



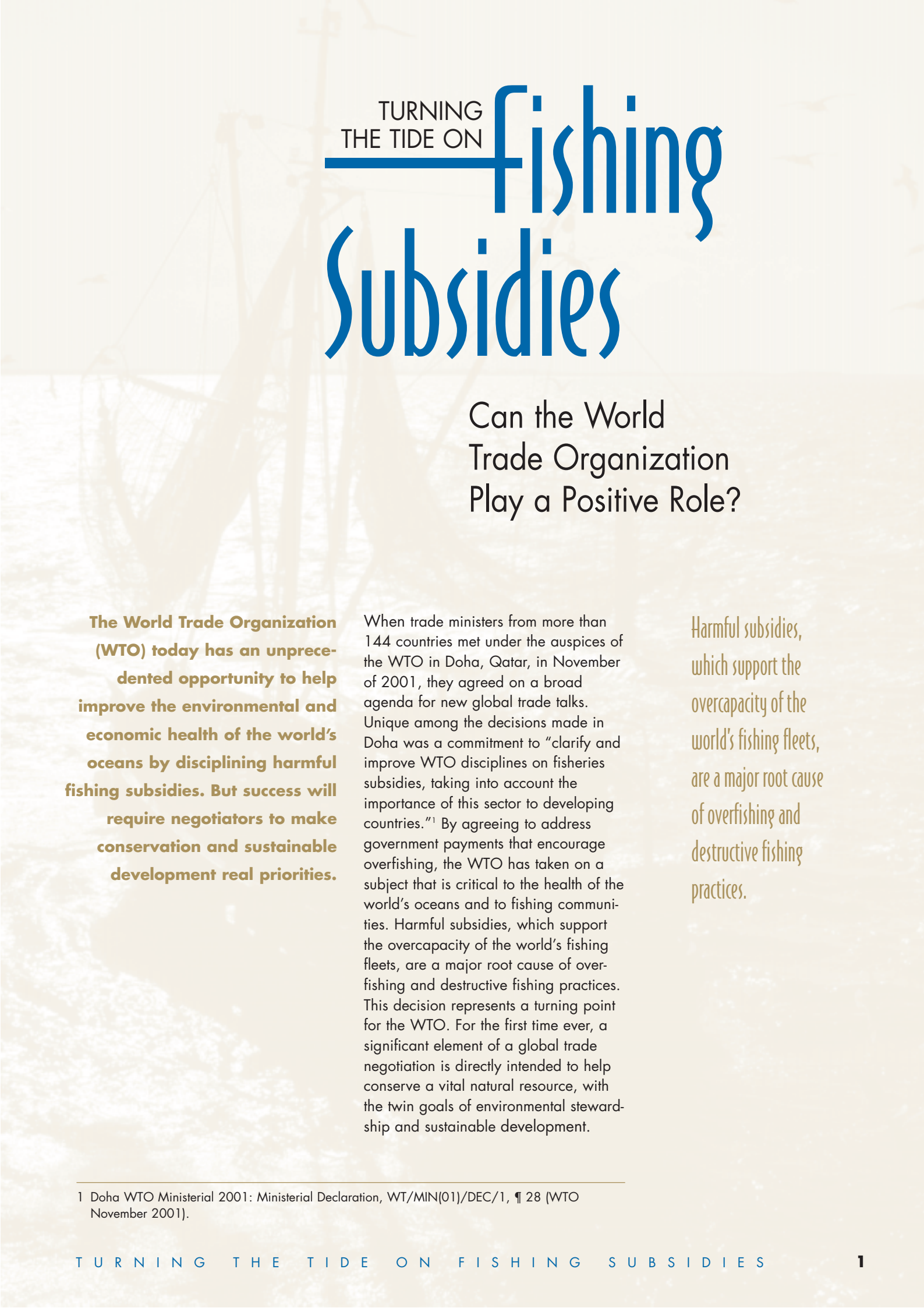
TURNING
THE TIDE ON

fishing Subsidies

Can the World
Trade Organization
Play a Positive Role?







TURNING THE TIDE ON Fishing Subsidies

Can the World Trade Organization Play a Positive Role?

The World Trade Organization (WTO) today has an unprecedented opportunity to help improve the environmental and economic health of the world's oceans by disciplining harmful fishing subsidies. But success will require negotiators to make conservation and sustainable development real priorities.

