the case study for Norway has since been published under the authors' own names; see Ola Flaaten and John R. Isaksen, *Governmental Financial Transfers to the Norwegian Fishing Industry: 1977-1996*, Report No. 7/1998, Norsk Institutt for Fiskeri- og Havbruksforskning AS, Tromsø, Norway, August 1998.

<sup>11</sup>Paragraph 20 in the Communiqué <<http://www.oecd.org/subject/mcm/1999/pdf/final.pdf>>

FAO work on fisheries is carried out mainly under the auspices of the Committee on Fisheries (COFI), established in 1965 as a subsidiary body of the FAO Council. The COFI serves two main functions. The first is to review the programmes of work of the FAO in the field of fisheries and aquaculture, and their implementation. The second is to conduct periodic general reviews of fishery and aquaculture problems of an international character and to appraise such problems and their possible solutions with a view to concerted action by member nations, the FAO, inter-governmental bodies and civil society. In this latter capacity the COFI has on occasion served as a forum for negotiations on global fisheries agreements and non-binding instruments — for example, the Code of Conduct for Responsible Fisheries.

The FAO first looked at issues relating to fishery subsidies in 1960, when it issued a report on *Financial Assistance Schemes for the Acquisition or Improvement of Fishing Craft*.<sup>12</sup> However, its most publicised work on subsidies to date was in fact a bi-product of a 1992 study that set out to evaluate, among other problems facing the world's fisheries, the economic health of the industry.<sup>13</sup> Employing 1989 data, the FAO estimated that, world-wide, there appeared at that time to be a \$54 billion annual deficit between fishing revenues and costs, most of which was presumed to be covered by subsidies.

Currently, fishing subsidies are being addressed at the FAO in the context of two activities: (i) the International Plan of Action for the Management of Fishing Capacity; and (ii) an ongoing study being undertaken for the Sub-Committee on Fish Trade.

### 3.1 International Plan of Action for the Management of Fishing Capacity

The Code of Conduct for Responsible Fisheries, adopted by an FAO Conference in November 1995, and the Kyoto Declaration and Plan of Action of December 1995, both note the need for management of fishing capacity. In the course of 1996 the United States decided to support an initiative of the FAO Fisheries Department aimed at organising a consultation on this

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<sup>12</sup>Two studies followed soon thereafter: *Report on the Technical Meeting on Credit for Fishery Industries* (1961) and *Financial Assistance Policies and Administration for Fishery Industries* (1962).

<sup>13</sup>This work is reported in a "Special Chapter" to the 1992 edition of *The State of Food and Agriculture*. That chapter, prepared by the FAO Fisheries Department with the assistance of Francis T. Christy, Jr., was also published in 1992 under the title, *Marine Fisheries and the Law of the Sea: A Decade of Change*, FAO Fisheries Circular No. 853.

issue, and in March 1997 the COFI endorsed the idea. In subsequent discussions between the FAO Fisheries Department and representatives of Japan and the United States, it was agreed that the consultation should be preceded by a meeting of a Technical Working Group (TWG), organised by the FAO Secretariat.

The TWG's 35 independent, international experts met at La Jolla, California from 15 to 18 April 1998. Although the focus of the TWG meeting was on fishing capacity — how to define it, how to measure it, and how to control it — the experts kept coming back to the issue of subsidies.<sup>14</sup> In a wide-ranging discussion they debated the definition of what is a subsidy and what is not, whether or not uncollected resource rent should be considered a subsidy, whether some subsidies were intrinsically “good”, and so forth. Besides calling for the strengthening of current international disciplines on subsidies, the experts recommended further research on a number of topics that could benefit from co-ordinated initiatives at the international or regional level. These included the evolution of fishing capacity over time and the role played by subsidies, the effects of WTO trade rules as they apply to fish and fish products, and the effects of “good” subsidies in relation to fishing capacity management and resource conservation in general.<sup>15</sup>

On the basis of the TWG's report, the FAO's Fisheries Department then produced a draft “Elements for a Plan of Action on Fishing Capacity”<sup>16</sup>, which was discussed at a “Preparatory Meeting” (i.e., to prepare for a more formal “Consultation”) at FAO Headquarters from 22 to 24 July 1998. This meeting was much larger than the La Jolla meeting, and was attended by delegates from 54 Members of the Organisation, along with observers from eight intergovernmental and non-governmental organisations.

