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ADDITIONAL PROVISIONS ON FISHERIES SUBSIDIES

DRAFT TEXT

Addendum

The attached document from the Chair of the Negotiating Group on Rules is the explanatory note accompanying the Additional Provisions on Fisheries Subsidies circulated in document WT/MIN(24)/W/10.

INTRODUCTION

As Chair of the Negotiating Group on Rules, I am today submitting a draft of Additional Provisions on Fisheries Subsidies for the attention of Ministers, in document WT/MIN(24)/W/10. This Addendum is intended to assist Ministers and their delegations in understanding the background of and reasons for the draft Additional Provisions contained in this new text. The new draft represents my honest and best assessment of what in my view would be a balanced outcome to these negotiations, taking into account the wide diversity of views held by Members in respect of all of the issues addressed in its provisions. In preparing this draft, I drew upon the countless hours of deliberations by Members as they expressed their views and provided me with text, particularly bridging language to address difficult issues for which there was difference in positions among Members.

Since the beginning of 2023, the Negotiating Group on Rules has been engaged in negotiations to develop disciplines on subsidies contributing to overcapacity and overfishing (OCOF), pursuant to the mandate in the Ministerial Decision on the Agreement on Fisheries Subsidies, adopted at the Twelfth WTO Ministerial Conference (MC12) with a view to making recommendations to the Thirteenth Ministerial Conference (MC13). In the course of this work, and on the basis of proposals and suggestions from Members, I have circulated a series of documents for Members' consideration on my own responsibility, initially in the RD/TN/RL series, and most recently – in December 2023 – in the form of a Chair's text in document TN/RL/W/277 (W/277). Compilations of Members' textual suggestions made on the drafts that preceded W/277 – RD/TN/RL/174 and RD/TN/RL/184 – have been circulated in documents RD/TN/RL/180/Rev.1 and Add.1, and RD/TN/RL/183, respectively. As an attachment to this Addendum, you will find the complete list of all submissions to the Negotiating Group, both by me and Members.

Starting in mid-January this year, the Negotiating Group has engaged on the basis of W/277, in an intensive "Fish Month" of continuous negotiating activities in different formats and configurations. The new draft text in document WT/MIN(24)/W/10 (the new text), is the result of all of the intensive collective work carried out by the Negotiating Group over the past year, and most notably during the Fish Month. As a result of this work, we have made very considerable progress in deepening our understanding of Members' positions and in developing convergence language in numerous areas.

As with the previous drafts that I have circulated since assuming the role of the Chair of the Negotiating Group in January 2023 (documents RD/TN/RL/174, RD/TN/RL/184, and TN/RL/W/277), it is well understood that nothing in the new text is agreed, and that it remains a draft until

everything is agreed. While this text reflects my best attempt to identify a balance that I see as most likely to build consensus, the final outcome remains in the hands of Members working together.

To assist the work at the Ministerial Conference, I have bracketed language in a few places in the new text to draw attention to issues in respect of which significant divergences in views remain. In these areas, I am not in a position to present either a clear suggested outcome, or binary options. I believe Ministers' attention to these areas will be particularly warranted. One of the principal areas for attention concerns the treatment of certain subsidies to distant water fishing under Article A.2 of the new draft. Another is the issue of artisanal fishing where Members have been seeking an elusive balance between description of the intended beneficiaries and the geographical scope. Related to this is the overall balance of certain figures associated with the special and differential treatment (SDT) provisions in Article B. These numbers are: the length of a possible transition period for graduated least developed country (LDC) Members; the share of global marine capture fishing below which a developing country Member would have access to a *de minimis* exemption from the disciplines; and the transition period during which other developing country Members would be exempt from the discipline. Finally, related to SDT, Article B.5 provides two options for certain developing Members that are large industrialized fishers to not have access to SDT. Other areas for Ministers' attention, which are not bracketed, include transparency provisions on the use of forced labour, and on non-specific fuel subsidies.

Work will not pause with the circulation of the new text. Indeed, Members remain engaged, with me and with each other, trying to further narrow differences and eliminate brackets in the time remaining before MC13. As such, supplementary documents on the draft Additional Provisions on fisheries subsidies may be circulated before and during MC13.

Turning to the specifics of this Addendum, it provides background, context, and explanations for the new text circulated today. Members will recall that on 4 September 2023, I circulated a draft text in RD/TN/RL/174 as the starting point for our text-based work during the fall of 2023. The circulation of that text was followed by extensive deliberations on its provisions as well as on Members' textual suggestions regarding modifications to that text. While views often diverged, many Members also came forward with bridging text and ideas. On 1 December, I circulated document RD/TN/RL/184 as an attempt at capturing some of Members' ideas on how to further develop Article A.1 on the discipline and Article B on special and differential treatment .

On 21 December 2023, I circulated a Chair's text in document TN/RL/W/277 containing a comprehensive set of draft provisions. This draft drew on Members' feedback on document RD/TN/RL/184, as well as the submissions and deliberations over the preceding several months.

As I have indicated before, the core discipline contained in the new text should lead to a meaningful reduction in subsidies contributing to overcapacity and overfishing, not only through the statement of prohibition that the core discipline contains, but also through the rigorous Committee review procedure that is as central to the working of the discipline as the prohibition itself. The draft core discipline and the special and differential treatment provisions taken together essentially would allocate Members into three groups – Members subject to the top, stricter tier of the two-tier hybrid discipline, Members subject to the lower, less-strict tier of the two-tier hybrid discipline, and thirdly LDC Members and certain developing country Members that would be excluded from the scope of the hybrid discipline by virtue of the SDT provisions in Articles B.1 and B.2. These three groups would be subject to varying degrees of scrutiny as explained in detail below.

The other provisions of the new text address notification and transparency in Article C, other overcapacity- and overfishing-related provisions in Article D, and the relation of the Additional Provisions with the Agreement on Fisheries Subsidies in Article E.

DETAILED EXPLANATION OF THE PROVISIONS OF WT/MIN(24)/W/10

1 ARTICLE A: SUBSIDIES CONTRIBUTING TO OVERCAPACITY AND OVERFISHING

1.1 Article A.1

1. Article A.1, and its subparagraphs A.1.1 and A.1.2, comprise the core discipline on subsidies contributing to overcapacity and overfishing (OCOF). The drafting is based on the *hybrid approach* combining a statement of the prohibition and a list of presumptively prohibited fisheries subsidies, with a qualification based on sustainability elements. The basic hybrid structure of the core OCOF discipline emerged several years ago as a compromise between a pure list-based approach and a pure effects-based approach, and has been reflected in the various Chair's documents since 2020.¹

2. As is well known, the aim and operation of the hybrid approach is to ensure that sustainability measures factor in as one important consideration in the granting and maintaining of fisheries subsidies, and to ensure that decisions on subsidization likewise should factor into sustainability decisions. Under this approach, subsidies would need to be notified along with a demonstration that sustainability measures are in place for the fish stocks in respect of which the subsidies are provided. This demonstration process would begin with notifications to the Committee on Fisheries Subsidies established pursuant to Article 9 of the Agreement on Fisheries Subsidies (AFS).

