



Implementing new rules on fisheries subsidies: IISD Self-Assessment Tool

Self-Assessment Checklist and Guide

Overview

IISD is developing a **self-assessment tool** to support the WTO Members' efforts of implementation of new fisheries subsidies rules. The tool includes two documents:

- **Checklist** of questions covering the new commitments
- **Guide** supporting users working on the checklist

The tool has been designed to aid developing country WTO Members in:

- Identifying and collecting key information and data needed for implementation
- Self-assessing their current level of compliance with new rules and identifying corrective actions to comply
- Self-assessing the mechanisms needed to maintain full compliance
- Identifying gaps and possible technical assistance and capacity building needs to support implementation efforts

The tool **is not** an official legal interpretation of the new agreement and should **not** be taken as legal advice.

Self-Assessment Checklist and Guide

Collecting necessary information and data

- The initial collection of information is structured through the “**inventory**” lists:
 - Domestic fisheries **subsidies** that fall within the scope of new rules
 - **Fleets** receiving subsidies and the stocks they fish (+ catch data table)
 - The status of fish **stocks** identified as being fished by fleets receiving subsidies
 - Vessels and operators identified as having engaged in **IUU** fishing activities
- The information from inventory lists is later used to answer the questions of the Checklist.

Self-Assessment Checklist

Assessing compliance status, implementation gaps, and TACB needs

The tool takes **legal obligations** one by one, addressing each of them through two tables :

- **Compliance** table: Member's current level of compliance with an obligation and identification of corrective actions in case of non-compliance.
 - ➡ Compliance snapshot at the moment the assessment is made
- **Implementation steps** table: necessary steps to ensure ongoing compliance, identify implementation gaps and articulate needs for TACB
 - ➡ Assessment of “mechanisms” needed to maintain compliance + TACB needs

Example: Illegal, unregulated and unreported (IUU) fishing

Article 3 (IUU fishing) contains three substantive obligations:

- IUU subsidy prohibition (Art 3.1-3.4, 3.8)
- Due regard and appropriate action in case of notification by a port state (Art 3.6)
- Legislation/procedures to prevent IUU subsidies (Art 3.7)

The tool deals with each obligation in turn.

For each of them, the checklist includes a compliance table, and an implementation steps table.

The guide explains each obligation, reproduces the legal text, and then gives detailed explanation on how to fill the compliance table and the implementation steps table. It also indicates what information is required to do so, and where to find it, referring to the relevant “inventory tables”.

Example: The main IUU fishing subsidy prohibition

Sample questions

From the compliance table: Does my government grant or maintain subsidies to vessels or operators that have been identified as having engaged in IUU fishing by my national authorities for activities in waters under my jurisdiction or activities of vessels flying my flag outside waters under my jurisdiction?

The table indicates relevant information from the inventory tables and suggests actions to take:

- List of active subsidies
- List of subsidised fisheries/fleets
- List of IUU determinations in the listed fisheries and fleets

Verify if the IUU list has any vessels or operators that receive subsidies

From the implementation steps table: Do the domestic laws, regulations, and/or administrative procedures that govern the provision of subsidies ensure that no subsidy is granted or maintained to vessels or operators that are subject to an IUU determination by my national authorities?

Example: The main IUU fishing subsidy prohibition

Sample question from the compliance table

Considerations	Article	Questions	Information Required	Factual information	Yes/No	Further Actions
Obligation not to provide subsidies to IUU fishing and support activities	3.1 3.2 3.3 3.4	1. Does my government grant or maintain subsidies to vessels or operators that have been identified as having engaged in IUU fishing by my national authorities for activities in waters under my jurisdiction or activities of vessels flying my flag outside waters under my jurisdiction?	<p>List of active subsidies (as per Table 2.1).</p> <p>List of subsidised fisheries/fleets (as per Table 2.2).</p> <p>List of IUU determinations in the listed fisheries and fleets (as per Table 2.4).</p> <p><i>Verify if the IUU list has any vessels or operators that receive subsidies.</i></p>			<p>If “No”, no action is needed,</p> <p>If “Yes”, the subsidy should be removed from that vessel or operator for at least as long as the sanction imposed by national authorities or any resulting RFMO/A listing, whichever is longer</p>

Example: The main IUU fishing subsidy prohibition

Sample question from the implementation steps table

Considerations	Question	Yes/ No	Short description	Actions required to implement	Technical assistance needs
IUU determination by national authorities	1a. Do existing domestic procedures ensure that an IUU determination by relevant national management authorities is timely communicated to those responsible for the granting or maintaining of fisheries subsidies?		Describe existing procedures to ensure communication among relevant national authorities in case of an IUU determination		
	1b. Do the domestic laws, regulations, and/or administrative procedures that govern the provision of subsidies ensure that no subsidy is granted or maintained to vessels or operators that are subject to an IUU determination by my national authorities?		Describe existing laws and regulations ensuring the removal or non-granting of subsidies following an IUU determination by relevant national management authorities		

Content of the Guide

The Guide provides detailed explanation on how to fill the tables of the Checklist. Uniform approach is followed in all articles.

For each obligation, it includes a summary box:

Prohibition to provide subsidies to vessels and operators engaged in IUU fishing or activities supporting such fishing (Articles 3.1-3.4 and 3.8)

Obligation: No Member shall provide subsidies to a vessel or operator found to have engaged in IUU fishing or fishing related activities in support of IUU fishing, based on an affirmative determination by:

- (a) A coastal Member, for activities in its waters, provided the determination relies is based on relevant factual information and the flag State Member (and, if known, the subsidizing Member) has been duly notified and provided an opportunity to exchange information; or
- (b) A flag state Member, for activities by vessels flying its flag; or
- (c) An RFMO/A, for fisheries under its competence, provided the determination was made in accordance with its own rules and procedures and relevant international law, including through the provision of timely notification and relevant information

The subsidizing Member sets the duration of the prohibition, taking into account the nature, gravity and repetition of IUU fishing. At a minimum, it shall apply as long as the IUU sanction remains in force, or as long as the vessel or operator is listed by an RFMO/A as engaged in IUU fishing, whichever is the longer.

[S&DT provision: LDCs' and developing countries' subsidies for low income, resource-poor and livelihood fishing or fishing related activities up to [12] nautical miles from the baselines cannot be challenged at the WTO during the first two years after entry into force of the FSA.]

The Guide also addresses other provisions of the agreement such as technical assistance, institutional issues, and dispute settlement. It provides summaries of S&DT issues and notification obligations.

A large school of tiger sharks swimming in clear blue water. The sharks are densely packed and moving in a coordinated pattern, creating a sense of movement and depth. The background is a solid, deep blue color.

Thank You!

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