When trade ministers from more than 144 countries met under the auspices of the WTO in Doha, Qatar, in November of 2001, they agreed on a broad agenda for new global trade talks. Unique among the decisions made in Doha was a commitment to "clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries."¹ By agreeing to address government payments that encourage overfishing, the WTO has taken on a subject that is critical to the health of the world's oceans and to fishing communities. Harmful subsidies, which support the overcapacity of the world's fishing fleets, are a major root cause of overfishing and destructive fishing practices. This decision represents a turning point for the WTO. For the first time ever, a significant element of a global trade negotiation is directly intended to help conserve a vital natural resource, with the twin goals of environmental stewardship and sustainable development.

Harmful subsidies, which support the overcapacity of the world's fishing fleets, are a major root cause of overfishing and destructive fishing practices.

¹ Doha WTO Ministerial 2001: Ministerial Declaration, WT/MIN(01)/DEC/1, ¶ 28 (WTO November 2001).



Danish industrial trawler fishing in the North Sea.

PAYING FOR DEPLETION

Many nations pay out significant subsidies to their commercial fishing sector to build and modernize fishing vessels. These subsidies increase the capacity of the fleets of subsidizing nations, not only giving them a competitive advantage but also creating excess fishing capacity that outweighs the available resources. In simple terms, there are too many boats, chasing too few fish.

In the South Atlantic, subsidized vessels played a significant role in the 1997 collapse of a highly valuable hake fishery off Argentina.

In the North Atlantic, subsidies perpetuated the cycles of overfishing that brought major cod stocks to the edge of commercial extinction.

Along the coasts of West Africa, artisanal fishing communities watch as subsidized industrial fleets "strip-mine" their waters.

In the Pacific, subsidies alter the competitive balance in the race for prized fish such as tuna and toothfish ("Chilean sea bass").




Given such examples, it is no wonder that the World Bank, Asia Development Bank, Asia-Pacific Economic Cooperation (APEC), Organization for Economic Cooperation and Development (OECD), U.N. Food and Agriculture Organization (FAO), U.N. Commission on Sustainable Development, and even the WTO secretariat itself have all concluded that harmful fishing subsidies can have a negative impact on fishery resources.




Spanish trawler in the southern Atlantic Ocean.

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But if the negotiations on fishing subsidies are to deliver meaningful results, governments will have to move beyond "business as usual" at the WTO.

-  They will have to make good on their repeated promises to give real priority to conservation and development.
-  They will have to broaden their thinking about the economic interests at stake in a global economy.
-  They will have to recognize the need for the WTO to work in harmony with

international bodies responsible for managing ocean resources and protecting the environment.

-  They will have to negotiate and administer new WTO rules in a manner that is truly open and participatory.

Since 1997, WWF has worked hard to raise the issue of fishing subsidies and to put the topic on the agenda at the WTO. With the WTO talks now under way, WWF offers this issue brief as a guide to what governments must do to make those negotiations a success.

The Fishing Subsidies Problem

The world's fisheries are facing an unprecedented crisis. Populations of fish—and indeed of most marine species—have declined to a fraction of their historic natural levels. The commercial productivity of the oceans is at an all-time low, with 73 to 75 percent of the world's major fisheries overexploited, fully exploited, or recovering from depletion. Around the world, marine ecosystems and human communities alike are suffering the consequences of unsustainable fishing.²

