

The WTO Agreement on Fisheries Subsidies:

Relevance to Combat IUU Fishing

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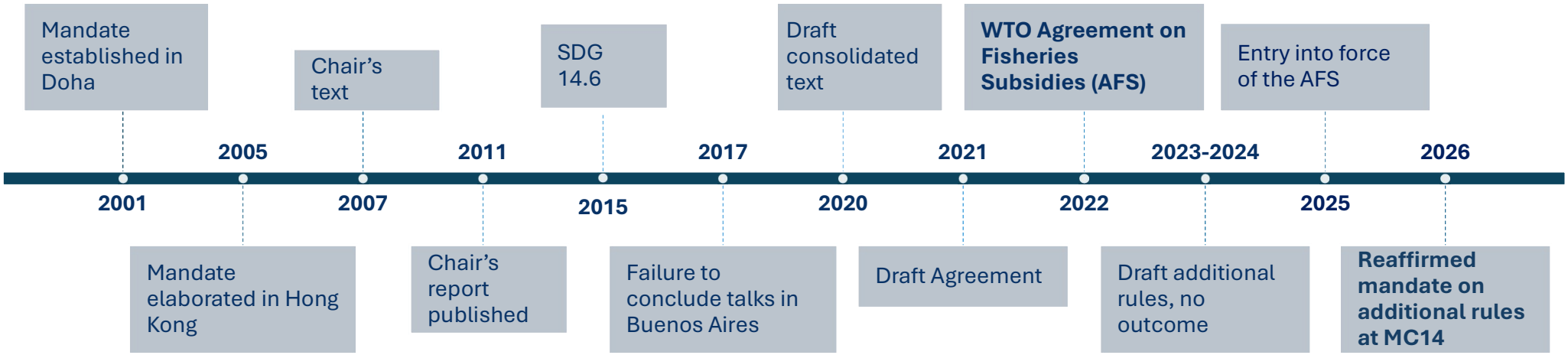
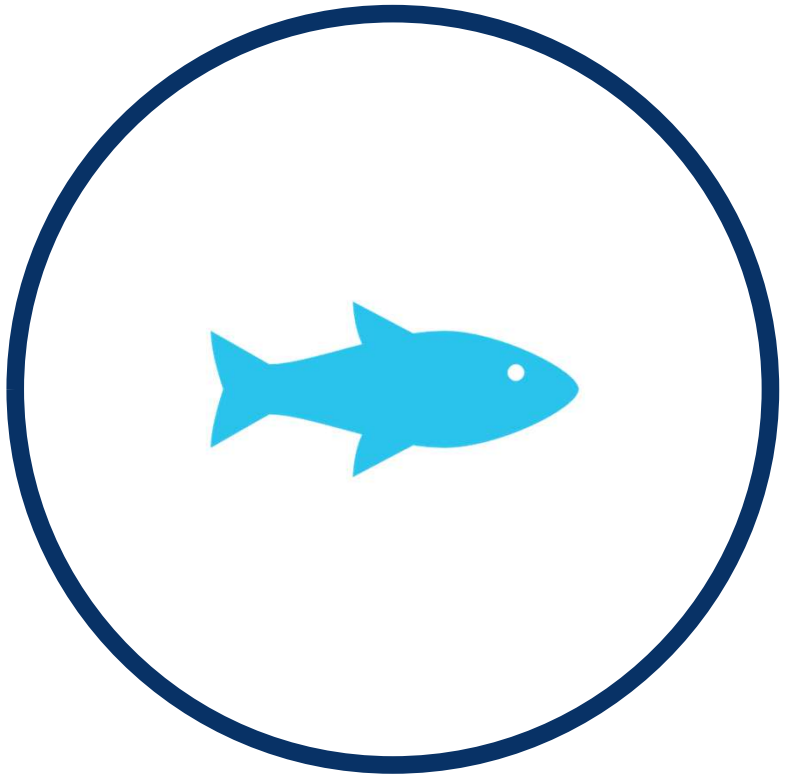
A few elements of context

- Global fisheries suffer from overfishing ➡ FAO: 38% of stocks are overfished
- Some forms of fisheries subsidies are widely recognized as a **key driver of overfishing**
  - Global subsidies: Over 35 bn USD annually, of which 22 bn are “capacity-enhancing”
- At the WTO: an agreement after more than 20 years, and talks still ongoing for additional rules



The WTO Agreement on Fisheries Subsidies



Subsidy: The WTO's definition

The exact definition can be found in Article 1 of the WTO's Agreement on Subsidies and Countervailing Duties (SCM Agreement).

