



**ADVANCING TOWARD A MULTILATERAL OUTCOME ON
FISHERIES SUBSIDIES IN THE WTO**

EUROPEAN UNION

Revision

Proposal for WTO disciplines on fisheries subsidies

Acknowledging the commitments established under the 2030 Agenda for Sustainable Development and notably UN Sustainable Development Goal 14 on the conservation and sustainable use of oceans, seas and marine resources for sustainable development,

Acknowledging UN Sustainable Development Goal 14 target 6 which sets out that the signatories of the 2030 Agenda for Sustainable Development should, by 2020 prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing and refrain from introducing new such subsidies,

Acknowledging UN Sustainable Development Goal 14 target 4 which sets out that the signatories of the 2030 Agenda for Sustainable Development should, by 2020 effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics,

Recognising that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the World Trade Organisation fisheries subsidies negotiation,

Recognising that overcapacity contributes to overfishing and constitutes a serious threat to the conservation and sustainable exploitation of living marine resources,

Recognizing that the share of overfished stocks increased from 10% in 1974 to over 31% in 2013 and that this share should be decreased,

The Parties agree as follows:

Article 1

1.1. The Parties shall not grant or maintain any of the following subsidies⁽¹⁾:

- (a) subsidies that increase the marine fishing⁽²⁾ capacity of a fishing vessel⁽³⁾ or support the acquisition of equipment that increases the ability of a fishing vessel to find fish;*
- (b) subsidies that support the construction of fishing vessels or the importation of fishing vessels;
and*
- (c) subsidies for the transfer of fishing vessels to other countries including through the creation of joint ventures with partners of those countries.*

1.2. The Parties may grant or maintain subsidies set out in Article 1.1 during a transitional period of [X] years following the entry into force of this Agreement, provided that the vessel benefitting from the subsidy does not target fish stocks that are in an overfished condition^(3bis).

Article 1bis

1bis.1. In addition to the subsidies prohibited under Article 1.1, the Parties shall not grant or maintain any subsidies for fishing outside the territorial sea that negatively affect targeted fish stocks that are in an overfished condition^(3bis).

1bis.2. Annex I sets out an illustrative list of subsidies that do not negatively affect targeted fish stocks that are in an overfished condition.

Article 2

2.1. A Party shall not grant or maintain any subsidy benefitting an operator ⁽⁴⁾ if its fishing vessel or, in case it operates more than one fishing vessel, any of its fishing vessels is included in the IUU fishing^(4bis) vessel list of that Party or of a Regional Fisheries Management Organisation **or Arrangement (RFMO/A)**.

Article 3

3.1. The Parties shall notify, in accordance with the provisions of Article XVI:1 of GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, ~~all kind of~~ subsidies that support, directly or indirectly, marine fishing activity.

3.2. In addition to the information set out in Article 25.3 of the Agreement on Subsidies and Countervailing Measures the following must be included in the notification:

- (a) programme name;
- (b) legal basis and granting authority for the programme;
- (c) level of support provided; ~~and~~
- (d) type or kind of marine fishing activity supported by the programme; **and**
- (e) in the case of developing and least developed countries, for any of the subsidies under Article 1.1, information whether the Party concerned makes use of the flexibilities provided for in Articles 4.1 and 4.2.**

3.3. The Parties shall also endeavour to include the following in the notification:

- (a) the status of the fish stock targeted by the vessel benefitting from the subsidy (for example, overexploited, depleted, fully exploited, recovering, underexploited);**
- (b) any conservation and management measures applied to the fish stock targeted by the vessel benefitting from the subsidy; and**
- (c) any fishing capacity management plan applied to the fleet to which the vessels benefitting from the subsidy belong.**

Article 4

4.1. Article 1 does not apply to subsidies granted or maintained by developing and least developed countries for fishing vessels ~~of less than 10 meters~~ which are used for subsistence fishing ⁽⁵⁾.

