



## **What does the World Trade Organization Fisheries Subsidies Agreement Mean for Sustainability and Development?**

Overall, the text that has been agreed by Ministers in June lets the big fishing fleets off the hook. The Sustainable Development Goal 14.6 aims to “prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU fishing, and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment (SDT) for developing and least developed countries should be an integral part of the WTO fisheries subsidies negotiation”.

The limiting of SDT to only a 2 year peace-clause is insufficient, especially in the context of a voluntary capacity building fund that is still to be negotiated. The failure to specifically target the vessel capacity of the big fleets, and demand they carry the burden of the outcome, has seen them essentially remain unchanged with the exception of funding high seas fishing.

The SDG mandate called for appropriate and effective SDT as an integral part of the outcome but that is not contained in the outcome. Promises of future negotiations are an inadequate substitute. The text remains imbalanced for developing countries and small fishing nations.

### ***Article 3: Subsidies Contributing to Illegal, Unreported and Unregulated Fishing***

Addresses subsidies that are for Illegal, Unreported and Unregulated (IUU) fishing. Though subsidies for IUU are prohibited there is a list of conditions for IUU determinations, meeting all of these will require an expansion of technical and financial assistance for proper regulation and reporting. Further there is infrastructure assistance that is required to develop better monitoring, control and surveillance.

While the article looks at how to prohibit subsidies to IUU fishing **Article 3.8** provides an exemption for 2 years for fishing within the geographic limit to 200 nautical miles. This previously was proposed for only 12 nautical miles but now has expanded to be the entire exclusive economic zone (EEZ) of a member which is a welcomed change. There are still concerns that the two year transition period is not enough for developing countries to develop the capacities needed to meet the requirements in other parts of Articles 3

### ***Article 4: Subsidies Regarding Overfished Stocks***

Article 4 prohibits subsidies to fishing stocks that have been determined to be in an overfished condition. While this is the case **Article 4.3** allows the use of subsidies provided that there are measures aimed at rebuilding a stock to a biologically sustainable level. Demonstrating the sustainability measures for such a fish stock opens up the Member to be challenged on the measures it has in place. Before the Ministerial, the Chair of the negotiations outlined how the review process can allow other countries to question and ultimately challenge the management measures of another member. This is not a good outcome as the WTO has no expertise on fisheries management.

There are concerns the sustainability exemption mentioned above will only be available to those with the capacity to measure, manage and report on their fish stocks. This will favour the developed countries. Finally the article has a similar carve out to Article 3 for developing countries and LDCs but the similarly short timeframe is a concern.

### ***Article 5: Other Subsidies***

This article has had major components removed in its bid to be agreed by Ministers at the Ministerial but fails to reduce the fleet capacity of the big fishing fleets. **Article 5.3** allows Members to subsidise their fleets provided that they're fishing in waters under the jurisdiction of a

Coastal Member or regional fisheries management organisation. This will apply to all Members irrespective of their size and historical responsibility for overfishing. While this will target high-seas fishing it will also double as a carve-out for any member who has the capacity to fund their domestic fleets and those fleets fishing in any coastal member's EEZ or Regional Fisheries Management Organisation. This does not address the issue of fleet and fishing capacity.

Another provision, **Article 5.4**, calls on members to not subsidise vessels that aren't carrying that Member's flagged. This fails to target the fleets with the greatest capacity as most of the developed country nations flag their own fleets. Taken together, **Article 5.3** and **Article 5.4** will not reduce fishing capacity of the big fleets, leaving their dominant position in fishing untouched. Further, there is no differentiation of commitments under this article meaning that those who have the capacity to subsidise can continue to do so.

### ***Article 6: Specific Provisions for Least Developed Countries Members***

There is no specific Special and Differential Treatment for LDCs in this text, instead they are included in the 'peace clauses' offered in Articles 3 and 4. Previous texts had linked flexibilities in Article 6 to prohibitions in Article 5 however that is no longer here. Now Article 6 only includes Members exercising restraint in raising matters with LDC Members. The promise of future negotiations is to address this leaving the issue outstanding despite it being a core component of the SDG14.6 mandate.

### ***Article 7: Technical Assistance and Capacity Building***

During the Ministerial a proposal was announced for a voluntary fund to support developing country and least developed country members. The current pledges amount to USD\$20 million, this is not enough to address the ongoing burdens this agreement will impose on developing countries. Failure to have an agreement on how support will be provided undermines the ability for developing country members to make decisions on obligations.

### ***Article 8: Notifications and Transparency***

This article sets out what information and how members need to report to the WTO. The notification obligations agreed are an onerous aspect of this agreement especially for developing countries. These include information about subsidies, fish stocks, conservation and management measures as well as the vessels benefiting from subsidies. These requirements go beyond existing WTO requirements when it comes to reporting subsidies.

There are concerns from many developing countries about being able to meet all the notification requirements

### ***Article 12***

This article outlines a timeline for completion of the comprehensive disciplines which if not met the agreement would then lapse. It is unfortunate that the text in the agreement was accepted as politically it will make it more difficult if a member wanted to reopen negotiations on certain parts of the text included here.

### ***Conclusion***

The agreement remains fundamentally flawed and in favour of those countries with large capacity for subsidising and reporting. Its failure to target those most historically responsible for overfishing is ensuring that the burdens of the agreement are being carried by those least responsible. The minimalist SDT only offers a brief peace-clause which fails the mandate of the SDG. Finally the lack of commitments on technical assistance and capacity building represents a failure to ensure that developing countries and LDCs are able to meet the burdens of this text, instead we will see resources being diverted from elsewhere. This text fails the mandate and it is encouraged to be rejected.