

# Evolution of the International Regulatory Framework Governing International Trade in Fishery Products

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## 1. INTRODUCTION

### 1.1 Trade flows

A large share of world production of aquatic animals of around 120 million tons per year enters international marketing channels. Since more than 90% of this trade consists of processed products in one form or other and in general represents products from the higher value segments, a comparison on a quantitative basis such as live weight equivalent is not meaningful. The increase of total world trade in products from fisheries and aquaculture from about US\$ 8 000 million in 1976 to over US\$ 50 000 million in 1998 is very impressive and since 1993 a variable, but more or less equal sharing between developed and developing countries can be noticed. The economic benefit of trade in fishery products for developing countries may be illustrated further by the net exports achieved by them. With over US\$ 16 000 million they are higher than for meat, tea, bananas and coffee together.

However, there is a distinct difference with regard to countries of origin and countries of destination. OECD countries are the principal destination of trade and only 15% go to developing countries. (As already indicated, the origin of exports is split between developed and developing countries).

### 1.2 Products

The multitude of products from many species and stocks processed in various forms and presented in a large array of different ways, physical and by value, are certainly a multiform, more than a thousand and one. Although a complete list is not available it is possible to identify major groups.

- Shrimp is the main commodity in value terms representing about one fifth of the total;
- followed by the groundfish group with 11%
- tuna with 9%
- salmon at 7%

- small-pelagics 7%
- cephalopods, and
- fishmeal with 5% each

By splitting the products from small pelagics into those reduced to fish meal and oil and those direct human consumption, the overall importance which these species represent for international trade (7+5+1 = 13%) is not fully visible.

Two other categories of international trade with regard to fisheries and aquaculture are the increasing trade in ornamental fish which in the USA amounts to US\$ 1 000 million at retailing; an indirect export or trade in fishing services could be the classification of tourism and recreational fishing. But also these two categories do not complete the universe of fishery and aquaculture production. The missing parts are the aquatic plants, whether collected from natural or cultured origins, which some believe to have a considerable market potential yet far from full realization.

Finally there is yet another dimension that needs to be kept in mind, namely the product changes and value additions that accrue in the course of the marketing process.

### 1.3 The operators

The operators affected by the regulatory framework are mainly producers, traders, and consumers.

A general rationalization in economics is that the objective of production is consumption. Therefore, a core stakeholder in the regulatory framework is the consumer. A very instructive example in this connection is consumer protection and (sea)food safety, a major concern of states when regulating private trade.

With the growing awareness of environmental issues of food production in the major import markets for fishery products, an increasing interest is shown in providing consumers with information relevant for forming an opinion and for guiding a purchasing decision.

Eco-labelling is one of the systems which would allow taking environmental issues into account when taking a purchasing decision. Although not classified as an eco-label, the consumer information requirement of the EU which will come into force on 1 January 2002 points into that direction. It stipulates that the label has to indicate:

- (a) the commercial designation of the species;
- (b) the production method (caught at sea or in inland water or farmed);
- (c) the catch area.

(Council Regulation (EC) n° 104/2000 of 17 December 1999 on the common organization of the markets in fishery and aquaculture products).

## 2. INTERNATIONAL TRADE, COMPETITION AND SUSTAINABILITY

### 2.1 International Trade and Competition

If it is accepted that the objective of any production is consumption, then it is almost a truism to say that the forces driving consumption will have a strong influence on the characteristics of production. Further, if a natural resource such as fish are in strong demand and can be traded internationally, the forces of consumption are likely to be stronger than in the case of products which are more or less confined to a national market. Such added force may be due to higher disposable income, strength of currency and earning capacity of producers/exporters. Multinational connections could be added. All these factors can be considered to contribute to competition for raw material in the countries of origin and also between domestic and international markets, which may be expected to gain intensity given the necessary preservation and transport technology and communications and information.

As a consequence, the principles, rights and obligations established in the World Trade Organization (WTO) Agreement are likely to play a prominent role as may other instruments such as the relevant provisions of the voluntary Code of Conduct for Responsible Fisheries. Furthermore, with the confirmation in the international market place of quality assurance systems like HACCP, ISO 9000 and Total Quality Management and the greater transparency required to comply with the WTO rules, the character of competition has changed and will continue to change making technical assistance and advice on these matters a prerequisite for successful participation of developing countries in this trade.

A factor which is hardly ever mentioned but which determines the character of competition to a very large extent is the structure of the industry, i.e. the

resulting bargaining power in supply and product markets. Very few studies have been undertaken in respect of international fish trade, although the trend towards bigger business through take-overs and strategic partnerships in the food industry may be generally acknowledged. Following the boom in the fisheries sector of some European countries in the 1960s, there had been a preference of fish producing companies to also enter into the processing and marketing sectors. However, with the increasing economic power of large-scale distribution in the 1980s, bargaining power shifted and with the increasingly difficult economic situation in the fish catching sector, a separation of post-harvest from the harvesting sector followed. Integration of operations was replaced by (out) sourcing in marine fisheries.<sup>1</sup>

In the aquaculture industry, the producing sector had to invest considerable funds into the expansion of the marketing network once production had reached levels beyond the traditional absorption capacity of the fish trade and at times extraordinary efforts had to be made to dispose of the aquaculture output. It is conceivable that a close link between production, processing and marketing will be maintained in the international marketing of cultured produce for some time to come.

