

Fisheries Subsidies Video Series: Legal and Institutional issues



Key Decision – Transparency and notifications

Key decision:

Should the agreement require notification of elements beyond those listed in Art. 25 of the ASCM? What should these elements be?

Options include:

- Fishing capacity of fleets receiving subsidies
- Status of stocks fished by fleets receiving subsidies
- Vessels and operators fishing in areas beyond national jurisdiction
- IUU legislation and any determinations (national, perhaps RFMOs?)

Key Decision – Legal form of the agreement

Key decision 1:

Should the agreement be structured as an Annex to the ASCM or to the Marrakesh Agreement?

Key Decisions – Monitoring and review

Key decision 1:

What institutional structure should administer the new agreement?

Options :

- SCM Committee
- SCM Sub-committee for Fisheries Subsidies
- New Committee for Fisheries Subsidies

Key decision 2: What should be the role and responsibilities of the administering institution be?

Options :

- Reviewing notifications and compliance
- Reviewing commitments according to agreed timeframes

Key Decisions – Dispute settlement

Key decision 1: Should the agreement allow for unilateral remedies, or only multilateral remedies?

Key decision 2: If the agreement allows for multilateral remedies, should these be preceded by a special consultations mechanism? If so, how should it be designed?

- Options :
- Exchange of information preceding formal multilateral dispute settlement
 - Opportunity to voluntarily rectify harmful effect of subsidies

Key decision 3: If the agreement allows for unilateral remedies, how should these be calculated?

- Options :
- Develop different methodology for calculating “material injury” and
 - Develop different type of countervailing measure that offset subsidy’s impact on stocks?

Key Decisions – Dispute settlement

Key decision 4: How, if at all, should the agreement articulate the standard of review that should apply for different obligations?

Options
include :

- An automatic recognition of assessment or determination by relevant authorities;
- A procedural review; or
- A review limited to the scientific basis for a Member's assessment (e.g. in case of a fish stock assessment)

Key decision 5: How, if at all, should the agreement address situations of disputed jurisdiction over maritime areas?