

WEBINARS

Fisheries Subsidies: Refresher sessions

Session 1: State of play in negotiations

Thursday 28 January | 9–10:30 a.m. CET

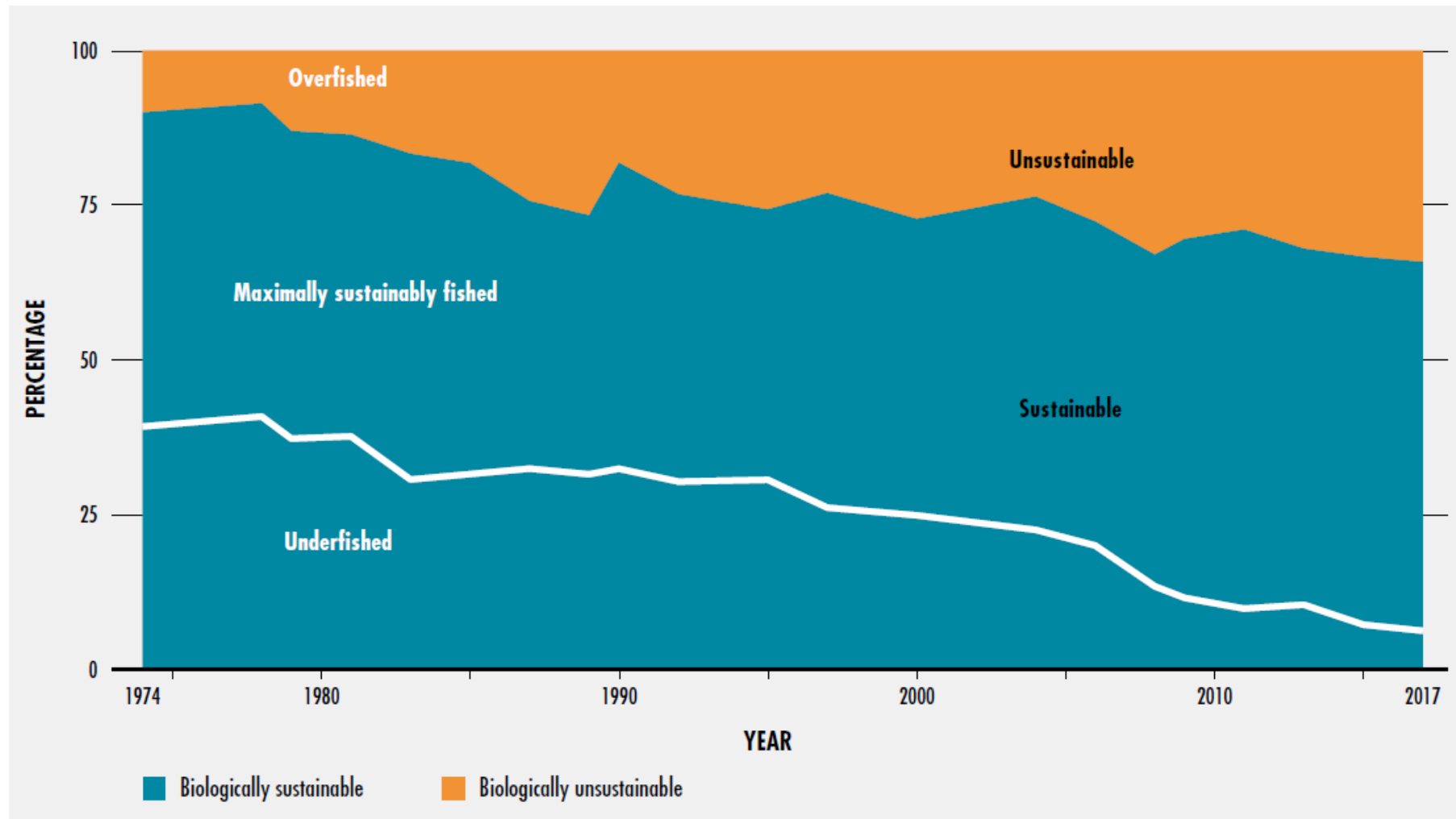


Context



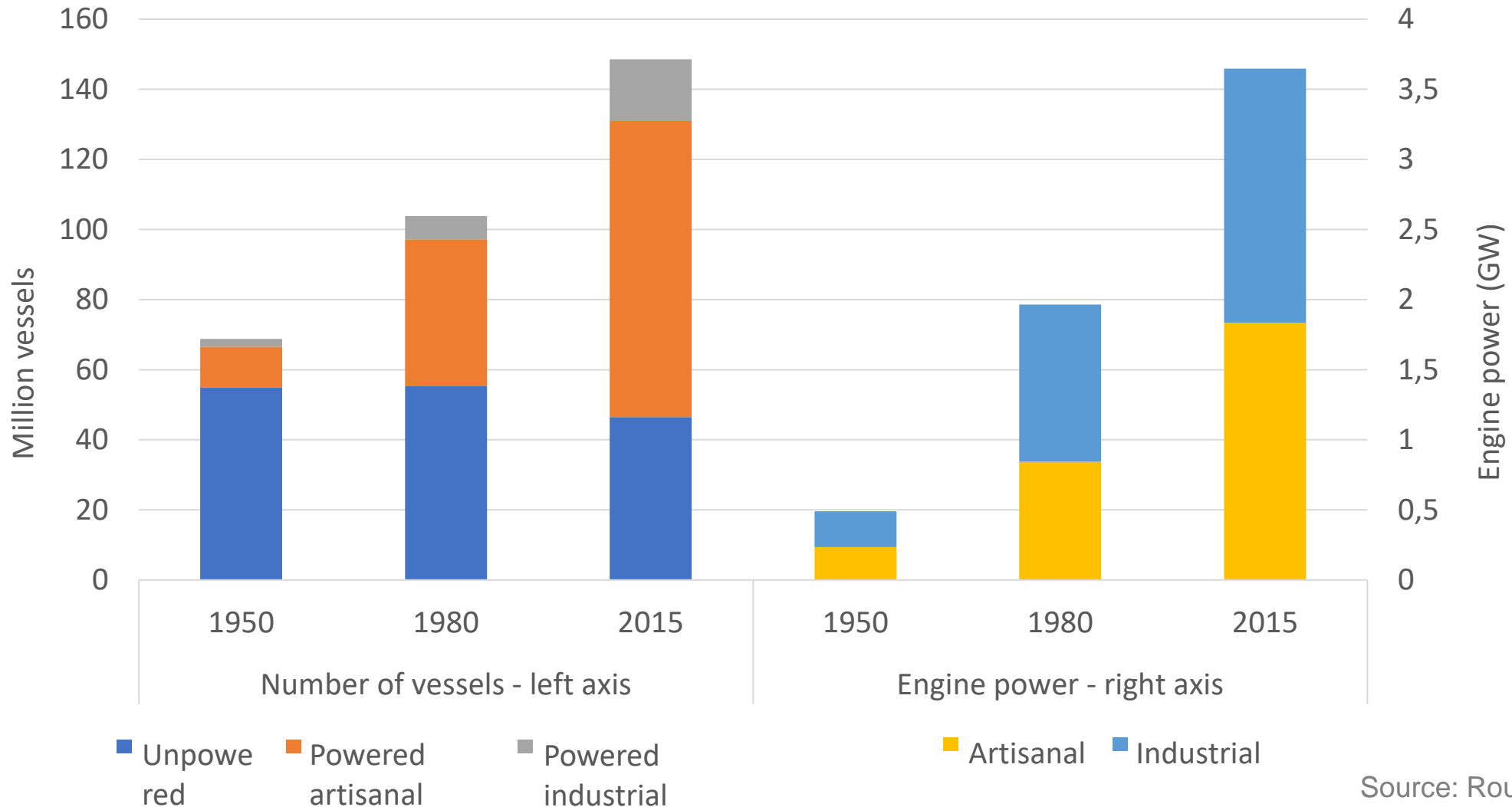
The state of assessed fish stocks