3. In the new text contained in WT/MIN(24)/W/10 (the new text), this long-standing hybrid approach is maintained, with certain important further elaborations which emerged from the second wave of fisheries subsidies negotiations on the OCOF pillar. In particular, the new text now uses a two-tier hybrid approach. Under this approach, the top tier applies stricter requirements on certain Members identified based on a combination of criteria, namely level of subsidization, engagement in what can be referred to for convenience as far distant water fishing, and level of development. The differentiation of the core OCOF discipline into two tiers was widely supported during the second wave of negotiations, and many Members have supported it as reflecting the principle of common but differentiated responsibility (CBDR), which they consider appropriate given the sustainability focus of WTO disciplines on fisheries subsidies. This two-tier structure was first introduced in RD/TN/RL/174 circulated in September 2023 and was maintained in the W/277 text circulated in December 2023.

4. While the principle of two tiers was broadly supported by Members throughout the period following its introduction, the criteria for dividing Members into the two tiers as well as the precise disciplines applicable to the Members falling under the two tiers have been the subject of deep and lengthy debates. In the new text, both the criteria for assignment to the tiers, and the specific requirements under each of them, reflect considerable evolution from the drafting of the corresponding parts of previous texts.

5. Following these introductory considerations, the rest of this section will explain in greater detail the different elements of the core OCOF discipline in the new text, especially in relation to the corresponding provisions in those previous texts.

1.1.1 The chapeau and illustrative list in Article A.1

6. The core OCOF discipline starts with Article A.1, which contains in its first sentence the following statement of the prohibition regarding subsidies contributing to overcapacity or overfishing:

No Member shall grant or maintain subsidies to fishing or fishing-related activities that contribute to overcapacity or overfishing.

It continues with an illustrative list of certain presumptively prohibited subsidies. The chapeau also maintains a footnote from the previous texts indicating that Article A.1 does not apply to subsidies provided in respect of overfished stocks.

¹ Including WT/MIN(21)/W/5 (W/5), WT/MIN(22)/W/20 (W/20), RD/TN/RL/174, and TN/RL/W/277 (W/277).

7. In relation to the chapeau, in recent discussions some Members proposed to add *could*, *may* or *can* before the word *include* in the second sentence of the chapeau. The Members making these suggestions indicated that they wished to convey that the subsidies in the indicative list do not in all cases contribute to overcapacity and overfishing. Some other Members, however, raised the concern that the addition of any of the suggested words in the second sentence would have the effect of fundamentally altering the intended meaning and operation of the hybrid approach.

8. To respond to these drafting suggestions relating to the chapeau, a new footnote 2 has been added to clarify that the subsidies listed in Article A.1 shall not be deemed to contribute to overcapacity and overfishing *when* granted or maintained in accordance with the provisions of Article A.1.1. In other words, this footnote confirms what has long been a shared understanding that together the provisions in Articles A.1 and A.1.1 operate as a *qualified* prohibition. That is, a subsidy will not be prohibited if the sustainability-based conditionality contained in Article A.1.1 is fulfilled in relation to that subsidy. This implicit understanding is now explicit with the addition of the new footnote.

9. The next element of Article A.1 is the list of presumptively prohibited subsidies, contained in paragraphs (a) through (h). In recent discussions of this list, Members have suggested a variety of modifications.

10. One such suggestion was to add the word *maintenance* to items (a) and (b) of the list, to reflect the fact that subsidies to maintenance of vessels and equipment, respectively, may not be covered by those items in spite of their similar nature and potential effects on sustainability. This suggested change has been made for the clarity and completeness of items (a) and (b).

11. Another suggested change, to add the words *specific or not*, after the word *fuel* in item (c), was not made. The Members supporting this change explained that it would strengthen the discipline by expanding the coverage of the fuel subsidies subject to it. These Members noted that research identifies fuel subsidies, regardless of their specificity, as amongst the most harmful forms of fisheries subsidies. A significant number of other Members expressed strong opposition to this suggestion, including because such subsidies are not within the scope of the Agreement on Subsidies and Countervailing Measures or that of the Agreement on Fisheries Subsidies.²

12. There also were several suggestions to change other items in the list by excluding certain types of subsidies from their respective scopes, on the basis that such subsidies either were not harmful or were helpful to sustainability. Numerous delegations expressed the concern that modifications of this type would both weaken the discipline by entirely excluding from scrutiny or discipline certain types of subsidies that could in certain circumstances harm sustainability, and that such exclusions thus would defeat the purpose of the sustainability-based demonstration provided for in Article A.1.1.

13. One proposed modification that received considerable support and little opposition was included. This was to retain the language that had been introduced, in brackets, in item (e) of the list as contained in W/277. This language excludes from the scope of item (e) subsidies implemented for subsistence purposes during seasonal closures. The language was introduced to address the concern that if a Member's provision of this type of assistance became prohibited through the operation of the discipline, that Member would be prevented from pursuing the important socioeconomic and sustainability objectives of supporting vulnerable communities so that they were able to comply with closed seasons implemented as a sustainability measure.

1.1.2 Article A.1.1(a) and (b)

14. The next element of the core OCOF discipline is Article A.1.1, which sets out the two-tiered sustainability-based conditionality as well as certain notification requirements through which the conditionality would be operationalized. As explained below in relation to Article B, the Members that would be subject to the discipline in one of the two tiers set forth in Article A.1.1 are Members that are not least developed country (LDC) Members or developing country Members falling under the *de minimis* threshold set forth in Article B.2.

² Non-specific fuel subsidies also are discussed below in connection with Article C.3 and Article D.

15. Article A.1.1 has three subparagraphs. Subparagraph (a) sets out the stricter sustainability-based conditionality of the top tier. Subparagraph (b) contains language to divide the Members subject to Article A.1.1 into the two tiers, by describing the Members that would not be subject to Article A.1.1(a). This provision also contains the less-strict sustainability based-conditionality of the lower tier. Subparagraph (c) contains rules concerning the information to be notified pursuant to Article A.1.1(a) and Article A.1.1(b).

16. In the operation of the main OCOF discipline, the first step would be the identification of Members that would fall under each of the two tiers based on the criteria in Article A.1.1(b). Subparagraph (a) – that is the stricter tier – would apply generally to all Members, while subparagraph (b) would remove certain developing country Members from the scope of the stricter tier in subparagraph (a), assigning them instead to subparagraph (b). Specifically, subparagraph (b) would remove from the stricter tier developing country Members that do not fall under Article B.5, that are not amongst the top-ten largest providers of fisheries subsidies by annual aggregate value as notified under Article C.4, and that are not *significantly engaged* in far distant water fishing.

