



**A CAP-BASED APPROACH TO ADDRESS CERTAIN FISHERIES SUBSIDIES
THAT CONTRIBUTE TO OVERCAPACITY AND OVERFISHING**

Communication from China

The following communication, dated 3 June 2019, is being circulated at the request of the Delegation of China.

1 INTRODUCTION

In order to promote the sustainable development of marine fisheries resources, the Ministerial Decision of MC11 mandated Members to adopt, by the Ministerial Conference in 2019, an agreement on comprehensive and effective disciplines that prohibit certain forms of fisheries subsidies that contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU-fishing recognizing that appropriate and effective special and differential treatment for developing country Members and least developed country Members should be an integral part of the negotiations.

With the deadline approaching, key issues in the negotiations remain unresolved. Members' positions regarding subsidies that may contribute to overcapacity and overfishing are still far apart. Compared with other approaches, a cap-based approach could be a relatively practical way forward, because it accommodates constraints as well as flexibilities of the disciplines, and strikes a balance between the need for sustainable fisheries and the need for policy space for sustainable social and economic development.

Considering the multi-faceted role that fisheries play in environment, trade, food security, livelihood and poverty reduction, and the diversity and differences of Members' fisheries situations, reasonable policy space should be provided for in making any prohibitive disciplines. As such, a cap-based approach that responds to the diversified fisheries situations is needed.

2 ELEMENTS FOR THE CAP-BASED APPROACH

2.1 Base for Capping

For the purpose of this approach, all fisheries subsidies and certain fisheries support measures are to be included in the base for capping, including non-specific fuel subsidies for the fishery sector and fishery service and management programs, without prejudice to whether or not such programs constitute subsidies under the SCM Agreement.

2.2 Three Approaches for Capping and Reduction

Considering the diversity and differences of Members' fisheries situations, Members may choose one of the following approaches to achieve capping and reduction for their fisheries subsidies:

- A. A subsidy cap equals to X% of the amount of the average base for capping provided by a Member during the base period; or
- B. A subsidy cap equals to Y% of the average landed value of a Member's total wild marine capture during the base period; or

- C. A subsidy cap equals to Z% of the amount of global average base for capping per fisherman multiplied by the number of fishermen of a Member during the base period.

Capping and reduction commitments are to be expressed in aggregate monetary terms and be incorporated into Members' WTO Schedules, to be phased in with an implementation period.

2.3 Compliance with Capping and Reduction Commitments

A Member shall be considered to be in compliance with its capping and reduction commitments in any year upon entry into force of this Instrument, in which its total fisheries subsidies, including non-specific fuel subsidies for the fishery sector, do not exceed the corresponding commitment level specified in that Member's Schedule.

2.4 Green Box Measures

In order to encourage Members to design their fisheries subsidies policies in line with sustainable development goals, the following four categories of programs shall not be subject to Member's capping and reduction commitments in any year upon entry into force of this Instrument, without prejudice to whether or not such programs constitute subsidies under the SCM Agreement:

- 1) Government service and management programs;
- 2) Programs to protect fisheries resources or rebuild stocks;
- 3) Programs to reduce fishing efforts or fishing capacity; and
- 4) Programs that are rebuttably presumed not to contribute to overcapacity or overfishing.

2.5 Review Mechanism

Within ten years upon entry into force of this Instrument, Members shall review the operation of the cap-based approach, and negotiate further reduction or adjustment, if necessary.

3 TRANSPARENCY

Members shall notify all relevant information pertaining to their base for capping and approach for capping. Members shall notify all information pertaining to their green box measures.

4 SPECIAL AND DIFFERENTIAL TREATMENT

Appropriate and effective special and differential treatment shall be accorded to developing country Members and least developed country Members. Least developed country Members shall be exempted from capping and reduction.

ILLUSTRATIVE LIST OF GREEN BOX MEASURES

- 1) Government service and management programs, including:
 - i) general services, including:
 - a) natural protection zone construction program;
 - b) disease control, hygiene and quarantine;
 - c) quality and safety system;
 - d) infrastructural construction service;
 - e) fishery management, administration and law enforcement;
 - f) statistics, research and development;
 - ii) natural disasters relief;
 - iii) support to fishermen, including:
 - a) vocational training for the purpose of quitting wild marine fishing;
 - b) compliance training;
 - c) insurance for fishermen;
 - d) income support not related to production, including wage subsidy, income tax concessions, concessional loan, tax returns on investment and support programs during the period of fishing ban or fishing moratorium;
 - 2) Programs to protect fisheries resources or rebuild stocks, including:
 - i) programs to survey and protect fisheries resources and aquatic wild animals;
 - ii) releasing aquatic animals and fish fries;
 - iii) marine ranch and artificial reef construction;
 - 3) Programs to reduce fishing efforts and fishing capacity, including:
 - i) programs to reduce fishing vessels;
 - 4) Programs that are rebuttably presumed not to contribute to overfishing, including:
 - i) programs to support fishing activities subject to the regulation of RFMOs;
 - ii) programs to support fishing activities in waters under the jurisdiction of another Member, under bilateral access agreement and regulated by that Member;
 - iii) programs to support fishing activities under input control or output control management, based on stock assessment;
 - 5) Programs that are rebuttably presumed not to contribute to overcapacity, including:
 - i) programs to support the renovation and modification of fishing vessels, provided that the capacity of the vessel is not enhanced, including the installation of safety related equipment on vessels, such as communication, navigation and monitor equipment, pollution control equipment and environmental-friendly and energy-efficient gears and methods.
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