



FISHERIES SUBSIDIES

COMPILATION MATRIX OF TEXTUAL PROPOSALS RECEIVED TO DATE

INTRODUCTION BY THE CHAIR

At the 18 July 2017 meeting of the Negotiating Group on Rules, I reported that the proponents collectively had requested that I produce a compilation, in the form of a matrix, of all of the textual proposals that had been received, to assist Members in analysing and comparing the proposals. As the Negotiating Group agreed with this request at that meeting, I have now prepared the attached matrix, which has been validated by the proponents.

Regarding its status, as I emphasized at the meeting the matrix is not a Chair text. It is simply a compilation, topic by topic, of the seven textual proposals now on the table. Nothing has been added to or subtracted from any of the proposals and no judgements are expressed or implied. It is meant to be a purely technical document and is without prejudice to and does not replace any of the proposals, all of which remain before the Group.

The matrix is intended as a tool, to serve a basis for topical discussions of the proposals when we reconvene in the fall. Between now and then, it is my hope that it will help Members to identify areas of greatest and least convergence among the proposals and thus assist us in sharpening our focus as we intensify our work in the lead-up to MC11.

Concerning its content, the matrix is organized into rows representing the topics and sub-topics, and columns representing the proposals. Thus for each topic or subtopic, the matrix presents a side-by-side comparison of the corresponding texts from the proposals.

Regarding the topics and subtopics, these have been derived from the proposals themselves and the aim is that each row in the matrix addresses one main idea. Thus, the breakouts are as granular as required to do this, such that similar ideas across different proposals are grouped together.

The way that the topics are broken out has meant that in some cases the text from a given proposal on a particular topic is a partial excerpt from the relevant provision in that proposal, rather than the entire provision. In addition, for the same reason, in some cases, where a particular provision in a proposal is relevant to more than one topic, it is repeated in each place where it is relevant. Because of the variation in the structures of the different proposals, some compromises were necessary in categorizing elements of certain proposals. Again, this is entirely without prejudice to the substance.

In terms of formatting, for ease of reading the formatting in the matrix is uniform. Thus, the original formatting in each proposal has been conformed to a standardized formatting that is used throughout the matrix. The only new formatting that has been introduced in the matrix is underlining of certain terms (mainly in the proposals' definitions), simply for ease of reading.

Finally, the matrix includes the following proposals:

- TN/RL/GEN/186: New Zealand, Iceland, Pakistan
- TN/RL/GEN/181/Rev.1: EU
- TN/RL/GEN/189/Rev.1: Indonesia
- TN/RL/GEN/192: ACP Group
- TN/RL/GEN/187/Rev.2¹: Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay
- TN/RL/GEN/193: LDC Group
- TN/RL/GEN/191: Norway

¹ Regarding the proposal from the Latin American proponents, I note that the most recent version of that proposal (TN/RL/GEN/187/Rev.2) sets forth changes that were foreshadowed by the proponents at the 18 July meeting. These changes are reflected in the corresponding sections of the matrix.

Table of Contents

GENERAL PROVISIONS	5
<u>Preamble</u>	5
<u>Definitions</u>	6
<u>Illegal, unreported and unregulated (IUU) fishing</u>	6
<u>Fishing/fishing activity</u>	8
<u>Fishing related activities</u>	9
<u>Fishing vessel</u>	9
<u>Operator</u>	9
<u>Overfished/ overfished stocks</u>	9
<u>Subsistence/ artisanal/ small-scale fishing</u>	10
<u>Large-scale industrial fishing</u>	10
<u>Capture fisheries</u>	10
<u>Inland fisheries</u>	11
<u>Aquaculture</u>	11
<u>Exclusive Economic Zone (EEZ)</u>	11
<u>Definition of subsidies</u>	11
<u>Scope</u>	12
<u>Activity (capture, aquaculture, inland fisheries, etc.)</u>	12
<u>Natural disaster</u>	12
<u>Safety, environment, compliance with management, R&D, resilience</u>	13
<u>Multispecies catch</u>	13
<u>Small-scale artisanal fishers</u>	13
<u>Attribution of subsidies</u>	14
<u>Other legal implications</u>	14
PROHIBITIONS	15
<u>Chapeau</u>	15
<u>Definition of subsidies</u>	15
<u>IUU</u>	15
<u>Subject of prohibition</u>	15
<u>Basis/bases for IUU determination</u>	16
<u>Flags of convenience</u>	18
<u>Transshipment</u>	18
<u>Prohibition</u>	18
<u>Beyond national jurisdiction</u>	18
<u>Prohibition</u>	18
<u>Overfishing/ overfished stocks/ unassessed stocks</u>	18
<u>Prohibition</u>	18
<u>Basis for "overfished" determination</u>	20
<u>Effect of subsidy on overfished stocks</u>	21

<u>Geographical aspects</u>	21
<u>Over-capacity/ Capacity enhancing</u>	22
<u>Prohibition</u>	22
<u>Subsidies outside the scope of this prohibition</u>	24
<u>Geographical aspects</u>	25
<u>Operating costs</u>	25
<u>Prohibition</u>	25
<u>Additional prohibitions to be negotiated</u>	26
<u>Placeholder</u>	26
STANDSTILL	26
SPECIAL AND DIFFERENTIAL TREATMENT & TECHNICAL ASSISTANCE AND CAPACITY BUILDING	27
<u>Special and differential treatment</u>	27
<u>Flexibilities</u>	27
<u>Conditionalities</u>	31
<u>Other</u>	33
<u>Technical assistance and capacity building</u>	33
TRANSPARENCY	34
<u>Notification</u>	34
<u>SCM Committee role</u>	36
TRANSITIONAL PROVISIONS, INSTITUTIONAL ARRANGEMENTS/REVIEW	37
<u>Transitional provisions</u>	37
<u>Institutional arrangements/review</u>	39

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<h1>GENERAL PROVISIONS</h1>							
<p><u>Preamble</u></p>		<p><i>Acknowledging</i> the commitments established under the 2030 Agenda for Sustainable Development and notably UN Sustainable Development Goal 14 on the conservation and sustainable use of oceans, seas and marine resources for sustainable development,</p> <p><i>Acknowledging</i> UN Sustainable Development Goal 14 target 6 which sets out that the signatories of the 2030 Agenda for Sustainable Development should, by 2020 prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing and refrain from introducing new such subsidies,</p> <p><i>Acknowledging</i> UN Sustainable Development Goal 14 target 4 which sets out that the signatories of the 2030 Agenda for Sustainable Development should, by 2020 effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics,</p>		<p>The Ministerial Conference,</p> <p><i>Recalling</i> the mandate contained in the 2001 Doha Declaration, where Ministers agreed to clarify and improve WTO rules that apply to fisheries subsidies,</p> <p><i>Acknowledging</i> the importance of the sector to development priorities, poverty reduction, livelihood, sustainable development of fisheries capacity throughout the value chain, and food security concerns of developing countries</p> <p><i>Reaffirming</i> our commitment under the 2030 Development Agenda to prohibit, by 2020, certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the WTO fisheries subsidies negotiation.</p>	<p><i>Members hereby:</i></p> <p><i>Considering</i> a growing consensus within the international community has been emerging on the need to act to prevent the harmful impacts of certain fisheries subsidies on sustainability of marine resources. That understanding was reflected in Paragraph 173 of the outcome document of the United Nations Conference on Sustainable Development, 'The future we want' and in the recent multilateral mandate of the 2030 Agenda for Sustainable Development of the United Nations, in which Heads of State and Government agreed on the Sustainable Development Goals (SDGs) 14.6;</p> <p><i>Recognizing</i> the urgent need to eliminate illegal, unreported and unregulated fishing and prohibit certain forms of subsidies that contribute to overfishing and overcapacity;</p> <p><i>Acknowledging</i> that appropriate and effective special and differential treatment for developing and least-developed country Members should be an integral part of the World Trade Organization fisheries subsidies negotiation;</p>		