In general, delegates at the June meeting agreed with the stress that the La Jolla meeting put on subsidies. As described in the minutes to that meeting: “Several delegations indicated that subsidies that were directly relevant to the over-capacity problem ought to be considered, at least in general terms”, noting, however, that “it was important to distinguish between their impact on fishing capacity and their impact on trade, a matter which fell under the competence of WTO.” Among the actions for which the delegates felt international consensus should be sought, and for which clear re-

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<sup>14</sup>It should be stressed that, while subsidies was *one* of the topics discussed at the La Jolla meeting and subsequent meetings, it was not the *major* item of discussion.

<sup>15</sup>Preliminary version of the “Report of the FAO Technical Working Group On The Management Of Fishing Capacity” (La Jolla, 15-18 April 1998), FAO Fisheries Report No. 586, FAO, Rome, June 1998.

<sup>16</sup>Document No. FI:PM-CSS/98/4, June 1998.

sponsibilities needed to be assigned, was an evaluation of the effects of subsidies on fishing capacity, including “the effect on over-capacity of other financial and cost related factors such as ineffective management and non-participation in, or non-cooperation with, regional fishery organizations.”

The actual Consultation took place during the last week of October 1998 at the FAO's headquarters in Rome, and was attended by around 80 member nations. Most of the meeting was spent discussing and revising a draft International Instrument for the Management of Fishing Capacity<sup>17</sup>, which had been prepared in advance by the Secretariat, drawing on the previous “Elements” paper. As formulated in Part II of the draft instrument, under “Urgent Actions to be Implemented”, coastal states and, as appropriate, regional fishery organisations would be called upon to:

- reduce and progressively eliminate subsidies which contribute, directly or indirectly, to the build-up of excess fishing capacity; and
- avoid using economic incentives to facilitate the transfer of capacity to the areas under national jurisdiction of other States or to the high seas if such transfers are likely to undermine the sustainability of resources in these waters.

The draft went on to call for an assessment — “prior to any further joint actions” — of the impact of subsidies on international trade in fish products and on management of fisheries. It was envisaged that an FAO *ad hoc* group would be formed (working in close collaboration with the WTO, and drawing on information and analyses produced in other forums, such as the OECD and APEC), to prepare a text intended to serve as a basis for reaching international agreement on how to limit the use of subsidies in view of their effects on trade and resource management.

The document that was eventually forwarded to the 23rd biennial Session of the COFI (Rome, 15-19 February 1999) retained much of the language of the September draft, but stopped short of calling for multi-lateral co-operation on subsidies.<sup>18</sup> The question of whether to give the instrument the status of a full-fledged “International Plan of Action” (as opposed to merely a “Guideline”, which carries less weight) also had to be decided by COFI, which in the end did adopt it with only minor changes as “The International Plan of Action for the Management of Fishing Capacity”. Four weeks later fisheries ministers and senior

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<sup>17</sup>Document No. FI:CSS/98/2 Rev. 1, September 1998.

<sup>18</sup>See “Nations Draft Agreement on Fishing Fleet Overcapacity”, WWF Endangered Seas Campaign Press Release, 30 October 1998.

representatives from 120 of the FAO's member states formally endorsed the Plan.<sup>19</sup>

The objective of the International Plan of Action, which is voluntary and based on a number of major principles of the Code of Conduct (as well as on complementary principles), is to achieve "an efficient, equitable and transparent management of fishing capacity." Between 2003 and 2005 each country supporting the International Plan of Action is supposed to develop its own *national* Plan for managing its fishing capacity and for reducing that capacity, if necessary, in certain fisheries.

Subsidies are mainly addressed in paragraphs 25 and 26 of the International Plan of Action:

25. When developing their national plans for the management of fishing capacity, States should assess the possible impact of all factors, including subsidies, contributing to overcapacity on the sustainable management of their fisheries, distinguishing between factors, including subsidies, which contribute to overcapacity and unsustainability and those which produce a positive effect or are neutral.

26. States should reduce and progressively eliminate all factors, including subsidies and economic incentives and other factors which contribute, directly or indirectly, to the build-up of excessive fishing capacity thereby undermining the sustainability of marine living resources, giving due regard to the needs of artisanal fisheries.

The FAO will play an important role in helping developing countries prepare their national plans and — "as and to the extent directed by its Conference" — in collecting relevant information and data that might serve as a basis for identifying factors that contribute to overcapacity "such as, *inter alia*, lack of input and output control, unsustainable fishery management methods and *subsidies* which contribute to overcapacity" [emphasis added].