4.2. Developing and least developed countries may grant or maintain subsidies referred to under Article 1 if the following conditions are met:

- (a) **the vessel benefitting from the subsidy does not target fish stocks that are in an overfished condition^(3bis)** ~~the stock or stocks targeted by the fishing vessel that a Party intends to subsidise must not be recognised as overfished by the national authorities of the Party in the waters under the sovereignty and jurisdiction of which the fishing takes place, or by the relevant Regional Fisheries Management Organisations; and~~
- (b) **the targeted stocks are managed on the basis of the best available science at the disposal of the concerned Party**, consistent with the conservation and cooperation obligations under the relevant international law⁽⁶⁾, as reflected in UNCLOS, conservation and management measures of competent RFMO(s)/A(s), and generally accepted standards for the conservation and management of fisheries resources; and
- (c) the subsidising Party **has** ~~presents~~ a management plan⁽⁷⁾ for the fleet segment it intends to subsidise. ~~demonstrating that the subsidies will not contribute to overfishing.~~

4.2bis. Developing countries ranking among the world's [X] biggest in terms of marine capture production as determined by the FAO shall endeavour to refrain from making use of the flexibilities set out in Article 4.2.

4.3. The flexibility set out in Article 4.2 shall be reviewed in view of the objectives set out in UN Sustainable Development Goal 14 target 4 and target 6 at the end of the tenth year following the entry into force of this Agreement. ~~The information referred to in Article 4.2 shall be notified to the WTO Secretariat. Developing countries and least developed countries granting or maintaining subsidies referred to in Article 1 for fishing vessels referred in Article 4.1 shall notify this to the WTO Secretariat.~~

(1) This Agreement applies to subsidies within the meaning of Article 1.1 of the SCM Agreement that are specific in accordance with the provisions of Article 2 of that Agreement. A subsidy shall be attributable to the Party granting it, regardless of the flag of the fishing vessel benefitting from the subsidy. This Agreement does not apply to subsidies for aquaculture and to fuel de-taxation schemes, or to subsidies compensating for damage caused by natural disasters.

(2) For the purpose of this Agreement, the term "fishing" means searching for, attracting, locating, catching, taking and processing fish on board, transshipping or transferring or landing fish or any activity which can reasonably be expected to result in these activities.

(3) For the purpose of this Agreement, the term "fishing vessel" refers to any vessel, ship or other type of boat used for, equipped to be used for, or intended to be used for commercial fishing or fishing related activities.

(3bis) As recognised as overfished by the national authorities of the Party or by the relevant Regional Fisheries Management Organisation or Arrangement. In the absence of sufficient data to make such a determination, the stock shall be presumed to be in an overfished condition.

(4) For the purpose of this Article, an operator includes any person involved in the operation, management or ownership of a fishing vessel.

(4bis) The term IUU fishing stands for "illegal, unreported, and unregulated fishing" as defined in paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the United Nations Food and Agricultural Organization (FAO).

(5) The term "subsistence fishing" refers to fishing activities undertaken by an individual household for consumption by the members of that household and kin of the fishers as opposed to fishing activities undertaken for commercial purposes. Nevertheless, part of the fish caught can be sold or exchanged for other goods or services.

(6) Relevant international law includes, amongst others, the United Nations Convention on the Law of the Sea (UNCLOS), the UN Agreement for the Implementation of the Provisions of UNCLOS relating to Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, the FAO Agreement to promote Compliance with International Conservation and Management Measures by Fishing vessels on the High Seas, the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing, and the FAO Code of Conduct for Responsible Fisheries.

(7) The management measures contained in the plan should aim at ensuring the sustainable exploitation of the stock. They shall refer to the stocks, fishery and area to which it applies, quantify projected fishing mortality rates, indicate provisions on fishing vessel monitoring and systems for reporting data and catch in sufficient detail.

ANNEX I

ILLUSTRATIVE LIST OF SUBSIDIES THAT DO NOT NEGATIVELY AFFECT TARGETED FISH STOCKS THAT ARE IN AN OVERFISHED CONDITION

- (a) subsidies that improve fishery management systems and thus promote sustainable fisheries including subsidies for research and development activities;**
- (b) subsidies that improve hygiene, health, safety and working conditions for fishers;**
- (c) subsidies aiming at improving the concerned Party's capacity to fight against IUU fishing;**
- (d) subsidies for permanent cessation of fishing activities provided that the fishers concerned effectively cease all fishing activities within a reasonable timeframe after receiving the subsidy concerned.**