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<p><u>Preamble</u> (Cont'd)</p>		<p><i>Recognising</i> that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the World Trade Organisation fisheries subsidies negotiation,</p> <p><i>Recognising</i> that overcapacity contributes to overfishing and constitutes a serious threat to the conservation and sustainable exploitation of living marine resources,</p> <p><i>Recognizing</i> that the share of overfished stocks increased from 10% in 1974 to over 31% in 2013 and that this share should be decreased,</p> <p>The Parties <i>agree</i> as follows:</p>			<p><i>Recalling</i>, that the Food and Agricultural Organization (FAO) has developed relevant international plans of actions to address Illegal, Unreported and Unregulated (IUU) fishing, and overcapacity, as well as technical guidelines for responsible fisheries;</p> <p><i>Fulfilling</i> the fisheries subsidies' goals will be the most relevant WTO contribution to trade and environment, representing at the same time an important contribution to food security and development;</p> <p><i>agree to establish effective disciplines on fisheries subsidies as follows:</i></p>		
<p><u>Definitions</u></p> <p><u>Illegal, unreported and unregulated (IUU) fishing</u></p>	<p>Definitions</p> <p>"illegal, unreported and unregulated fishing (IUU)" is to be understood to have the same meaning as paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the UN Food and Agricultural Organisation (FAO).</p>	<p>[FN4bis text] The term <u>IUU fishing</u> stands for "illegal, unreported, and unregulated fishing" as defined 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).</p>	<p>[FN4 text] The term "<u>illegal, unreported, and unregulated fishing</u>" 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).</p>	<p>[FN3 text]: [IUU] Defined in accordance with Annex I of this Agreement and as implemented under national laws and regulations. National and RFMO <u>IUU</u> lists, established in accordance with due process mechanisms, may be taken into account.</p> <p><u>Annex I</u></p> <p>A. <u>Illegal fishing</u> refers to activities:</p> <p>i. conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;</p>	<p>6 Definitions</p> <p>For the purposes of this instrument, the following definitions shall apply:</p> <p>a. "<u>Illegal, unreported and unregulated fishing</u>" is to be understood to have the same meaning as paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2001 IUU Fishing Plan of Action) of the UN Food and Agricultural Organization (FAO), adopted in Rome, 2001.</p>	<p>[FN6 text]: For the purpose of this Agreement the term "<u>illegal, unreported and unregulated fishing (IUU)</u>" is to be understood to have the same meaning as paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the UN Food and Agricultural Organization (FAO).</p>	

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<p>Definitions (IUU - Cont'd)</p>				<p>ii. conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or</p> <p>iii. in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.</p> <p>B. <u>Unreported fishing</u> refers to fishing activities:</p> <p>i. which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or</p> <p>ii. undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.</p>			

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<p><u>Definitions</u> (IUU - Cont'd)</p>				<p>C. <u>Unregulated fishing</u> refers to fishing activities:</p> <p>i. in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or</p> <p>ii. in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.</p> <p>D. Notwithstanding paragraph C, certain unregulated fishing may take place in a manner which is not in violation of applicable international law.</p>			
<p><u>Fishing/fishing activity</u></p>	<p>"fishing" means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish.</p>	<p>[FN2 text] For the purpose of this Agreement, the term "fishing" means searching for, attracting, locating, catching, taking and processing fish on board, transshipping or transferring or landing fish or any activity which can reasonably be expected to result in these activities.</p>		<p>[Definitions] "Fishing or fishing activity" means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish, including transshipping, and processing of fish at sea; and shall be confined to wild marine capture;</p>	<p>c. "Fishing" means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish.</p>		

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>Definitions</u> (Cont'd) <u>Fishing related activities</u>	"fishing related activities" means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish, as well as the provisioning of personnel, fuel, gear and other supplies.		[FN3 text] For the purposes of this discipline, <u>fishing related activities</u> defined as means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea.				
<u>Fishing vessel</u>		[FN3 text] For the purpose of this Agreement, the term " <u>fishing vessel</u> " refers to any vessel, ship or other type of boat used for, equipped to be used for, or intended to be used for commercial fishing or fishing related activities.		[Definitions] "Fishing vessel" means any vessel, ship or other type of boat used for, equipped to be used for, or intended to be used for commercial fishing or fishing activities and/or the definition for fishing vessel as applied in a Member's national laws.	b. " <u>Vessels</u> " refers to any vessel, ship or other type of boat used for, equipped to be used for, or intended to be used for fishing or fishing related activities	[FN3-text] For the purpose of this Agreement, the term " <u>fishing vessel</u> " refers to any vessel, ship or other type of boat used for, equipped to be used for, or intended to be used for commercial fishing or fishing related activities.	
<u>Operator</u>	"operator" includes any person or enterprise involved in the operation, management or ownership of a vessel.	[FN4 text] For the purpose of this Article, an <u>operator</u> includes any person involved in the operation, management or ownership of a fishing vessel.		[Definitions] "Operator" includes any person or enterprise involved in the operation, management or ownership of a vessel involved in fishing.		[FN5 text]: For the purpose of this Agreement, the term " <u>operator</u> " includes any person or enterprise involved in the operation, management or ownership of a vessel.	
<u>Overfished/overfished stocks</u>	"overfished" is where a fish stock is at such a low level that mortality from fishing needs to be restricted to allow the stock to rebuild to a level that produces maximum sustainable yield or alternative reference points based on the best scientific evidence available. Fish stocks that are recognized as overfished by the national jurisdiction where the fishing is taking place or by a relevant Regional Fisheries Management Organisation shall also be considered overfished.	[FN3bis text] As recognised as <u>overfished</u> by the national authorities of the Party or by the relevant Regional Fisheries Management Organization or Arrangement. In the absence of sufficient data to make such a determination, the stock shall be presumed to be overfished.		[Definitions] "Overfished stocks" are fish stocks that are recognized as overfished either by the national jurisdiction where the fishing is taking place or by a relevant Regional Fisheries Management Organisation.		[FN4-text] For the purpose of this Agreement, fish stocks that in an <u>overfished</u> condition are those recognized as such by the national jurisdiction where the fishing is taking place or by a relevant Regional Fisheries Management Organisation, based on best scientific evidence available to them.	

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<p><u>Definitions</u> (Cont'd)</p> <p><u>Subsistence/artisanal/ small-scale fishing</u></p>		<p>[FN5 text] The term "subsistence fishing" refers to fishing activities undertaken by an individual household for consumption by the members of that household and kin of the fishers as opposed to fishing activities undertaken for commercial purposes. Nevertheless, part of the fish caught can be sold or exchanged for other goods or services.</p>	<p>[FN5 text] For the purposes of this discipline, <u>artisanal fisheries</u> shall be defined as those which operate within its territorial waters and mostly close to shore, use vessels which utilize primarily manual gear, and operated by individual fishermen or family members for the purpose of subsistence or local trade.</p> <p>[FN6 text] For the purposes of this discipline, <u>small-scale fisheries</u> activities shall be defined as fishing activities which using vessels that are below 24 meters in length. The size limitation refers to Harmonized definition in Conservation Management Measures (CMM) IOTC, concerning authorized fishing vessel, April 2016.</p>	<p>[FN1 text] <u>Semi-industrial, small-scale commercial, artisanal, or subsistence fishing</u> are defined according national laws and/or international agreements to which the Members are party.</p>	<p>[FN7 text]: <u>Small-scale artisanal fishers</u> should be interpreted and applied in accordance with national legal systems of the Member concerned, taking into account the "Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication" of the FAO (the SSF Guidelines).</p>	<p>[FN8 text]: For the purpose of this Agreement "<u>artisanal and small scale fisheries</u>" shall be defined in accordance with national laws and regulations and the international agreements entered into by the coastal State, taking into account the "Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication" of the FAO (The SSF Guidelines).</p>	
<p><u>Large-scale industrial fishing</u></p>				<p>[Definitions] "<u>Large-scale industrial fishing</u>" means fishing that is not semi-industrial, small-scale commercial, artisanal, or subsistence fishing. [FN1]</p> <p>[FN1 text] <u>Semi-industrial, small-scale commercial, artisanal, or subsistence fishing</u> are defined according national laws and/or international agreements to which the Members are party.</p>			
<p><u>Capture fisheries</u></p>			<p>[FN1 text] For the purposes of this discipline, <u>capture fisheries</u> shall be defined as all kinds of harvesting of naturally occurring living resources in both marine and fresh water environment (FAO, Glossary, 2013).</p>				

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>Definitions</u> (Cont'd) <u>Inland fisheries</u>						[FN1-text]: For the purpose of this Agreement, the term " <u>inland fisheries</u> " refers to fisheries carried out in freshwater or estuaries of a Member and whose target species are those that spend all of their life-cycle therein.	
<u>Aquaculture</u>						[FN2-text]: For the purpose of this Agreement, the term " <u>aquaculture</u> " refers to the farming of aquatic organisms, including fish, mollusks and crustaceans, provided that no capture fisheries are used to feed raised fish.	
<u>Exclusive Economic Zone (EEZ)</u>				[Definitions] "Exclusive economic zone" is defined by principles found in Part V of the United Nations Convention on the Law of the Sea. Where any Member is not party to UNCLOS, similar principles on the exclusive economic zone adopted in domestic legislation may apply.		[FN9-text]: For the purpose of this Agreement, the term " <u>exclusive economic zone (EEZ)</u> " shall be defined according to principles found in Part V of the United Nations Convention on the Law of the Sea. Where any Member is not party to UNCLOS, similar principles on the exclusive economic zone adopted in domestic legislation may apply.	
<u>Definition of subsidies</u>	1. [partial] subsidies within the meaning of Article 1.1 of the SCM Agreement that are specific within the meaning of Article 2 of the SCM Agreement:	[FN1 text-partial]: This Agreement applies to subsidies within the meaning of Article 1.1 of the SCM Agreement that are specific in accordance with the provisions of Article 2 of that Agreement. [...] [FN1 text-partial]: [...] This Agreement does not apply to [...] <u>fuel de-taxation</u> schemes [...]	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.	Article 1 Scope 1.1 Subsidies to vessels, operators, fishing or fishing activities shall be defined according to paragraph 1 of Article 1 of the WTO Agreement on Subsidies and Countervailing Measures (SCM) and to the extent they are specific within the meaning of Article 2 of the SCM Agreement. [FN2]	2.1 [partial] subsidies within the meaning of Article 1.1 of the Agreement on Subsidies and Countervailing Measures (SCM) that are specific within the meaning of Article 2 of the SCM Agreement:	Article 1 Scope 1.1 This agreement applies to subsidies defined within the meaning of Article 1.1 of the Agreement on Subsidies and Countervailing Measures, which are specific in accordance with the provisions of Article 2 of that Agreement, and provided to the fisheries sector.	