### 2.2 International Trade and Sustainability

Chapter 2 of the Agenda 21 (UNCED, Rio de Janeiro 1992) stresses that "the international economy

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<sup>1</sup> The following are examples of studies where reference is made to integration:

- Lawson, R., *Economics of Fisheries Development*. London, Frances Pinter (publishers), 1984
- Ruckes, E., *Marketing of Fresh and Frozen Fish in Relation to Economic Development*. Ph.D. Thesis, Berlin, Technical University Berlin, 1978
- Taylor, R.A., *The Economics of White Fish Distribution in Great Britain*. London, Gerald Duckworth & Co. Ltd. 1960.
- More recent studies analysing changing structural characteristics of national fishery sectors and their implications for domestic marketing systems and related trade flows include:
- Boude, J.P. and P. Guillotreau, *Development of the International Trade in Seafood Products in the Context of European Economic Integration*. In Proc. 6<sup>th</sup> Conf. IIFET, 1992. An unpublished manuscript by the same authors, *Food Supply Security and the European Fishing Industry*. Rennes/Nantes, 1994.
- Cruz, S., *Monopolistic Aspects of World Trade of Fishing Industries in Portugal*. In Proc. 6<sup>th</sup> Conf. IIFET, Paris, IIFET, 1992
- Hiroyoshi, K., *Change of Fishery Structure in Japan*. Unpublished manuscript, Tokyo, 1995.

should provide a supportive international climate for achieving environment and development goals by

- (a) promoting sustainable development through trade liberalization;
- (b) making trade and environment mutually supporting;  
..."

The main objectives mentioned to achieve mutual support of trade and environment are:

"Government should strive to meet the following objectives, through relevant multilateral (forums)" fora, "including GATT, UNCTAD and other international organizations:

- (a) to make international trade and environment mutually supporting in favour of sustainable development;
- (b) ....
- (c) to encourage international productivity and competitiveness and encourage a constructive role on the part of industry in dealing with environment and development issues."

It will be recalled that the project of developing a what was later named Code of Conduct for Responsible Fisheries, was a contribution of Mexico to UNCED and it is well known that the environmental dimension of fisheries and aquaculture are ranking very high on the international agenda. It is conceivable that any negotiation of fisheries at the Millennium Round will deal with this aspect specifically.

If the demand pull originating from international markets affects resource exploitation it would constitute an important variable for resource management. On the whole for fisheries, demand can be seen as influencing future supplies resulting from adjustments caused by management regimes. To a certain extent present effective demand will determine future potential supply and to this extent be causing a supply/demand gap or contribute to an equilibrium. If this line of responsibility holds, it would be justifiable to involve those responsible for the (business) administration of the demand in the administration of the management regime as well.

Responsibility for resource management is considered the duty of the state which has the jurisdiction over resources within the Exclusive Economic Zone (EEZ) and may be entrusted to fisheries management organizations for other resources such as straddling fish stocks or resources in the high seas. What needs to be reflected on is the influence which international demand for the products from such resources use may have and

whether, therefore, measures in the trade area may be suitable for coercing compliance with the management scheme by non-members. In concrete cases, considerable efforts in verification and in the handling of such complains between the parties will be required and it may be doubtful whether trade measures will have the effect of bringing about adherence to the management scheme quickly enough and before serious damage to resource conservation has been done.

It can be argued that management schemes as they are established/ known today are not sufficiently flexible to respond to quickly changing conditions. However, it may also be true that part of the inertia is due to a lack of flexibility in the resource use system to respond to changes in supply and demand situation in such a way that effective resource management can be maintained. This lack of flexibility (which is relative, because over time adjustment will happen) may be due to insufficient knowledge of key variables on the supply and demand side as well as to characteristics of the fishing industry, i.e. its industrial organization, which prevent quick adjustment for technical reasons (e.g. scaling down or up of harvesting and processing capacities) or because of social consequences for the labour force. Yet, despite the difficulties, efforts will have to continue aiming at the improvement of management. In this connection, the role of trade characteristics or criteria may be more appropriate and valuable as indicators rather than in the form of trade measures employed to achieve compliance.

The debate on the need to negotiate fisheries during the Millennium Round has centred on the role of subsidies as a major (or the only?) force contributing to unsustainability. For other countries it is only a factor within a group of negative factors to which international trade belongs also. The latter group of countries maintain that trade liberalization may actually contribute to undermining management regimes. This in turn could serve as a justification for trade measures aiming at supporting management and sustainability.

### 2.3 Global and Regional Economic Groupings

In addition to the changes in the competitive positions at the enterprise level, there are developments which modify inter-country relationships and competition between countries or more specifically between companies of the countries concerned. Trade liberalization and deregulation has had and may be expected to continue to have lasting impact on competition in the international market. Particularly, new members of WTO will adjust their trade regime. In principle, many countries which have been able to prevent fish imports in the past may have to open their markets and/or reduce past import restrictions.

In this context, it is also worth mentioning the potentially reduced advantages which had been conferred to developing countries covered under the Lomé Convention and the tariff concessions under the Generalised System of Preference. Both systems lost some of their earlier advantages because the tariff concessions agreed to in the conclusion of the Uruguay Round of Multilateral Trade Negotiations absorbed parts of them.

Regional economic groupings initially conceived as free trade associations and which at a later stage may or may not follow – at least in some respects – the example of the European Community (EC), may also be expected to have a major impact in shaping fish trade channels over the coming decade.

Examples are the:

North American Free Trade Association (NAFTA)  
 Southern Cone Common Market (MERCOSUR)  
 ASEAN Free Trade Association (AFTA)  
 Common Market for Eastern and Southern Africa (COMESA)  
 Asia Pacific Economic Cooperation (APEC)

### **3. COMPONENTS OF THE PRESENT REGULATORY FRAMEWORK**

#### **3.1 Prior to GATT and WTO**

Whereas military action has been applied for the enforcement of management regulations until the recent past, wars and act of war employed in relation to trade in fishery products are much further back in history. GATT principles govern this trade since 1947. An instructive description of historic events can be found in the paper “Fish and its place in culture” by Rudolf Kreuzer published in *Fishery Products* (edited by R. Kreuzer), Fishing News (Books), West Byfleet, England, 1974. The following are quotes from this publication.