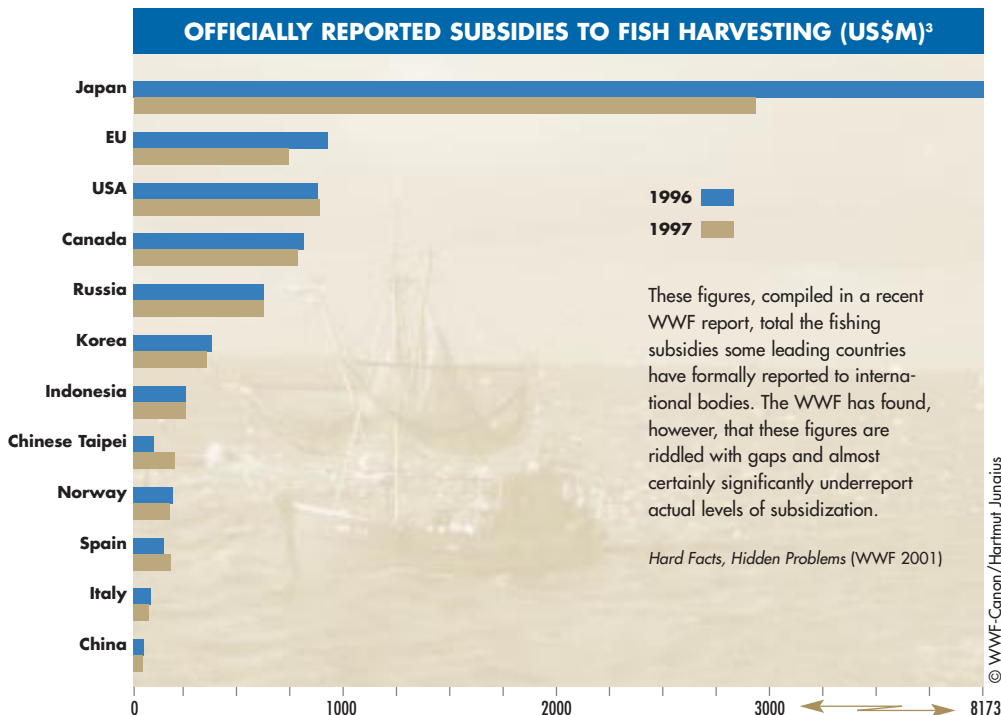
The causes of this global crisis are multiple and complex. Many fisheries remain poorly managed or ineffectively policed, because of the pervasive problem of open-access, common-pool fisheries. There are too few marine reserves and no-fishing zones to protect



A truck load of sardines for export.

biologically sensitive areas (including important fish breeding grounds). The marketplace for fish products often fails to reward responsible fishing practices. Ultimately, the restoration of healthy oceans will depend on correcting all of these problems. But alongside the other causes of unsustainable fishing are two crude facts: the world's fishing fleets are vastly oversized, and many continue to receive massive government subsidies that encourage excess capacity and overfishing.

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² *The State of the World Fisheries and Aquaculture 1999* (FAO 2000).

³ *Hard Facts, Hidden Problems: A Review of Current Data on Fishing Subsidies* (WWF 2001).



Dragging a full net on board a trawler in the southern Atlantic Ocean.

© WWF Spain/Luis de Ambrosio

MONEY MADNESS

The lack of public oversight over fishing subsidies sometimes leads to tragic results. In the only public audit of fishing subsidies ever conducted, the European Court of

Auditors found numerous payments to recipients who did not qualify for the subsidies, including at least one to a vessel that had already sunk. In the United States, a recent Government Accounting

Office report found vessel buy-back programs (designed to help reduce excess fleet capacity) so ineffective that it recommended cutting off those funds.

Global fishing fleets are estimated to be up to 250 percent greater than needed to catch what the ocean can sustainably produce.

Global fishing fleets are estimated to be up to 250 percent greater than needed to catch what the ocean can sustainably produce.⁴ This excess capacity brings significant pressures on fisheries and fishers around the world and creates political realities that make it even harder for governments to adopt good fisheries management policies. Adding to the complexity of the current situation are the legitimate needs of some developing countries to expand their fishing industries.

Underlying much of this overcapacity, and often driving unsustainable fishing practices, are large subsidies paid by some governments to their fishing industries. Estimated to total at least US\$15 billion per year worldwide (roughly 20 percent of the value of global fish catches), the bulk of these subsidies lead to overfishing. Developing countries are often particularly affected, as they

confront the excess capacity exported from the mostly depleted fisheries of richer countries. Meanwhile, details about fishing subsidy payments often remain hidden from public view by governments (and subsidy recipients) who prefer not to reveal where the money really goes.

Most governments now recognize that harmful fishing subsidies are at the root of the problem, and some have begun to take preliminary steps toward reform. As in most sectors, however, once subsidies are given, they are difficult to withdraw. Vested interests and misguided politicians still resist real change, and the harmful subsidies continue to flow. Solving the problem will require action at the national level and in a variety of international fora. The WTO can and should be one important part of the solution.

4 Gareth Porter, *Estimating Overcapacity in the Global Fishing Fleet* (WWF 1998).

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A Positive Role for the WTO?