Global trends in the state of the world's marine fish stocks, 1974-2017



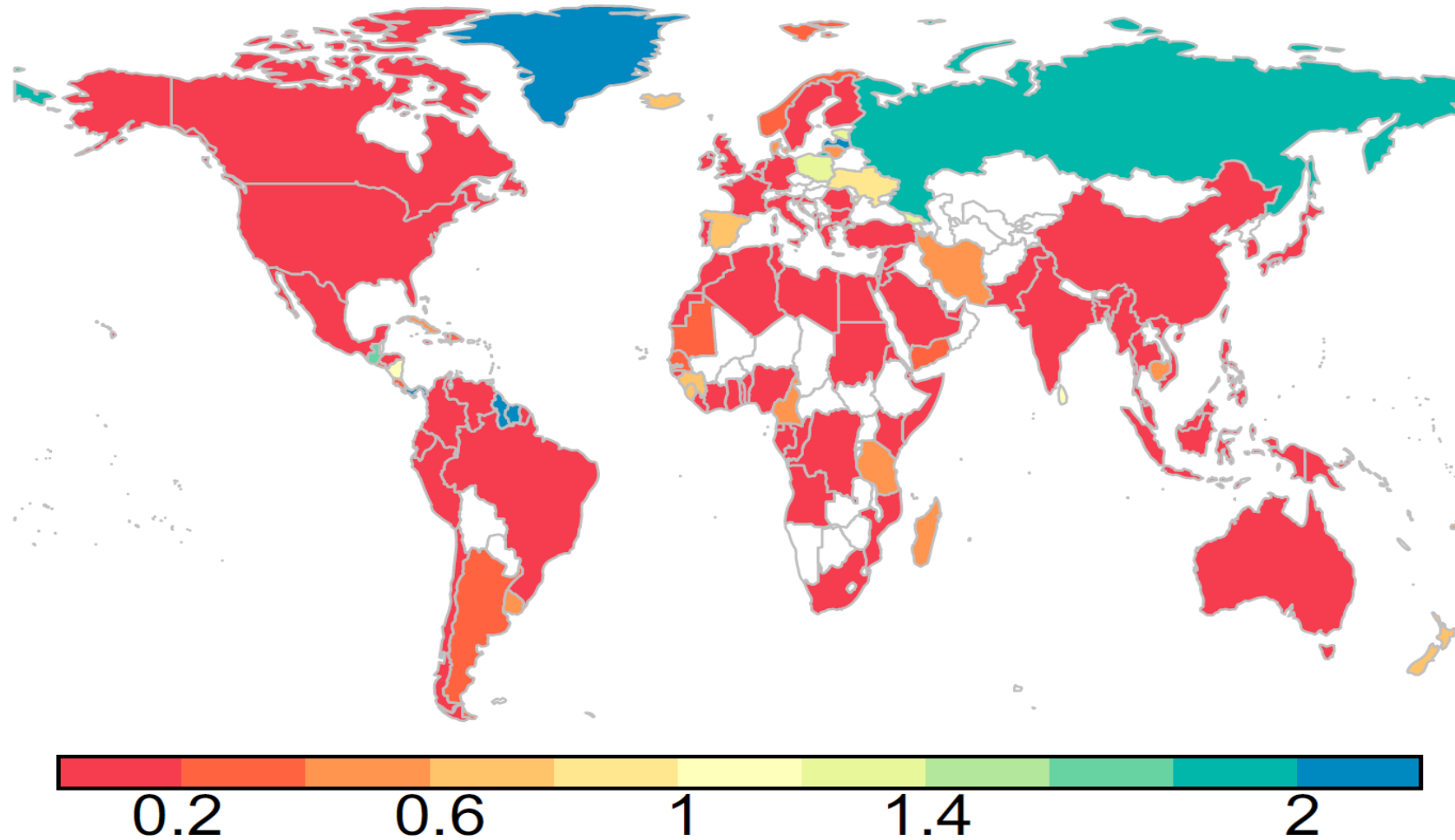
Global fishing capacity

Number of fishing vessels and engine power by sector, 1950-2015



Catch per unit of effort

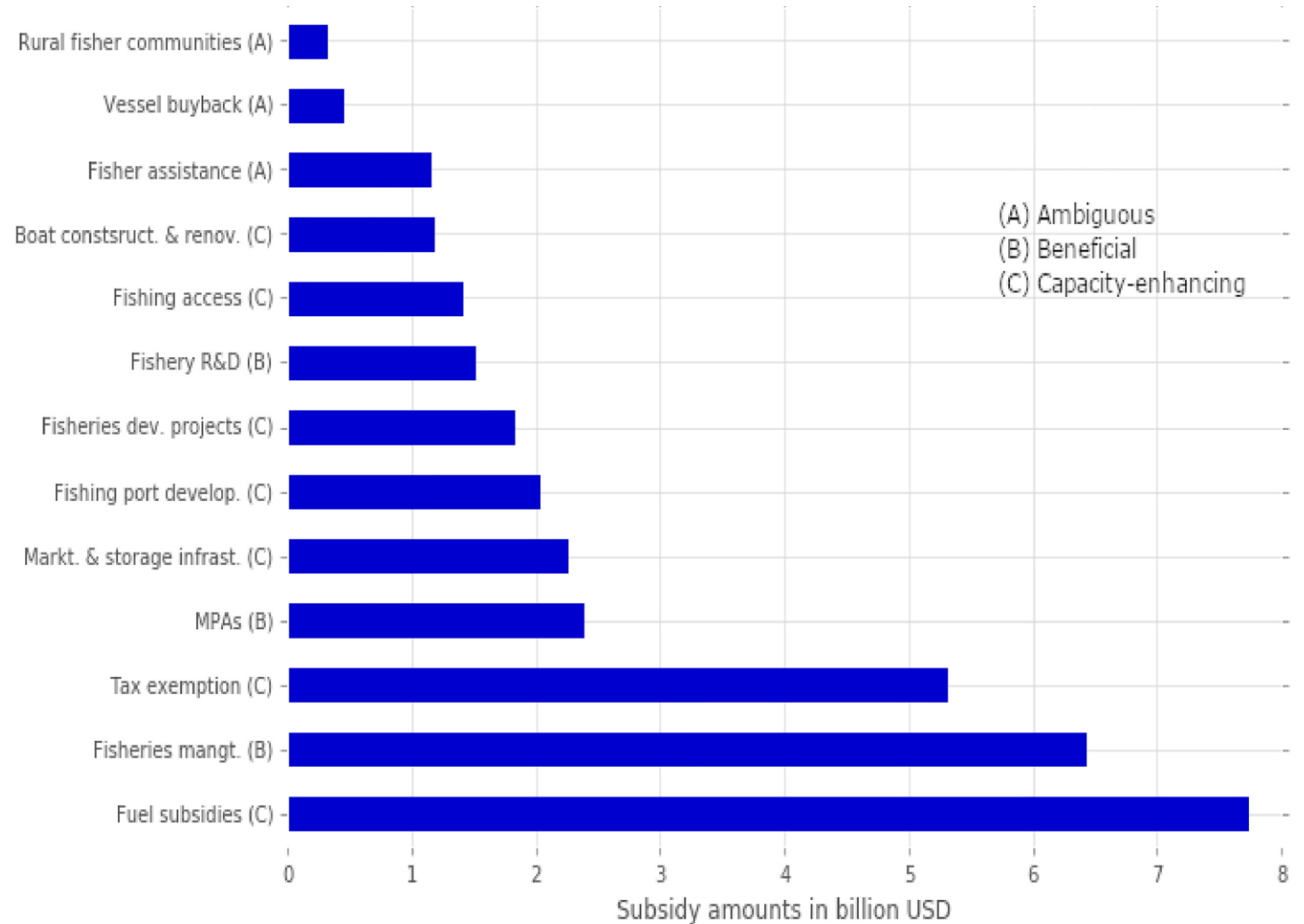
Catch per unit of effective effort in 2015, compared to 1950



Fisheries subsidies

- WTO notification obligation, but imperfect compliance and difficult to get total figures
- Sumaila et al. estimated global fisheries subsidies at USD 35.4 billion in 2018, incl. USD 22.2 billion in capacity-enhancing forms
- OECD found that USD 9.4 billion of support to the fisheries sector was provided annually in 2016-2018 in the 39 economies covered in the Fisheries Support Estimate database
- Not all subsidies have the same impact.

