



Indonesia and World Trade Organization's Prohibition on Fisheries Subsidies: Finding a Breakthrough

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Abstract

Fishermen have long been a vital part of coastal communities, especially in developing countries like Indonesia. However, the recent prohibition of fisheries subsidies by the World Trade Organization (WTO) has raised significant legal and economic concerns. This article aims to examine the implications of the WTO's Agreement on Fisheries Subsidies for Indonesia and explore potential legal strategies to reconcile international obligations with national interests. Using a normative juridical method, this study analyzes the provisions of the WTO agreement, particularly the eight types of prohibited subsidies, and their impact on Indonesia's small-scale fisheries sector. The findings indicate that a sudden termination of these subsidies may harm the livelihoods of traditional fishermen and disrupt coastal economies. This situation presents a legal and diplomatic paradox: Indonesia must comply with global trade rules while safeguarding the welfare of its people. As a solution, Indonesia should leverage international negotiations and legal mechanisms to advocate for flexibilities or special treatment for developing countries. In conclusion, while the WTO agreement aims to prevent overfishing and promote sustainability, its implementation must be carefully balanced to avoid adverse effects on developing nations. Indonesia must therefore find a legal and diplomatic breakthrough to protect both its obligations and its national interests.

Keywords

Agreement on Fisheries Subsidies; Prohibition of Subsidy; World Trade Organization (WTO).



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1. Introduction

Fishermen is one of the professions that has long existed since centuries ago, especially for those who lived in the coastal area. The catch by these fishermen will then be sold in markets and distributed as food for local communities or exported to other parts of the state. As one of the most noble professions, fishermen are protected by law which ensures that the marine resources are used for the prosperity of the people, especially for traditional fishermen [1]. With this legal basis, the sovereignty over the sea and fisheries becomes the sovereignty of a state which must be maintained for the welfare of the people [2]. Aside from the 1945 Consitution, there are other laws which specifically regulates about the protection for fishermen, namely Law No. 31 of 2004 jo. No. 45 of 2009 concerning Fisheries (hereinafter referred as The Fisheries Law) and Law No. 7 of 2016 concerning The Protection and Empowerment of Fishermen, Cultivation and Salt Farmers (hereinafter referred as The Fishermen Protection Law).

By law, fishermen themselves are divided into two, namely fisherman and small fishermen. Small fishermen are those whose profession is fishing to fulfill their daily necessities [3], therefore the difference of small fishermen compared to the definition of fishermen lies in the phrase "to fulfill their daily necessities" which highlights that for small fishermen, their profession is also their source to support themselves and their family and to meet their needs to continue their livelihood. Small fishermen often face challenges, such as the struggle of access on the sea, the availability of sufficient fuel, and

also the conditions of climate change and weather that are taking place globally [4]. Due to these challenges that they face generally, the government often provides subsidies for them to be able to continue their profession. Subsidy is a financial assistance provided by an agency (in this case the government) to the people or a form of business to maintain and increase purchasing power [5]. The subsidies given are in the form of facilities and infrastructure, fuel, and capital assistance. The form of facilities and infrastructure that the government provided are in the form of facilities and infrastructure for fishing, fish cultivation and fish processing and marketing [3]. However, in 2022, World Trade Organization (WTO) held its 12th Ministerial Conference in Geneva, Switzerland in which one of the issues discussed was fisheries subsidies. The Conference discussed on how WTO has decided to publish a policy to prohibit the fisheries subsidies that has been done by the states [6]. This policy, however, became controversial especially for developing countries like Indonesia. This is because if this policy is agreed and supported by at least 54,45% of the state parties (or around 107 out of 164 states) then this policy will surely be detrimental towards small fishermen as their profession depended on it.

Several previous studies have examined fisheries subsidies under the WTO framework and their implications for Indonesia. Putra and Aqimuddin analyzed the legal structure of WTO subsidy regulations and their general impact on national policy, while Ismail focused on Indonesia's fisheries subsidy policy in light of ongoing WTO negotiations [7]. Similarly, Mawaddah reviewed the provisions of the *Agreement on Fisheries Subsidies* (hereinafter: AFS), though all of these studies were conducted during the drafting stage of the AFS and thus offered largely conceptual and predictive insights [8]. In contrast, this article is written after the AFS was adopted at the WTO's 12th Ministerial Conference and as it approaches entry into force, allowing for a more concrete analysis of the final text.