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<p><u>Scope</u></p> <p><u>Activity (capture, aquaculture, inland fisheries, etc.)</u></p>		<p>[FN1 text–partial]: [...] This Agreement does not apply to subsidies for <u>aquaculture</u> [...].</p>	<p>1.3 The Discipline on fisheries subsidies <u>only apply to capture fisheries</u>. [FN1-Definition]</p> <p>[FN1 text]: For the purposes of this discipline, <u>capture fisheries</u> shall be defined as all kinds of harvesting of naturally occurring living resources in both marine and fresh water environment (FAO, Glossary, 2013).</p>	<p>1.3 Moreover, the scope of this Agreement shall not apply to</p> <p>a) <u>Inland fisheries</u>; b) <u>Aquaculture</u>; and c) <u>Recreational fishing</u>.</p> <p>[Definitions]: "Fishing or fishing activity" [...] shall be confined to <u>wild marine capture</u></p>		<p>1.3 This Agreement does not apply to <u>inland fisheries</u> [FN1-Definition] or to <u>aquaculture</u>. [FN2-Definition]</p> <p>[FN1 text]: For the purpose of this Agreement, the term "<u>inland fisheries</u>" refers to fisheries carried out in freshwater or estuaries of a Member and whose target species are those that spend all of their life-cycle therein.</p> <p>[FN2 text]: For the purpose of this Agreement, the term "<u>aquaculture</u>" refers to the farming of aquatic organisms, including fish, mollusks and crustaceans, provided that no capture fisheries are used to feed raised fish.</p>	
<p><u>Natural disaster</u></p>		<p>[FN1 text–partial]: [...] This Agreement does not apply to subsidies [...] compensating for damage caused by <u>natural disasters</u>.</p>		<p>[FN2 text–partial]: Excluded subsidies are those for <u>disaster relief</u> [...]</p>	<p>1.3 Except for disciplines for IUU fishing, subsidies referred to in this instrument shall not be prohibited when limited to the relief of a particular <u>natural disaster</u>, provided that the subsidies are directly related to the effects of that disaster, are limited to the affected geographic area, are time-limited, and in the case of reconstruction subsidies, only restore the affected area, the affected fishery, and/or the affected fleet to its pre-disaster state, up to a sustainable level of fishing capacity as established through a science-based assessment of the post-disaster status of the fishery.</p>		

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<p>Scope (Cont'd)</p> <p><u>Safety, environment, compliance with management, R&D, resilience</u></p>			<p>[FN2 text-partial]: The prohibition [<i>in Article 2.1.a - See Capacity</i>] does not cover the installation of equipment for <u>safety</u> or for <u>control and enforcement</u> purposes. Neither does the prohibition cover equipment fitted for the purpose of <u>reducing environmentally harmful emissions</u>.</p>	<p>[FN2 text-partial]: Excluded subsidies are those for [...] <u>safety, research and development, and sustainability of stocks</u>, the acquisition and installation of <u>equipment for vessel and crew safety</u>, the adoption of <u>techniques or technology aimed at reducing the environmental impact</u> of wild marine capture (such as by catch reduction or turtle excluder devices) or for <u>improving compliance with fisheries management</u> regimes aimed at sustainable use and conservation (such as devices for vessel monitoring systems); and for <u>increasing resilience or reducing vulnerability to climate change</u>.</p>		<p>[FN7 text-partial]: The prohibition [<i>in Article 2.1(e) - See Capacity</i>] does not cover the installation of equipment for vessel and crew <u>safety</u>, the adoption of techniques aimed at <u>reducing the environmental impact</u> of wild marine capture or <u>compliance with fisheries management</u> regimes aimed at sustainable use and conservation such as devices for vessel monitoring systems.</p>	
<p><u>Multispecies catch</u></p>				<p>2.2 Notwithstanding the provisions of 2.1, due regard should be given to jurisdictions with multi-species catch.</p>			
<p><u>Small-scale artisanal fishers</u></p>					<p>2.1.4 Small-Scale artisanal fishers</p> <p>Except for disciplines for IUU fishing, in waters under national jurisdiction of a Member, disciplines shall not be construed or applied in a manner that prevents small-scale artisanal fishers [FN7-Definition] to access marine resources and markets.</p> <p>[FN7 text]: <u>Small-scale artisanal fishers</u> should be interpreted and applied in accordance with national legal systems of the Member concerned, taking into account the "Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication" of the FAO (the SSF Guidelines).</p>		

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>Attribution of subsidies</u>	Article 3 3.1 A subsidy shall be attributable to the Member conferring it, regardless of the flag of the vessel involved or the application of rules of origin to the fish involved.	[FN1 text-partial]: [...] A subsidy shall be attributable to the Party granting it, regardless of the flag of the fishing vessel benefitting from the subsidy. [...]		1.2 Fisheries subsidies shall only be attributable to Members granting the subsidies regardless of the flag(s) of the vessels(s) involved or the application of rules of origin of the fish involved.	1.4 For the purposes of this instrument, a subsidy shall be attributable to the Member granting it, regardless of the flag of the vessel involved.	1.2 A subsidy shall be attributable to the Member granting it regardless of the flag(s) of the vessels(s) benefitting from the subsidy or the application of rules of origin of the fish involved.	
<u>Other legal implications</u>				1.4 Nothing in this Agreement shall affect the claims of Members concerning disputed waters.	1.1 This instrument shall have no legal implications regarding, territoriality or delimitation of maritime jurisdictions.	1.4 This Agreement shall have no legal implications regarding territoriality or delimitation of maritime jurisdiction and shall not apply to matters concerning disputed waters or zones.	
					1.2 Any list of IUU fishing vessels, fish-stock assessment report or any technical report issued by a regional fisheries management organization shall only have effects for the purposes of the present instrument and its clauses and shall have no legal implications over territorial disputes or delimitation of maritime jurisdictions, or be interpreted as a change in the position of the parties involved in such disputes with regard to sovereignty or maritime jurisdiction, and cannot be invoked as recognition of such organizations on disputed areas.		
					1.5 Except as otherwise provided in this instrument, a Member does not thereby become bound by measures or decisions of, or recognize, any regional fisheries management organization of which it is not a Party to.		

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<h1>PROHIBITIONS</h1>							
<u>Chapeau</u>	Article 1 1. [partial] No Member shall grant or maintain any of the following subsidies	Article 1 1.1. The Parties shall not grant or maintain any of the following subsidies <i>[FN1]</i> .	Article 2 Prohibition 2.1 Members shall not grant the following types of subsidies:	Article 2 Prohibited Subsidies 2.1 For purposes of this Agreement, the following subsidies shall be prohibited:	2 Disciplines 2.1 [partial] No Member shall grant or maintain any of the following subsidies	Article 2 Prohibited Subsidies 2.1 Members shall not grant or maintain any of the following subsidies	Article-Vessels Engaged in IUU-Fishing [partial] No Member shall grant or maintain subsidies of any kind
<u>Definition of subsidies</u>	1. [partial] within the meaning of Article 1.1 of the SCM Agreement that are specific within the meaning of Article 2 of the SCM Agreement:	<i>[FN1 text-partial]</i> : This Agreement applies to subsidies within the meaning of Article 1.1 of the SCM Agreement that are specific in accordance with the provisions of Article 2 of that Agreement. [...] <i>[FN1 text-partial]</i> : [...] This Agreement does not apply to [...] <u>fuel de-taxation</u> schemes [...]	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.	Article 1 Scope 1.1 Subsidies to vessels, operators, fishing or fishing activities shall be defined according to paragraph 1 of Article 1 of the WTO Agreement on Subsidies and Countervailing Measures (SCM) and to the extent they are specific within the meaning of Article 2 of the SCM Agreement. <i>[FN2]</i>	2.1 [partial] within the meaning of Article 1.1 of the Agreement on Subsidies and Countervailing Measures (SCM) that are specific within the meaning of Article 2 of the SCM Agreement:	Article 1 Scope 1.1 This agreement applies to subsidies defined within the meaning of Article 1.1 of the Agreement on Subsidies and Countervailing Measures, which are specific in accordance with the provisions of Article 2 of that Agreement, and provided to the fisheries sector.	
<u>IUU</u> <u>Subject of prohibition</u>	1.1 Subsidies in connection with illegal, unreported and unregulated (IUU) fishing, including: 1.1.1 [partial] any subsidy to an operator or vessel	Article 2 2.1. [partial] A Party shall not grant or maintain any subsidy benefitting an operator <i>[FN4-definition]</i>	2.2 [partial] Members shall not grant or maintain subsidies, in law or in fact, whether solely or as one of several other conditions, relating to illegal, unreported, and unregulated fishing <i>[FN4]</i> ,	2.1.b. Subsidies provided to vessels or operators engaged in illegal, unreported and unregulated (IUU) fishing <i>[FN3-Definition]</i> ;	2.1.1 Related to IUU fishing [partial] Subsidies granted to any fishing vessel or operator <i>[FN1]</i> of a fishing vessel engaged on IUU fishing activities. <i>[FN1 text]</i> : If an operator has more than one fishing vessel, this provision will only be applicable to that fishing vessel engaged in IUU activities.	2.1(b) Subsidies provided to any vessel or operator <i>[FN5-Definition]</i> engaged in illegal, unreported and unregulated (IUU) fishing. <i>[FN6-Definition]</i> Such vessels or operators shall be defined as those:	Article – Vessels Engaged in IUU-Fishing No Member shall grant or maintain subsidies of any kind to vessels, owners or operators engaged in illegal, unreported and unregulated fishing.