Fisheries subsidies by category



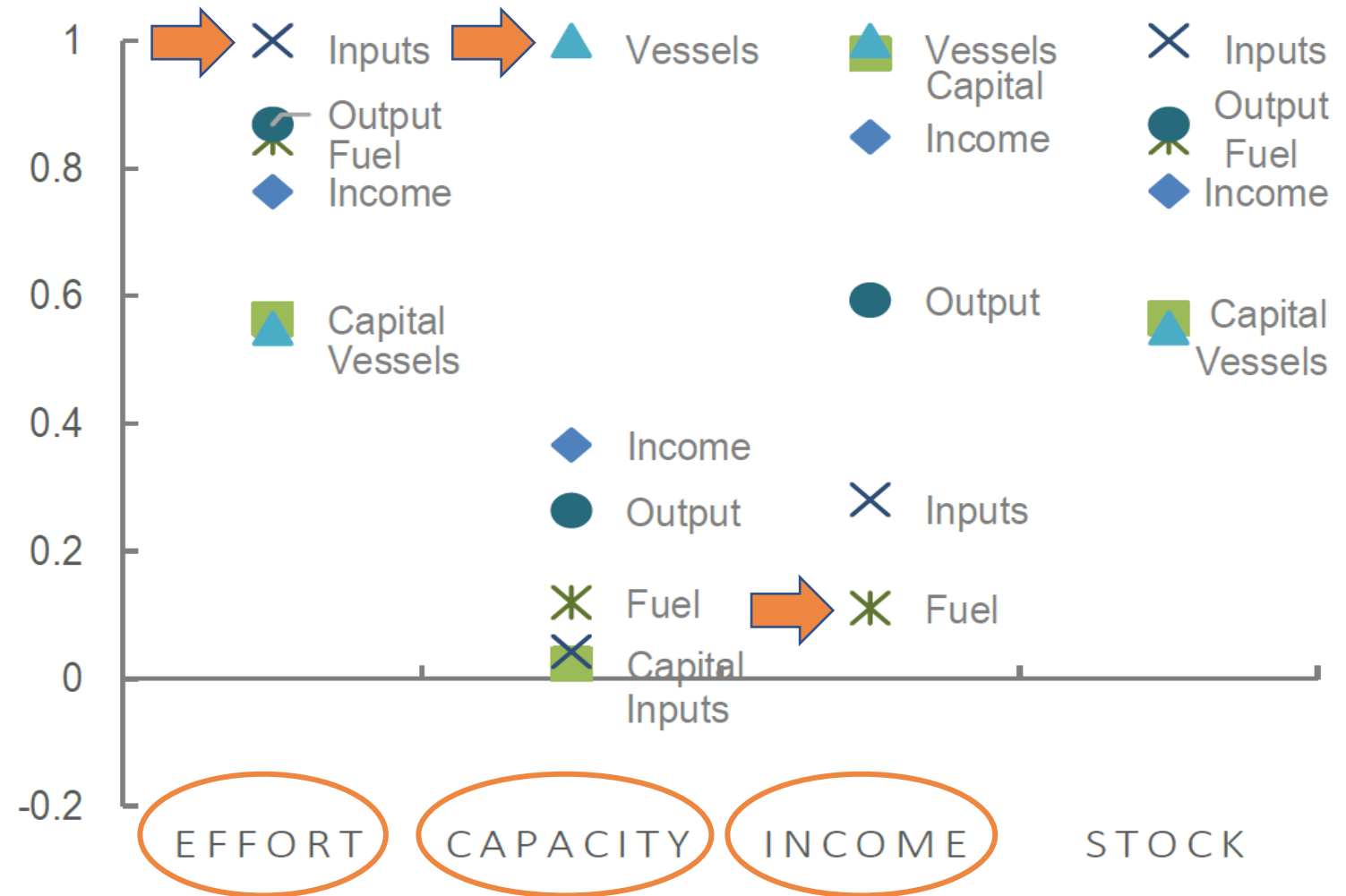
Fisheries subsidies

OECD estimated the impacts of various types of support to fishing, i.e. payments based on:

- fishers' income
- fishers' own capital
- vessels (capital costs)
- variable input use (operating costs)
- fuel use
- output

Support designed to reduce the cost of fuel and other variable inputs (like bait or gear) are the most likely to lead to overfishing and support fishers' income the least effectively

Impacts of different types of support to fishing (open access)



Scope and Definitions



Scope and Definitions

Agreement would **apply to**:

- **Subsidies** that are **specific** (ASCM Art. 1 and 2)
- **Marine wild capture** fishing and fishing-related activities at sea
- **Definitions** of vessels, fish, fishing, and fishing-related activities based on the FAO's Port State Measure Agreement

Agreement would **not apply to** inland fishing, aquaculture, and government-to-government payment under fisheries access agreements.