The novelty of this research lies in its emphasis on utilizing the *Special and Differential Treatment* (SDT) clause as a strategic approach for Indonesia in future negotiations and implementation. Rather than viewing the AFS as a threat to small-scale fishers, this study positions it as an opportunity to gradually reform harmful subsidies and promote environmentally friendly alternatives, ensuring continued support for small fishers while aligning with global sustainability commitments. This article tries to examine and analyze how the prohibition on fisheries subsidy policy that has been implemented by the WTO would affect Indonesia and how Indonesia will resolve it.

Previous researches likely focused on the regulations and impacts towards the fisheries sector in Indonesia. It mainly discuss on how the issue is contradicting with national interests and regulations and how it would harm the small fishermen as the vulnerable community. However, this study would highlight important point of views regarding the issue. Firstly, this study will provide the understanding on the importance to maintain the balance between international commitments and national interests. Secondly, this study will deliver analyses on perceiving the issue as an opportunity to elevate the climate of sustainable fisheries sector in Indonesia which surely by going through gradual and measurable steps that accomodates the interests and the needs of improvement.

2. Methods

This paper applies juridical normative as the research method. Through this type of method, study and examination towards bibliographical data is performed including positive international laws, literature, and experts' opinions related to the issue discussed. This includes the General Agreement on Tariff and Trade (GATT), Agreement on Subsidies and Countervailing Measures, and domestic national regulations in the scope of fisheries. All of the primary legal sources will be examined thoroughly, compared to another, and analyzed to understand and obtain any possible solutions. The approaches used on this research are *statute approach* which examines regulations associated with the issue, such as regulations under the WTO legal framework, and the second approach is *conceptual approach* based on conceptual theories related to the discussed issue [9]. By examining the statute approach, the current existing regulations could be understood and compared on how the implementation of it would accommodate the rising issue. Whilst through the conceptual approach, it would strengthen the analysis and the possibilities of solutions proposed. The conceptual approach is used in doctrinal

legal research studies to describe and analyze research problems that depart from empty norms in laws and regulations. Through this approach, a legal issue can be understood based on specific legal concepts developed by experts [10]. Data sources obtained from the approaches later will be analyzed using the method of descriptive and qualitative analysis to provide a comprehensive understanding and the correlation of each variable and will guide to a proper conclusion of the issue.

3. Results and Discussion

3.1 The Regime of Subsidy Under the WTO Legal Framework

Subsidies have always been an important agenda within the practice of international trade, particularly under the WTO legal framework. Subsidy, as defined in Agreement on Subsidies and Countervailing Measures (hereinafter: ASCM), is a financial contribution by a government or any public body within the territory of a member which confers a benefit [11]. Subsidy can take many forms, which include direct government expenditures, tax incentives (such as tax credits or reduced tax rates), equity infusions, soft loans, government provision of goods and services and procurement on favorable terms, and price supports. These subsidies can be given with a variety of motivations, namely to address market failures stemming from inter alia environmental externalities, other externalities, or (domestic or foreign) policy measures [12]. Subsidies can also serve as a means of wealth redistribution, supporting products primarily consumed by lower-income individuals [13]. Subsidies, based on Agreement of Agriculture (hereinafter: AoA) and ASCM, are classified under two broad categories, namely actionable (subsidies which are directly linked with production) and non-actionable (subsidies which are not directly linked with production). Actionable subsidies, which are linked with production, can cause distortion in international trade thus the current WTO negotiations is to limit the actionable subsidies (e.g. certain forms of fisheries subsidies, amber and blue box subsidies in agriculture) and to discontinue all forms of agricultural export subsidies [14].

Despite the ongoing discussions, developing and least-developed countries still provide subsidies towards its people for the welfare of the country. This is because subsidy increases the welfare of a country by improving the terms of trade if it leads to a reduction in the price of the goods, both the imported and the exported ones. It can also increase the domestic country's welfare by shifting profits from the profit generating firms [15]. Moreover, subsidies can be used to correct regional inequality, promote innovation and enable social mobility [16]. Seeing as how subsidies play an important role in developing countries, the ASCM has provided "special and differential treatment" provisions in which least-developed and developing countries are exempt from the prohibition of export subsidy.