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
IUU <u>Subject of prohibition</u> (Cont'd)	<p>[From "Definitions"]</p> <p>"<u>illegal, unreported and unregulated fishing (IUU)</u>" is to be understood to have the same meaning as paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the UN Food and Agricultural Organisation (FAO).</p> <p>"<u>operator</u>" includes any person or enterprise involved in the operation, management or ownership of a vessel.</p> <p>"<u>fishing</u>" means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish.</p>	<p>[FN4bis text] The term IUU fishing stands for "<u>illegal, unreported, and unregulated fishing</u>" as defined 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).</p> <p>[FN4 text] For the purpose of this Article, an <u>operator</u> includes any person involved in the operation, management or ownership of a fishing vessel.</p>	<p>[FN4 text]: The term "<u>illegal, unreported, and unregulated fishing</u>" 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).</p>	<p>[FN3 Text]: Defined in accordance with Annex I of this Agreement and as implemented under national laws and regulations. National and RFMO IUU lists, established in accordance with due process mechanisms, may be taken into account.</p>	<p>[From "Definitions"]</p> <p>a. "<u>Illegal, unreported and unregulated fishing</u>" is to be understood to have the same meaning as paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2001 IUU Fishing Plan of Action) of the UN Food and Agricultural Organization (FAO), adopted in Rome, 2001.</p>	<p>[FN6 text]: For the purpose of this Agreement the term "<u>illegal, unreported and unregulated fishing (IUU)</u>" is to be understood to have the same meaning as paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the UN Food and Agricultural Organization (FAO).</p> <p>[FN5 text]: For the purpose of this Agreement, the term "<u>operator</u>" includes any person or enterprise involved in the operation, management or ownership of a vessel.</p>	
<u>Basis/bases for IUU determination</u>	<p>1.1.1 [partial] identified in an IUU fishing list of the flag State, the subsidizing Member, a Regional Fisheries Management Organization or Arrangement, or a relevant international organization;</p> <p>1.1.2 any subsidy to fishing for fish stocks managed by a Regional Fisheries Management Organization or Arrangement where the subsidizing Member or vessel flag State is not a Member of the organization or arrangement.</p>	<p>2.1 [partial] if its fishing vessel or, in case it operates more than one fishing vessel, any of its fishing vessels is included in the IUU fishing [FN4bis-definition] vessel list of that Party or of a Regional Fisheries Management Organization or Arrangement (RFMO/A).</p>		<p>[FN3 text]: Defined in accordance with Annex I of this Agreement and as implemented under national laws and regulations. National and RFMO IUU lists, established in accordance with due process mechanisms, may be taken into account.</p>	<p>2.1.1 [partial] Such fishing vessels or operators shall be determined by each Member in accordance with its domestic legislation. The determination made by a Member shall include:</p> <p>a. Fishing vessels flying the flag of that Member; or</p> <p>b. Fishing vessels flying the flag of a third Member when those fishing vessels have been found to engage in IUU fishing activities within waters under national jurisdiction of the Member making the determination. In this case, a subsidizing Member shall, upon request by a Member or on its own</p>	<p>i. Included in an IUU list of a Regional Fisheries Management Organisation or Arrangement or a relevant international organisation in accordance with the rules and procedures of that organisation and in conformity with principles of due process</p> <p>ii. Identified by the flag State, the subsidizing Member, or the coastal State in accordance with national regulations, laws and practices;</p>	<p>To this end, before a Member grants a subsidy, it shall ensure that the fishing vessel [FN1] neither appears on an IUU-vessel list of a Regional Fisheries Management Organization nor that the fishing vessel has operated in waters under the jurisdiction of any Member without the permission of that Member during the preceding five years.</p> <p>[FN1 text]: For the purpose of this proposal, this includes the owners or operators controlling the operation of the fishing vessel.</p>

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<p>IUU</p> <p><u>Basis/bases for IUU determination</u> (Cont'd)</p>					<p>initiative, recognize this determination provided that such a Member promptly verifies, in accordance with its domestic law, that the standards of due process, including a procedure for appeal or review, transparency, and the principle of non-discrimination were respected.</p>		
					<p>Moreover, Members shall, upon request by a Member or on its own initiative, recognize:</p> <p>a. Lists of fishing vessels of a Regional Fisheries Management Organization (RFMO) to which the subsidizing Member is a party in accordance with the rules and procedures of that organization and with the relevant rules of international law applicable to the subsidizing Member; or</p> <p>b. lists of fishing vessels issued by a RFMO to which the Member is not a party provided that such a Member promptly verifies, in accordance with its domestic law, that:</p> <p>i. The vessel concerned has been listed according to the rules and procedures of that RFMO; and the standards of due process, including a procedure for appeal or review, transparency and the principle of non-discrimination were respected;</p> <p>ii. The RFMO, and its measures, are in conformity with the relevant rules of international law applicable to the subsidizing Member, and the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing [FN2]; and</p>		

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>IUU</u> <u>Basis/bases for IUU determination</u> (Cont'd)					iii. The RFMO is open to all WTO Members in a non-discriminatory manner. [FN2 text]: As well as any modifications to, or replacements of, this instrument.		
<u>Flags of convenience</u>			2.2 [partial] as well as to any fishing vessels flying "flags of convenience".				
<u>Transshipment</u> <u>Prohibition</u>			[FN3 text] For the purposes of this discipline, fishing related activities defined as means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea.			2.1(c) Subsidies to vessels or operators engaged in illegal fish transshipment at sea;	
<u>Beyond national jurisdiction</u> <u>Prohibition</u>	1.3 Subsidies in connection with fishing and fishing related activities in areas beyond the national jurisdiction of the subsidizing Member.					2.1.d Capacity enhancing subsidies supporting large scale industrial fishing activities outside of the subsidizing Member's maritime jurisdiction	
<u>Overfishing/overfished stocks/unassessed stocks</u> <u>Prohibition</u>	1.1 Subsidies in connection with fishing and fishing related activities involving fish stocks that have not been assessed or have been assessed to be in an overfished condition. [Definitions] "fishing related activities" means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish, as well as the provisioning of personnel, fuel, gear and other supplies.	Article 1bis 1bis.1. In addition to the subsidies prohibited under Article 1.1, the Parties shall not grant or maintain any subsidies for fishing outside the territorial sea that negatively affect targeted fish stocks that are in an overfished condition [FN3bis-definition -partial] In the absence of sufficient data to make such a determination, the stock shall be presumed to be overfished.		2.1.a. Subsidies to fishing vessels, fishing or fishing activity of targeted fish stocks that are in an overfished condition;	2.1.2 Related to Overfishing a. Subsidies for fishing that negatively affect [FN3] fish stocks that are in an overfished condition. [FN4] [See Special and Differential Treatment and Transitional Provisions for subparagraph of 2.1.2.a]	2.1(a) Subsidies to fishing vessels [FN3-Definition] or fishing of fish stocks that are in an overfished condition [FN4-Definition]; [FN3-text] For the purpose of this Agreement, the term "fishing vessel" refers to any vessel, ship or other type of boat used for, equipped to be used for, or intended to be used for commercial fishing or fishing related activities.	