“In mediaeval Europe, fish was the dominating protein source for rich and poor during times of hunger and during shortages of meat. Bacalao, stockfish or salted herring, formed the staple food of explorers on their way to new continents and were the sailor's “daily bread” on warships. Such food was traded throughout Europe and the expanding world, and was exchanged for precious tropical spices, and because of its economic importance fish was involved in politics and war.

The first move into politics was made by the herrings at the end of the 13<sup>th</sup> century when they shifted their spawning migration from the North Sea to the Baltic Sea. This brought them into the area of the Hanseatic

League, the commercial union of Lower German towns, and gave rise to two wars between the Hanse and Denmark (1361 to 1362 and 1367 o 1370). As the winners, the Hanse maintained the saltfish monopoly for 150 years, expanding the trade to include Portugal, Russia and Norway, This trade was an addition to the stock-fish and cod liver oil trade which the Hanse had controlled since about 1350. Then, in the 16<sup>th</sup> century, the herring returned to the North Sea, thus contributing substantially to the decline of the Hanse.”

“There has been much speculation as to whether the discovery and exploration of the Americas and other continents would have occurred with the same speed without salted cod. At least, the salted fish was of great importance in these events. France, Portugal and Spain joined in the exploitation of the Newfoundland fishery between 1505 and 1510 and, due to its economic significance, fish again became involved in war. Vessels with cargoes of salted fish sailing to France from Newfoundland and other grounds were captured by the English. In one year alone, 1541, 25 such ships were taken.

Salted fish was not the least reason for the war of the Spanish succession (1701 to 1714). The winner was England, which, in competition with France, then dominated the salt fish trade. The first industrial products, canned fish and meat, were developed in the early 19<sup>th</sup> century to supply Napoleon's army with food.

The need for international cooperation in fisheries was felt in the 18<sup>th</sup> century, particularly regarding fishing rights, the safety of fishing vessels and rescue operations. It was not, however, until the end of the 19<sup>th</sup> century that it became evident that fish do not form an unlimited resource and in 1902 the fear of overfishing of the North Sea led to the creation of the International Council for the Exploration of the Sea (ICES) in Copenhagen. In 1921, an agreement concerning fishing in the Adriatic paved the way for the establishment of international regulatory bodies.”

As the examples indicate, it took a long time until the beginning of a stabilized regulatory framework for fisheries and specifically for trade in fishery products was found. The UNCED Agenda 21 adopted in Rio de Janeiro in 1992 has been mentioned and it will be of interest that concerns about pollution as a danger for fishery resources and a possible negative effect on the sustainability of fish as human food led FAO to organize the first world forum for examining these problems in 1970 in Rome. It was the “Technical Conference on Marine Pollution and its Effects on Living Resources and Fishing”.

## 3.2 WTO agreements

Since the history of GATT and the various rounds of multilateral trade negotiations which culminated in the Uruguay Round and the establishment of the World Trade Organization are well documented and known, only those agreements are listed which are of particular relevance for international trade in fishery products.

### 3.2.1 Agreement on the application of Sanitary and Phytosanitary Measures (SPS Agreement)

The SPS Agreement is one of the most relevant for fish trade as sanitary measures may prove to be a means of protectionism for importing countries. The relevant provisions of the SPS Agreement for trade in fish and fish products are:

- (a) the requirement to use harmonization principles, i.e. to establish national sanitary and phytosanitary rules reflecting standards agreed in the relevant international institutions; e.g., the Codex Alimentarius;
- (b) the requirement, when international standards do not exist or harmonization is not appropriate, to use the alternative equivalence principle whereby the importing country accepts that SPS measures in the exporting country achieve an appropriate level of health protection, even though they differ from the measures used in the importing country;
- (c) the requirement for either scientific evidence or appropriate risk assessment if a country intends not to rely on harmonization or equivalence but rather on its own domestic standards.

Seafood safety has gained very considerably in importance over the last years, and a rather complex set of trading situations has evolved as a result of increased trade in fishery products. In addition, seafood safety and quality measures can be effective non-tariff barriers to trade.

### 3.2.2 Agreement on Technical Barriers to Trade (TBT Agreement)

Technical regulations and standards applied to fishery products may at times lead to distortions or obstacles to trade. For example, there have been labelling disputes over canned sardines between Canada and the European Commission. Testing procedures for imported fresh seafood that sometimes last longer than the shelf life of the product are another example. Well known are the tuna/dolphin and shrimp/turtle cases.

A relatively recent development is the eco-labelling of fishery products intended to inform consumers about a product's origin, with particular reference to sustainability and management of the resource and

environmentally friendly harvesting and processing methods.

### 3.2.3 Agreement on Subsidies and Countervailing Measures

Although subsidies are widely used in many sectors of the fishery industry in a number of countries, they have seldom given rise to countervailing measures. The special duties on salmon from Norway and Chile imposed by the USA and the EU are, however, examples that these measures can be used. The Agreement on Subsidies would seem to govern subsidies in the fisheries sector in view of the fact that fish and fishery products were excluded from the Agreement on Agriculture<sup>2</sup>.

It may play an important role in future multilateral trade negotiations. Several countries are investigating this possibility and are studying the effects of subsidies on international trade in fishery products.

### 3.2.4 Dispute Settlement

A major step forward was achieved with the Understanding on Rules and Procedures Governing the Settlement of Disputes which establishes the Dispute Settlement Body (DSB) and a standing Appellate Body. Whereas under the GATT panel reports could be rejected by parties, the report of the Appellate Body once adopted by the DSB (can decide by consensus not to adopt) shall be unconditionally accepted by the parties to the dispute (Article 17.14 of the Understanding).