In ASCM, subsidies can take many forms which is identified by types of grants provided. These grants include [11]:

- 1) Direct fund transfers : if a state provides direct transfer of funds (aid, credit and equity capital) or debts (loan guarantees) and benefits from this assistance. For example: India's cooking gas subsidy, which enables transfers of cash subsidy on LOG cylinders directly to the bank account of 177 million subscribers enrolled, is one of the forms of direct benefit transfer program [17].
- 2) Government revocation: When a government does not collect the revenue (such as tax credits).
- 3) Government procurement: When the government provides goods or services other than general infrastructures or if they purchases goods. For example: The European Union members has conducted several government procurement acts, especially United States (such as Georgia, Virginia, Minnesota, etc [18]) and also France [19].
- 4) Financial assistance through a third party: When the financial assistance is not carried out directly by the government but through a third party, such as through a fund mechanism which will execute special campaigns and functions in order to provide support industries. For example: The Federal Financial Assistance (FFA) is a third party which is authorized to transfer money, property in lieu of money for eligible recipients [20].

However, subsidy can harm other states in international trade, especially if it is actionable subsidies. The negative impacts that actionable subsidies are specified in ASCM which includes: (a) injury to the domestic industry of another Member; (b) nullification or impairment of benefits accruing directly or indirectly to other Members under GATT 1994 in particular the benefits of concessions bound under Article II of GATT 1994; and (c) serious prejudice to the interests of another Member [21]. Aside from these adverse effects mentioned through ASCM, subsidy itself can cause market distortion thus impacting the international trade. There are two prominent distortions which are (1) for the country importing subsidised product, there is unfair competition of the like domestic products with the imports in which the imports became cheaper due to the subsidies and the products of the local producers becomes relatively expensive and (2) the case for CVD (currency value devaluation) can make exports cheaper and makes imports becomes more costly [15]. Trade-distorting subsidies can also bring repercussions towards least-developed and developing countries as it creates an uneven playing field that can affect the commercial interests of countries that compete with subsidized products in foreign markets and may also effect domestic sales in import-competing industries that cannot compete on fair terms due to subsidized products [22].

Seeing as how subsidies can be distortive in international trade, that is why WTO has decided to create the ASCM as a way to reduce conflict over subsidies affecting trade [23]. Aside from specifying the types of subsidies, ASCM also regulated about countervailing measures the members must do. In the AoA, there are two forms of countervailing measures, namely (i) countervailing duties and (ii) countervailing investigation [24]. Countervailing duty is a special duty levied for the purpose of offsetting any subsidy bestowed, directly, or indirectly, upon the manufacture, production or export of any merchandise [25]. While countervailing investigation include all investigations and investigations carried out by States that feel disadvantaged from the imposition of subsidies [24]. The current provision regarding subsidies based on ASCM is provided to create a balance between free trade and fair trade regulatory mechanism and WTO here acts as a control mechanism if these subsidies are conducted in a non-disciplinary manner [15]. The ASCM itself was created after the Uruguay Round of negotiations was conducted and before the creation of ASCM, the provisions of subsidies were regulated by GATT 1994, specifically from Article XVI of GATT. There is also The Subsidies Code which contained provisions making export subsidies (with exceptions for agriculture exports and for developing countries) a *per se* violation of the rules [26]. Afterwards, with the creation of ASCM and AoA, the definition and policy of subsidies were made clearer.

Thus, through the ASCM and GATT, it is obvious that subsidies are allowed however there are limitations on providing it as subsidies could impose as a threat towards the international trade. To maintain the balance of international trade, WTO then has limited the actionable subsidies, specifically in fisheries subsidies as they believe that it could distort the market price in the international market. Thus, these subsidies are like double-edged sword as it could be beneficial towards a state's welfare yet simultaneously could harm the trade in an international scale.

3.2 Agreement on Fisheries Subsidies and Its Paradox

The members of the WTO has adopted a new agreement at the 12th Ministerial Conference (12th MC) which focused on the matters of fisheries subsidies, namely the Agreement on Fisheries Subsidies (hereinafter: AFS). However, it is important to understand the main background that derives this agreement. Firstly, it should be highlighted that the prohibited subsidies are targeted at the ones that are harmful for the environment and the ecosystem of the ocean. This agreement was meant to fulfill the Sustainable Development Goals (SDGs) through a multilateral agreement. It is believed that members are also able to meet the goals through an agreement that focuses on the environment and sustainability. It is also meant to preserve the ecosystem of the ocean.

Briefly, the agreement was established with such noble purposes, which meant maintaining a sustainable ocean environment. It attempted to eliminate measures that are threatening or harmful to the ocean environment, merely to achieve the targets of the SDGs. On the other hand, the practices of the fisheries industry have been concerning for decades, with the harmful impacts it delivered towards the ecosystem and environment

of the ocean. Hence, the members of the WTO through the 12th MC urged to govern the subsidies regulations particularly on the fisheries sector through the establishment of the AFS. The AFS itself is intended to prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing and refrain from introducing new subsidies [27].