Key decision 1: Should non-specific fuel subsidies be explicitly included in scope?

Note: In current negotiations, artisanal fishing and disaster relief are proposed as exceptions for different pillars.

Illegal, Unreported, and Unregulated (IUU) Fishing



IUU Fishing

Subsidies to vessels/operators are prohibited when an “affirmative” (final) determination of IUU fishing is made.

Additional approach: Members should have procedures in place to ensure no subsidies go to IUU fishing

Key decision 1: In addition to the coastal Member, the flag State Member and a relevant RFMO/A, should any other entity’s IUU determinations trigger the subsidy obligation?

- Options :
- Subsidising member
 - Port state member

For comfort: Issuing determinations is a right, not an obligation

Key decision 2: What requirements should be met for determinations to trigger subsidy rules?

- Options :
- Use positive evidence
 - Follow due process

For comfort: Rules do not affect the validity and enforceability of an IUU determination.

IUU Fishing

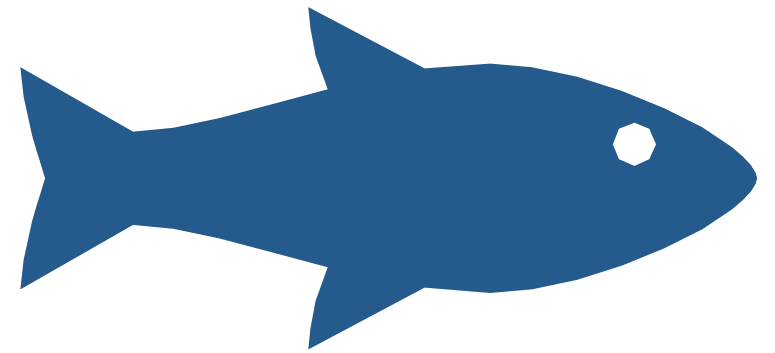
Key decision 3: Whether/how to clarify how the obligation should be implemented?

- Options :
- Members could be allowed to take into account the nature/gravity/repetition or seriousness of an infraction when applying the prohibition (with subsidies always prohibited for some serious violations)
 - Subsidies could be prohibited for a certain (minimum) period of time
 - Subsidies could be prohibited only for the vessel concerned or also for the operator concerned

Key decision 4: What special and differential treatment, if any, would be appropriate and effective?

- Options :
- Timeframes for implementation (for unreported and unregulated fishing)
 - Geographical exceptions (territorial sea) for fishing that is not large-scale industrial (for unreported and unregulated fishing)

Overfished Stocks



Overfished Stocks

Fisheries subsidies prohibited when a stock is overfished and not recovering, except if measures are in place to ensure stock recovery.

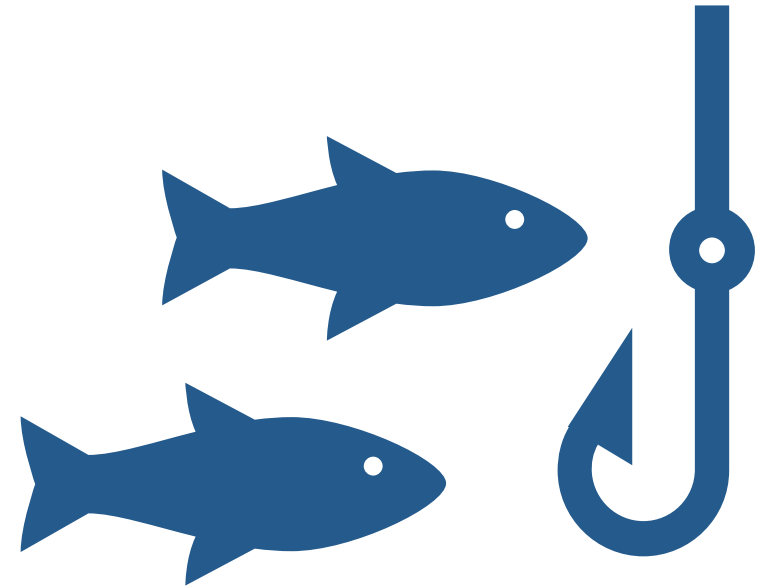
Key decision 1: How to establish when a stock is overfished for the purposes of this discipline?