17. Thus, elements regarding the criteria for allocating the relevant Members to the two tiers contained in subparagraph (a) in TN/RL/W/277 were moved into subparagraph (b) of the new text. Effectively, this means that the criteria in subparagraph (b) would subdivide the non-LDC and non-*de minimis* developing country Members between the two tiers of the discipline.

18. First, the chapeau of Article A.1.1(b) limits the potential applicability of the lower tier of the disciplines set forth in this provision only to certain developing country Members, i.e., not to developed Members, and not to developing country Members covered by Article B.5. This means that the developed Members and the developing country Members covered by Article B.5 automatically would fall into the stricter tier of the discipline set forth in Article A.1.1(a). Regarding Article B.5, as explained further below, discussions on its specific content are still ongoing, and two alternative formulations of that provision are included in the new text. Regardless of how Article B.5 is eventually worded, per the chapeau of Article A.1.1(b) the Members covered by Article B.5 would be subject to the stricter tier of the discipline from the beginning.

19. Subparagraphs (i) and (ii) of Article A.1.1(b) describe the two groups of relevant developing country Members that can access the lower tier of the disciplines set forth in Article A.1.1(b). The first group, referred to in subparagraph (i), is Members that are not amongst the ten largest providers of fisheries subsidies by annual aggregate level of fisheries subsidies.

20. As was the case in W/277, Article A.1.1(b) identifies notifications provided by Members to the WTO pursuant to Article C.4 as the basis for identifying the top-ten largest providers of fisheries subsidies by annual aggregate value. The process through which this list of top subsidizers would be prepared is set out in Articles C.4 and C.5. Those provisions are explained in the section on Article C.

21. The list of the top-ten subsidizers referred to in subparagraph (i) would be an overall list based on information provided by all Members. In other words, subparagraph (i) does not refer to the list of top-ten subsidizers amongst developing country Members only, but to the list of top-ten subsidizers amongst all Members. Any developing country Member amongst the top-ten subsidizers overall would be subject to the stricter tier of the discipline set forth in Article A.1.1(a).

22. As for this subparagraph's reference to the ten largest providers of fisheries subsidies, Members actively debated what figure would be most appropriate here. Several Members advocated a larger number, most commonly 20. Others, however, considered that a considerably smaller number should be used, reasoning that basing the discipline on top-20 subsidizers would treat alike Members with major differences in subsidization levels.

23. The figure ten used in the new text reflects the structural change in the methodology for establishing the two tiers compared with that in W/277. In that text, the higher tier was composed of the top-20 subsidizers, regardless of their development status (except for LDCs and developing countries falling under the *de minimis* threshold in Article B.2). Thus, the lower tier in W/277 was accessible to a mix of developed and developing country Members. Because in the new text the lower tier is accessible only by developing country Members the smaller number of top subsidizers in the new text would have an approximately equivalent effect in practice as the larger number in W/277. In other words, the use of a combination of factors for assigning Members to the two tiers

means that all developed Members, Members falling under Article B.5, and Members *significantly engaged* in far distant water fishing will necessarily be in the stricter tier, regardless of whether they are amongst the top subsidizers. The developing country Members amongst the top-ten subsidizers overall would be *added to* the list of Members falling into the stricter tier, rather than being the *only* Members falling into that tier.

24. Subparagraph (ii) of Article A.1.1(b) identifies the second group of relevant developing country Members that can access the lower tier of the disciplines set forth in this provision. This group consists of such Members that are not *significantly engaged* in what is referred to for convenience in this Addendum as *far distant water fishing*. The definition of this concept is the same as that contained in the first formulation of Article B.5 presented in the new text. The details are explained further below in the section concerning Article B.5.

25. The use of this combination of factors to allocate Members to the two tiers is one significant way in which the two-tier hybrid discipline in the new text differs from that contained in the counterpart provisions of W/277 and RD/TN/RL/174. Those texts relied on the annual aggregate level of subsidization as the sole criterion for allocating Members to the two tiers. The combination of three factors used in the new text reflects extensive discussions of both of those earlier texts, in which various possible options for additional or alternative criteria were explored. These discussions showed that Members wanted the criteria to be clear, predictable, and designed in a way that would allow for the movement of Members from Article A.1.1(b) to Article A.1.1(a).

26. Aside from the three factors used in the new text to assign Members to the two tiers, other factors discussed as potential criteria for this purpose included subsidy intensity, engagement in *large scale industrial fishing*, and annual volume of marine capture production. Although discussed at least to some extent, these alternative criteria are not reflected in the new text because they did not attract broad support amongst Members.

27. Assignment of the relevant Members to the two tiers of the discipline is the first step in its operation. Those Members in the top tier would be subject to the stricter standard and procedures set forth in Article A.1.1(a), and those in the lower tier would be subject to the less-strict standard and procedures set forth in Article A.1.1(b). Both tiers operate on the basis of certain demonstrations, to be made through notifications and review of notified information by the Committee on Fisheries Subsidies.

28. Concerning the stricter tier, Article A.1.1(a) of W/277 would have required a Member to *demonstrate that measures are implemented that can reasonably be expected to ensure that the stock or stocks in the relevant fishery or fisheries are at a biologically sustainable level*. This wording was intended to tighten the standard applicable to Members falling in the stricter tier, compared with the language in the less-strict tier, *measures are implemented to maintain* the stocks at such a level. During discussions on the text in W/277, however, some Members expressed uncertainty as to whether the wording of the top tier in fact constituted a stricter standard than was in the lower tier. Numerous Members also strongly called for the word *maintain* to appear in both tiers.

29. In response to this call, in the new text the word *maintain* was added in Article A.1.1(a), and the standard was redrafted to provide that a Member is to demonstrate that measures are implemented *to maintain* the stocks in question at a biologically sustainable level. Attached to this requirement is an addition to footnote 3 on biologically sustainable level that further elaborates for greater clarity, that the biologically sustainable level of stocks may be influenced by factors beyond the control of the subsidizing Member. Article A.1.1(a) then describes the standard for the referenced demonstration, namely that it shall include an explanation of how the measures ensure or can reasonably be expected to ensure that the stocks in question are maintained at a biologically sustainable level.

30. The rest of the provision is essentially as it was in W/277, requiring that the demonstration, including the explanation referred to above, be made through a notification to the WTO. In respect of existing subsidy programs, Members would make the demonstration through their regular notifications in accordance with Article 25 of the SCM Agreement and Article 8.1 of the Agreement on Fisheries Subsidies of the draft text. Footnote 5 has been added for clarity in respect of existing subsidies. In respect of new subsidy programs, Members would need to make the demonstration through a notification to the WTO within six months after the subsidy comes into effect.