Article 3-5 of the AFS explicitly prohibited fisheries subsidies on 3 (three) main pillars of discussion, which are: (i) Illegal Unreported Unregulated Fishing (IUU Fishing), (ii) Overfished stock, and (iii) Overcapacity and Overfishing. Overfishing here can occur as a result from misaligned subsidies with sustainable fishing practices [28]. IUU fishing itself has also been linked to labour rights abuses such as forced or bonded labour and human trafficking thus leads to a fisheries crime [29]. Thus, this is why these three pillars must be addressed for the good of the international trade. From these three main pillars, WTO proposed the prohibition on subsidy policy because they believe that the subsidies will create injustice in international trade because it could damage the market balance [7]. There are at least 3 (three) impacts of subsidies towards the global trade, such as: (1) increasing the level of product exports to the importing countries, (2) increasing exports from countries that provide subsidies to third countries (through bilateral or multilateral agreements for specific commitments) which will also impact towards other countries' export, and (3) limiting imports towards countries that provide subsidies [30]. These impacts can cause a violation of global trade liberalization.

The AFS is still not forceable yet as it has not meet the requirement for the agreement to entry into force which is 2/3 of members to ratify the instrument [31]. The prohibition on subsidy policy itself has been ratified by 63 (sixty three) states, with several of them being the United States, Singapore, South Korea, Australia, Timor-Leste and etc [32]. Indonesia, however, has not ratified this policy since the ratification could give a significant impact to its state, specifically, the prosperity of the people. Indonesia, however, has not ratified this policy since the ratification could give a significant impact to its state, specifically, the prosperity of the people. The differences of how subsidies work on fisheries could be portrayed on this table below:[33]

Table 1. Subsidy Mechanism in Fisheries

Aspect	Before the AFS	After the AFS
Subsidy Types	Wide range of subsidies to support the fishing industry, including vessel construction, fuel, and income support.	Restrictions on harmful subsidies, with a focus on prohibiting subsidies that contribute to overcapacity, overfishing, and IUU fishing.
Small-scale Fishers Support	Small-scale fishers received substantial government support, ensuring continued operations and growth.	Limited support for small-scale fishers, with a shift toward ensuring sustainability and avoiding subsidies that encourage overfishing.
Vessel Capacity	Government subsidies allowed for fleet expansion, including the construction and modernization of vessels, leading to overcapacity in the industry.	Restrictions on subsidies for vessel construction and modernization to prevent overcapacity and overfishing.
Market Distortion	Subsidies led to market distortions by encouraging overproduction, leading to lower prices and increased competition in global markets.	Subsidies are now limited to those that don't distort the market, ensuring fairer competition and aligning with sustainable development goals.

Enivironmental Impact	Subsidies contributed to unsustainable fishing practices, depleting fish stocks, and causing long-term environmental harm.	Aims to reduce overfishing and support the sustainable management of fish stocks. Some subsidies may be allowed if they contribute to sustainable fisheries management.
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Source: Analytical results from processed secondary data.

According to the Ministry of Maritime Affairs and Fisheries in 2022, there are at least 3.03 million fishermen in Indonesia [34]. With this number of fishermen, it would prove difficult for Indonesia to abruptly stop the subsidies as the majority of profession in Indonesia are small fishermen. [8].

Comparing to the national interests of Indonesia, the AFS provisions likely contradict with domestic regulations, especially Article 18 paragraph (1) of the Fishermen Protection Law. The article stipulates that “*The Central and Regional Governments, in accordance with their authority, provide infrastructure for Fisheries and Salt Businesses*”. The prohibition on subsidy policy would go against the implementation of this article and will also limit the government’s authority to support and protect small fishermen. In fact, these subsidies were given for the prosperity of the people, as referred to in the 1945 Constitution. Not only that, this policy by WTO is also considered to be discriminative and creates injustice towards developing countries especially those who rely on fishermen as one of their primary professions. With this policy, it will only be detrimental towards the state’s interests especially towards the lives of the small fishermen living in that state. Therefore, although discussions about this prohibition on subsidy have begun since 2005, there are still negotiations conducted due to the conflict of interest between the developed and developing countries until now. These negotiations are done because the developing countries prioritize their national interest and the fate of the small fishermen who are more numerous than ordinary fishermen [35]. Developing countries, however, should have received special and differential treatment provisions (SDT) in that agreement which includes 5 (five) provisions, including [36]:

- 1) Longer time periods for implementing agreements and commitments
- 2) Measures to increase trading opportunities for these countries
- 3) Provisions requiring all WTO members to safeguard the trade interests of developing countries
- 4) Support to help developing countries build the infrastructure to undertake WTO work, handle disputes, and implement technical standards
- 5) Provisions related to the least developed country (LDC) members

However, despite the existence of the SDT provisions, the WTO agreement concerning the fisheries subsidies remains discriminatory thus leading to the limitation of the developing countries’ rights, not the developed ones. From here, we can see that the AFS does not bring beneficial impact towards developing countries, especially Indonesia since the termination of subsidies would only be detrimental towards the lives of small fishermen. Thus, these situations escort us into a paradox. While the AFS has important goals to achieve by the international community, it also threatens the lives of related vulnerable communities such as small fishermen that rely on the subsidies that rely on subsidies, particularly the fisheries sector. This paradox becomes a challenge to the countries that face the impacts to their small fishermen, including Indonesia both as a developing country and members of the WTO that needs to be resolved.

3.3 The Impact and Challenges to Indonesia’s Small Fishermen

With the emergence of the AFS, it will impact Indonesia’s fisheries in two ways. First, the difficulty in distinguishing IUU fishing in actual due to traditional small-scale fishing. Second, the absence of protection or support towards small fishermen. Absence of protection will cause several problems that might surface in the future, such as: (i) compliance and procedural issues that can lead to inadvertent violations; (ii) fisheries stock assessments that are burdensome for developing countries; (iii) the prohibition of capital and operating cost subsidies can slow down the development of the fisheries

sector in developing countries; (iv) local communities are no longer empowered in resources management decision-making; and (v) certainty is needed to enable small fishermen to access the subsidies needed to reduce capital and operating costs for the development of small fishermen [8].

In addition, the prohibition on subsidy will also bring a negative impact regarding the management of fisheries markets, resources and employment. In the management of fisheries markets, the prohibition on subsidies will impact on the decline in captured fisheries production due to the absence of regulations on fishing vessels with small catch capacities which can cause captured fisheries to decline drastically. Fisheries management may suffer significant setbacks, as infrastructure development for industrialization still largely undertaken by the government is constrained by WTO rules prohibiting certain infrastructure-related subsidies. If viewed from the perspective of fishery resources, the WTO agreement can cause under capacity. This is because the large potential for fisheries in Indonesia's vast waters cannot be managed without government intervention. This problem of under capacity will then create further problems in terms of employment where foreign capital or investors have a greater opportunity to enter the fisheries sector and can ultimately cause the dwindling employment opportunities [7].

Due to the unintended consequences of the WTO Agreement, small-scale fishers now face greater challenges, as the policy framework no longer offers them the same level of support or protection as before. Furthermore, small fishermen are still reliant on Indonesian government in continuing their livelihoods and to fulfill their necessities therefore, Indonesia could not abruptly terminate the subsidies because it will harm the welfare of these small fishermen [37]. Also, as mentioned before, the small fishermen will also be disturbed because the prohibition on subsidy policy will cause a decrease in the amount of captured fisheries production. This is due to the majority of fishermen using motorboats to do their job, while ships with a catch capacity of around 30 – 50 gross tons (GT) only amounts to 19.01% of the total fishing vessels in Indonesia. If the government does not have any regulations regarding fishing vessels with small catch capacities, it will lead to a major impact on the decline of captured fisheries production.

Seeing how grave the negative impacts caused by the prohibition on subsidies are, especially for the survival of small fishermen, it can be said that the Agreement on fisheries subsidies is clearly detrimental towards Indonesia as Indonesia is a country whose largest livelihood comes from fishermen. Even now, Indonesia is still trying to object to the policy and push the notion to provide subsidies towards small fishermen in front of the WTO [38]. However, if this agreement is ratified by 54.45% of the total WTO parties (equivalent to 107 of 164 countries) then this agreement would have the legal-binding power as this will become the basic rules of international trade particularly for fisheries sector [39].

