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Fisheries Subsidies
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SESSION II
IISD Analysis of the Draft Fisheries Subsidies Text

Wednesday, June 12 | 2-3 p.m. CEST
Zoom
Why additional rules?
Fisheries subsidies at the WTO: Where are we?

• The June 2022 Agreement prohibits fisheries subsidies in the most alarming situations:
  - Identified cases of IUU fishing
  - Stocks assessed as overfished (and no management measure in place)
  - Fishing on high seas outside the competence of any management arrangement

• But subsidies can have harmful impacts in many other situations, in particular:
  - IUU fishing or overfished stocks, but no IUU determination or stock assessment is made
  - No IUU fishing or overfished stocks (yet), but subsidies still lead to excessive fishing levels

• Additional, broader rules are essential to better address the underlying role of subsidies as a driver of overcapacity and overfishing, and protect the environment and people’s livelihoods
What rules are on the table?
Preliminary points


• Based on the draft text for additional provisions on fisheries subsidies circulated on 12 April 2024 (TN/RL/W/278) and its addendum (TN/RL/W/278/Add.1): some of the member-led work to find a landing zone at the end of MC13 is reflected. Indicated in blue boxes

• Caveats:
  > Written analysis and presentation reflect IISD’s reading of the text, but other readings are possible
  > High level of convergence among WTO members, but nothing is agreed yet

• The suggested additional provisions should be read and interpreted in the context of the existing framework established by the 2022 Agreement on Fisheries Subsidies
Main prohibition and management exemption (Art. A.1)

Prohibition: to provide subsidies that contribute to overcapacity and overfishing, including a specific list of subsidies:
- Vessel acquisition and modernization
- Purchase of engines, machinery and equipment
- Fuel costs and other variable costs (ice, bait, etc.)
- Other (personnel, income, price support)

Exemption: Subsidies are not prohibited if measures are implemented to maintain the relevant stock(s) at a biologically sustainable level.

Demonstration through notification (info on measures, stock status, catch, fleet capacity) and follow-up

Members can ask clarifications regarding notifications and others have an obligation to respond.

Tier 1: Developed, distant water fishing members, top 10 subsidizers, members opting out of SDT
- More extensive demonstration
- Within 6 months for any new subsidy

Tier 2: Other developing members that are not completely exempted
- Less detailed demonstration
- More time to notify

Article A.1

Article A.1.1

Article A.1.2
Special and differential treatment: a series of exemptions from the main prohibition

- Complete and permanent exemption for **LDC members’** subsidies (+ X-year transition after graduation)
- Complete and permanent exemption for **small developing fishing nations’** subsidies (< 0.8% of global catch)
- Transitional exemption for developing members’ subsidies, including **large-scale fishing** (X years)
- A permanent exemption for **small-scale and artisanal** fishing or fishing-related activities (that are primarily low-income, resource-poor, or livelihood in nature)
  “significantly commercial” fishing excluded

Developing members with “competent fisheries management capabilities” are encouraged to commit not to use SDT exemptions
SDT: Exemptions from the main prohibition (Art. B)

Special and differential treatment: a series of exemptions from the main prohibition

- Complete and permanent exemption for LDC members’ subsidies (+ 3-year transition after graduation)
- Complete and permanent exemption for small developing fishing nations’ subsidies (< 0.8% of global catch)
- Transitional exemption for developing members’ subsidies, including large-scale fishing (8 years)
- A permanent exemption for small-scale and artisanal fishing or fishing-related activities (that are primarily low-income, resource-poor, or livelihood in nature)

“industrialised” fishing excluded

Subsidizing developing members “with competent fisheries management capabilities” encouraged to commit not to use SDT exemptions
Obligation on subsidies targeted at DWF (Art. A.2)

Members must refrain, to the greatest extent possible, from providing subsidies that are targeted at fishing and fishing-related activities beyond their EEZ, unless particular criteria are met (see below).

Such subsidies are prohibited when the same criteria are not met.

Criteria: a quick and detailed demonstration that measures are implemented to maintain relevant fish stocks at a sustainable level, including notified information on subsidy amount, fleet capacity, and catch data.

A dedicated process for monitoring subsidies targeted at distant water fishing and the application of this rule.
Members have obligations to notify, each year:

- vessels and operators for which there is information that reasonably indicates the use of forced labour
- a list of fisheries access agreements or arrangements, including their title and parties and, if possible, their full text
- to the extent possible, non-specific fuel subsidies

Members only invoke the management-based exemption and the exemption related to artisanal fishing in respect of subsidies which they have notified

Members need to notify information that is necessary for the determination of its annual aggregate level of fisheries subsidies (120 days from entry into force, then with regular notifications)
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Other provisions (Art. D and E)

The **additional provisions**’ operation will be reviewed within 5 years from their entry into force:

- Review to consider: overall impact of the rules, DWF and global level of DWF-targeted subsidies, global level of subsidies, and economic benefits to SIDS and LDCs

- Identification of possible changes needed to make rules more effective; if subsidy levels have increased, the Committee “shall recommend” quantitative **limits or reductions**, unless other changes are more appropriate

- Results to be considered at the first **Ministerial Conference** following the review

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**Before granting any subsidy, members must consider its consequence on overcapacity or overfishing.**

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The additional provisions and the existing 2022 Agreement together constitute a **complete agreement** (the “comprehensive disciplines” referred to in the MC12 decision).

The framework established by the 2022 Agreement applies to these additional provisions.
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A sustainable development perspective
Not the best, but the best possible outcome?

• Concluding these additional rules is crucial from a sustainable development perspective, as they have the potential for broader impact than the more targeted rules included in the 2022 Agreement.

• The draft text reflects members’ attempt to find compromises and to strike balances at many levels.

• It is not anybody’s ideal set of rules, and it is not perfect either from a sustainability perspective:
  - Example of the management-related exemption, and SDT.

• After years of hard negotiating work, the draft text reflects the best set of disciplines on which members have managed to find convergence.
There is significant value on the table

• The text represents a lot of value in sustainable development terms
  
  o Most risky types of subsidies are prohibited if no credible management measure is not place
  
  o The widest SDT exemption is only temporary; others are smaller in scale
  
  o The rules would subject fisheries subsidies and their sustainability to scrutiny that currently does not exist, placing the issue explicitly on the ongoing international agenda at the WTO
  
  o A normative change: Beyond their legal nature, the disciplines would also change the public’s expectations of policy makers; subsidies would be expected to align with sustainability.

• Finding ways to close the last remaining gaps and securing this value would be a wise approach
Thank you!

And please tell us what you think:

https://www.surveymonkey.com/r/PRSYNFK

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