### 3.2 Work for the Sub-Committee on Fish Trade

At the Sixth Session of the COFI's Sub-Committee on Fish Trade, meeting in Bremen, Germany on 3-6 June 1998, delegates discussed a short paper entitled "Issues Of International Trade, Environment and Sustainable

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<sup>19</sup>FAO Ministerial Meeting on the Implementation of the Code of Conduct for Responsible Fisheries, Rome, 10-11 March 1999.

Fisheries Development: Fisheries Management, Subsidies and International Fish Trade".<sup>20</sup>

The FAO had hoped to be able to provide an updated estimate of global fisheries subsidies, based on responses to a questionnaire sent to member nations in the autumn of 1997.<sup>21</sup> However, because of the slow response to the survey — only nine responses had been received out of the 20 sent out — no final report could be produced in time for the June 1998 Session. The Secretariat expects to finalise its report in 1999.

In their discussion of the 1998 paper the Sub-Committee noted that the issue of subsidies is being discussed in various fora, and that the FAO has a role to play in compiling and disseminating information on subsidies at a global level. Many delegations stressed that the use of subsidies could aggravate over-exploitation of fisheries resources and distort trade, while others argued that in some cases subsidies may be necessary, for example, to secure employment and food security. And one delegation asserted that there was no direct link between over-capacity and the distortion of trade in the fisheries sector.<sup>22</sup>

## 4. OTHER U.N. BODIES

While fisheries are dealt with mainly in the FAO, two other U.N. bodies have also delved into questions relating to the sustainable management of the resource, including subsidies.

### 4.1 CSD

The Commission for Sustainable Development (CSD) was created on 22 December 1992 to ensure effective follow-up of the United Nations Conference on Environment and Development (UNCED; also known as the "Earth Summit") held in Rio de Janeiro, Brazil in June 1992. The Commission is composed of 53 members elected for three-year terms of office. It reports to the Economic and Social Council and, through it, to the Second Committee of the General Assembly.

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<sup>20</sup>Document No. COFI:FT/VI/98/4, April 1998. Available from <<http://www.fao.org/waicent/faoinfo/fishery/meetings/cofi/cofi98/cofitr.htm>>

<sup>21</sup>In order to avoid duplication of work being carried out by the OECD and the United States National Marine Fisheries Service (NMFS), the study concentrated on the 20 major fishing and fish trading countries not yet covered by these other studies.

<sup>22</sup>See paragraph 17 in Document No. COFI/99/Inf. 13, 1998. Available from <<http://www.fao.org/waicent/faoinfo/fishery/meetings/cofi/cofi98/r589ee.htm>>

The seminal document governing the CSD's work is Agenda 21, a 300-page plan for achieving sustainable development in the 21st century. Agenda contains 40 chapters, each dealing with a particular issue relating to sustainable development. Marine fisheries are dealt with mainly in Chapter 17 ("Oceans and Seas").

The CSD meets annually for a period of two to three weeks to monitor and report on implementation of Agenda 21 at the local, national, regional and international levels. Over 50 ministers attend the main CSD session each year and more than one thousand NGOs are accredited to participate in the Commission's work. In between times, work is carried out through Inter-sessional Ad Hoc Working Groups. To facilitate the review process, governments are "encouraged" to report regularly on the implementation of Agenda 21 at the national level. (Few of these "national communications" reveal much information about subsidies.) On the basis of these national communications, the Secretary General then issues a report on progress towards overall implementation of particular chapters.

Normally, each session is organised under an "over-riding issue" or issues, within which a sectoral theme, a cross-sectoral theme, and an economic sector or major group are addressed. Oceans and seas was the sectoral theme at the 1999 session, though issues related to the theme had also been discussed at the fourth (1996) and fifth (1997) sessions of the CSD.