In essence, there are four types of support measures that are considered **subsidies**:

- Direct transfer of funds
- Government revenue foregone
- Provision of goods and services, or purchase of goods
- Income or price support

but only when they "confer a **benefit**"

Scope



Scope

Rules apply to “specific” subsidies provided to **marine wild capture** fishing and fishing related activities **at sea** (Article 1).



The agreement does not cover subsidies to:

- aquaculture,
- inland fishing,
- any onshore activity (incl. onshore processing).

The rules in a nutshell

Scope: Subsidies to marine wild capture fishing and fishing related activities at sea



Illegal, unreported and unregulated (IUU) fishing
(Article 3)

Prohibition of subsidies to vessels/operators engaged in IUU fishing



Overfished stocks
(Article 4)

Prohibition of subsidies to the fishing of stocks that are assessed as overfished

…unless subsidies or other measures are implemented to rebuild these stock(s)

Others
(Article 5)

Prohibition of subsidies to fishing on the **unregulated high seas**



Particular caution for subsidies to:



- **Reflagged** vessels
- Fishing of **unassessed** stocks



Horizontal: Special and differential treatment (incl. technical assistance), **transparency**, institutional issues

Subsidies to illegal, unreported, and unregulated (IUU) fishing



IUU fishing (Article 3)



Prohibition to subsidize vessels or operator that are the subject of an **IUU fishing** "determination", or any of their support activities.



Determinations can be made by:

- Coastal state
- Flag state
- Regional fisheries management organisation (RFMOs)

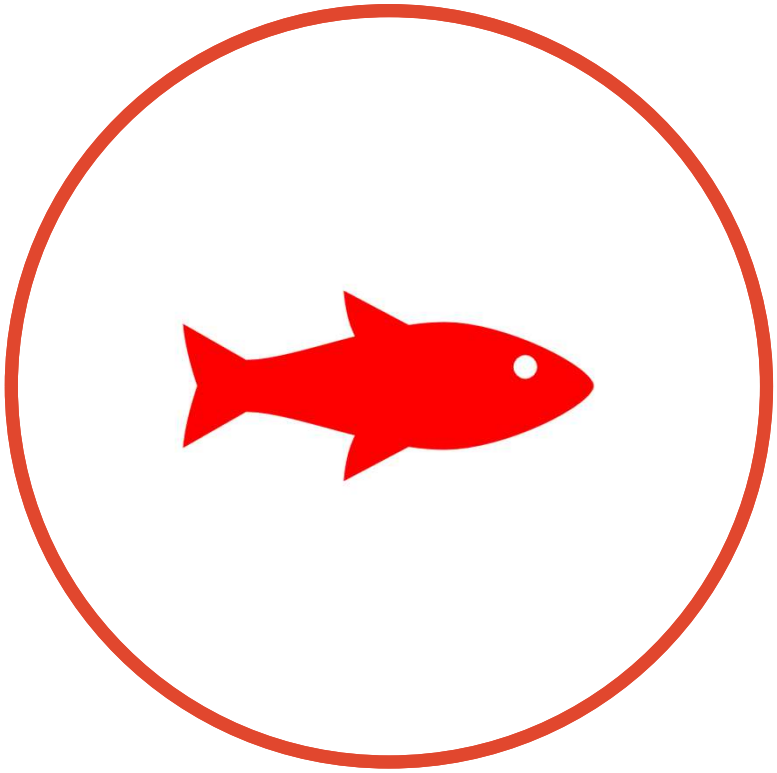
- Determinations must meet simple **criteria** (evidence, procedure) to trigger the subsidy prohibition
- Subsidizing member **modulates the duration** of the prohibition based on the nature, gravity, and repetition of the infraction, but there is a minimum period.
- **Special & differential treatment:** 2-year grace period for developing countries' fishing in their waters

IUU fishing (Article 3) - Continued

Obligation to give due regard to information provided by a port state about suspected **IUU fishing**, and to take **appropriate action** in respect of subsidies

