HOW TO DISCIPLINE
FISHERIES SUBSIDIES

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POSSIBLE WAYS TO DISCIPLINE FISHERIES SUBSIDIES

PRINCIPLES

ELEMENTS

DESIGN
What to prohibit?
Which subsidies could be actionable?
Which general exceptions?
Which exceptions for developing countries?
Flexibilities under what conditions?
### Principles

<table>
<thead>
<tr>
<th>Effective</th>
<th>Seek to respond to the ambition set in WTO and United Nations through the Hong Kong mandate and Agenda 2030</th>
</tr>
</thead>
<tbody>
<tr>
<td>Feasible</td>
<td>Stick to trade disciplines (on subsidies), NOT on fishing policies</td>
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<td></td>
<td>Design an integrated yet simple system of disciplines, flexibilities and periods for implementation</td>
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<tr>
<td>Clear</td>
<td>Use a Positive list of prohibitions and/ Or define approach</td>
</tr>
<tr>
<td>Coherent</td>
<td>Based on international hard and soft law and existing definitions</td>
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</table>
How to Discipline Fisheries Subsidies

Elements

- Scope
- Category of Subsidies
- Type of Fisheries
- Type of Disciplines
  - Prohibited Subsidies
  - Permitted Subsidies
  - Actionable Subsidies
What to prohibit?

- Only in respect of subsidies to global marine wild capture fisheries
- The focus should be on subsidies that directly affect fishing and related activities:

- Construction & repair
- Transfer of vessels
- Operating costs (fuel)
- Port infrastructure
- Income support
- Price support
- Further transfer of A.R.
- IUU Affecting Overexploited fisheries

- Prohibition of any other subsidy for fishing of overexploited stocks (beyond the MSY). Who defines MSY? FAO, RFMOs, Member States?
Which subsidies could be actionable?

General discipline that makes actionable any non-prohibited subsidy that harms stocks in which another Member has identifiable fishing interests. (adverse effects)
Which general exceptions?

For subsidies related to:

1. Environmental / sustainability
2. Crew safety
3. Re-education or redeployment of fishworkers
4. Vessel decommissioning
5. R&D for sustainability purposes
Special and differential treatment
for developing countries
The entry point for setting prohibitions defines the type of S&DT needed. Possible entry points:

- Prohibitions directly affecting fishing and related activities (proposed list above)

- Prohibitions within fish management systems obligations (TPP model) (here there is a need for capacity building, TF model)

- Prohibitions by definitions (overfishing and overcapacity) (S&DT can also be crafted in the definitions themselves or listed after)
LDCs
Full, unconditional exemption from all disciplines less IUU

Remaining developing Members
Progressive, conditional exceptions according to the type of fisheries
Subsidies for subsistence and small-scale commercial (artisanal) fishing should be allowed.

Subject to an Indicative conditionality on fisheries management measures (national/regional) aimed at sustainability.
Subsidies are allowed for

- Port infrastructure
- Income
- Price supports

Subject to **mandatory** fisheries management measures aimed at sustainability
Subsidies are allowed for construction of small fishing vessels

Subject to **mandatory** fisheries management measures aimed at sustainability
Subsidies are allowed for construction of large vessels

Subject to:

**Mandatory** fisheries management measures aimed at sustainability

Vessels exclusively for use within the Member’s own Exclusive Economic Zone ("EEZ")

The status of the stocks to be fished with the new vessels has been subject to a previous scientific assessment
<table>
<thead>
<tr>
<th>ALL LDCs</th>
<th>All non-LDC / Developing Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Subsistence</td>
</tr>
<tr>
<td></td>
<td>Type of fishing operations</td>
</tr>
<tr>
<td></td>
<td>Small decked boat</td>
</tr>
<tr>
<td></td>
<td>Undecked boat</td>
</tr>
<tr>
<td></td>
<td>Large decked boat</td>
</tr>
<tr>
<td>Construction</td>
<td>![Construction Icon]</td>
</tr>
<tr>
<td>Transfer</td>
<td>![Transfer Icon]</td>
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<tr>
<td>Operating</td>
<td>![Operating Icon]</td>
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<tr>
<td>Infrastructure</td>
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<tr>
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<tr>
<td>Price</td>
<td>![Price Icon]</td>
</tr>
<tr>
<td>Access</td>
<td>![Access Icon]</td>
</tr>
</tbody>
</table>

- Small decked boat < 10 m / 34 ft
- Undecked boat Any size
- Large decked boat > 10 m / 34 ft

Within EEZ: [X]
FISHeries Management requirements
FLEXIBLE PRINCIPLES

MANDATORY ELEMENTS

ENFORCEMENT / IMPLEMENTATION REQUIREMENTS
WELL ACCEPTED PRINCIPLES

Based on internationally-recognized best practices for fisheries management and conservation as reflected in the relevant provisions of international instruments aimed at ensuring the sustainable use and conservation of marine species.

E.g.:
- UN Fish Stocks Agreement,
- FAO Port State Measures Agreement
- FAO Code of Conduct on Responsible Fisheries,
- FAO Compliance Agreement
- CITES
- IPOA, IUU & fishing capacity
- Other technical guidelines and plans of action
WELL ACCEPTED PRINCIPLES

- Regular science-based stock assessment (e.g. harvesting licenses or fees)
- Capacity and effort management measures
- Vessel registries
- Establishment and allocation of fishing rights; exclusive quotas to vessels, individuals and/or groups; and related enforcement mechanisms;
- Species-specific quotas, seasons and other stock management measures;
- Vessel monitoring (e.g. electronic tracking & on-board observers)
- Systems for timely reporting
- Research and other measures related to conservation, stock maintenance and replenishment.
ENFORCEMENT / IMPLEMENTATION REQUIREMENTS

Enforcement legislation
- WTO
- National CVD investigations (for actionable subsidies) + selected measures under the Port State Measures Agreement in case of IUU

Notification to:
- FAO (?) for peer review
- Creation of a database for notified national / regional management system
- Creation of database on national, regional and global assessments on the levels of stocks
- Committee on Subsidies

Enquiry point
# The fisheries regulatory framework

At the multilateral level

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<th>TEST</th>
<th>Does it respond to the ambition set in WTO and United Nations through the Hong Kong mandate and Agenda 2030?</th>
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<td>Is it a comprehensive yet simple system of disciplines, flexibilities and periods for implementation?</td>
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<td>IS IT CLEAR</td>
<td>Are any ambiguities on the prohibitions?</td>
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<td>Is it built on international hard and soft law and existing definitions?</td>
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CONCLUSIONS

- S&DT is essential for a balance solution especially for countries with no or low fishing capacity

- A solution to SDG14.6 must be effective, feasible, clear and coherent

- We need to define the best approach to introduce prohibition (e.g. activities, fish management or definitions)

- The WTO 2007 rules chair text offers significant options for consensus
THANK YOU