Article A.1.1(a) also has a footnote clarifying that a coastal Member that is not the subsidizing Member shall not be required to provide data to enable the subsidizing Member to invoke Article A.1.1.

31. The timeline for providing the notifications concerning new subsidy programs has been increased to six months from the three months stipulated in W/277. Several Members had expressed the view that the maximum of three months in W/277 was too short. While some suggested 12 months, most Members that addressed this issue indicated that six months would be workable. Members also noted that a six-month maximum for providing these notifications was congruent with the biannual meeting schedule of the Committee on Fisheries Subsidies. The primary obligation in this regard is to submit such notification *as soon as practicable*. Therefore, six months is *the maximum amount* of time that a Member falling under Article A.1.1(a) could take to submit a notification regarding a new subsidy program.

32. Members falling under Article A.1.1(b) would have to demonstrate that measures are implemented to maintain the stock or stocks in the relevant fishery or fisheries at a biologically sustainable level. Such Members would have to make this demonstration through their regular notifications under Article 25 of the SCM Agreement and Article 8.1 of the Agreement on Fisheries Subsidies.

33. The requirements of Article A.1.1(a) differ from those of Article A.1.1(b) in two key ways – first, in terms of *what* Members would need to notify in relation to their subsidies to fulfil the sustainability-based conditionalities of the two provisions; and second, *how frequently* they would need to provide their notifications. These differences give Article A.1.1(a) a stricter effect than Article A.1.1(b).

34. As regards what Members will need to notify, the difference stems from the more elaborate demonstration standard contained in Article A.1.1(a). As reflected above, Members falling under Article A.1.1(a) will need to include in their notifications an explanation of how their fisheries management measures ensure or can reasonably be expected to ensure that the stocks in question are maintained at a biologically sustainable level. This additional language is not present in Article A.1.1(b). Therefore, to demonstrate the sustainability-based conditionality under Article A.1.1(a), Members would have to provide a more detailed explanation in their notifications than under Article A.1.1(b).

35. Regarding the respective frequency of the notifications, the difference is that Members falling under Article A.1.1(a) would be obliged to submit the notifications referred to in Article A.1.1(a) in respect of a new subsidy program *no later* than six months after it came into effect. The Members falling under Article A.1.1(b) would have to submit the notifications referred to in that provision in accordance with the schedule for their regular notifications of fisheries subsidies, regardless of when those subsidies came into effect.

36. As Members falling under Article A.1.1(a) would have to provide more elaborate and more frequent notifications, the Committee review process, including the possibility to receive requests for clarification or additional information pursuant to Article A.1.2, also could be expected to be more intensive than that for notifications provided pursuant to Article A.1.1(b).

37. The new text also includes certain technical adjustments to Articles A.1.1(a) and (b) to more accurately identify the provisions in the SCM Agreement and the Agreement on Fisheries Subsidies concerning regular notifications of fisheries subsidies.

38. Several Members have continued to propose that the sustainability-based conditionality under Article A.1.1(a) would only apply within the subsidizing Member's own EEZ, while others have strongly opposed this proposal. This is related to the questions concerning Article A.2 and will be addressed in the section on Article A.2.

1.2 Article A.1.1(c)

39. As in W/277, Article A.1.1(c) in the new text contains additional requirements concerning the notifications referred to in Article A.1.1(a) and Article A.1.1(b). These notifications would form the basis for Members to evaluate whether a notifying Member has met the demonstration standards

referred to in those provisions. To this effect, the chapeau of Article A.1.1(c) requires that the information in the Article A.1.1 notifications shall enable other Members to *effectively evaluate* the subsidy according to the conditions set out in Article A.1.1. The chapeau also contains a new footnote indicating, for greater clarity, that Members would be free to supplement, revise or correct their notifications, and that the demonstration could include such information as well as information provided in written answers to written questions received as part of the Committee review process, as set out in Article A.1.2.

40. The requirement in Article A.1.1(c) of the new text for notifications to enable *effective evaluation* replaces the language in W/277 for the notifications be to *sufficiently precise* to enable Members to evaluate the consistency of a subsidy with the conditions in Article A.1.1. The modified language has the same underlying intent, i.e. to ensure that the notifications are robust and conducive to effective Committee scrutiny. The modifications have been introduced because of concerns raised by Members that the *sufficiently precise* language was unclear.

41. Article A.1.1(c) also lists certain information that the notifications referred to in Article A.1.1 would need to include. Several changes have been made compared to the corresponding list in W/277. One change is that the items were reordered to put conservation and management measures first. In addition, former references in the list to *relevant fish stocks* were moved into the chapeau, simplifying the drafting of the list of items, as is the case for item (i). Second, in item (ii), on the status of the fish stocks, *unknown* has been added as a reportable status. This change was made in response to some Members' concerns that the provision as previously drafted might have required them to assess 100% of their fish stocks, which many indicated was not feasible or realistic. The footnote from W/277 describing the reference to *shared stocks* is also included in the new text.

42. Also in this provision, footnotes were added, first to indicate that a Member should report the assessments of all the stocks it assesses, and second to indicate that where a stock is managed by an RFMO/A, the stock status information provided by the notifying Member is to include available stock status information from the RFMO/A. The most substantive change to the list of items is the addition of item (iii), catch data by species or group of species as compiled by a Member, with the same footnote as in the Agreement on Fisheries Subsidies pertaining to multi-species fisheries. The reference to data *compiled by a Member* was introduced in items (iii) and (iv) in response to differences of view over whether the provision of such data should be subject to the qualifier *to the extent possible*.

1.3 Article A.1.2

43. Article A.1.2 operationalizes certain aspects of the Committee review process of Members' notifications under the two tiers of the discipline. In particular, Article A.1.2 provides that other Members can pose questions and seek clarifications about the information referred to in Article A.1.1 and establishes rules for the subsidizing Member's responses. As such, Article A.1.2 encapsulates a dynamic aspect of the peer review process that would be conducted through the Committee on Fisheries Subsidies.

44. This provision is materially the same as Article A.1.2 in W/277. An additional sentence, similar to language in Article 8.5 of the Agreement on Fisheries Subsidies, has been added as the second sentence of this provision. It indicates that when a Member seeks a clarification or considers that required information has not been provided, the Member may bring the matter to the attention of such other Member or to the Committee on Fisheries Subsidies. The third sentence, which was present in materially the same form in W/277, concerns the subsidizing Member's response to such questions.

45. In this context, it is important to note that notifications pursuant to Article A.1.1 as well as the written exchanges between the Members in the Committee pursuant to Article A.1.2 would form the basis for a Member's demonstration of the sustainability-based conditionality. The second sentence of the newly added footnote 11 reflects this understanding.