The tone for the discussion at CSD-7 was set by the U.N. General Assembly, meeting in Special Session in June 1997. Noting the opportunity presented by the International Year of the Ocean in 1998, the General Assembly, adopted a resolution calling upon governments to, among other actions:

- (f) ... consider the positive and negative impact of subsidies on the conservation and management of fisheries through national, regional and appropriate international organisations and, based on these analyses, to consider appropriate action;<sup>23</sup>

CSD-7 met at the UN headquarters in New York between 19 and 30 April 1999, with the main discussion on the conservation of marine fisheries resources taking place on 22 April. Delegations from at least five countries (Brazil, Iceland, Japan, the Philippines and the United States), plus the European Commission and the World Wildlife Fund, made interventions concerning fishing subsidies. Because of differences in national

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<sup>23</sup>United Nations General Assembly, "Programme for the Further Implementation of Agenda 21", Resolution adopted by the General Assembly at its nineteenth special session (23-28 June 1997), A/RES/S-19/2, 19 September 1997.

positions on the effects of subsidies, however, delegates were not able to reach a consensus view on the issue.<sup>24</sup>

## 4.2 UNEP

The United Nations Environmental Programme (UNEP) took an interest in fishery subsidies and trade in 1996, and co-sponsored with the WWF (the World-Wide Fund for Nature) a Workshop on "The Role of Trade Policies in the Fishing Sector" in June 1997. As background for that workshop, the WWF issued a report (*Subsidies and Depletion of World Fisheries*) containing case studies on the EU's international fishing agreements, the Newfoundland fishery, the theory and practice of vessel buy-back programmes, and the effects of Japanese government subsidies on distant water tuna fleets. The author of the EU case study, Gareth Porter, was also commissioned to write a full-length report for UNEP under its Environment and Trade Series. That report, *Fishing Subsidies, Over-fishing and Trade*, was published in August 1998. No further studies or work are planned by UNEP on fisheries subsidies at this time.

## 5. APEC AND PECC

The Asia-Pacific Economic Co-operation forum was established in 1989 in response to the growing interdependence among Asia-Pacific economies. Its principal goal is to advance Asia-Pacific economic dynamism and sense of community. Begun as an informal dialogue group, APEC has since become the primary vehicle for promoting open trade and practical economic co-operation in the region. APEC's membership of 21 includes all the major economies of the Pacific Rim.

Fisheries subsidies in APEC have been addressed mainly in the context of the Early Voluntary Sectoral Liberalisation (EVSL) initiative, first endorsed by APEC Trade Ministers in November 1997. "Early" in this context means, essentially, in advance of the more general commitment by APEC governments to achieve the goal of free and open trade and investment in the region no later than 2010 for the industrialised economies and 2020 for developing economies. Fifteen sectors were nominated for EVSL, of which nine were placed in the priority, "first tier" list — i.e., to be ad-

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<sup>24</sup>Iceland, for example, said the abolition of government subsidies would resolve trade disputes and problems with over-fishing; Japan maintained that, in certain cases, subsidies help realise socio-economic policy goals, contribute to the reduction of excessive fishing capacity, and should not be singled out as being responsible for excessive fishing capacity. See *Earth Negotiations Bulletin*, 23 April 1999, at <http://www.iisd.ca/linkages/csd/csd7/>

vanced throughout 1998, with implementation beginning in 1999. Fish and fish products were included among the first tier.<sup>25</sup> The fisheries sector initiative envisaged:

- the elimination of all tariffs by no later than 2005;
- the elimination of non-tariff barriers by no later than 2007;
- harmonising sanitary and phyto-sanitary (SPS) measures by 2003;
- undertaking a study to identify subsidies in the fisheries sector and to clarify how the WTO Agreement on Subsidies and Countervailing Measures applies to them (to be completed before the APEC Leaders' meeting in 1999);
- progressively removing all subsidies (in advance of WTO commitments for WTO Members; by 2003 or the date specified in the eventual WTO accession commitments for non-members); and
- economic and technical co-operation to improve domestic fisheries management.

The complete package has never enjoyed unanimous support from all governments, however. As several emphasised on repeated occasions over the following year, the initiative was agreed under the APEC principle of "voluntarism" whereby each economy remains free to determine the sectoral initiatives in which it will participate.

This stress on voluntary participation was confirmed at the Tenth APEC Ministerial Meeting in Kuala Lumpur, Malaysia (14-15 November 1998), at which Ministers agreed that "APEC economies may implement immediately the tariff commitments [of the EVSL initiative] on a voluntary basis". Ministers of the 16 participating economies also agreed to broaden the initiative beyond APEC — i.e., to refer it to the World Trade Organisation (WTO) where, according to press reports, some of APEC's members hope to be able to craft a global accord by the end of 1999 that would cover all nine priority sectors.<sup>26</sup> Or, to quote further from the Joint Statement of Ministers:

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<sup>25</sup>The other sectors are: chemicals, energy, environmental goods and services, forest products, gems and jewellery, medical equipment, telecommunications (mutual recognition agreement), and toys.