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<p><u>Overfishing/overfished stocks/unassessed stocks</u></p> <p><u>Prohibition</u> (Cont'd)</p>					<p>b. Subsidies given to vessels or operators fishing in areas beyond national jurisdiction, which are not aimed to fulfill a quota or a right established by a RFMO.^[FN5]</p> <p>[FN5 text] Subsidies allowed under this provision do not include those subsidies granted to maintain vessels fishing in areas beyond national jurisdiction, without returning to the jurisdiction of the subsidizing Member within [x days] counted after the day of departure.</p>		
				<p>2.1.c Subsidies to fishing vessels and fishing or fishing activity for capital^[FN4] and operating costs^[FN5], within the meaning of instruments elaborated under SCM Agreement Article 1.1, that contribute to overfishing and overcapacity, provided:</p> <p>i. to a developing country Member's large scale industrial fishing and fishing activity outside of their own EEZ^[FN6]; and</p> <p>[FN4-text]: May include payments for vessel construction and modernization, purchase of machines and equipment for fishing vessels (including fishing gear and engine, fish-processing machinery, fish-finding technology, refrigerators, or machine for sorting or cleaning fish), and tax exemptions.</p> <p>[FN5-text]: May include provision for fuel, ice, bait, personnel, social charges, insurance, gear, and at-sea support; or operating losses of such vessels or activities.</p>			

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<p><u>Overfishing/overfished stocks/unassessed stocks</u></p> <p><u>Prohibition</u> (Cont'd)</p>				<p>[FN6-text]: Noting the rights, jurisdiction, and duties of coastal states among others, found under UNCLOS Part V.</p> <p>ii. by developed country Members.</p>			
<p><u>Basis for "overfished" determination</u></p>	<p>[Definitions] "overfished" is where a fish stock is at such a low level that mortality from fishing needs to be restricted to allow the stock to rebuild to a level that produces maximum sustainable yield or alternative reference points based on the best scientific evidence available. Fish stocks that are recognized as overfished by the national jurisdiction where the fishing is taking place or by a relevant Regional Fisheries Management Organisation shall also be considered overfished.</p>	<p>[FN3bis text] As recognised as overfished by the national authorities of the Party or by the relevant Regional Fisheries Management Organisation or Arrangement. In the absence of sufficient data to make such a determination, the stock shall be presumed to be in an overfished condition.</p>		<p>[Definitions] "Overfished stocks" are fish stocks that are recognized as overfished either by the national jurisdiction where the fishing is taking place or by a relevant Regional Fisheries Management Organisation.</p>	<p>[FN4 text] For the purposes of this Article, a fish stock is overfished if the stock is at such a low level that mortality from fishing needs to be restricted to allow the stock to rebuild to a level that produces maximum sustainable yield or alternative reference points based on the best scientific evidence available to the Member within its jurisdiction or to the relevant RFMO. In the cases of straddling and highly migratory fish stocks, shared among Members, the evaluation related to the fish stocks in the fishery for which the subsidy is provided shall be made pursuant cooperation of the Members involved.</p>	<p>[FN4-text] For the purpose of this Agreement, fish stocks that in an overfished condition are those recognized as such by the national jurisdiction where the fishing is taking place or by a relevant Regional Fisheries Management Organization, based on best scientific evidence available to them.</p>	

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<p><u>Overfishing/overfished stocks/unassessed stocks</u> (Cont'd)</p> <p><u>Effect of subsidy on overfished stocks</u></p>		<p>1bis.2. Annex I sets out an illustrative list of subsidies that do not negatively affect targeted fish stocks that are in an overfished condition.</p> <p>ANNEX I ILLUSTRATIVE LIST OF SUBSIDIES THAT DO NOT NEGATIVELY AFFECT TARGETED FISH STOCKS THAT ARE IN AN OVERFISHED CONDITION</p> <p>(a) subsidies that improve fishery management systems and thus promote sustainable fisheries including subsidies for research and development activities;</p> <p>(b) subsidies that improve hygiene, health, safety and working conditions for fishers;</p> <p>(c) subsidies aiming at improving the concerned Party's capacity to fight against IUU fishing;</p> <p>(d) subsidies for permanent cessation of fishing activities provided that the fishers concerned effectively cease all fishing activities within a reasonable timeframe after receiving the subsidy concerned.</p>			<p>[FN3 text] The negative effect of such subsidies shall be determined based on the best scientific evidence available to that Member.</p>		
<p><u>Geographical aspects</u></p>				<p>2.1.(c) (i.) to a developing country Member's large scale industrial fishing and fishing activity outside of their own EEZ [FN6];</p> <p>[FN6-text]: Noting the rights, jurisdiction, and duties of coastal states among others, found under UNCLOS Part V.</p>	<p>[FN5 text] Subsidies allowed under this provision do not include those subsidies granted to maintain vessels fishing in areas beyond national jurisdiction, without returning to the jurisdiction of the subsidizing Member within [x days] counted after the day of departure.</p>		

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<p><u>Overfishing/overfished stocks/unassessed stocks</u></p> <p><u>Geographical aspects</u> (Cont'd)</p>				<p>4.3 The prohibition under 2.1(c) (i) shall not apply to subsidies provided by a developing country supporting fishing outside of their EEZ, which exclusively exploits quotas or any other rights, established by a regional fisheries management organization (RFMO) or a regional fisheries management arrangement.</p>	<p>2.1.2.b. Subsidies given to vessels or operators fishing in areas beyond national jurisdiction, which are not aimed to fulfill a quota or a right established by a RFMO.</p>		
<p><u>Over-capacity/Capacity enhancing</u></p> <p><u>Prohibition</u></p>		<p>1.1.(a) subsidies that increase the marine fishing[FN2-definition] capacity of a fishing vessel[FN3-definition] or support the acquisition of equipment that increases the ability of a fishing vessel to find fish;</p> <p>[FN2-text] For the purpose of this Agreement, the term "fishing" means searching for, attracting, locating, catching, taking and processing fish on board, transshipping or transferring or landing fish or any activity which can reasonably be expected to result in these activities.</p> <p>[FN3-text] For the purpose of this Agreement, the term "fishing vessel" refers to any vessel, ship or other type of boat used for, equipped to be used for, or intended to be used for commercial fishing or fishing related activities.</p>	<p>2.1.a subsidies granted or maintained, in law or in fact, whether solely or as one of several other conditions, for the purpose of, construction, modernization, renovation, repair or upgrading of existing fishing vessels, including engine or gear acquisition, any technical or electronic equipment [FN2] on-board the vessel;</p>		<p>2.1.3 Related to Overcapacity [FN6]</p> <p>a. Subsidies that increase or allow to maintain the marine fishing capacity of a fishing vessel or a fishing fleet of vessels or support the acquisition of equipment that increases or maintains the ability of a fishing vessel or a fishing fleet of vessels to find fish;</p> <p>[FN6 text] Disciplines related to overcapacity shall be restraint to areas beyond national jurisdiction and shall not cover subsidy programs of Members aimed to fulfill a quota or a right established by an RFMO.</p>	<p>2.1(d). Capacity enhancing subsidies supporting large scale industrial fishing activities outside of the subsidizing Member's maritime jurisdiction;</p> <p>2.1(e). Subsidies for acquisition, construction, repair, renewal, renovation, modernization of fishing vessels, or any equipment that increases the ability of a fishing vessel to fish and to find fish[FN7];</p>	

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<p><u>Over-capacity/ Capacity enhancing</u></p> <p><u>Prohibition</u> (Cont'd)</p>			<p>[FN2 text] This comprises, <i>inter alia</i>, 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.</p>			<p>[FN7 text-partial] This comprises, <i>inter alia</i>, fishing gear and engine, fish-processing machinery, fish-finding technology, refrigerators, or machine for sorting or cleaning fish. The prohibition does not cover the installation of equipment for vessel and crew safety, the adoption of techniques aimed at reducing the environmental impact of wild marine capture or compliance with fisheries management regimes aimed at sustainable use and conservation such as devices for vessel monitoring systems.</p>	
		<p>1.1.(b) subsidies that support the <u>construction</u> of fishing vessels or the <u>importation</u> of fishing vessels; and</p> <p>1.1.(c) subsidies for the <u>transfer</u> of fishing vessels to other countries including through the creation of joint ventures with partners of those countries.</p>			<p>2.1.3.b. Subsidies that support the <u>construction, importation or transference</u> of fishing vessels or any other form of increasing a fishing fleet of vessels.</p> <p>[FN6 text] Disciplines related to overcapacity shall be restraint to areas beyond national jurisdiction and shall not cover subsidy programs of Members aimed to fulfill a quota or a right established by an RFMO.</p>		
				<p>2.1.c [partial] Subsidies to fishing vessels and fishing or fishing activity for capital[FN4] [...] costs [...], within the meaning of instruments elaborated under SCM Agreement Article 1.1, that contribute to overfishing and overcapacity, provided:</p> <p>i. to a developing country Member's large scale industrial fishing and fishing activity outside of their own EEZ[FN6]; and</p>			

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>Over-capacity/ Capacity enhancing</u> <u>Prohibition</u> (Cont'd)				<p>[FN4 text]: May include payments for vessel construction and modernization, purchase of machines and equipment for fishing vessels (including fishing gear and engine, fish-processing machinery, fish-finding technology, refrigerators, or machine for sorting or cleaning fish), and tax exemptions.</p> <p>[FN6 text]: Noting the rights, jurisdiction, and duties of coastal states among others, found under UNCLOS Part V.</p> <p>ii. by developed country Members.</p>			
<u>Subsidies outside the scope of this prohibition</u>			<p>[FN2 text-partial] 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.</p>			<p>[FN7 text-partial] The prohibition does not cover the installation of equipment for vessel and crew safety, the adoption of techniques aimed at reducing the environmental impact of wild marine capture or compliance with fisheries management regimes aimed at sustainable use and conservation such as devices for vessel monitoring systems.</p>	
				<p>4.3 The prohibition under 2.1(c) (i) shall not apply to subsidies provided by a developing country supporting fishing outside of their EEZ, which exclusively exploits quotas or any other rights, established by a regional fisheries management organization (RFMO) or a regional fisheries management arrangement.</p> <p>[FN2 text] Excluded subsidies are those for disaster relief or safety, research and development, and sustainability of stocks,</p>	<p>[FN6 text-partial] Disciplines related to overcapacity [...] shall not cover subsidy programs of Members aimed to fulfill a quota or a right established by an RFMO.</p>		

