

FISHERIES SUBSIDIES: INSTITUTIONAL ISSUES

Dialogue – 21 May 2019

Centre Conference Varembe, Geneva

This informal dialogue is designed to provide negotiators with an opportunity to discuss, in a non-negotiating setting and with the input of experts, the options available in the design of the institutional framework for a fisheries subsidies agreement. Discussion will focus on how the agreement could be incorporated into the WTO framework, including how much of the existing ASCM architecture would be useful in the context of a new agreement (definition of a subsidy, specificity, remedies) and lessons that can be drawn from the design of the WTO Agreement on Agriculture. Discussion will also cover how consultations and the use of experts could be included in the resolution of disputes under the new agreement.

AGENDA

09:00- 09:15 **Opening remarks**

Alice Tipping – Lead, Fisheries Subsidies, IISD

09:15-11:15 **Session 1: The legal architecture of a fisheries subsidies agreement**

Discussion at this session will explore, informed by input from experts, the advantages and disadvantages of different options for the legal form of a fisheries subsidy agreement and the options that exist for using, or not, existing elements of the ASCM architecture.

Options for the legal form of a fisheries subsidies agreement

Charles Julien – Counsel, White & Case

What options do negotiators have with respect to choosing the legal form of an eventual multilateral agreement on fisheries subsidies? What considerations of practicality and enforceability should they weigh in making that decision?

Legal form of support to fisheries

Tom Moerenhout – Senior Associate, IISD

In what different legal forms is support for fisheries currently provided?

Lessons from the construction of the Agreement on Agriculture

Bernard O'Connor, Partner, NCTM Brussels

To what extent does the AoA use elements of the ASCM framework, including definition of subsidies, benefit, specificity? Why was a different approach taken?

What constructive lessons can negotiators of a fisheries subsidies agreement draw from the relationship between the ASCM and the AOA?

11:15 – 11:30 Coffee

11:30 – 12:30 Session II: Resolving disputes: Consultations and experts

Discussion at this session will explore how the mechanism of consultations to help resolve reconcile perspectives about the implementation of obligations has been used in other agreements within and outside the WTO.

The role of consultations and experts in resolving disputes

Niall Meagher, Executive Director, ACWL

Rukmini Das, Researcher, University of Geneva (tbc)

How could the new agreement include greater reliance on the role of consultations before a formal dispute over compliance was brought? What lessons can we draw from the experience of the WTO and from RTAs?

How could the agreement incorporate the role of technical experts (eg in fisheries management) to support Parties and panels in resolving disputes under the new agreement? What lessons can we draw from the use of experts in disputes under the SPS and other WTO agreements?

12:30 Closing Remarks