Some people may wonder how an inter-governmental body dedicated to trade liberalization can help conserve the world's marine resources. The answer emerges from the nature of the fishing subsidies problem and from the mandate of the WTO to pursue expanded trade,

"while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so . . ."⁵

Subsidies that distort international markets have been one of the main targets of global trade rules since the multilateral trade system was founded shortly after World War II. In fact, the WTO already prohibits some subsidies, particularly those directly designed to promote exports or prevent imports, and establishes some controls over most others. Although the WTO has more experience dealing with harmful subsidies than any other international body, current WTO rules nevertheless fall short where harmful fishing subsidies are concerned (see sidebar).⁶

The gaps in the WTO rule system can and should be fixed. In fact, the WTO and its members have been promising for years to negotiate new rules that deliver true "win-win-win" outcomes for trade, the environment, and sustainable development. But steps toward the WTO's first real "win-win-win" were not taken until the spring of 1998, when a group of WTO countries, including Iceland, New Zealand, the Philippines, Peru, Australia and the United States, issued a joint public call for the WTO to take action on fishing subsidies in order to address the problems of overcapacity and overfishing. Since that time, WWF has worked closely with these and other interested governments to develop broad support for the issue and to overcome the resistance of a few key WTO members, notably the European Union and Japan, two of the world's leading subsidizers of their fishing industries. Finally, last November,

GAPS IN CURRENT WTO RULES

- The WTO defines "subsidy" too narrowly, leaving doubt whether some important fishing subsidies are covered (e.g., government-to-government payments for fishing rights for national fleets in foreign waters).
- Current WTO rules only consider the harm done when exporters lose market share to subsidized fish—the rules ignore the damage done when subsidies prevent fishermen from catching fish in the first place.
- Current WTO rules do not address the issue of sustainability and fail to consider whether subsidies contribute to excess capacity, overfishing, or unsustainable fishing practices.
- Current WTO rules offer no mechanism for the scheduled phase-out of harmful fishing subsidies in place today.
- Current WTO enforcement depends too heavily on legal challenges and trade sanctions, making it difficult or impossible for smaller countries to confront the misdeeds of larger ones.
- Existing WTO rules that require governments to publish information about their subsidy programs are weak and widely ignored.

Current WTO rules fall short where harmful fishing subsidies are concerned.



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Sorting the catch on the deck of a Newlyn beam trawler.

5 Agreement Establishing the World Trade Organization, Preamble ¶ 1 (WTO 1994).

6 For a fuller discussion, see *Towards Rational Disciplines on Subsidies to the Fisheries Sector: A Call for New International Rules and Mechanisms* (WWF 1998).

The fishing subsidies issue is an opportunity for the WTO to play a part—but only its proper part—in the stewardship of a vital natural resource.



Icelandic fishing harbor.

governments meeting in Doha agreed to include the necessary negotiations in the current WTO talks.

Of course, none of this implies that the WTO should start managing the world's oceans. Since the WTO was created, WWF has joined many other citizens groups in criticizing the negative impact WTO rules have on conservation and sustainable development. Such negative impacts occur when the WTO oversteps its jurisdiction and core competence by passing judgment on environmental laws and policies. The fishing subsidies issue is an opportunity for the WTO to play a part—but only its proper part—in the stewardship of a vital natural resource. As discussed below, this effort will require the WTO to form new formal relationships with other relevant institutions to cooperate on this issue.

Six Key Principles

The new WTO negotiations began in earnest in March of 2002 and are scheduled to conclude by January 1, 2005. But if the talks are to result in effective fishing subsidy disciplines—disciplines that make conservation and sustainable development true ends in themselves—WTO members will need to steer a careful course. On the one hand, if governments cling too closely to the WTO's traditional modus operandi, they will never find the means to produce a meaningful result. On the other hand, if governments allow the WTO to exercise inappropriate authority over conservation and fisheries policies, the result could be a trade system that is increasingly hostile to development and effective environmental action.



THE GOOD AND THE BAD

Fishing subsidies come in all shapes and sizes—from tax breaks for new vessels to payments for scrapping old vessels and from direct income supports to the construction of port facilities. New WTO rules will have to distinguish between those practices that are harmful to the sustainability of a resource and those that are helpful—a task that will not always be easy. Some types may need to be prohibited outright, such as subsidies designed to expand or maintain oversized fleets. Others may need special protection from WTO intervention, such as subsidies that demonstrably contribute to improved fisheries management or safety. Some may need to be disciplined on the basis of the specific fishery contexts in which they operate. Crafting the right rules—and administering them—will require the WTO to work with other agencies with expertise and authority over fisheries policies.