## 3.3 Codex Alimentarius

### 3.3.1 Codex Alimentarius Commission

Since the first steps were taken in 1961 to establish a Codex Alimentarius, the Codex Alimentarius Commission has drawn world attention to the field of food quality and safety. During the past decades, all important aspects of food pertaining to the protection of consumer health and fair practices in the food trade have come under the Commission's scrutiny. It has encouraged food-related scientific and technological research as well as discussion. In doing so, the Commission has become the single most important international reference point for developments associated with food standards.

The Codex Alimentarius Commission has been supported in its work by the now universally accepted

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<sup>2</sup> The Agreement on Agriculture contains regulations dealing with subsidies in the agriculture sector which are less stringent or allow more delay in implementation than the rules of the Subsidies Agreement.

maxim that people have the right to expect their food to be safe, of good quality and suitable for consumption. Food-borne illnesses are at best unpleasant – at worst they can be fatal. But there are other consequences. Outbreak of food-borne illness can damage trade and tourism and can lead to loss of earnings, unemployment and litigation. Poor-quality food can destroy the commercial credibility of suppliers, both nationally and internationally, while food spoilage is wasteful and costly and can adversely affect trade and consumer confidence.

The positive effect of the Commission's work has also been enhanced by the declarations produced by international conferences and meetings, e.g. the FAO/WHO Conference on Food Standards, Chemicals in Food and Food Trade, the FAO/WHO International Conference on Nutrition and the FAO World Food Summit have either encouraged or committed their countries to adopt measures ensuring the safety and quality of foods.

The Codex Alimentarius comprises:

- Food standards for commodities (237)
- Codes of hygienic or technological practice (42)
- Pesticides evaluated (185)
- Limits for pesticide residues (3 274)
- Guidelines for contaminants (25)
- Food additives evaluated (1 005)
- Veterinary drugs evaluated (54)

Fishery products are dealt with by the Codex Committee on Fish and Fishery Products in principle; however, the work of other committees responsible for matters concerning the entire food range may be relevant also as the case may be, e.g. Committee on Food Hygiene or on Food Import and Export Certification and Inspection.

### 3.3.2 Food Safety

In spite of significant progress in medicine, food science and the technology of production of food, outbreaks of food-borne illness stubbornly continue to increase. In recent years there have been a number of extremely serious outbreaks in virtually every continent. In addition to these outbreaks, caused by pathogens or toxins, the safety of the food supply is also threatened by contaminants, resulting from man's industrial activities. As a result of the failure to control food-borne disease both the food industry and government regulators are feeling a backlash of consumer mistrust, which is reflected in growing consumer activism. Consumers are increasingly becoming involved in the process of regulation and are no longer just a part of the market place, accepting or rejecting products on the grounds of price or quality.

The reasons suggested for the increase in outbreaks are many and varied. They include: better reporting, the globalization of food trade (implying that food can become contaminated in one country and infect people in another), increasing urbanization and dependence on stored food and an ageing population that is more vulnerable to infection. In addition the intensification of food production and consolidation of food industries present opportunities for contaminated products to affect large numbers of people. Consumer confidence in the food industry, and government's ability to regulate it, has been shattered, compounded by further revelations of feed contamination with dioxins. Serious fish safety problems in developing countries are poorly quantified, such as those involving parasites and natural toxins; and there are specific safety problems related to aquaculture.

The record shows that, with the exception of molluscan shellfish (eaten raw or undercooked), fishery products are not strongly implicated in disease outbreaks even though, in the public's view, seafood is suspected of being a common vehicle for food poisoning.

### 3.3.3 Codex and SPS

The standards, guidelines and recommendations of the Codex Alimentarius Commission (CAC) are voluntary; they can have legal value only when incorporated into national regulations. However, the SPS agreement gave them a *de facto* legal value at international level, in the sense that they are taken as a first reference on food trade international controversies. Regarding food safety "international standards, guidelines and recommendations" to be taken as reference will be those "established by the Codex Alimentarius Commission (CAC) relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling and guidelines of hygiene practice".

The second important point of the SPS Agreement is the adoption of risk assessment as the base to determine the appropriate level of sanitary and phytosanitary protection. In this case the SPS Agreement is imposing a strong condition on national regulations which are not yet accommodated to this criteria. Current HACCP-based regulations include a "hazard analysis" step, but risk assessment, which should be a part, is performed only qualitatively, and regulations do not refer to risk assessment explicitly. Future development and evolutions of regulations will be in this direction.

It will be appreciated that fish safety regulations are rather complex. At the same time, regulations are changing very quickly. For instance, the regulation on aquaculture products was modified three times between 1991 and 1995. Further changes, and probably new

regulations, can be expected in the years to come regarding cultured products, particularly in relation to feedstuffs, veterinary drug residues (in particular antibiotics) and contaminants. These changes are unavoidable since regulations should be reputed to be in a transitory state, and changes to accommodate new scientific and operative knowledge shall exist.

### 3.4 Code of Conduct for Responsible Fisheries

At various international fora, concern had long been expressed regarding the clear signs of over-exploitation of important fish stocks, damage to ecosystems, economic losses, and issues affecting fish trade – all of which threatened the long-term sustainability of fisheries and, in turn, harmed the contribution of fisheries to food supply. In discussing the current state and prospects of world fisheries, the Nineteenth Session of the FAO Committee on Fisheries (COFI), held in March 1991, recommended that FAO should develop the concept of responsible fisheries and elaborate a Code of Conduct to this end.

Subsequently, the Government of Mexico, in collaboration with FAO, organized an International Conference on Responsible Fishing in Cancún, in May 1992. The Declaration of Cancún endorsed at that Conference further developed the concept of responsible fisheries, stating that “this concept encompassed the sustainable utilization of fisheries resources in harmony with the environment; the use of capture and aquaculture practices which are not harmful to ecosystems, resources or their quality; the incorporating of added value to such products through transformation processes meeting the required sanitary standards; the conduct of commercial practices so as to provide consumers access to good quality products”.