<sup>26</sup>See Michael Richardson, "Economic turmoil means lower expectations for APEC", *International Herald Tribune*, 20 November 1998, p. 1. Japan's preference to discuss forest and fishery products within the context of a global rather than a regional trade forum is cited as a principal reason why the initiative was referred to the WTO. See also "WTO should be forum

"15. (i) ... In this regard, the WTO process would be initiated immediately on the basis of the framework established in Kuching<sup>27</sup> and subsequent information provided by economies, having regard to the flexibility approaches as contained in the status reports with a view towards further improving their participation and endeavouring to conclude agreement in the WTO in 1999; and

(ii) by working constructively to achieve critical mass in the WTO, necessary for concluding agreement in all nine sectors.

16. This process of expanding participation beyond APEC will not prejudice the position of APEC members with respect to the agenda and modalities to be agreed at the Third WTO Ministerial Conference [in 1999]."

Meanwhile, APEC's Fisheries Working Group is at the mid-point of a four-year study of fisheries sector trade and investment liberalisation in the areas of tariffs, non-tariff measures, investment measures, and subsidies. The first part of the study, which looked at tariffs, is in the final stages of completion. A second study, on non-tariff measures (including subsidies), is expected to get underway during the second half of 1999. It is intended that the final draft of that report will be discussed at the Fisheries Working Group's meeting in 2000. Subject to final work that may be required by that Group, the report will be submitted to Senior Officials and thence to APEC Leaders in time for their 2000 meeting.

Closely allied with APEC's efforts are those of the Pacific Economic Co-operation Council (PECC) — a "tripartite" organisation combining the knowledge and resources of businesses, research institutions, and government agencies. PECC, which was formed in 1980, is an accredited private observer body to APEC and is a "working partner" of APEC at all levels. Industry sectors are represented in PECC and APEC through mutually supporting and interacting work programs.

Ending subsidies to traded fisheries products is a priority of PECC's Task Force on Fisheries Development and Co-operation. A special project on fishing subsidies was launched as a consequence of a PECC symposium, held in New Zealand in November 1996, to increase recognition of the links between fisheries management practices and international trade in fisheries products. Subsequently, in August 1998, the PECC Task Force

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for fishery, forestry talks: Nakagawa," *Kyodo News International*, 3 November 1998.

<sup>27</sup>This is a reference to the 22-23 June 1998 meeting of APEC Trade Ministers, who met in Kuching, Malaysia, with the aim of finalising the terms of early liberalisation in nine of the sectors.

organised a workshop on the impact of government financial transfers on fisheries management, resource sustainability and international trade.

## 6. WTO

The World Trade Organisation was established on 1 January 1995, replacing the General Agreement on Tariffs and Trade. Its membership currently consists of 133 member countries, 34 observer countries (among which, Chinese Taipei, the People's Republic of China, and the Russian Federation), and 7 inter-governmental observers to the General Council (including the FAO and the OECD). The work of the WTO is governed by a number of agreements which form the legal ground-rules for international commerce and for trade policy. These agreements have three main objectives: to help trade flow as freely as possible, to achieve further liberalisation gradually through negotiation, and to set up an impartial means of settling disputes.

Work on fisheries subsidies in the WTO has been undertaken mainly in the Committee on Trade and Environment (CTE), which was established by the WTO General Council in January 1995. The CTE's mandate is set out in Annex I of the Marrakech Ministerial Decision on Trade and Environment of 15 April 1994; its terms of reference relate to the list of ten Items described in that document.

The CTE's current work on fisheries subsidies stems from a request made by WTO Members at the end of 1996 that the CTE should examine more closely the second part of Item 6 — i.e. the environmental benefits of removing trade restrictions and distortions.<sup>28</sup> A few months later, at the CTE meeting on 21-22 May 1997, the United States and New Zealand tabled papers setting out the case for examining fishing subsidies and their relation to WTO from both a trade and an environment perspective. In response to these various requests, the Secretariat prepared a paper to serve as a starting point for a discussion on fisheries and five other sectors (forestry, agriculture, textiles and leather, non-ferrous metals and energy).<sup>29</sup>