- Options :
- Objective elements (overfished if level $<$ MSY or alternative reference point)
 - National/regional decisions (overfished when national authority or RFMO/A says so)
 - What standard of scientific evidence should be required (best evidence, “available to” or “recognized by” the Member)?

Key decision 2: What special and differential treatment, if any, would be appropriate and effective?

- Options :
- Timeframes for implementation
 - Geographic exception (fishing within territorial sea)

Overcapacity and overfishing



Overcapacity and overfishing

Key decision 1: How should the main discipline be designed?

Options :

- Prohibition of subsidies that contribute to overcapacity and overfishing:
 - (a) subsidies to **construction, acquisition, modernisation**, renovation or upgrading of vessels;
 - (b) subsidies to the purchase of machines and equipment for vessels (including **fishing gear and engine**, fish-processing machinery, fish-finding technology, refrigerators, or machinery for sorting or cleaning fish);
 - (c) subsidies to the purchase/costs of **fuel, ice, or bait**;
 - (d) subsidies to costs of **personnel, social charges, or insurance**;
 - (e) **income support of vessels or operators or the workers** they employ;
 - (f) price support of fish caught;
 - (g) subsidies to at-sea support; and
 - (h) subsidies covering operating losses of vessels or fishing or fishing related activities.

Unless fisheries management is implemented to maintain stocks at sustainable levels.

Overcapacity and overfishing

Key decision 1: What rules should apply to subsidies for fishing outside a Member's waters?

Options:

- Prohibition for fishing in areas beyond national jurisdiction (ABNJ)
 - Subsidies “contingent or tied to” fishing in all ABNJ.
 - All subsidies to fishing in high seas outside competence of RFMOs
- Prohibition of subsidies to re-flagged vessels

(Question: How to treat non-recovery of payments under government-to-government access agreements?)

Key decision 2: Should the instrument include quantitative as well as qualitative restrictions on subsidies? If so, how should these be designed?

Key decision 3: Should the discipline contain a “Green Box” of allowable subsidies? If so, what should its contours be?

Overcapacity and overfishing

Key decision 4: What special and differential treatment would be appropriate and effective?

- Options :
- Longer timeframes for implementation of the rules
 - LDC carve-out for subsidies contributing to overfishing and overcapacity
 - Exception for subsidies from developing country Members for fishing in their territorial sea
 - Exception for subsidies for fishing in domestic EEZ and RFMO/A for developing country Members, except those that meet all of a set of criteria (GNI per capita, share of marine capture, distant water fishing and the role of agriculture, forestry, and fisheries in their GDP).
 - Other transitional mechanisms

Key decision 5: Should there be an exception for subsidies to artisanal fishing? If so, from what rules and for whom?

Legal and Institutional issues



Legal and institutional issues

Transparency and notifications

Key decision: Should the instrument require notification of elements beyond those listed in Art. 25 of the ASCM? What should these elements be?

- Options :
- Specific information as part of regular notification of fisheries subsidies
 - IUU determinations
 - Government-to-government fisheries access agreements

Legal form of the agreement

Key decision: Should the instrument be structured as an Annex to the ASCM or to the Marrakesh Agreement?

Monitoring and review

Key decision: What institutional structure should administer the new instrument? And what should be its role and responsibilities?

Legal and institutional issues

Dispute settlement

Key decision 1: Should the instrument allow for remedies beyond the withdrawal of a subsidy?

Key decision 2: Should the instrument allow for “appropriate countermeasures” and/or new kinds of retaliation?

Key decision 3: How, if at all, should the instrument articulate the standard of review that should apply for different obligations?

Key decision 4: How, if at all, should the instrument address situations of disputed jurisdiction over maritime areas?

- Options :
- DS findings have no implications for delimitation of maritime jurisdiction
 - Panels do not entertain claims that require to address contested delimitations

Thank you!