3.4 Finding a Breakthrough on the Road to Sustainable Fisheries

The establishment of the AFS positioned several members of the WTO, including Indonesia into a dilemma. As a paradox, Indonesia shall comply to international commitments and moreover the AFS carries an eco-friendly policy in order to maintain the sustainability of the ocean. Sustainability here focuses on human activities and their ability to satisfy human needs and wants without depleting or exhausting the productive resources at their disposal [40]. Speaking of sustainability means speaking of ensuring that future generations may enjoy equal or even better conditions. Hence, there is no excuse for neglecting sustainability. However, the provisions of the AFS, more likely to threaten the current generation in its stability of welfare, where the most impacted are the vulnerable communities such as small fishermen of developing countries. This has become a challenge to solve, this also does not mean that Indonesia is left with no choice or should choose one of the paradoxes. Moreover, it is still possible for Indonesia to ensure both of its international and national interests through breakthroughs:

First, understanding that the issue is an opportunity to develop a better fisheries sector. The prohibited subsidies by the AFS mainly regulate subsidies that may support harmful practices which later will lead to the destruction of the ocean ecosystem. This regulation is actually forcing the members to improve and develop their fisheries sector that is more friendly to the environment. Although it worries some members on the cost of developing a sustainable fisheries sector, the AFS has provided a funding mechanism.

The funding mechanism would request the developed countries to contribute on funding and technical assistance towards the developing countries. This is an opportunity that Indonesia shall take on to enhance and boost its fisheries sector. Later, the products of fisheries originating from Indonesia may have higher quality and will be able to compete better with other import products in the international trade. It is not wrong to believe that this may lead into a greater income for the nation itself. The government of Indonesia shall innovate more on supporting items to the small fishermen, including the fuel used by the boats, catching tools, elevating educations for the small fishermen, until building a proper mechanism for monitoring and evaluating the catching procedures.

Second, utilizing the status as developing country in diplomacies and negotiations. The AFS has not come into force, as it has not reached 2/3 of the members of the WTO to ratify the instrument. This concludes that many of the members still do not fully agree to the application of the provisions. Therefore, negotiations and diplomacies are still possible to conduct. Members that are developing countries could force the implementation of SDT principles under the AFS which may support their national interests. As the SDT is still limitedly apply under the AFS, therefore, it is recommended for Indonesia and other developing also with least developed countries to play its role in negotiations particularly on the upcoming ministerial conference. The ideal standards of SDT may proposed in the negotiation process, including longer time for transitions and implementation of the agreement, this will help the government to reduce the subsidies in fisheries sector gradually so any unpredictable shock to the small fishermen could be avoided. Another thing that should be proposed is other things that may support the interests of developing or least developed countries such as safeguard measures, funding mechanism, and technical assistance. Thus, this requires a strong diplomacy in negotiations by the government of Indonesia to achieve important regulations supporting its national interests. By trying to keeping the international commitments balanced with national interests, will only bring advantages to the fisheries sector in Indonesia and would deliver the welfare not only for current generations but also the future generations.

4. Conclusion

The prohibition on subsidy or Agreement on fisheries subsidies is a draft agreement formed by WTO to maintain the stability and liberalization of international trade. This is because WTO believes that the subsidies will create injustice in international trade. Unfortunately, the draft agreement made is actually detrimental to developing countries as the majority of their territory are waters, including Indonesia's. With the prohibition on subsidies on fishermen, it will only harm the national interests and damage the welfare of small fishermen because their profession is a way for them to fulfill their necessities. The Agreement on fisheries subsidies also has an impact on the Indonesia economy as there will be problems surfacing in the regulations, management and fisheries resources as well as employment. It will also have a negative impact for small fishermen as the majority of small fishermen in Indonesia are still dependent on the subsidies provided by Indonesia's government. Therefore, if these subsidies are abruptly terminated, then they will lose their only profession that could fulfill their needs. These small fishermen will also face the problem of not being protected by law and places them in a vulnerable position. In other words, this draft agreement on prohibition on subsidy brings more negative impacts on Indonesia, especially in its national interests in protecting the small fishermen. To find a breakthrough to this predicament, Indonesia must first realize that the prohibition of subsidies here is an opportunity for them to develop their fisheries sector as the prohibited subsidies are those which might be harmful for the environment. The AFS also provide a funding mechanism in which it would request the developed countries to contribute on funding and technical assistance towards developing countries. Secondly, as Indonesia's current status is a developing country, Indonesia and other developing countries could force the implementation of SDT during the negotiations and diplomacies of the AFS before it came into force. Thus, Indonesia can still try to find a balance between abiding international obligation and also to maintain its national interest and welfare.

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