The Cancún Declaration was brought to the attention of the UNCED Rio Summit in June 1992, which supported the preparation of a Code of Conduct for Responsible Fisheries.

Following extensive consultation of the FAO membership, the final text of the Code was adopted by the FAO Conference on 31 October 1995, by consensus. The Code is voluntary, but as it says in its introductory section “States and all those involved in fisheries are encouraged to apply the Code and give effect to it. The main provisions related to post-harvest aspects and trade are the General Principles 6.7 and 6.14 and Article 11.

In 1999 the FAO Committee on Fisheries adopted International Plans of Action for

- reducing incidental catches of seabirds in longline fisheries;

- the conservation and management of sharks; and
- the management of fishing capacity.

An International Plan of Action on IUU fishing is under discussion at FAO.

These instruments may be seen as extensions of the Code.

### 3.5 CITES

The Convention on International Trade in Endangered Species of Wild Fauna and Flora requires regulation of international trade by means of export and import permits for species (or products therefrom) identified in Appendix II of the convention. Trade in species listed in Appendix I is prohibited. Species or products which are or could be important for international trade are whales, sturgeons (caviar) and some plants and molluscs which are of interest for the aquarium trade. Discussions on sharks did take place in CITES and eventually resulted in the International Plan of Action (IPOA) for the Conservation and Management of Sharks adopted by the FAO membership.

Currently work is undertaken in FAO with regard to the suitability of the CITES criteria for listing commercially exploited aquatic species in the Appendices of the convention. The results of this work will be a contribution by FAO to the review process of the listing criteria in CITES (expected to be concluded at the 12<sup>th</sup> Conference of the Parties in 2002). The convention is administered by the United Nations Environment Programme (UNEP) and the Secretariat is located in Geneva.

## 4. FAO FISH TRADE SUPPORT SYSTEM

The functions of the FAO fish trade support system and related implementation arrangements may be visualized as follows:

### Function

Fish trade policy  
Strategic fish trade information and analysis  
Fish marketing information and technical advisory services

### Arrangement

Sub-Committee on Fish Trade GLOBEFISH  
Regional Information Services

#### 4.1 Sub-Committee on Fish Trade

In 1985 the FAO Committee on Fisheries established a Sub-Committee on Fish Trade in order to provide a forum for consultations on technical and economic aspects of international trade in fish and fishery products. The Sub-Committee has met seven times since its establishment, usually with the participation of over 50 countries representing about two thirds of world exports and over 80% of world imports. It is the only body with a globally open membership. Several important international initiatives can be traced back to specific sessions of the Sub-Committee, including the introduction of the HACCP based quality assurance system, the Code of Conduct, the review of the CITES criteria. There have been failures as well, for example when a proposal to develop guidelines for eco-labelling met with very strong resistance from some members of COFI. In 1991 the Sub-Committee received recognition as International Commodity Body for fishery products from the Common Fund for Commodities. In this capacity the Sub-Committee can sponsor and supervise research and development projects for fishery commodities.

#### 4.2 GLOBEFISH

What is now known as GLOBEFISH was originally conceived as a system to provide continuously up-to-date trade information relating to major commodities such as shrimp, tuna, cephalopods, demersal fish and canned small pelagic fish. The aim was rapid assessment of current international markets for these commodities and an indicative appraisal of future trends. As such it was to replace the fishery commodity studies of the '70s which cost a lot of money to prepare and were outdated very quickly. Furthermore, the system was to contribute to other FAO activities relating to food security by collecting and disseminating information on fishery products in a timely manner so that government and industry could take appropriate measures promptly. From this modest start GLOBEFISH has expanded considerably over time, yet the core remains the databank containing fish price information, international trade statistics, catch and production data as well as more than 40 000 news items of relevance to fisheries and fish trade. GLOBEFISH produces a number of publications including fish price reports (market studies and trend analyses in the regularly published GLOBEFISH Highlights).

#### 4.3 Fish INFOnetwork

The Fish INFOnetwork established by FAO consists of 5 intergovernmental organizations: INFOFISH, INFOPECHE, INFOPESCA, INFOSAMAK and EUROFISH and a national unit, INFOYU (may extend to cover North Korea and Mongolia). Within the Fish

INFOnetwork, GLOBEFISH has a function of coordination and promotion of cooperation.

The links and flows of information in the system can be represented as in ANNEX 1 (see page 17).

#### 4.4 Strategic Framework for FAO in 2015

In the year 2015 FAO will celebrate its 70<sup>th</sup> birthday. What will it be doing then? What should it be doing between now and then? FAO's members have decided to address these questions through the development of a Strategic Framework to guide the Organization's work over the coming 15 years. One of the strategies identified to address members' need is:

#### **PROMOTING, DEVELOPING AND REINFORCING POLICY AND REGULATORY FRAMEWORKS FOR FOOD, AGRICULTURE, FISHERIES AND FORESTRY;**

##### **International instruments concerning food, agriculture, fisheries and forestry, and the production, safe use and fair exchange of agricultural, fishery and forestry goods:**

The present international policy and regulatory framework for food, agriculture, fisheries and forestry needs to be further developed, as it is an important prerequisite for achieving food security for all. The framework should facilitate the conservation, sound management and sustainable use of natural resources; help ensure adequate and safe food supplies, and promote food, agricultural trade and overall trade policies conducive to food security through a fair and market-oriented world trade system.