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<p><u>Over-capacity/ Capacity enhancing</u> (Cont'd)</p> <p><u>Subsidies outside the scope of this prohibition</u></p>				<p>the acquisition and installation of equipment for vessel and crew safety, the adoption of techniques or technology aimed at reducing the environmental impact of wild marine capture (such as by catch reduction or turtle excluder devices) or for improving compliance with fisheries management regimes aimed at sustainable use and conservation (such as devices for vessel monitoring systems); and for increasing resilience or reducing vulnerability to climate change.</p>			
<p><u>Geographical aspects</u></p>				<p>2.1.(c).i. to a developing country Member's large scale industrial fishing and fishing activity outside of their own EEZ [FN6];</p> <p>[FN6-text]: Noting the rights, jurisdiction, and duties of coastal states among others, found under UNCLOS Part V.</p> <p>4.3 The prohibition under 2.1(c) (i) shall not apply to subsidies provided by a developing country supporting fishing outside of their EEZ, which exclusively exploits quotas or any other rights, established by a regional fisheries management organization (RFMO) or a regional fisheries management arrangement.</p>	<p>[FN6 text-partial] Disciplines related to overcapacity shall be restraint to areas beyond national jurisdiction [...]</p>	<p>2.1(d) Capacity enhancing subsidies supporting large scale industrial fishing activities outside of the subsidizing Member's maritime jurisdiction</p>	
<p><u>Operating costs</u></p> <p><u>Prohibition</u></p>			<p>2.1.b. subsidies granted or maintained, 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 related activities [FN3-definition], including on-board processing;</p>	<p>2.1.c [partial] Subsidies to fishing vessels and fishing or fishing activity for [...] operating costs [FN5], within the meaning of instruments elaborated under SCM Agreement Article 1.1, that contribute to overfishing and overcapacity, provided:</p> <p>[FN5 text]: May include provision for fuel, ice, bait,</p>		<p>2.1(f) Subsidies for operating costs including licence fees or similar charges, fuel, ice, bait, personnel, social charges, insurance, and at-sea support; or operating losses of such vessels or activities.</p>	

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<p><u>Operating costs</u></p> <p><u>Prohibition</u> (Cont'd)</p>			<p>[FN3 text] For the purposes of this discipline, fishing related activities defined as means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea.</p>	<p>personnel, social charges, insurance, gear, and at-sea support; or operating losses of such vessels or activities.</p> <p>i. to a developing country Member's large scale industrial fishing and fishing activity outside of their own EEZ [FN6]; and</p> <p>[FN6 text]: Noting the rights, jurisdiction, and duties of coastal states among others, found under UNCLOS Part V.</p> <p>ii. by developed country Members.</p>			
<p><u>Additional prohibitions to be negotiated</u></p> <p><u>Placeholder</u></p>	<p>[1.4 Placeholder: additional prohibitions beyond Article 1.1-1.3 shall be subject to further discussion amongst the WTO membership in the RNG for delivery at MC11. Appropriate S&DT for developing and least-developed Members that does not undermine the effectiveness of the disciplines would be an integral part of these negotiations.]</p>						
<p>STANDSTILL</p>							
<p><u>Standstill</u></p>	<p>Article 2</p> <p>2.1 In relation to subsidies that are not prohibited by Article 1, no Member shall introduce new, or extend or enhance existing, subsidies within the meaning of Article 1.1 of the SCM Agreement, to the extent they are specific within the meaning of Article 2 of the SCM Agreement, that contribute to overfishing or overcapacity.</p>						

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<h1>SPECIAL AND DIFFERENTIAL TREATMENT & TECHNICAL ASSISTANCE AND CAPACITY BUILDING</h1>							
<u>Special and differential treatment</u> <u>Flexibilities</u>				Article 4 Special and Differential Treatment 4.1 Prohibitions other than those outlined in Article 2.1(a) and 2.1(b) above shall not apply to LDCs.		Article 3 Special and Differential Treatment 3.1 The prohibition of Article 2.1 (d), (e) and (f) shall not apply to least developed countries (LDC) Members.	
		Article 4 4.1. Article 1 does not apply to subsidies granted or maintained by developing and least developed countries for fishing vessels which are used for <u>subsistence fishing</u> [FN5-definition]. [FN5 text] The term "subsistence fishing" refers to fishing activities undertaken by an individual household for consumption by the members of that household and kin of the fishers as opposed to fishing activities undertaken for commercial purposes. Nevertheless, part of the fish caught can be sold or exchanged for other goods or services.	Article 3 Special and Differential Treatment 3.1 Notwithstanding the provisions of the ASCM and Article 2.1 of this proposal, a developing country member shall be allowed to grant or maintain fisheries subsidies to its <u>artisanal fisheries</u> activities [FN5-definition]. [FN5 text] For the purposes of this discipline, <u>artisanal fisheries</u> shall be defined as those which operate within its territorial waters and mostly close to shore, use vessels which utilize primarily manual gear, and operated by individual fishermen or family members for the purpose of subsistence or local trade. 3.2 Notwithstanding the provisions of the ASCM and Article 2.1 of this proposal, a developing country member shall be allowed to grant or maintain fisheries subsidies to its <u>small-scale fisheries</u> activities [FN6-definition], which are not covered in Article 3.1.	Article 4 Special and Differential Treatment 4.2 With respect to Article 2.1.b, in order to establish measures against unreported and unregulated fishing, after the period stipulated in Article 3.1 and 3.2, developing countries <u>not engaged in large scale industrial distant water fishing</u> are entitled to apply [x] additional years and LDCs [x] additional years of transition period, except for illegal fishing.		Article 3 Special and Differential Treatment 3.3 With respect to Article 2.1.b, in order to establish measures against unreported and unregulated fishing, after the period stipulated in Article 6.2 below, developing countries not engaged in large scale industrial distant water fishing are entitled to apply [x] additional year and LDCs [x] additional years transition period to enable them to establish reporting mechanism and regulations through implementing Article 3.4. 3.2 Nothing in Article 2.1 (d), (e) and (f) shall prevent a developing country Member from maintaining or granting subsidies to the following activities conducted in accordance with the principle of protection and preservation of fisheries resources defined under Article 61 and 62 of the United Nations Conference on the Law of the Sea Treaty (UNCLOS):	

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<p><u>Special and differential treatment</u></p> <p><u>Flexibilities</u> (Cont'd)</p>			<p>[FN6 text] For the purposes of this discipline, <u>small-scale fisheries</u> activities shall be defined as fishing activities which using vessels that are below 24 meters in length. The size limitation refers to Harmonized definition in Conservation Management Measures (CMM) IOTC, concerning authorized fishing vessel, April 2016.</p>			<p>(a) Fishing activities related exclusively to <u>artisanal and small scale fisheries</u> [FN8-Definition] or the subsistence and livelihood of the fishermen and their families;</p> <p>[FN8-text]: For the purpose of this Agreement "<u>artisanal and small scale fisheries</u>" shall be defined in accordance with national laws and regulations and the international agreements entered into by the coastal State, taking into account the "Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication" of the FAO (The SSF Guidelines).</p>	
			<p>3.3 Notwithstanding the provisions of the ASCM and Article 2.1 of this proposal, a developing country member shall be allowed to grant or maintain fisheries subsidies to other fisheries activities which are not covered in Article 3.1 and Article 3.2, provided that the purpose is to exploit:</p> <p>a. underexploited resources in the member's own Economic Exclusive Zone; or</p> <p>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</p>	<p>4.3 The prohibition under 2.1(c) (i) shall not apply to subsidies provided by a developing country supporting fishing outside of their EEZ, which exclusively exploits quotas or any other rights, established by a regional fisheries management organization (RFMO) or a regional fisheries management arrangement.</p>		<p>(b) Fishing activities, which exclusively exploit fish stocks within the economic exclusive zone (EEZ) [FN9-Definition] of the Member granting the subsidy; and</p> <p>[FN9-text]: For the purpose of this Agreements "exclusive economic zone (EEZ)" shall be defined according to principles found in Part V of the United Nations Convention on the Law of the Sea. Where any Member is not party to UNCLOS, similar principles on the exclusive economic zone adopted in domestic legislation may apply.</p> <p>(c) Fishing activities, which exclusively exploit quotas or any other rights, established by a regional fisheries management organization (RFMO) or a regional fisheries management arrangement.</p>	
				<p>4.4 Developed countries, and developing countries in a position to do so shall provide, and relevant agencies are invited to provide, targeted technical</p>			