These papers were followed, in March 1998, by a Secretariat note examining GATT/WTO rules on subsidies and aids granted in the fishing industry.<sup>30</sup> In addition to describing former and current trade rules applicable to subsidies in the fisheries sector, the note also presents an overview of possible subsidies related to the fishing industry that had been notified under Article 25 of the 1993 Subsidies and Countervailing

Measures (SCM) agreement.<sup>31</sup> Some 73 programmes are listed, mainly from European countries, and the document notes that "the list is not exhaustive".<sup>32</sup> The European Community has since issued a note in which it observes that the document:

... shows very few notifications by countries that are not members of the European Community. This confirms the comment in paragraph 33 [of WT/CTE/W/80]: the notification requirement in Article 25 of the Agreement on Subsidies is not widely respected. In this connection, the European Community will continue to insist that all Members of the WTO respect their obligations in this respect. It will look closely at notifications (or the absence of notifications) by third countries in relation to the fisheries sector when the notifications required under Article 26 of the WTO Agreement on Subsidies are examined next year.<sup>33</sup>

Although no further work specifically on fisheries subsidies is envisaged in the CTE, the issue is likely to be raised again in future CTE meetings.

Fishing subsidies were also discussed at the WTO-sponsored High-Level Symposia on Trade and Environment and Trade and Development, which took place in Geneva from 15-18 March 1999. The 150 participants included senior government officials from trade and environment ministries, representatives of inter-governmental and non-governmental organisations, academics, and business leaders. As reported by one attendee, the session of the symposium on synergies between trade and sustainable development echoed discussions within the CTE on the environmental benefits of removing trade distortions, with many countries calling for future negotiations to give priority to "win-win" solutions, such as the reduction or removal of agricultural and fishing subsidies.<sup>34</sup> Reflect-

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<sup>31</sup>These notifications are available on-line through the WTO's Documentation Dissemination Facility, at: <<http://www.wto.org/wto/ddf/ep/public.html>>. For example, by clicking on "search", typing "G/SCM/N/" in the document symbol field and "fish" in the full-text search field, one can retrieve all the national notifications that contain the word "fish".

<sup>32</sup>p. 6, para. 31.

<sup>33</sup>Document No. WT/CTE/W/99, 6 November 1998, p. 1, paragraphs 4 and 5. New Zealand has also recently announced that it would carefully examine national notifications to the WTO concerning subsidies to the fisheries sector. See *Bridges* (Newsletter of the International Centre for Trade and Sustainable Development), Vol. 2, No. 7, October 1998, p. 5.

<sup>34</sup>José Manuel Salazar-Xirinachs, "Special Report: High-Level WTO Symposia on Trade, Environment and Development", *Bridges*, March 1999, pp. 7-12.

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<sup>28</sup>Document No. WT/CTE/1, 12 November 1996.

<sup>29</sup>Document No. WT/CTE/W/67, 7 November 1997, p. 1.

<sup>30</sup>Document No. WT/CTE/W/80, 9 March 1998.

ing previously-stated negotiating positions, Australia, Iceland, New Zealand, the Philippines and the United States thus called for fishing subsidies to be addressed in the next multilateral trade negotiations. The World Wildlife Fund-USA strongly supported reductions in fishing subsidies, and urged that such subsidies be examined systematically in the WTO's trade policy reviews.<sup>35</sup>

All of this work is prelude to the main event on the WTO's calendar for 1999: the Third WTO Ministerial Meeting (30 November to 3 December). This meeting will be particularly significant because it is expected to adopt a post-2000 trade negotiation agenda. As already mentioned, press reports indicate that one or more countries can be expected to raise the issue of fishery subsidies at this meeting, in an effort to begin discussions leading ultimately to some form of new or strengthened subsidy disciplines. Whether such an initiative materialises remains to be seen.

## 7. THE WORLD BANK

In April 1998 the World Bank published a major study on *Subsidies in World Fisheries*, written by Matteo Milazzo of the U.S. National Marine Fisheries Service.<sup>36</sup> As mentioned in the foreword to that report, the World Bank Group now "gives the highest priority to assisting its clients in creating the institutional, policy and technical environment to exploit their marine resources ... in a more sustainable way." In practical terms, this means that the Bank will endeavour to avoid lending money for projects that would increase capacity or effort in marine capture fisheries.

