

**LOOKING FOR A PANACEA IN THE SCM
AGREEMENT?
— SYSTEMIC CHALLENGES FOR POST-BALI
FISHERIES SUBSIDIES DISCUSSION AND SOME
FOOD FOR THOUGHT TO OVERCOME THEM**

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ABSTRACT

It is no secret that global fish stocks are being quickly depleted. This sense of global urgency has made this issue one of the key topics of the DDA negotiations and recent FTA negotiations. Due to its uniqueness as a non-trade subject, and the political sensitivity associated with it, at the moment the issue of fisheries subsidies has received a great deal of attention and proven to be one of the most controversial negotiating topics for trade agreements. What is missing in this discussion and negotiation, however, is the realization that the proposed scheme of fisheries subsidies norms in fact suggests

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significant departure from the basic framework of the existing subsidies norms and jurisprudence found in the SCM Agreement. Besides, some of the major elements of the fisheries subsidies norms fail to reflect the actual practice of subsidy investigations or disputes. To the extent these issues are being discussed in the subsidies norms and jurisprudence of the SCM Agreement, efforts should be made to ensure consistency, so as to avoid unnecessary future controversies and disputes. This paper discusses these issues and suggests ways to adjust the direction of future discourse on this important global issue by exploring ideas and alternatives to reduce or avoid such structural mismatches.

KEYWORDS: *SCM Agreement, DDA Negotiations, fisheries subsidies, prohibited subsidies, specificity, fisheries management system, Trans Pacific Partnership, U.N. Food and Agricultural Organization*