##### **National policies, legal instruments and supporting mechanisms that respond to domestic requirements and are consistent with the international policy and regulatory framework:**

It will be essential to respond in particular to the needs of developing countries, or those with economies in transition, to develop and implement the necessary national policies, legal instruments and supporting mechanisms, keeping in mind that resources available to governments are limited and regulatory controls need to be applied in the most efficient way possible. Areas in which specialized legal and technical advice will be provided include: genetic resources, plant protection, food quality and safety, responsible fisheries, animal health, land tenure and rural institutions, environmental protection (including forests, wildlife, water, soil resources and desertification control), and the implications of international trade agreements in food and agriculture;

Partnerships will be maintained with technical and trade organizations on the technical content of the assistance provided. This ranges from arrangements whereby

organizations provide technical support to FAO's assistance activities, as for example with WHO on food safety and other health aspects or with UNEP on environmental matters, to areas where FAO plays a supporting role in activities conducted by other organizations; such as WTO in the application of the Agreement on the Application of Sanitary and Phytosanitary Measures. FAO will also seek to mobilize donor funds to support Member Governments' action in these fields.

In conclusion it seems to be a long way from the publication of the FAO Fisheries Study No. 1 "Markets for Salted Cod and Related Species" in July 1949 when FAO Headquarters were still in Washington D.C.; passing through the introduction of the Exclusive Economic Zones and the FAO World Conference on Fisheries Management and Development in Rome in the summer of 1984 when the FAO Fish Trade Support System received international endorsement; and now looking towards the WTO Millennium Round of Multilateral Trade Negotiations and beyond to a full realization of the Code of Conduct for Responsible Fisheries.

What will the situation be in 2015? FAO has started work on Agriculture Towards 2015/2030 which includes a projection for supply and demand of fish and fishery products in these target years. Used is a very crude methodology which basically is nothing more than the extension of past trends (based-where available-on 1961-1998 data) as a mere function of time into the future. Unfortunately, the calculations are fenced by a straightjacket of assumptions which are unreal and which can be defended only as being necessary due to the lack of data. Most famous is the assumption of constant relative prices. The worth of these projections is therefore rather limited.

Perhaps this statement is biased somewhat stronger towards the negative than others might see it, because in my times schematic and mechanical simplifications of economic situations were considered highly suspicious and as indication of reluctance to think. This was well before computers entered the scene which make the handling of vast amounts of numbers and modelling so much easier. With time the notion that computer use leads to a substitution of sense by apparent precision in what has only little meaning has been overcome hopefully.

It would seem to be relevant and interesting to hypothesize whether the international regulatory framework governing fish trade will evolve into a comprehensive set of instruments addressing the rights and obligations of states, producers and industry, technical and scientific community, intergovernmental organizations, and development agencies. Leading to a sustainable use

of resources by making trade and environment mutually supporting as stipulated in chapter 2 of Agenda 21.

## **5. INTERNATIONAL REGULATORY FRAMEWORK AND THE SMALL-SCALE OPERATOR**

### **5.1 Remarks on some structural changes in fisheries<sup>3</sup>**

Small-scale fisheries are part of the fisheries sector in all countries and the development of small-scale fisheries should be one of the major elements in the fisheries strategy, by virtue of the potential contribution of this sector in economic and social terms. In many, they are the principal component. Traditionally, the main contribution of the small-scale fishery sector to national economies has been to provide food for the domestic market, as well as employment. It also contributed fish for export, although this is often less important. The industrial fishery sector, which may be more geared to external markets, absorbs a higher proportion of capital, while the artisanal sector, based on the use of labour as the main factor of production supplies fish mainly to the local population. However, there are examples of changes occurring in the small-scale fisheries structure and their role in the national economy:

A multidisciplinary mission from the FAO Fisheries Department that visited Costa Rica in October 1983 identified good opportunities for reduction of fishing effort on fully or overexploited fishery resources. The mission recommended the diversification of the small-scale fisheries and proposed its development based on the exploitation of pelagic oceanic species, not exploited yet by nationals, occurring in and beyond the slope of the continental shelf. The mission report included a pilot project draft to test operational, economic, and social viability of the proposed diversification. Another multidisciplinary mission from the Fisheries Department visiting Costa Rica in 1991 reported that the most significant development of fisheries in Costa Rica is taking place in the artisanal fisheries operating in the Pacific Ocean. This fleet cannot be analysed as a homogeneous whole but several distinct categories can be identified. The traditional artisanal fisheries that operate boats and canoes in coastal areas, the medium reach artisanal fisheries that operate boats in the platform and continental slope and the advanced artisanal fisheries that operate boats in oceanic waters at long distances from the continental shelf slope.

A Fisheries Department multidisciplinary mission that visited Nicaragua in November 1992 found that

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<sup>3</sup> Based on an unpublished analysis by Angel A. Gummy of several FAO mission and project Reports issued from 1983 onwards.

although the small scale fisheries had been traditionally suppliers of the domestic market, at the time of the mission, in reason of the opening and expansion of demand for exports, significant quantities were being sold to exporters. This had allowed an increase in the monetary income of many fishermen.

A technical study presented at the FAO Technical Consultation on Sustainable Fisheries Development in Venezuela, in 1993, indicated that a phenomenon formerly limited to a few countries was clearly on the rise in most countries in the Western Central Atlantic region, namely the appearance of the export market as additional outlet with growing volumes of high value species from the small scale fishery being sent for export or for the tourists market. The report mentioned as examples developments in Grenada, Trinidad & Tobago, Guyana, Honduras, Costa Rica and Nicaragua. Similar developments were documented in Ecuador, Chile, Argentina and Brazil.

The changes taking place in the structure of small scale fisheries, its main causes and the possible economic, social and fishery resource sustainability implications are monitored by the FAO Fisheries Department on a continuous basis. The growth in the international demand of fish and fish products is one of the more influential forces affecting the small scale fisheries apart from population migrations, multiple use of coastal areas and uncontrolled growth of fishing capacity.

The firm international demand for fishery products and, in some cases the physical proximity of the US market for Central America or Europe for the African region, which offers comparative advantages for regional production, the expanding tourist industry and its impact on domestic markets illustrate this development. A number of factors can be mentioned as supporting the process of change. These include: measures of trade liberalization such as export deregulation, elimination of tariff barriers, taxes, rates and fees and administrative simplification.