In October 1998 the World Bank organised a meeting at the FAO's headquarters in Rome, at which selected bilateral and multilateral aid donors and NGOs discussed the idea of creating an electronic network of fisheries specialists in agencies which finance activities in the fishing sector, mainly in developing countries. The purpose of the network would be to provide financial and technical assistance to interested developing countries to enable them to analyse their fishing sectors. The main focus would be on resource management, but social and economic issues, including government financial support, tariff regimes, structural adjustment and the resulting social and economic impacts, may also be considered.

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<sup>35</sup>Chad Carpenter and Aaron Cosbey, "Report of the World Trade Symposium of Non-Governmental Organizations on Trade, Environment and Sustainable Development", *Sustainable Developments*, 19 March 1999 <<http://www.iisd.ca/linkages/sd/wtosymp/sdvol12no1e.html>>.

<sup>36</sup>Milazzo, *supra* note 3.

At this stage the proposed "Forum for Sustainable Fisheries", as the initiative is being called, is still under review. If it goes ahead, it would ultimately lead to a consensus-building process for developing broad "sectoral adjustment programmes" for recipient countries, with the aim of transforming the sector into one in which fish resources are sustainably managed. To overcome internal resistance to such restructuring, the Forum would provide support not only for activities directly related to fisheries management, but also for such issues as improving the social safety net, fleet buy-back programmes and industry restructuring — provided the participating country adopts the entire adjustment package.

The Forum would have two other objectives: it would explore how the "global" overhang of fishing capacity could be addressed; and it would aim at developing a global programme for raising awareness about the issue of over-fishing.<sup>37</sup>

## 8. INTERNATIONAL NGOS

Several major non-governmental organisations have taken a keen interest in fishing subsidies. In August 1998, for example, the WWF's Endangered Seas Campaign published a major study on fishery subsidies, which set out several alternative proposals for new international rules and mechanisms to discipline subsidies to the fisheries sector.<sup>38</sup> This study follows several others that were issued by WWF (*q.v.*, Section 4.2) and various national and international NGOs during the course of 1997 and 1998, similarly calling for the reform of fishing subsidies.

On 15 March 1999 the International Centre for Trade and Sustainable Development (ICTSD) organised an informal policy dialogue under the title "International Trade and Sustainable Development in the Fisheries Sector: Developing an Agenda for Sustainability". This two-hour meeting brought together selected prominent individuals involved with trade and fisheries matters to start a dialogue on the linkages between trade and sustainable fisheries. As a follow-up to that discussion, the ICTSD, together with the World Conservation Union (IUCN) commissioned a scoping study on the topic.<sup>39</sup> Both the ICTSD and the IUCN expect to contribute to

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<sup>37</sup>Personal communication from Gert van Santen, 4 December 1998.

<sup>38</sup>Daniel Pauly, *et al.*, Gordon Munro, Gareth Porter, and David Schorr, *The Footprint of Distant Water Fleets on World Fisheries*, Endangered Seas Campaign, WWF International, Goldalming, UK <<http://www.panda.org/seachange/fisheries/report.htm>>

<sup>39</sup>Carolyn Deere, "International trade, sustainable development and fisheries: linkages, tensions and synergies", ICTSD and IUCN, Geneva, June 1999.

the debate over the coming year through a multi-stakeholder dialogue process.

## 9. FINAL OBSERVATIONS

It is clear from this survey that there is considerable interest at the international level in issues related to subsidies in the fishing industry. Virtually every IGO and NGO with competence in the area is currently engaged in a major project on fishery subsidies. Some results of their research have begun to emerge, and much more will be completed in the course of 1999.

The timing of these activities is significant, considering the important international discussions on fishing subsidies that are likely to take place or commence over the next year or so — most notably the *Third WTO Ministerial Meeting* (Seattle, Washington, United States, 30 November – 3 December 1999). This meeting is expected to kick off a new “Millennium Round” of trade talks. It now appears likely that the issue of fishery subsidies will be raised, and that some countries may call for discussions to begin on establishing new or strengthened subsidy disciplines.

Looking a bit further ahead to the year 2002 (the year in which the European Communities are expected to reach agreement on a post-2002 Common Fisheries Policy), two significant anniversaries will coincide: the 10th anniversary of the United Nations Conference on Environment and Development (UNCED); and the 20th anniversary of the signing of the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS). Both of these anniversaries are likely to prompt reflections on how government policies, including subsidies, affect the sustainability of the world’s living marine resources. It can be expected, at the very least, that the work described herein will provide an important input into these discussions. It might even influence thinking in national capitals.

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