



**PROPOSED DISCIPLINES ON PROHIBITIONS AND SPECIAL AND DIFFERENTIAL
TREATMENT FOR FISHERIES SUBSIDIES**

Proposal from Indonesia

The following communication, dated 5 June 2017, is being circulated at the request of the Delegation of Indonesia.

Introduction

1. The global trading community has long strived to develop regulations concerning fisheries subsidies to promote the sustainability of global fisheries. These efforts have yet to make any progress yet, despite the alarming situation of global fisheries where, according to the FAO, the share of fish stocks within biologically sustainable level decreased from 90% in 1974 to 68.6% in 2013.¹ The challenges of fisheries subsidies can only be addressed effectively through a multilateral agreement covering all WTO Members. Therefore, a multilateral action is highly indeed needed.
2. Fisheries are a pivotal source of livelihood, contributing directly to economic growth, food and nutrition security, export revenue, added value opportunity, and poverty eradication. However, overfishing has undermined the crucial role of fisheries. The situation has resulted in the depletion of stocks, with 31.4% of fish stocks being overfished in 2013.² The main contributors to overfishing are the enhanced capacity of fishing vessels due to subsidies and IUU fishing.
3. IUU fishing has great detrimental effects not only on the economy but also on the social aspect. IUU fishing also contributes to transnational organized crimes, such as human trafficking, drugs and weapons smuggling, as well as forced labor and slavery in the fishing industry. Considering it as a grave matter, Indonesia has undertaken efforts to combat IUU fishing as a national priority as well as continued to promote IUU fishing to be widely viewed and discussed as a transnational organized crime in international fora.
4. The WTO Ministerial Conference in Doha in 2001 mandated WTO Members to clarify and improve disciplines regarding fisheries subsidies. In the Hong Kong Ministerial Declaration 2005, WTO Members agreed to further strengthen WTO fisheries subsidies rules, including prohibition of certain forms of subsidies which contribute to overcapacity and overfishing taking into account the need for special and differential treatment (S&D) for developing countries and LDCs as an integral part of the negotiation.
5. In addition to WTO mandates, the commitments established under the 2030 Agenda for Sustainable Development Goal 14 Target 6 sets out that signatories should by 2020 prohibit certain forms of fisheries subsidies that contribute to overcapacity and overfishing, eliminate subsidies that contribute to IUU fishing, and refrain from introducing new such subsidies. It is also recognized that appropriate and effective S&D for developing countries and LDCs should remain an integral part of negotiation.

¹ See FAO State of World Fisheries and Aquaculture (SOFIA) COFI/2016/2.

² *Ibid.*

6. Indonesia is an archipelagic state with more than 70% of its territory covered in water and heavily dependent on its extensive coastal regions and oceans for the livelihood of its people. Hence, it is important for Indonesia to convey its position regarding fisheries subsidies. Indonesia supports disciplines relating to fisheries subsidies, especially certain forms of fisheries subsidies that affect overfishing and overcapacity, and to eliminate subsidies that contribute to IUU fishing, in accordance with the SDG 14.6.

7. Indonesia is of the view that arrangements regarding fisheries subsidies have to take into account the lives of the artisanal, traditional, and small-scale fisheries, particularly in developing countries and LDCs. There is still a significant number of people who depend on small-scale fisheries, whose lives are below the poverty line and rely on small vessels for their subsistence. Therefore, this proposal is an effort to outline disciplines on fisheries subsidies that would be suitable for the current state of global fisheries.

8. Developing countries, including Indonesia with its archipelagic status, and LDCs should have greatly benefitted from their fisheries resources. However, in the last few years, Indonesia, in particular, suffered economic losses due to IUU fishing practices. This is reflected, among others, by the decreasing number of fishermen, which amounted to 45% within a decade, from 1.6 million fishermen in 2003 to 868,000 fishermen in 2013.

9. The majority of coastal communities are artisanal fisheries, who have been affected by IUU fishing. They have to struggle for their survival by fishing farther from the shore, in need of more fuel, fewer catches, and smaller fishes. Being aware of this situation, the Government of the Republic of Indonesia is determined to revitalize the ocean as an economic driver through fisheries policy reform. Therefore, an initial step taken to ensure is by eradicating IUU fishing through deterrent measures. In addition, the Government of the Republic of Indonesia enacted several regulations, *inter alia*, prohibition of destructive fishing gear, minimum size of captured fish, as well as formulation of fisheries management plan for 11 Fisheries Management Area and harvest strategy.

10. Implementation of the Indonesia's fisheries policy reform in the last two years has made significant impacts on increasing the fish stock in adjacent international waters.

11. This proposal is intended to convey Indonesia's view on the elements of prohibitions and Special and Differential Treatment (S&D) in the fisheries subsidies and to follow up Indonesia's Proposal on Fisheries Subsidies (TN/RL/GEN/150/Rev.2).

12. Indonesia takes note and appreciates the proposals submitted by the European Union (TN/RL/GEN/181), the ACP Group (TN/RL/GEN/182), Argentina, Colombia, Costa Rica, Panama, Peru, and Uruguay (TN/RL/GEN/183 and TN/RL/GEN/183/Corr.1), the LDC Group (TN/RL/GEN/184), and Iceland, New Zealand, and Pakistan (TN/RL/GEN/186). This proposal was drafted to reflect the views of Indonesia as well as other interested members. The proposal is attached. Indonesia's proposal is expected to serve as a basis for discussion to address fisheries subsidies.