46. Article A.1.3 of W/277 has not been retained in response to the concern raised by numerous Members that the provision was redundant, given that the other elements of Article A.1 necessarily imply that in the absence of a notification that fulfils the conditions of Article A.1.1, the prohibition in Article A.1 would apply.

1.4 Article A.2

47. Article A.2, like its counterpart in W/277 contains a prohibition of subsidies contingent on fishing or fishing related activities in areas beyond the subsidizing Member's jurisdiction, whether solely or as one of several other conditions. This prohibition, contained in Article A.2(a) is free-standing and not subject to either the sustainability flexibilities in Article A.1.1 or the SDT provisions in Article B. It thus would be applicable to all Members. This language has been with us for a long time and was included in W/20. Article A.2 is the subject of strongly-held and sharply divergent views as to how subsidies to distant water fishing should be treated in these Additional Provisions. Supporters of Article A.2(a) consider this provision critically important, as they view the types of subsidies it covers to be the most harmful to sustainability, because such subsidies compensate fishers to use their capacity in areas that are beyond the jurisdiction of the subsidizing Member.

48. Some Members oppose this provision equally strongly. They argue that such contingent fisheries subsidies are no more likely to cause harm than non-contingent fisheries subsidies, provided that the subsidies are used for regulated fishing – that is, to fulfil quotas allocated by RFMO/As or to fish in the Exclusive Economic Zone (EEZ) and under the authorization of another Member or coastal non-Member. These Members therefore call for Article A.2 to be entirely deleted, or, at most moved its contents into the list in Article A.1.1, as was the case in W/5. This would have the effect of treating contingent subsidies the same as other subsidies, i.e., making them subject to the sustainability-based flexibilities in Article A.1.1.

49. Somewhere in the middle are proposals that would provide for some limited flexibility in the application of Article A.2. First, there is a long-standing proposal to accompany this prohibition with a provision for flexibility for the non-collection from operators or vessels of the government-to-government fees for accessing the fisheries resources of another Member or coastal non-Member, so long as the requirements for the sustainability-based flexibilities of the hybrid discipline are met. Some Members oppose it on the grounds that it either weakens the prohibition, or in practice would address situations of relevance to at most a very few Members. This flexibility language was included in W/20, but not in W/277. Instead, the latter text contained an empty placeholder for *possible flexibility* for this prohibition. As explained below, this long-standing proposed flexibility language appears in the new text in Article A.2(b), in brackets.

50. A more recent flexibility proposal, in RD/TN/RL/188, would exclude from the coverage of Article A.2(a) contingent subsidies provided by LDC and *de minimis* Members to fishing or fishing-related activities in areas beyond such Members' jurisdiction under bilateral agreements or quotas and/or rights established by RFMO/As, on condition that the requirements set out in Article A.1.1(b) were met. This proposal appears to partially overlap with the bracketed language in Article A.2(b) of the new text.

51. At the opposite end of the spectrum are Members with the view that Article A.2(a) does not go far enough. They propose deleting its contingency language such that it would become a strict prohibition of subsidies to fishing outside of a subsidizing Member's EEZ. This proposal would have the same effect as proposals that were submitted to limit the flexibilities under Article A.1.1(a) to the subsidizer's own EEZ.

52. Given the importance of this provision to a large number and broad diversity of Members, holding irreconcilable positions, it has not been possible to include proposed landing zone language for this issue. Instead the use of square brackets in relation to the prohibition in Article A.2(a) provision and the flexibility language in Article A.2(b) is intended to reflect the spectrum of positions that have been expressed. First, in respect of Article A.2(a), the entire provision is bracketed to reflect the view that it should be entirely deleted, and its contingency language – including the related footnote – also is bracketed to reflect the view that this language should be removed. The whole of Article A.2(b) is in brackets, to represent the proposals to delete it or to alter it.

53. The treatment under the Additional Provisions of subsidies to distant water fishing is of central importance to reaching an outcome on such provisions at MC13. Members will need to work very creatively with each other to bridge the gaps in this area and develop a compromise that all will be able to accept as part of the final balance in these provisions.

2 ARTICLE B: SPECIAL AND DIFFERENTIAL TREATMENT

2.1 Article B.1

54. A significant change to Article B.1 compared with the corresponding provision of W/277 is the omission of the geographic limit from the flexibility available to a graduated LDC Member. Article B.1 of W/277 allowed a graduated LDC Member to grant or maintain subsidies referred to in Article A.1 for fishing or fishing related activities in its EEZ or in the area and for species within the competence of a relevant RFMO/A. The current text expands this flexibility by omitting that geographic limit.

55. Certain language has been added to this provision to indicate that the second sentence of Article B.1 would be available to graduated LDC Members that were not already covered by Article B.2. This change reflects the generally shared understanding amongst Members that the transition period in the second sentence of Article B.1 would be irrelevant to a graduated LDC Member with a *de minimis* share of global marine capture production, as that Member could avail itself of Article B.2.

56. Pursuant to these changes, graduated LDCs above the *de minimis* threshold at the time of their graduation could avail themselves of the transition period of [X] years referred to in Article B.1 without geographic limitations. Further, a new footnote has been added stating that the peace clause, and the mechanism for possible extensions thereof, foreseen in Article B.3(b) and (c) would apply, *mutatis mutandis*, to a graduated LDC Member not covered by Article B.2, from the end of the transition period referred to in Article B.1.

57. The text of Article B.1 also contains certain technical adjustments clarifying the language on UN General Assembly decisions on LDC graduation.

2.2 Article B.2

58. The only change made to Article B.2 concerns the wording of the footnote clarifying that graduated LDC Members falling within the [0.8] per cent threshold would fall within the scope of Article B.2 upon graduating. The corresponding footnote in W/277 indicated that graduated LDC Members within the *de minimis* threshold would fall under Article B.2 only after the transition period referred to in Article B.1. However, as discussed above, the transition period in Article B.1 now applies only to those graduated LDC Members that are above the *de minimis* threshold. In conformity with that change to Article B.1, Article B.2 would apply to all graduated LDC Members falling within the *de minimis* threshold, without regard to the transition period referred to in Article B.1.

2.3 Article B.3

59. Article B.3(a) in the new text is a simplified version of the corresponding provision in W/277. To recall, the construct of the two-tier OCOF discipline in W/277 placed into the stricter tier all Members – developed or developing – that were amongst the top-20 subsidizers. Given that in W/277 the level of development was not a criterion for assigning Members to the tier of the OCOF discipline, Article B.3(a) of W/277 afforded certain developing country Members two transition periods. The first transition period allowed eligible developing country Members a maximum of [X] years after entry into force of the Additional Provisions to grant or maintain the subsidies referred to in Article A.1 within their exclusive economic zones and in the areas and for species under the competence of a relevant RFMO/A. Second, Article B.3(a) of W/277 afforded a developing country Member whose level of subsidization would have placed it under Article A.1.1(a), an additional maximum of [Y] years after the [X] years, during which it would have been able instead to apply Article A.1.1(b).