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<p><u>Special and differential treatment</u></p> <p><u>Flexibilities</u> (Cont'd)</p>				<p>assistance and capacity building to developing countries, in particular LDCs and small, vulnerable economies (SVEs) to:</p> <p>a) address institutional and financial difficulties faced by LDCs and developing countries with constraints to implement this Agreement;</p> <p>b) establish reporting mechanisms and regulations to prevent unreported and unregulated fishing;</p> <p>c) conduct stock assessments</p> <p>d) conduct monitoring, control and surveillance of fish stocks; and</p> <p>e) research and development</p>			
					<p>[2.1.2.a Subsidies for fishing that negatively affect fish stocks that are in an overfished condition.]</p> <p>In order to bring any subsidy programs into conformity with the obligations provided in this provision, developing and least-developed country Members, that at [the time of entry into force/adoption] of this instrument, have not completed; or, need to update the information related to the status of the fish stocks in the fishery for which the subsidy is provided, shall be granted with a period of time of [X] and [Y] years, respectively, after entry into force, subject to comply with the transparency section provided below in paragraph 3.4.</p> <p>3.2 Members shall make this notification [under 3.1], for the first time, within one year after [the</p>	<p>6.2 Developing countries are entitled to a delay of [x] years, and LDCs are entitled to a delay of [x] years after entry into force of this Agreement.</p>	

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<p><u>Special and differential treatment</u></p> <p><u>Flexibilities</u> (Cont'd)</p>					entry into force/adoption] of this instrument. In the case of developing and least-developed country Members the information requested in paragraph 3.1 shall be submitted to the Committee on Subsidies and Countervailing Measures (SCM Committee) within [the entry into force/adoption] of this instrument, 2 years and 4 years, respectively.		
				4.5 The operationalization of disciplines on fisheries subsidies should not impede the ability developing countries and LDCs to develop and diversify their fisheries sector.			
	1.4 [partial] [...] Appropriate S&DT for developing and least-developed Members that does not undermine the effectiveness of the disciplines would be an integral part of these negotiations. [4.3 Placeholder: Appropriate S&DT that does not undermine the effectiveness of the disciplines may be considered.] [6.2 Placeholder: Appropriate S&DT that does not undermine the effectiveness of the disciplines may be considered, including capacity building to bring programmes into conformity with the prohibitions.]						

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<p><u>Special and differential treatment</u></p> <p><u>Conditionalities</u></p>		<p>4.2. Developing and least developed countries may grant or maintain subsidies referred to under Article 1 if the following conditions are met:</p>	<p>3.4 Fisheries subsidies meet the definition of Article 3.2 and Article 3.3 of this proposal contingent that:</p>				
		<p>(a) the vessel benefitting from the subsidy does not target fish stocks that are in an overfished condition [FN3bis]; and</p> <p>[FN3bis text] As recognised as overfished by the national authorities of the Party or by the relevant Regional Fisheries Management Organisation or Arrangement. In the absence of sufficient data to make such a determination, the stock shall be presumed to be in an overfished condition.</p>	<p>b. the fisheries do not adversely affect resources governed by the fisheries management plan;</p> <p>c. the fishing activities will not adversely affect fishery resources of other members or the resources governed by relevant regional fisheries management organizations (RFMOs); and</p>				
		<p>(b) the targeted stock is managed on the basis of the best available science at the disposal of the concerned Party, consistent with the conservation and cooperation obligations under the relevant international law [FN6], as reflected in UNCLOS, conservation and management measures of competent RFMO(s)/A(s), and generally accepted standards for the conservation and management of fisheries resources; and</p>	<p>d. the member has control mechanism on fisheries subsidies to avoid overfishing and overcapacity.</p>				

<p>Proposal (in order received)</p> <p>Topic</p>	<p>New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p>EU (TN/RL/GEN/181/Rev.1)</p>	<p>Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p>ACP Group (TN/RL/GEN/192)</p>	<p>Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p>LDC Group (TN/RL/GEN/193)</p>	<p>Norway (TN/RL/GEN/191)</p>
<p><u>Special and differential treatment</u></p> <p><u>Conditionalities</u> (Cont'd)</p>		<p>[FN6 text] Relevant international law includes, amongst others, the United Nations Convention on the Law of the Sea (UNCLOS), the UN Agreement for the Implementation of the Provisions of UNCLOS relating to Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, the FAO Agreement to promote Compliance with International Conservation and Management Measures by Fishing vessels on the High Seas, the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing, and the FAO Code of Conduct for Responsible Fisheries.</p>					
		<p>(c) the subsidising Party has a management plan[FN7] for the fleet segment it intends to subsidise.</p> <p>[FN7 text] The management measures contained in the plan should aim at ensuring the sustainable exploitation of the stock. They shall refer to the stocks, fishery and area to which it applies, quantify projected fishing mortality rates, indicate provisions on fishing vessel monitoring and systems for reporting data and catch in sufficient detail.</p>	<p>a. the member has a fishery management plan in place that is effectively monitored and adequately enforced;</p>				

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>Special and differential treatment</u> <u>Other</u>		4.2bis. Developing countries ranking among the world's [X] biggest in terms of marine capture production as determined by the FAO shall endeavour to refrain from making use of the flexibilities set out in Article 4.2.					
<u>Technical assistance and capacity building</u>	[6.2 Placeholder: Appropriate S&DT that does not undermine the effectiveness of the disciplines may be considered, including capacity building to bring programmes into conformity with the prohibitions.]			4.4 [partial] Developed countries, and developing countries in a position to do so shall provide, and relevant agencies are invited to provide, targeted technical assistance and capacity building to developing countries, in particular LDCs and small, vulnerable economies (SVEs) to: a) address institutional and financial difficulties faced by LDCs and developing countries with constraints to implement this Agreement;	4.1. Members agree to implement an effective scheme of cooperation to help developing and least-developed country Members to acquire capacity building in the form of technical assistance in order to fulfill their commitments. This scheme could include bilateral and regional cooperation as well as technical assistance from relevant international organizations. 4.2 The provision of technical cooperation and capacity building under this instrument will be notified by providing Members and reviewed in the SCM Committee. The WTO shall cooperate with the FAO and UNCTAD in the provision of technical assistance under this Article.	3.4 [partial] Upon request of a developing country or LDC Member, developed country Members shall provide targeted technical assistance and capacity building assistance to address institutional and financial constraints faced by LDCs and developing countries in the implementation of this Agreement	
			3.6 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 3.2 and 3.3 of this proposal.	4.4 [partial] b) establish reporting mechanisms and regulations to prevent unreported and unregulated fishing; c) conduct stock assessments; d) conduct monitoring, control and surveillance of fish stocks; and e) research and development		3.4 [partial] and for establishing reporting mechanisms and regulations to prevent unreported and unregulated fishing, conducting stock assessments, and monitoring fish stocks.	

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>Technical assistance and capacity building</u> (Cont'd)			3.5 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.				

TRANSPARENCY

<u>Transparency Notification</u>	Article 4	Article 3	Article 5 Notification	3 Transparency	Article 4 Notification
	4.1 Members shall notify as part of their regular notifications under Article 25.3 of the SCM Agreement the following information:	3.1. The Parties shall notify, in accordance with the provisions of Article XVI:1 of GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, all kind of subsidies that support, directly or indirectly, marine fishing activity. 3.2. In addition to the information set out in Article 25.3 of the Agreement on Subsidies and Countervailing Measures the following must be included in the notification:	5.1 The Parties shall notify, in accordance with the provisions of Article XVI:1 of GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, all subsidies that support, directly or indirectly, marine fishing activity, to the extent that country is providing subsidies prohibited under Article 2 of this Agreement. <i>[FN7]</i> <i>[FN7-text]</i> Nothing in this notification provision requires the provision of confidential information, including confidential business information.	3.1 In order to enable effective surveillance of subsidies elimination, Members shall notify as part of their regular notifications under Article 25.3 of the Agreement on Subsidies and Countervailing Measures the following information:	4.1 In addition to the information notified pursuant to Article 25.3 of the SCM Agreements, Members shall notify the following information:
	(a) programme name;	(a) programme name;		d. programme name;	(a) Programme name
	(b) legal basis and granting authority for the programme;	(b) legal basis and granting authority for the programme;		e. legal authority for the programme;	(b) Legal basis and granting authority of the programme
		(c) level of support provided;		c. kind of subsidies provided and amounts granted;	(c) Level of support provided

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>Transparency</u> <u>Notification</u> (Cont'd)		(d) type or kind of marine fishing activity supported by the programme; and			b. vessels and operators fishing in areas beyond national jurisdiction, for which the subsidy is provided;	(d) Type or kind of marine fishing activity supported by the programme	
	(c) catch data by species in the fishery for which the subsidy is provided;				f. catch data, to the extent possible by species, in the fishery for which the subsidy is provided;		
	(e) fleet capacity in the fishery for which the subsidy is provided;				a. fleet capacity in the fishery for which the subsidy is provided;	(e) Fleet capacity in the fishery for which the subsidy is provided	
		(e) in the case of developing and least developed countries, for any of the subsidies under Article 1.1, information whether the Party concerned makes use of the flexibilities provided for in Articles 4.1 and 4.2.					
		3.3. The Parties shall also endeavour to include the following in the notification:					
	(d) status of the fish stocks in the fishery for which the subsidy is provided (for example, overfished, fully fished, underfished);	(a) the status of the fish stock targeted by the vessel benefitting from the subsidy (for example, overexploited, depleted, fully exploited, recovering, underexploited);			g. status of the fishery for which the subsidy is provided (for example, overexploited, depleted, fully exploited, recovering or underexploited);		
	(f) conservation and management measures in place for the relevant fish stock; and	(b) any conservation and management measures applied to the fish stock targeted by the vessel benefitting from the subsidy; and			h. conservation and management measures in place for the relevant fish stock;	(f) Conservation and managements measures in place in the relevant fishery	
		(c) any fishing capacity management plan applied to the fleet to which the vessels benefitting from the subsidy belong.					
	(g) total imports and exports per species.				i. total imports/export, to the extent possible per species;		
	4.2 Members shall also provide information in relation to other subsidies granted to the fisheries sector, for example fuel subsidies.				3.3 Members shall also provide, to the extent possible, information in relation to other fishing related subsidies, granted or maintained, that are not covered by paragraph 3.1, in particular fuel subsidies.		