Attachment

PROPOSAL DISCIPLINES AND SPECIAL AND DIFFERENTIAL TREATMENT FOR FISHERIES SUBSIDIES

**Article 1
Definition and Coverage**

- 1.1 The Discipline provides specific provisions regarding fisheries subsidies and it is an integral part of the Agreement on Subsidies and Countervailing Measures (ASCM).
- 1.2 A subsidy, as used in this Discipline, is a subsidy within the meaning of Paragraph 1 of Article 1 of the ASCM. A subsidy subject to this proposal must be specific, pursuant to Article 2 of the ASCM.
- 1.3 The Discipline on fisheries subsidies shall not apply to inland fisheries³ or to aquaculture.⁴
- 1.4 The Discipline on fisheries subsidies should aim to prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, and eliminate subsidies to IUU fishing.
- 1.5 Fisheries subsidies shall encompass any subsidy programmes and/or disbursements made under such programmes.

**Article 2
Prohibition**

- 2.1 Members shall not grant the following types of subsidies:
 - a. subsidies granted, in law or in fact, whether solely or as one of several other conditions, for the purpose of modernization, renovation, repair or upgrading of existing fishing vessels, including engine or gear acquisition, any technical or electronic equipment⁵ on-board the vessel, and any other significant capital inputs to fishing;
 - b. subsidies granted, in law or in fact, whether solely or as one of several other conditions, for the purpose of fixed or variable operational costs of fishing vessels and fishing activities, including on-board processing;
 - c. subsidies granted, in law or in fact, whether solely or as one of several other conditions, relating to illegal, unreported, and unregulated fishing⁶, as well as to any fishing vessels flying "flags of convenience"; and
 - d. subsidies to capital and operating costs which contribute to overcapacity and overfishing.

³ "Inland fisheries" are fisheries which are carried out in freshwater or estuaries of a member and whose target species are those that spend all of their life-cycle therein.

⁴ "Aquaculture" is the farming of aquatic organisms, including fish, molluscs and crustaceans, provided that no capture fisheries is used to feed raised fish or is farmed.

⁵ This comprises, *inter alia*, engines, fishing gear, fish-processing machinery, fish-finding technology, refrigerators, machines for sorting or cleaning fish, or any other equipment on-board the fishing vessel. The prohibition does not cover the installation of equipment for safety or for control and enforcement purposes. Neither does the prohibition cover equipment fitted for the purpose of reducing environmentally harmful emissions.

⁶ The term "illegal, unreported, and unregulated fishing" shall be interpreted in accordance with the definition set out in paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the United Nations Food and Agricultural Organization (FAO).

Article 3
Special and Differential Treatment⁷

- 3.1 Notwithstanding the provisions of the ASCM, a developing country member shall be allowed to grant or maintain fisheries subsidies to its artisanal fisheries activities.
- 3.2 Notwithstanding the provisions of the ASCM and Articles 2 of this proposal, a developing country member shall be allowed to grant or maintain subsidies to its small-scale fisheries for the purpose of fishing vessel construction, repair, or modernization, or gear acquisition or improvement, or fuel, or bait, or ice. For the purposes of this section, small-scale fisheries shall be defined as those that:
- a. are below 24 meters in length⁸; and
 - b. operate within the Member's Exclusive Economic Zone (EEZ).
- 3.3 Fisheries subsidies meet the definition of Article 3.2 of this proposal contingent on a showing that:
- a. the member has a fishery management plan in place that is effectively monitored and adequately enforced;
 - b. the fisheries do not adversely affect resources governed by the fisheries management plan;
 - c. the small-scale fishing activities will not adversely affect fishery resources of other members or the resources governed by relevant regional fisheries management organizations (RFMOs); and
 - d. the member has control mechanism on fisheries subsidies to avoid overfishing and overcapacity.
- 3.4 Notwithstanding the provisions of the ASCM and Articles 2 of this proposal, a developing country member shall be allowed to grant or maintain subsidies for the purpose of fishing vessel construction, repair, or modernization, or gear acquisition or improvement, or fuel, or bait, or ice, provided that the purpose is to exploit:
- a. fisheries in the member's own EEZ; or
 - b. rights held by the member in high seas fishing quotas or any other rights established by a RFMO or a regional fisheries management arrangement.
- 3.5 Fisheries subsidies meet the definition of Article 3.4 of this proposal contingent on a showing that the developing country member has:
- a. underexploited resources in its EEZ; or
 - b. a right to high seas fishing quotas or extra quota in a RFMO.
- 3.6 Upon the request of developing country members, and with reference to guidance provided by the UN Fish Stocks Agreement, developed country members shall provide technical assistance on mutually agreed terms and conditions to developing country members to allow them to participate fully in any RFMO adjacent to their exclusive economic zone or archipelagic waters.

⁷ *Special and Differential Treatment* (SDT) refers to (TN/RL/GEN/150/Rev.2).

⁸ Refers to Harmonized definition in Conservation Management Measures (CMM) IOTC, concerning authorized fishing vessel, April 2016.

- 3.7 Upon the request of developing country members, developed country members shall provide technical assistance to developing country members on mutually agreed terms and conditions to develop the capacity to initiate, implement, and enforce compliance with a fishery management plan in keeping with the FAO Code of Conduct on Responsible Fisheries and adequate to provide the showing required by Articles 3.3, 3.4, and 3.5 of this proposal.
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