60. The drafting changes in Article A.1.1 of the new text explained above, in particular the incorporation of the level of development as a criterion for sorting Members into the two tiers made the second transition period of [Y] years unnecessary. Therefore, Article B.3 in the new text foresees only one transition period of a maximum of [X] years.

61. As was the case in W/277, Article B.3(a) would apply only to developing country Members that were not excluded from availing themselves of SDT pursuant to Article B.5, or were already exempted from the discipline in Article A.1 by virtue of falling under Article B.1 or B.2. Article B.3(a)

in the new text introduces a footnote that clarifies that if a Member exited Article B.2 due to its share of global marine production during the transition period of [X] years referred to in Article B.3(a), that Member would benefit from the remainder of that period. The footnote also makes the peace clause provisions in Article B.3(b) and (c) applicable, *mutatis mutandis*, to a Member that exited Article B.2 for the first time.

62. Article B.3 also contains a technical change concerning language identifying the relevant RFMO/As in respect of which the flexibility in Article B.3(a) applies. W/277 identified such RFMO/As as "an RFMO/A through which the Member *has fishing rights*". During discussions of this provision in the fish month, some Members suggested that the wording "an RFMO/A through which the Member is *authorized to engage in such fishing or fishing related activities*" is more technically appropriate. The text of Article B.3(a) has been rephrased accordingly. This rephrasing is not intended to affect the substance of this provision.

63. Article B.3(b) and (c) contain rules concerning the application of a peace clause in respect of subsidies granted or maintained during the transition period provided for in subparagraph (a). Article B.3(b) is unchanged from W/277. The new text of Article B.3(c), which concerns the extension of the peace clause set out in Article B.3(b), contains a couple of substantive changes compared with the counterpart provision of W/277. Article B.3(c) in the new text limits potential extensions of the peace clause provided for in Article B.3(b) to a maximum of two two-year extensions. This change has been made to address the widespread concern that in the absence of such a limit, Article B.3(c) could lead to a potentially indefinite application of the peace clause. This means that a Member may receive an extension of the peace clause for up to four years, in addition to the two years available through Article B.3(b).

64. The second sentence of Article B.3(c) has been modified to reflect that the Committee is to give *due and sympathetic* consideration to peace clause extension requests of developing country Members that demonstrate concrete progress toward implementing Article A.1. The corresponding phrase in W/277 was *sympathetic* consideration.

65. As explained above, footnotes 18 and 20 of the new text taken together place LDC Members and developing country Members that would be below the *de minimis* threshold at the entry into force of these Additional Provisions on an equal footing with other developing country Members in relation to the ability to benefit from the peace clause and the possible extensions thereof foreseen in Articles B.3(b) and B.3(c).

2.4 Article B.4

66. Article B.4 has been split into two subparagraphs compared with the counterpart provision of W/277. The first subparagraph sets out an exemption for certain subsidies to certain small scale and artisanal fishing or fishing related activities. The second subparagraph contains corresponding notification obligations related to the implementation of the first paragraph.

67. The discussions on Article B.4 have been marked by the search for balancing two priorities that are recognized as legitimate by nearly all Members – first, safeguarding the livelihood of vulnerable fishing communities, and second, ensuring that the provision is fit for purpose and targets those intended beneficiaries. Members have explored a number of tools to create this balance, such as a range of characteristics to identify the intended beneficiaries, terminology that would cover the intended beneficiaries but not commercial fishing, geographic limits, national definitions, and notifications to the WTO. The formulation of Article B.4 in the new text combines some such tools to focus the application of this provision, without overly constraining or burdening developing country Members.

68. The terminology used to refer to the intended beneficiaries has been broadened. Article B.4 of W/277 referred to *low income, resource poor [and][or] livelihood fishing or fishing related activities*. The new text adds the terms *small scale and artisanal* to the formulation, with the qualification that such fishing or fishing related activities are *primarily low income, resource poor or livelihood in nature*. The basis for identifying such fishing or fishing related activities is a Member's operational definition to be notified to the WTO pursuant to subparagraph (b). Article B.4 also includes a footnote that identifies a range of characteristics that may be taken into account as guiding points in considering *small scale and artisanal fishing or fishing related activities*. The

characteristics referred to in this footnote were proposed and discussed by Members in the course of the negotiations.

69. Article B.4(a) also contains bracketed geographic limits within a Member's jurisdiction. The two bracketed figures, 12 and 200 nautical miles from the baselines, reflect the extensive debate over whether the exemption for the small-scale and artisanal fishing should be limited to activities relatively close to shore or instead extend through the entirety of a Member's area of jurisdiction. The purpose of the lower limit, which has been in previous texts going back several years, was to serve as a proxy to ensure that the exemption did not apply to commercial-scale fishing and fishing related activities. For some Members, flexibility in relation to the geographic scope of the exemption under Article B.4 is related to other SDT flexibilities and the overall balance of the text.

70. Article B.4(b) provides guidance for a Member availing itself of Article B.4(a) to notify its operational definition of the fishing or fishing related activities referred to in subparagraph (a). In particular, this definition is to be provided as part of the Member's regular subsidy notifications, and can take the form of an electronic link.

71. Similarly to Article B.4, this provision would apply to Members not excluded from SDT pursuant to Article B.5 and not already covered under Article B.1 or B.2.

2.5 Article B.5

72. Article B.5 of the new text is the counterpart of Article B.6 of W/277, containing provisions to exclude certain developing country Members from using the special and differential treatment provisions.

73. The new text presents two alternative versions of Article B.5. The first version would exclude from access to Articles B.3 and B.4, in a legally binding way, developing country Members *significantly engaged* in far distant water fishing. The alternative version encourages developing country Members with competent fisheries management capabilities to make binding commitments not to avail themselves of the SDT provisions of Article B. The specifics of both versions are elaborated below.

74. The first version resembles Article B.6 of W/277 and operates on the basis of engagement in fishing or fishing related activities in the third (or farther) FAO Major Fishing Areas from the Member's jurisdiction. The important difference from W/277 is that this provision is limited to Members that are not only engaged, but considered to be *significantly engaged* in such fishing or fishing related activities. Through a newly added footnote, the provision indicates that a Member is *significantly engaged* if its annual catch from such far distant areas constitutes more than two percent of *its own* overall annual catch. Notably, this two percent figure is not to be confused with the *de minimis* figure contained in Article B.2. While Article B.2 is concerned with a Member's share of the annual *global* marine catch, Article B.5 speaks to the share of a Member's annual catch from far distant areas as a percentage of *that Member's own* overall annual catch. This qualification to the scope of Article B.6 has been introduced to avoid inadvertent impact on certain Members with a low level of engagement in far distant water fishing.