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>Transparency</u> <u>Notification</u> (Cont'd)	[4.3 Placeholder: Appropriate S&DT that does not undermine the effectiveness of the disciplines may be considered.]			5.2 Notification requirements shall not be burdensome on developing countries with capacity constraints, especially LDCs	3.2 Members shall make this notification, for the first time, within one year after [the entry into force/adoption] of this instrument. In the case of developing and least-developed country Members the information requested in paragraph 3.1 shall be submitted to the Committee on Subsidies and Countervailing Measures (SCM Committee) within [the entry into force/adoption] of this instrument, 2 years and 4 years, respectively.	4.2 The notification requirements referred to under Article 4.1 shall not apply to LDC Members.	
<u>SCM Committee role</u>	5.1 The Committee on Subsidies and Countervailing Measures shall hold a dedicated biennial review of Members' implementation of this Agreement, the nature and extent of Members' subsidy programmes, and the related fish stock status, production and trade. This shall be informed by a summary from the Secretariat of Members' notifications complemented by relevant information provided by Members to the WTO Secretariat and information from other international organisations.				3.5 In order to enable the effective surveillance of subsidies elimination established in paragraph 2.1.1, the SCM Committee shall receive communications from: a. RFMOs informing a determination finding that a vessel or operator has engaged in IUU fishing activities in waters covered by such organization, and; b. Members informing a determination finding that a vessel of a third country flag state has engaged in IUU fishing activities within waters under the national jurisdiction of the Member making the determination. 3.6 The SCM Committee shall, upon receipt, circulate these communications to the Members.		
					3.4 Within the six months after [the entry into force/adoption] of this instrument, Members that have not completed; or, need to update the information related to the status of the fish stocks in the fishery for which the subsidy is provided, shall inform the SCM Committee.		

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>Transparency</u> <u>SCM Committee role</u> (Cont'd)					4.2 The provision of technical cooperation and capacity building under this instrument will be notified by providing Members and reviewed in the SCM Committee. The WTO shall cooperate with the FAO and UNCTAD in the provision of technical assistance under this Article.		

TRANSITIONAL PROVISIONS, INSTITUTIONAL ARRANGEMENTS/REVIEW

<u>Transitional provisions</u>	<p>Article 6</p> <p>6.1 Existing subsidy programmes which are inconsistent with Articles 1.2-1.4 shall be brought into conformity by 2020. No Member shall extend the scope of any such programme, nor shall such a programme be renewed upon its expiry.</p>	<p>1.2. The Parties may grant or maintain subsidies set out in Article 1.1 during a transitional period of [X] years following the entry into force of this Agreement, provided that the vessel benefitting from the subsidy does not target fish stocks that are in an overfished condition. <i>[FN3bis]</i></p> <p><i>[FN3bis text]</i> As recognised as overfished by the national authorities of the Party or by the relevant Regional Fisheries Management Organisation or Arrangement. In the absence of sufficient data to make such a determination, the stock shall be presumed to be in an overfished condition.</p>		<p>Article 3 Transitional Arrangements</p> <p>3.1 No Member shall be obliged to apply Article 2 of this Agreement before the expiry of a period of one year after entry into force of this Agreement.</p> <p>3.2 Developing countries are entitled to a further delay of [x] years, and LDCs are entitled to a further [x] years.</p>	<p><u>In 2.1.2.a: "Related to Overfishing":</u></p> <p>2.1.2.a. [subparagraph]: In order to bring any subsidy programs into conformity with the obligations provided in this provision, developing and least-developed country Members, that at [the time of entry into force/adoption] of this instrument, have not completed; or, need to update the information related to the status of the fish stocks in the fishery for which the subsidy is provided, shall be granted with a period of time of [X] and [Y] years, respectively, after entry into force, subject to comply with the transparency section provided below in paragraph 3.4.</p>	<p>Article 6 Transitional Arrangements</p> <p>6.1 Developed Members shall not be obliged to apply Article 2 of this Agreement before the expiry of a period of [x] year[s] after entry into force of this Agreement.</p> <p>6.2 Developing countries are entitled to a delay of [x]years, and LDCs are entitled to a delay of [x] years after entry into force of this Agreement.</p>	
---------------------------------------	---	--	--	---	---	---	--

Proposal (in order received) Topic	New Zealand, Iceland, Pakistan (TN/RL/GEN/186)	EU (TN/RL/GEN/181/Rev.1)	Indonesia (TN/RL/GEN/189/Rev.1)	ACP Group (TN/RL/GEN/192)	Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)	LDC Group (TN/RL/GEN/193)	Norway (TN/RL/GEN/191)
<u>Transitional provisions</u> (Cont'd)				4.2 With respect to Article 2.1.b, in order to establish measures against unreported and unregulated fishing, after the period stipulated in Article 3.1 and 3.2, developing countries not engaged in large scale industrial distant water fishing are entitled to apply [x] additional years and LDCs [x] additional years of transition period, except for illegal fishing.		3.3 With respect to Article 2.1.b, in order to establish measures against unreported and unregulated fishing, after the period stipulated in Article 6.2 below, developing countries not engaged in large scale industrial distant water fishing are entitled to apply [x] additional year and LDCs [x] additional years transition period to enable them to establish reporting mechanism and regulations through implementing Article 3.4.	
					In 3: "Transparency": 3.2 Members shall make this notification [under 3.1], for the first time, within one year after [the entry into force/adoption] of this instrument. In the case of developing and least-developed country Members the information requested in paragraph 3.1 shall be submitted to the Committee on Subsidies and Countervailing Measures (SCM Committee) within [the entry into force/adoption] of this instrument, 2 years and 4 years, respectively.		
					3.4 Within the six months after [the entry into force/adoption] of this instrument, Members that have not completed; or, need to update the information related to the status of the fish stocks in the fishery for which the subsidy is provided, shall inform the SCM Committee.		
	6.1 [partial] [...] No Member shall extend the scope of any such programme, nor shall such a programme be renewed upon its expiry.					6.3 No Member shall extend the scope of a programme inconsistent with this Agreement, nor shall such a programme be renewed upon its expiry.	

<p style="text-align: center;">Proposal (in order received)</p> <p>Topic</p>	<p style="text-align: center;">New Zealand, Iceland, Pakistan (TN/RL/GEN/186)</p>	<p style="text-align: center;">EU (TN/RL/GEN/181/Rev.1)</p>	<p style="text-align: center;">Indonesia (TN/RL/GEN/189/Rev.1)</p>	<p style="text-align: center;">ACP Group (TN/RL/GEN/192)</p>	<p style="text-align: center;">Argentina, Colombia, Costa Rica, Panama, Peru, Uruguay (TN/RL/GEN/187/Rev.2)</p>	<p style="text-align: center;">LDC Group (TN/RL/GEN/193)</p>	<p style="text-align: center;">Norway (TN/RL/GEN/191)</p>
<p><u>Institutional arrangements/review</u></p>	<p style="text-align: center;">Article 5</p> <p>5.1 The Committee on Subsidies and Countervailing Measures shall hold a dedicated biennial review of Members' implementation of this Agreement, the nature and extent of Members' subsidy programmes, and the related fish stock status, production and trade. This shall be informed by a summary from the Secretariat of Members' notifications complemented by relevant information provided by Members to the WTO Secretariat and information from other international organisations.</p> <p>5.2 The Committee shall review the operation of this Agreement after three years, and periodically thereafter.</p>	<p>4.3. The flexibility set out in Article 4.2 shall be reviewed in view of the objectives set out in UN Sustainable Development Goal 14 target 4 and target 6 at the end of the tenth year following the entry into force of this Agreement.</p>			<p>5 Review clause</p> <p>The SCM Committee should hold an annual special session to evaluate the progress in the implementation of the agreed disciplines and make recommendations for their future improvements.</p>	<p style="text-align: center;">Article 5 Review of Implementation</p> <p>The SCM Committee shall hold a dedicated annual review of progress in the implementation of this Agreement. This review shall be supported by a WTO Secretariat report based on Members' notifications complemented by relevant information provided by Members and information from other international organizations.</p>	
					<p>4.2 [partial]: [...] The WTO shall cooperate with the FAO and UNCTAD in the provision of technical assistance under this Article.</p>		