Obligation to have laws, regulations and/or administrative procedures to ensure that no prohibited subsidy is provided to IUU fishing vessels or operators

Subsidies to the fishing of overfished stocks



Overfished stocks (Article 4)



Prohibition to subsidize the fishing of fish stocks that are recognized as **overfished** by:

- Coastal state
- Regional fisheries management organisation (RFMOs)



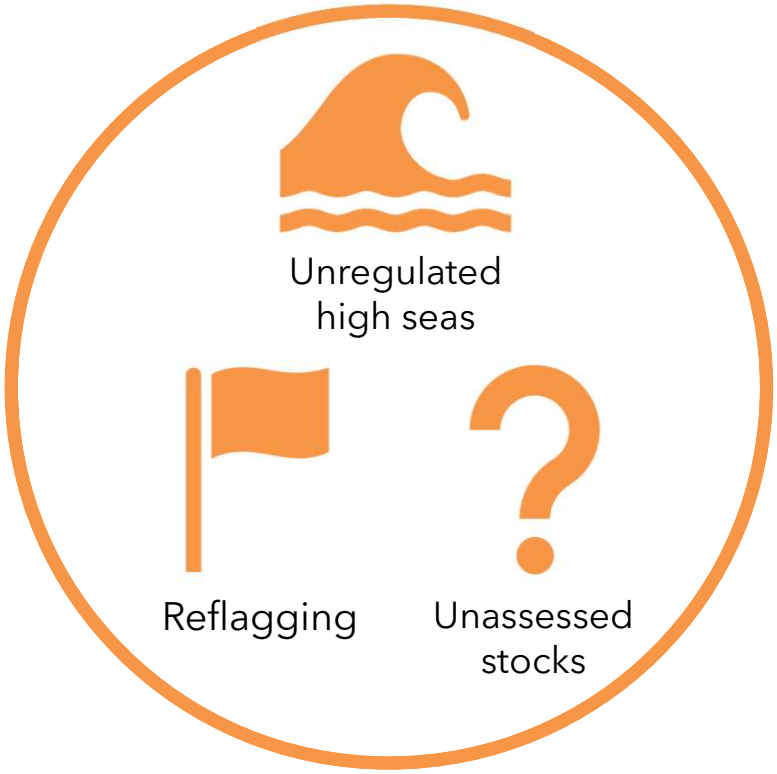
Flexibility: Subsidies are allowed if such subsidies or fisheries management measures are implemented to **rebuild stock(s)** to a biologically sustainable level



- Assessment of stock status must be based on the “best scientific evidence available” to the coastal member or RFMO

- **Special & differential treatment:** 2-year grace period for developing countries’ fishing in their waters

Other subsidies



Other subsidies (Article 5)



Prohibition to subsidize fishing on the **unregulated high seas** – where no collective fisheries management measures apply







Special care must be given and **due restraint** must be exercised when providing subsidies to:

- Vessel that do not fly the subsidizing Member's **flag**
- Fishing of stocks the **status** of which is **unknown**



- **Exception**: These rules do not apply to subsidies for disaster relief

Transparency



Transparency (Article 8)

Starting point: WTO Members already had an obligation to notify "specific" fisheries subsidies to the WTO under the SCM Agreement.

Obligation to provide some **fisheries-related information** in subsidy notifications:

- Type or kind of fishing activity to which a subsidy applies
- Other information on the subsidized fishery, to the extent possible:
  - Status of fish stocks
  - Conservation and management measures
  - Fleet capacity
  - Name and identification number of vessels
  - Catch data by species or group of species

Special and differential treatment: LDCs and developing country Members <0.8% of global capture can provide this information every 4 years (instead of every 2 years)

Transparency (Article 8)

Other transparency requirements under the Agreement include:

- An obligation for coastal Members to notify any **IUU determination** made by their authorities (any time a determination is made)
- An obligation to notify an annual **list of IUU determinations** (annually)
- An obligation to inform the Committee of **implementation measures** (once, and then if there are changes)
- An obligation to provide a description of the domestic **fisheries regime**, incl. laws, regulations and procedures that are relevant to the Agreement (once, and then if there are changes)
- An obligation to notify **membership in RFMOs,** including RFMO-related information (once, and then if there are changes)

Least developed countries (LDCs)

Technical assistance





Least developed countries (LDCs) (Article 6)

WTO Member must exercise **due restraint** in raising matters involving LDCs and explore solutions that take into consideration their specific situation.