75. A second new footnote added to this provision stipulates that the FAO Major Fishing Areas referred to in the provision would be those delineated in the FAO Major Fishing Area map in effect at the time of adoption of the Additional Provisions, as circulated by the WTO Secretariat. The footnote was included to address concerns that any future change in the configuration of FAO Major Fishing Areas by the FAO could detract from the intended functioning of this provision.

76. A third new footnote has been added to address the concerns raised by certain Members regarding FAO Major Fishing Areas to which they do not have a territorial connection but which they access for fishing through a maritime canal.

77. Another important change to this provision in the new text is the deletion of reference to Articles B.1 and B.2 that appeared in W/277. This clarifies that the provision would not preclude any LDC or *de minimis* Members from availing themselves of the SDT set out in Articles B.1 and B.2. Thus, the omission of Articles B.1 and B.2 in the new text is in line with the intention of applying

Article B.5 only to developing country Members with large scale industrial fishing capacity and activities.

78. In recent discussions concerning this provision, some Members suggested that it should refer to *subsidization of*, rather than *engagement in*, fishing activities or fishing related activities in the third FAO Major Fishing Area out from a Member's territorial sea, as this was more reflective of the purpose of the Agreement to discipline subsidies. Other Members, however, asserted that using subsidization as the criterion for the relevant far distant water fishing would be very difficult to identify, making the provision challenging to apply and enforce. Thus, the new text is based on *significant engagement* in far distant water fishing rather than subsidization.

79. The alternative version of Article B.5 is based on a proposal by the Member most concerned. This version is a mechanism for developing country Members to voluntarily opt out of using SDT in a legally binding way. In particular, this provision encourages Members with competent fisheries management capabilities to make a binding commitment not to avail themselves of Articles B.1, B.2, B.3, and B.4. An attached footnote stipulates that such binding commitments would be recorded by the Council for Trade in Goods and will be compiled and published publicly on the WTO website. The footnote also contains a placeholder to reference any binding commitments that may already have been made at the time of the adoption of these Additional Provisions.

80. Notably, both versions of Article B.5 are temporally open, that is, they could come to include additional Members over time.

3 ARTICLE C: NOTIFICATION AND TRANSPARENCY

81. Article C sets forth the notification and transparency provisions. A new footnote has been added to the title of Article C, indicating that targeted technical assistance and capacity building assistance to developing country Members, including LDC Members, shall be available for the purpose of implementing the provisions contained in the new text.

82. Article C.1 clarifies that in addition to the specific notification obligations set out in these Additional Provisions, Members are required to comply with their notification obligations under Article 25 of the SCM Agreement and Article 8 of the Agreement on Fisheries Subsidies. It should be noted that Article C.1 would not affect the operation of footnote 13 in the Agreement on Fisheries Subsidies, which provides that LDCs and developing country Members with an annual share of the global volume of marine capture production not exceeding 0.8 per cent can notify certain specified information every four years, rather than every two years as is the case for other Members. This is reflected in a new footnote 28 to Article C.4. The rest of this provision is identical to its counterpart in document W/277.

83. Article C.2(a) pertains to the notification of information indicating the use of forced labour by vessels or operators. This provision is identical to its counterpart in W/277. Many Members consider that this issue should be dealt with outside the WTO, or that the provision as drafted may be incompatible with domestic legal systems, while other Members have highlighted that the provision is limited to transparency and advocate strongly for its retention.

84. Article C.2(b) pertains to information about government-to-government fisheries access agreements or arrangements. This provision is identical to its counterpart in W/277. Although some Members consider that sub-item (iii) should be deleted, including due to concerns regarding confidentiality, other Members note that in addition to the obligation being *to the extent possible*, this provision should be read together with Article 8.8 of the Agreement on Fisheries Subsidies. It is now proposed that these concerns will be dealt with by Article C.7.

85. Article C.3 provides for the notification of information concerning non-specific fuel subsidies. This provision is identical to its counterpart in W/277. While some Members continue to support the inclusion of this provision, others feel strongly that it should not be retained. However, some Members indicated that this provision could be further discussed if the placeholder in Article D for a possible substantive provision on non-specific fuel subsidies in W/277 was removed. Articles C.4 and C.5 serve to operationalize the two tiers in Article A.1.1 by setting out a mechanism for the identification of the largest subsidizers. Article C.4 of this text resembles Article C.4 of W/277 with some modifications. Article C.5 is based on discussions among Members during the Fish Month.

86. Like in Article C.4 of W/277, Article C.4 of this text sets out two timelines for Members to submit information concerning the aggregate levels of their fisheries subsidies. The first is for Members to submit this information no later than 120 days from the entry into force of these Additional Provisions. The idea behind this requirement is to establish the list of top subsidizers soon after the entry into force of the Additional Provisions to ensure the operationalization of Article A.1.1. The 120 days provided for this purpose in the new text is a change from the 90 days referred to in W/277, as several Members indicated that under their systems a 90-day deadline to notify the required information would be unworkable. This initial information submitted by Members would build on existing notifications under Article 25 of the SCM Agreement and Article 8.1 of the Agreement on Fisheries Subsidies. The second timeline in Article C.4 would require Members thereafter to submit information on the aggregate levels of their fisheries subsidies in their regular notifications of fisheries subsidies. This would ensure that the assignment of Members to the two tiers would be based on the latest data and would dynamically take into account any changes in ranking based on the amounts of subsidies notified by Members.

87. The reference to Article 8 of the Agreement on Fisheries Subsidies has been changed to Article 8.1 to more accurately identify the provision in that Agreement that pertains to regular notifications. Similar technical adjustments have been made throughout the text where regular notifications of fisheries subsidies have been referred to.

88. Article C.5 mandates the WTO Secretariat to compile and make publicly available a list of Members ranked in descending order of annual aggregate level of fisheries subsidies, on the basis of information referred to in Article C.4. The Secretariat would compile the first list within one year of the entry into force of these Additional Provisions and would update the list in accordance with the cycle of regular notifications under Article 25 of the SCM Agreement and Article 8.1 of the Agreement on Fisheries Subsidies. The WTO Secretariat could request technical clarifications from subsidizing Members concerning the notified subsidies. This process would not involve any substantive evaluation of the subsidies by the Secretariat. The Committee on Fisheries Subsidies would review the list at its regular meetings.