Improvements in transportation and in communications, in handling, processing and marketing technology constitute another powerful generator of change.

It is interesting to consider some of the possible results of this powerful combination of factors on fishermen income, fish supply and fishery resources sustainability:

- The increase in demand due to trade expansion frequently takes place within the characteristic small-scale fisheries context: low organisational level of fishers; widely dispersed landings; and fragmented primary sales; low bargaining power

of producers. Where fishers are organised, their negotiating position improves, provided timely information on prices in the markets of destination of their products is available.

- Since the rising demand concerns a specific number of high value commercial species, the segment of the small-scale fleet benefiting most is the one that has technical capacity, adequate autonomy and favourable geographical location to catch those species. Therefore, not all fishers may experience an increase in income resulting from an increase in demand. A short-term impact is the disruption of traditional middlemen systems and a reduction of buyers for some fishermen from less advantaged fishing communities and a reduction in fish supply for the domestic market.
- The high value commercial species for which there is growing demand may become fully exploited or overfished. The additional demand will create pressure on these resources and, in the absence of appropriate management measures, their sustainability could be at risk. This pressure is generating conflicts concerning access to resources exploited by two structurally diverse fisheries. For example the exploitation of shrimp by both the small-scale fishery and the industrial fleet creates problems in harmonising the fishing effort of both in such a way as to conserve this valuable resource, and at the same time optimise the economic and social benefits of the fishery. The rising demand for the generally fully exploited or over-fished high-value coastal species can easily jeopardise the sustainability of the fishery unless there is an affective management system in place. The dynamic evolving and growing mobility of the advanced small-scale fleets in relation to the large pelagic fisheries may also generate conflicts with the traditional ones for the access to common fishing grounds.
- Another possible effect of the rising export demand might be seen in the domestic market. Considering the pressure, which rising populations have on demand, and eventual changes in the disposable income of consumers, the additional export demand could lead to higher domestic prices which could result in a drop in the consumption of these target species. Also imports of more affordable fishery products, could increase.
- A key factor is the abundance of the target species and the ability of the institutional, policy and management framework to absorb the

external pressures and to transform them into a positive (and sustainable) impact for the achievement of social and economic objectives. There are examples of countries which have a policy to export high value species and import lower commercial value fish protein.

- The additional demand pull should be directed to stimulate changes in the fish marketing and processing systems in order to improve market access for small-scale fisheries and to promote value addition. This also involves stimulus to create the necessary infrastructure, and to design and implement technical assistance and training programmes for fishers and fishing communities.

## 5.2 Provisions relevant for small-scale fishers

In view of the structural changes in the fisheries sectors of many countries and the increasing contribution of the small-scale producers to fishery products traded internationally, also the regulatory framework governing such trade gains importance for the producers and processors concerned. A first need is the closing of the gaps in information and training in order to enable them to comply with the rules and regulations and to avoid trade bans which may be instituted by importing countries. Another critical field may be the availability of technology, equipment and processes which would allow appropriate handling, preservation and processing practices. Hence, it would appear that the SPS agreement and related features of the import regime of the target markets are in the forefront and the most important of the rules to be followed by the small-scale operator. The Agreement on Subsidies and Countervailing Measures (SCM) would hardly be relevant. The TBT agreement could become important should ecolabelling be introduced or if "Fair trade" schemes are being promoted.

The implications of CITES concern the small-scale producer in a similar way as all others. Small producers are affected to the extent their products become objects of international trade. The generally low bargaining power and weak competitive position can leave them rather weak and defenceless in cases of disputes. Their strength in the participation in the shaping of trade rules and the formulation of international trade regulations is about equal to the competitive strength of a supplier under the conditions of atomistic competition.

Generally speaking, international trade concerns higher value species and affects the more rewarding part of the artisanal production; problems in this segment have therefore over-proportional consequences.

Eco-labelling products originating from capture fisheries first and later from certain aquaculture operations have been subject of international discussions. The Marine Stewardship Council was probably given a strong impetus in this connection. International norms which should guide the establishment of such schemes and which should ensure that they do not result in obstacles to trade are enshrined in the TBT agreement. However, there are also parties which consider these provisions restrictive and preventing the desired level of eco-labelling. For example, the Commission paper describing the negotiation position of the EU on the way to the WTO Ministerial Conference in Seattle expressed the need for amending the agreement, if required in order to make adequate ecolabelling possible.

The small-scale operator, whether fisher or processor will hardly participate in the formulation of national positions prior to trade negotiations and will be left simply to react to a change in the regulatory framework and may be lucky to be told about changes when they occur. The difficulties which developing countries are experiencing with the implementation of the Uruguay Round agreements are a clear indication that many governments in developing countries did not realize the commitments undertaken by signing the agreements. One must have some sympathy with requests from some countries which prefer to be given more time to adjust to agreements already signed before opening negotiations in a new round. Traditionally, countries could expect assistance from multilateral technical agencies, such as FAO, helping in training and capacity building. Such assistance is being provided but due to the scarcity of funding it is probably not enough and possibly late. The regulatory framework is supposed to facilitate trade but it does not necessarily ensure a fair distribution of benefits derived from trade. This is yet another complex of issues which would have to be looked into in conjunction with an analysis of trade impacts on sustainability of resource use and on food security in the exporting country. Globalization is a term often used to characterize this complex of causes and consequences. I would like to close these considerations with a quote from the opening statement by the representative of the Director-General of FAO at the Seventh Session of the Sub-Committee on Fish Trade of the FAO Committee on Fisheries, held in Bremen, Germany, in March 2000.

