

Outline for remarks by
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-Please check against delivery-

**MESSAGES ON STATE OF AFFAIRS OF FISHERIES SUBSIDIES.
RECENT DEVELOPMENTS OF WTO NEGOTIATIONS**

I. Introduction, background

1. Thank UNCTAD and the organizers of this event for the invitation (*UNCTAD, Mr. Mukisha Kituyi; Mr. Peter Thomson, UN Oceans Envoy*).
2. Introduce as Chair of the *Negotiating Group on Rules*, which handles the negotiations on fisheries subsidies.
3. An important background is that these negotiations were launched in 2001, and thus have been on the world's sustainable development agenda for a long time, but have seen recent renewed impetus:
 - a) The increasing urgency of finding a solution in this area, due to persistent declines in world fish stocks, is demonstrated by the inclusion in the *Sustainable Development Goal 14.6* of a specific target calling on signatories to eliminate and prohibit, by 2020, certain subsidies harmful to sustainable fisheries, while providing flexibilities for developing country Members.
 - b) This strong national political commitment was reinforced, and elevated to the multilateral level, last December at the WTO Ministerial Conference, with the adoption by Ministers of a Decision instructing Members to complete these negotiations by the next Ministerial Conference, in 2019.
 - c) So, yes conversations have taken place for quite a long time but given the recent mandates, both nationally and multilaterally, the political commitment -and with that a renewed momentum- is there to reach a sustainable development outcome on fisheries subsidies.
4. The above events seem opportune to paraphrase one of Mark Twain's famed quotes, to say that:

- *“The reports of the death of the fisheries discussions in WTO have been greatly exaggerated”*
5. Having said that, we have to translate such political momentum into workable disciplines for everyone, and so the challenges to reach agreements in the fisheries subsidies negotiations remain.

II. Remind of objective of negotiations.

1. Establishing disciplines for harmful subsidies is seen as having the potential to deliver a win-win outcome for trade, the environment, and development.
2. Embarking upon this area within the WTO’s negotiating agenda is unique in that sustainable development -with its several dimensions- not trade distortion, is its central purpose:
 - a) The aim is to stop subsidies that deplete the shared natural capital represented by global fish stocks, and that thus deprive all parties of sustainable opportunities to produce, consume and trade fish products, while recognizing the particular importance of the sector for many developing country Members and their poor fishing communities.
 - b) On the basis of that commitment, currently all Members are actively engaged in an intensive programme of work – combining technical and negotiating discussions – aimed at achieving the mandated outcomes within the deadline that has been set.

III. Why has an agreement remained elusive in the past?

1. The case for disciplining fisheries subsidies is obvious, and the political will is there. So why has this negotiation not wrapped up years ago?
 - Should it not be a straightforward exercise to draft the rules once the political leaders have agreed on the direction and shape of the final outcome?
2. The answer, as I have come to find out in my Chairmanship, is because this is a very complex area which, in addition to domestic political sensitivities, necessarily raises technical fisheries issues that are outside the normal scope of the WTO’s purely trade-focused agenda, and which become more evident once we get into the details. What do I mean by that, concretely?
 - a) To give one example, the SDG target and the Ministerial Decision both call for the elimination and prohibition of subsidies to Illegal, Unreported and Unregulated fishing, a well-known fisheries management concept.

- While it seems self-evident that activities of this sort should never be subsidized, implementing such a prohibition requires deciding how to identify the particular vessels, or people, or both, that are engaged in those activities.
 - In practice, some of these determinations are made by national governments, some are made by regional fisheries bodies. Should any or all of these be accepted at face value in a multilateral subsidy rule? Or should the WTO itself set and enforce an objective standard for determinations of IUU fishing?
- b) These questions are both technically complex and politically sensitive, and thus difficult to resolve. And there are many other, similar technical issues in this and the other areas of the negotiation, all of which must be addressed and resolved for these negotiations to succeed.
3. On top of this, let us not forget:
- When pursued in the WTO, an agreement in this area not only means endeavoring to agree rulemaking, but do so in a manner that the disciplines be binding and thus subject to dispute settlement, meaning that they will be enforceable, and members will be accountable for that enforceability.
 - And as we all know, this can make all the difference when it comes to complex negotiating dynamics.
4. So, it is only appropriate to say that having a strong political mandate does not automatically leads to outcomes by itself: agreeing to eliminate/prohibit/discipline harmful subsidies is a major step; but the next major step is to agree on which of those subsidies are the harmful ones.

IV. What next?

1. Realize that general political mandates, while undertaken at the technical level, will need to be followed up at some point at the political level as well, as divergences are in many cases fundamental and have not gone away.
 - a) Ministers need to empower their negotiators to be creative and exercise flexibility to find common ground.
2. Members need to:
 - a) Realize time for deadline is approaching fast.
 - b) Be open to creativity and flexibility for ideas to flourish and find convergences throughout the several sticking points in the negotiation.

3. Recommendable that stakeholders and other IOs, outside actors:

- a) Remain close to the process, both at national/multilateral level.
- b) Help identify how can they support/help/pressure.
- c) UNCTAD, FAO, UN Environment engagement is important; particularly, FAO's expertise is welcome.

Annex: Some issues (only for reference/context):

- List approach (*list of prohibited subsidies related to capacity or fishing effort*)
- effects approach (*determination or identification that in a given situation or fishery, a particular subsidy has contributed to increasing, or maintaining capacity, or to overcapacity or overfishing*)
- What terms would need to be defined?
 - a. capacity, overcapacity, overfishing?
 - b. are there existing definitions?
- capital costs:
 - a. are they more likely to have effects related to capacity, or equally likely to contribute to overfishing?
 - b. to vessels, and on-board equipment, or also for certain on-shore equipment?
- operating costs:
 - a. are they more likely to contribute to overfishing?
 - b. To vessels and on-board operations, or also certain on-shore operations?
- Geographical aspects:
 - a. Would disciplines apply differently in different maritime zones?
Territorial waters, EEZs, high seas
 - b. S&D
- IUU:
 - a. Broad spectrum for IUU determination
 - ✓ From coastal state notifying and then stopping (directly binding)?
 - ✓ Or notifying and letting the vessel state decide/act?
 - ✓ There has to be some sort of process
 - ✓ Determination by RFMOs
 - If not a member of an RFMO, should be taken at face value?
 - All RFMOs have some sort of due process.