89. Article C.6 reflects some Members' willingness to show more flexibility on the wording of Article B.4 provided that transparency is generally ensured throughout the Additional Provisions. This provision stipulates that a Member may invoke Articles A.1.1, B.2, B.3, or B.4 only in respect of subsidies that it has notified under Article 25 of the SCM Agreement and Article 8.1 of the Agreement on Fisheries Subsidies. Members hold strongly divergent views in relation to this provision, which may need to be further considered alongside the SDT provisions. Therefore, it is in brackets.

90. Article C.7 clarifies that the provisions contained in the new text shall not require Members to submit confidential information, including business confidential information. This provision represents the landing zone that Members arrived at through an exchange of concerns regarding the balance between transparency and protection of sensitive information, for example pertaining to access agreements.

4 ARTICLE D: OTHER OVERCAPACITY- AND OVERFISHING-RELATED PROVISIONS

91. In W/277, Article D contained two placeholders. The first placeholder pertained to substantive provisions on non-specific fuel subsidies. This provision was extensively debated throughout the second wave of negotiations. Given that the majority of Members, including some that initially supported its inclusion, have strongly opposed the inclusion of any such provision, the first placeholder has not been retained. However, the transparency provision in respect of such subsidies in Article C.3 remains under consideration.

92. The second placeholder was to provide space for other possible provisions that Members might agree to insert. The possibility reserved by the second placeholder has been used to introduce two provisions in the new text.

93. Article D.1 is modelled on the review clause in Article 9.4 of the Agreement on Fisheries Subsidies, taking into consideration the specificities of these Additional Provisions. Article D.1 contains a review clause of the operation of these Additional Provisions. In particular, it mandates the Committee on Fisheries Subsidies to review the overall impact on overcapacity and overfishing of these provisions and identify any necessary modifications to improve their effectiveness. The

review would be conducted not later than three years after the expiry of the transition period of [X] years referred to in Article B.3(a). The Committee would report the outcome of the review, including any resulting proposals to amend the text of these Additional Provisions, to the Council for Trade in Goods. After this first review, the issues referred to in this provision would be addressed in the periodic reviews under Article 9.4 of the Agreement on Fisheries Subsidies.

94. Article D.2 requires all Members to consider the consequence of a subsidy on overcapacity and overfishing before granting that subsidy. This provision is intended to replace both the *chaussette* contained in Article A.1 and Article B.5 of W/277. It affirms the implicit objective of the OCOF disciplines to ensure that sustainability measures factor in as one important consideration in the granting and maintaining of subsidies. Many developing country Members objected to Article B.5 of W/277, considering it both burdensome and redundant in the light of the *chaussette* in Article A.1 of W/277. In addition, many Members questioned the placement of the *chaussette* without necessarily objecting to its content. This proposed change should address both concerns

5 ARTICLE E: RELATIONSHIP WITH AGREEMENT ON FISHERIES SUBSIDIES

95. You will note that the text now includes a new Article E. This article has been added to describe the legal relationship between these Additional Provisions and the Agreement on Fisheries Subsidies, and to identify, through cross-references, the articles in the Agreement on Fisheries Subsidies that would apply, *mutatis mutandis*, to these Additional Provisions. Article E.1 establishes that the Additional Provisions, along with the Agreement on Fisheries Subsidies, constitute the *comprehensive disciplines* referred to in Article 12 of that Agreement and the *comprehensive agreement* referred to in the Ministerial Decision from the Twelfth WTO Ministerial Conference adopting the Agreement on Fisheries Subsidies. Accordingly, the two instruments would apply together as one integrated set of rules.

96. The cross-references in Article E.2 would operate to this effect, by ensuring that Articles 1, 2, 6, 7, 8, 9, 10, and 11 of the Agreement on Fisheries Subsidies would apply, *mutatis mutandis*, to the Additional Provisions. The footnote attached to this article is intended to clarify two issues. First, that the expedited dispute settlement process described in Article 4 of the SCM Agreement, which is referred to in Article 10.2 of the Agreement on Fisheries Subsidies, would also apply to disputes under Article A of the Additional Provisions. Second, the footnote clarifies that Article A would not prevent a Member from granting a subsidy for disaster relief in accordance with Article 11.1 of the Agreement on Fisheries Subsidies.

ATTACHMENT

- RD/TN/RL/165 (Norway)
 - RD/TN/RL/166 (China)
 - RD/TN/RL/167 (Australia, New Zealand, and Vanuatu)
 - RD/TN/RL/168 (Argentina, Colombia, Ecuador, Peru, and, Uruguay)
 - RD/TN/RL/168/Rev.1 (Argentina, Colombia, Costa Rica, Ecuador, Peru, and, Uruguay)
 - RD/TN/RL/169 (Kenya on behalf of the ACP Group of States)
 - RD/TN/RL/169/Rev.1 (Kenya on behalf of the ACP Group of States and South Africa)
 - RD/TN/RL/169/Rev.2 (Samoa on behalf of the ACP Group of States, Pakistan and South Africa)
 - RD/TN/RL/170 (Fiji)
 - RD/TN/RL/170/Rev.1 (Fiji)
 - RD/TN/RL/171 (Djibouti on behalf of the LDC Group)
 - RD/TN/RL/172 (Indonesia)
 - RD/TN/RL/173 (United Kingdom)
 - RD/TN/RL/174 (Draft Disciplines on Subsidies contributing to Overcapacity and Overfishing, and related elements)
 - RD/TN/RL/175 (India)
 - RD/TN/RL/176 (Cameroon on behalf of the African Group)
 - RD/TN/RL/176/Rev.1 (Cameroon on behalf of the African Group)
 - RD/TN/RL/177 (Russian Federation)
 - RD/TN/RL/178 (Australia)
 - RD/TN/RL/179 (Samoa on behalf of the ACP Group of States and South Africa)
 - RD/TN/RL/180 - Compilation of Members' textual suggestions concerning the draft text RD/TN/RL/174
 - RD/TN/RL/180/Rev.1 - Compilation of Members' textual suggestions concerning the draft text RD/TN/RL/174
 - RD/TN/RL/180/Rev.1/Add.1 - Compilation of Members' textual suggestions concerning the draft text RD/TN/RL/174
 - RD/TN/RL/182 (Australia and New Zealand)
 - RD/TN/RL/183 - Compilation of Members' textual suggestions concerning the draft text RD/TN/RL/174
 - RD/TN/RL/184 (Article A.1 and Article B)
 - TN/RL/W/277 (Draft Disciplines on Subsidies contributing to Overcapacity and Overfishing, and related elements)
 - RD/TN/RL/185 (Barbados)
 - RD/TN/RL/186 (African Group)
 - RD/TN/RL/187 (Argentina, Chile, Colombia and Peru)
 - RD/TN/RL/188 (Türkiye)
 - RD/TN/RL/189 (Samoa on behalf of the ACP Group and South Africa)
 - RD/TN/RL/190 (Malaysia)
 - RD/TN/RL/191 (Ecuador and Panama)
-