Globalization is presently of high importance and of high profile in the public debate particularly in the trade arena and international trade in fish products is no exception to this. We all know that some look at globalization and its implication with deep concern, others perceive it as a chance for a better future. The truth is that it can be both. Hence, globalization presents chances and risks and therefore it requires considerate action in the sense of the world's fisheries and aquaculture industries

taking advantage of the evolving situation, and, at the same time, limiting the risks, if they cannot be eliminated completely. The reality of risks and opportunities in international trade could be clearly reflected in the creation of a truly global fish market, but that could be at the risk of undesirable distribution of the benefits that can be created by the global market. There may be uneasiness; however, the dilemma can be overcome if we make up our mind and decide whether we want the conservation of fishery resources and whether we want trade to make a contribution to this end. We have to make up our mind if we are going to use trade measures in an attempt to conserve fishery resources.

Scientific research shows that despite the internationalization of food production and processing as well as food habits, there are regional niches in the global markets which maintain their importance and at times it may appear that this regionalization can hinder the process of globalization. Obviously, it depends on its strength in the market, the preferences of producers and consumers whether a regional market niche can successfully compete with the rather strong forces of globalization.

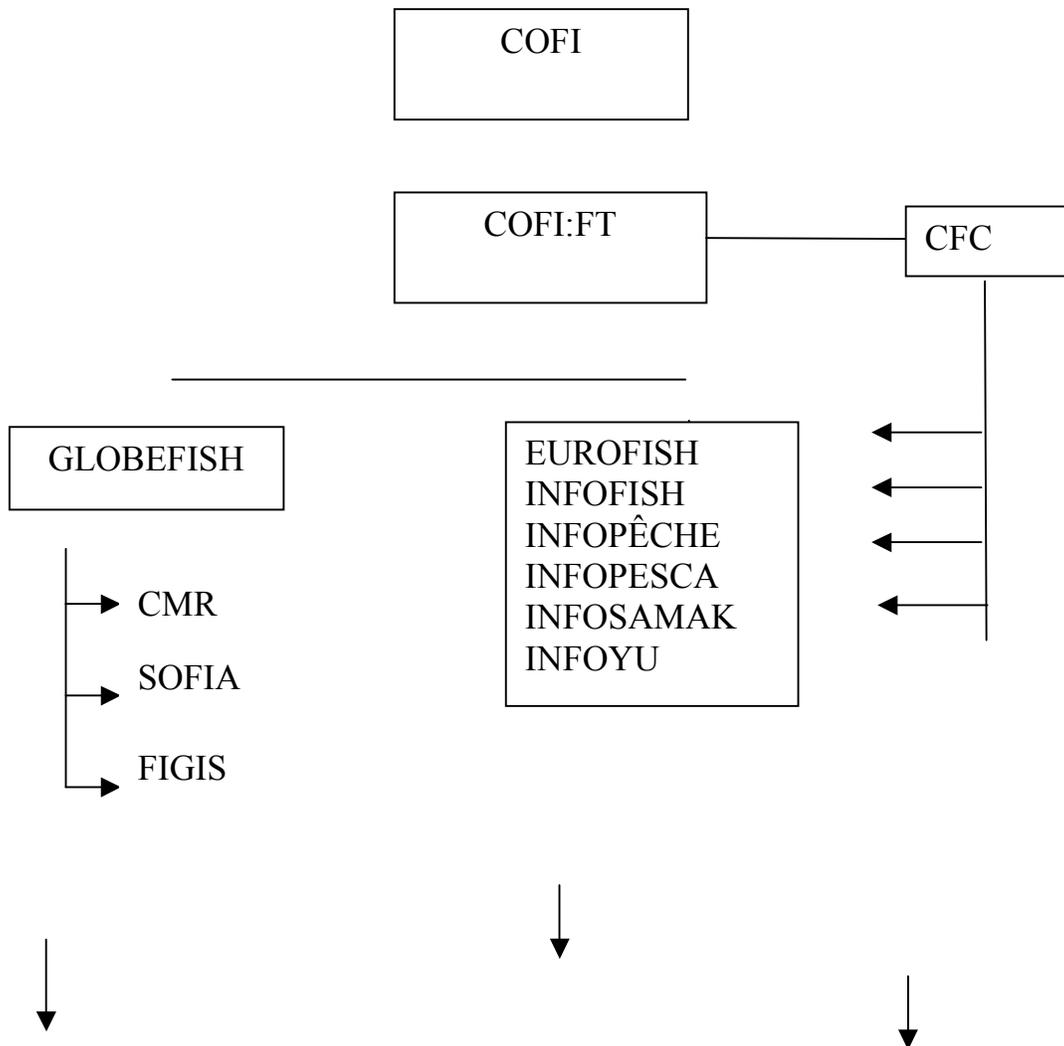
What I would wish to express here is that we should not overlook regional or national realities (preferences) when debating the positive and negative impacts of globalization. Nevertheless, the process of globalization marks the present day world and according to John Paul II it is an opportunity for enabling humanity to become a single family, built on the values of justice, equity and solidarity in order to realize the promising opportunities. For this to happen, the concept of prosperity needs to be widened beyond the narrow utilitarian perspective. The Pope invites all concerned “..... to

recognize the urgency of the need to ensure that economic practices and related policies have as their aim the good of every person...”

I would like to conclude reminding you that FAO’s mission is to help build a food-secure world for present and future generations. One of the strategies to be applied includes reinforcing policy and regulatory frameworks for food, agriculture, fisheries and forestry and specifically international instruments concerning the “..... fair exchange of agricultural, fishery and forestry goods.”

This is one of the reasons why I believe that the current regulatory framework will evolve further. It will be important that all concerned participate in this work in order to avoid misconceptions such as “the WTO is damaging the environment.” WTO is a secretariat, just as FAO, which implements the rules set by its members. However, if the members do an inadequate job then the blaming of the secretariat is nothing more than a convenient excuse.

### ANNEX 1



**Future will depend on:**

FAO efforts and capacity to sustain with partnerships

Member countries' commitments and markets for services provided

Availability of funding