Technical assistance and capacity building (Article 7)

Targeted **technical assistance** “shall be provided” to developing country members for **implementation.**

Establishment of a **WTO Fisheries Funding Mechanism** to provide such assistance, funded through voluntary contributions by WTO Members.

Key steps moving forward

1. **Implementation of the Agreement on Fisheries Subsidies (Fish 1):**
   - Members that have ratified the Agreement now need to put its rules in practice

2. **Conclusion of additional disciplines (Fish 2):**
   - WTO Members committed to continue negotiations to achieve “a comprehensive agreement”, including broader rules on subsidies that contribute to overfishing and overcapacity
   - Further disciplines aim to better address the underlying role of subsidies as a driver of overcapacity and overfishing, beyond the specific situations in Fish 1.
   - Members aim to conclude negotiations by MC15 in 2028

Sunset clause: If these additional rules are not adopted by September 2029, the Agreement will be terminated, unless WTO Members decide otherwise.



Towards implementation



A brief state of play

- The Agreement **entered into force** on 15 September 2025
- The **Committee** on Fisheries Subsidies has been established and its Chair designated
- Some **notifications** are already due, others will be soon
    - Members have made 70+ notifications to date
    - 17 notifications of annual IUU lists (several are “nil” notifications)
- The **WTO Fish Fund** is operational
    - Two funding categories: Category 1 (preparation) and Category 2 (implementation)
    - More than 40 projects have already been approved
- The next meeting of the Committee will be held on October 29, 2026, and proper exchanges between members on implementation are expected to start

What will compliance require?

There are at least three broad types of action that will be required to comply with the Agreement:

- **Information gathering and transparency**

  Collect, record, and notify information on fisheries subsidies, the fisheries where subsidized fleets operate, and other fisheries-related information (e.g. IUU fishing)

- **Coordination mechanisms between agencies**

  Ensure relevant fisheries-related information is communicated to subsidy-granting agencies (about IUU fishing, about overfished stocks and relevant fisheries management measures, about unregulated high seas fishing)

- **Rules, procedures, and measures to avoid prohibited subsidies**

  Ensure that no subsidy is provided in circumstances where it is prohibited (For IUU fishing vessels and operators, when stocks are overfished stocks and no fisheries management measures are in place, for unregulated high seas fishing.)

Each country will need to assess the specific actions it needs to take and the support it needs

IISD's Self-Assessment Tool



Preliminary remarks

- The Self-Assessment Tool has been designed to support WTO Members' efforts to **prepare for the implementation** of the WTO Fisheries Subsidies Agreement
- It is available at: https://www.iisd.org/publications/guide/self-assessment-tool-wto-fisheries-subsidies-agreement
- Available to all Members, who can decide for themselves how they want to use the tool and what they want to do with the **results** of the self-assessment
- The Tool **is not** an official legal interpretation of the Agreement and should **not** be taken as legal advice

Overview

The Self-Assessment Tool includes two documents:

A **Checklist:** A series of tables to be filled out by providing information and answering questions

A **Guide:** A supporting document that gives explanations on how to fill out the Checklist

The Tool has been designed to help WTO Members to:

Part 1

- Identify, collect, and record **key information** and data needed for implementation

Part 2

- Assess **current alignment** with the rules and identify corrective actions
- Assess if the mechanisms needed for **ongoing alignment** with the rules are in place
- Identify and articulate possible **technical assistance** and capacity-building needs

Key takeaways

- A tool allowing a **self-diagnosis of the national situation** with regards to the rules included in the Agreement on Fisheries Subsidies:
    - Are we aligned with the new rules?
    - What do we need to do to align?
    - What technical assistance do we need?
- The tool focuses on what is required to meet a member's obligations under the Agreement
- In the context of the **Fish Fund**, the tool is very relevant:
    - Use can be funded as a preparatory activity (category 1)
    - A structured way to identify technical assistance needs and prepare a request for a larger implementention project (category 2)
- The tool is already being used by some WTO members (around 10 known users), and IISD can support its use.

Any Questions?



Thank you!

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