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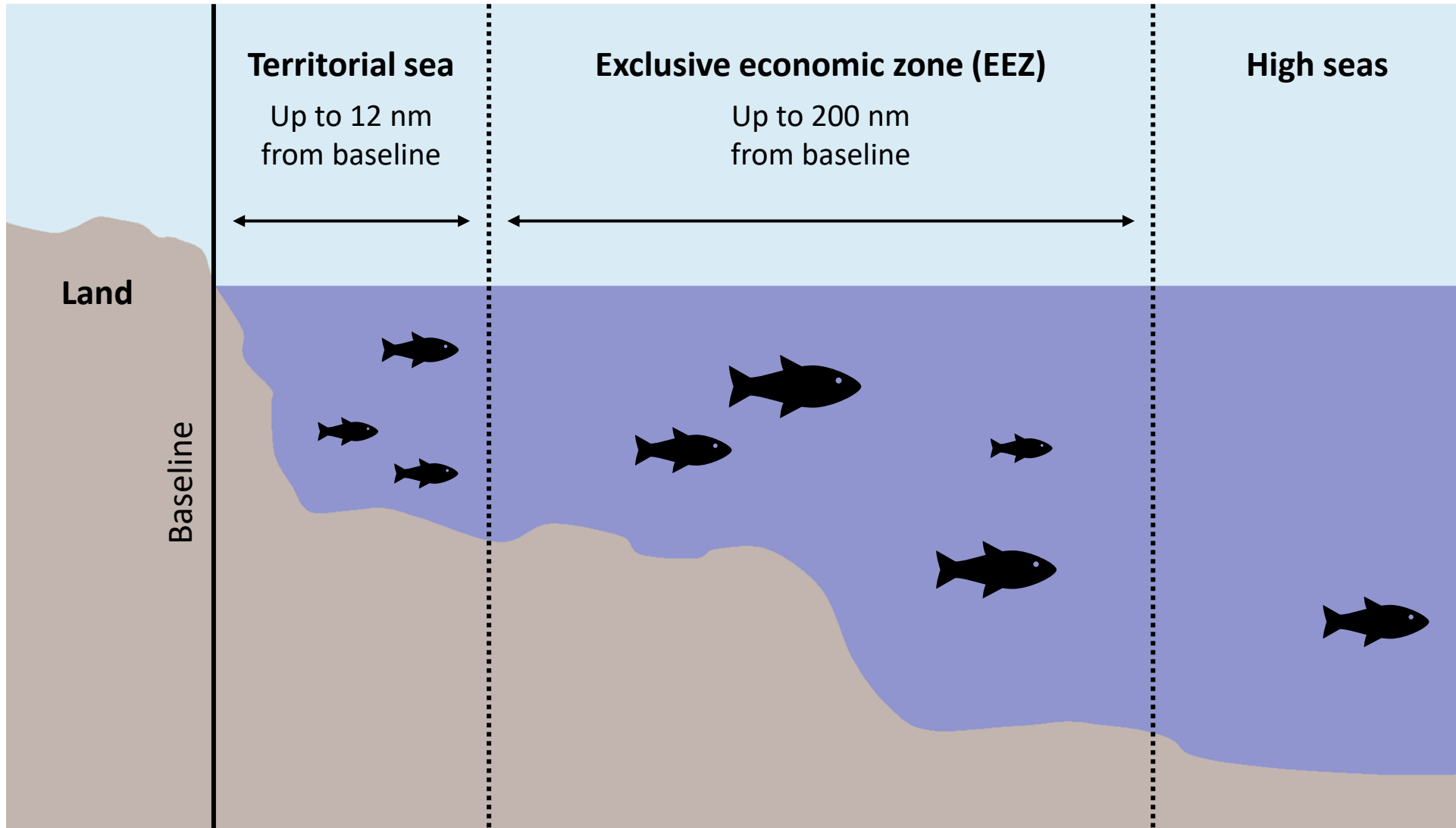
Video series:
www.iisd.org/library/fisheries-subsidies-videos

July 2020

“State of Play” brief :
<https://www.iisd.org/publications/wto-negotiations-fisheries-subsidies-whats-state-play>

[Download pdf of presentation slides \(video 1\)](#)

Maritime areas



Fishing hours of global large-scale fleet:

Domestic EEZ = 70%
High seas = 15%
Foreign EEZ = 15%

(Global Fishing Watch data)

Global catch by volume:

EEZ taxa = 33%
Straddling taxa = 67%
High seas taxa = <1%

(Sumaila et al. 2015)

Overfished vs overfishing: A Majuro Plot