To chart a course between these hazards, WTO members should aim for improved WTO disciplines on fishing subsidies that:

1. **Require governments to phase out and avoid subsidies that contribute to excess fishing capacity, overfishing, and unsustainable fishing practices.** New disciplines should include both general obligations to eliminate and refrain from harmful fishing subsidies, as well as a schedule for phasing out or reforming specifically named fishing subsidy programs. The new rules will need to recognize international economic harms that relate closely to resource depletion and the access of fishermen to stocks

(i.e., the rules must go beyond a simple preoccupation with the distortion of export markets).

2. **Take account of the needs and perspectives of developing countries.** Developing countries have a lot at stake in the fishing subsidy issue. Fishing subsidy disciplines must include rules designed to prevent subsidized vessels from richer countries abusing the fisheries on which developing countries depend. But new disciplines must also avoid placing undue restrictions on government development programs and must be crafted with attention to the special needs of developing countries within the WTO rule system.



Trawlers in Montauk, Long Island, USA.

ACCESS AGREEMENTS AND SUBSIDIES

Distant water fleet nations make payments to coastal states in return for access to their fishery resources, generally under bilateral access agreements. The payments are a form of subsidy to the distant water fleet vessels fishing in these waters.

These fees, in some instances, contribute to fleet overcapacity in the waters of developing countries and can lead to overfishing. Moreover, they typically represent only a small fraction of the value of the developing country's fisheries resource. In many cases, without these payments, current distant water operations would become uneconomical at current levels.

Where these payments are contributing to overcapacity in a fishery, they should be phased out. Payments for access should be transparent and equitable and should avoid contributing to problems of overcapacity.

For more information on fishing access agreements, see WWF's *Handbook for Negotiating Fishing Access Agreements* (2001).

AT THE FAO, A FIRST STEP

In 1999 the U.N. Food and Agriculture Organization (FAO) adopted an International Plan of Action (IPOA) aimed at addressing excess fishing capacity. The IPOA treats subsidies as a prime economic factor driving overcapacity and calls on governments to eliminate subsidies that contribute to unsustainable fishing. But the IPOA is purely voluntary—it has no binding legal force. And so far, implementation has been less than vigorous. Still, the FAO's IPOA may provide one reference point for future WTO disciplines.



Men fishing in Gamba Gabon.

3. Give broad definition to the term “fishing subsidy.”

The precise WTO definition of “subsidy” has been the subject of long debate.⁷ New fishing subsidy disciplines need to resolve existing ambiguities in a way that covers any government supports that encourage excess capacity or unsustainable fishing. For example, government-to-government payments under “fishing access agreements” or as “tied aid” should fall within this definition. Excess capacity in this context is the maintenance of a fishing fleet that is larger than market forces alone would sustain and that leads to a reduction in fish stocks or harm to the wider marine environment (which will in itself further degrade fisheries resources).

4. Recognize that some fishing subsidies can play an important role in the transition to sustainable fisheries and responsible fishing practices.

For example, when properly designed and monitored, subsidies can actually be used to help reduce fleet capacity or to implement important management tools and mechanisms. They may be

helpful in helping fishermen switch to safe and sustainable fishing techniques. Subsidies also can be an important element of sustainable development policies in poorer countries, for example, in enhancing local artisanal and community-based small-scale fishing industries and providing safety nets to protect fishers in a rapidly liberalizing sector. Even beneficial fishing subsidies, however, should be subject to substantially improved monitoring and reporting requirements, including through the WTO.

5. Create mechanisms for cooperation with appropriate bodies outside the WTO.

The WTO cannot and should not “go it alone” on the issue of fishing subsidies. Administering new disciplines could well require information and judgments beyond the expertise and authority of the WTO. Such disciplines should include formal roles for intergovernmental entities charged with fisheries management and marine conservation (including, e.g., the FAO and the United Nations Environment Programme [UNEP]). These roles should ensure that the WTO will not

⁷ See *Rational Disciplines* for the history of this debate and its application to fishing subsidies.





Fishing port, Korangi town, Karachi, Pakistan.

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Improved WTO fishing subsidy disciplines should be administered in a manner that is fully transparent and that provides meaningful opportunities for effective public participation.

be drawn into the role of a fisheries management or conservation body, or infringe on the powers or autonomy of existing authorities, such as regional fisheries conventions.

6. **Emphasize transparency and effective public participation.**

Fishing subsidy programs and the WTO share a common failing: both tend to operate behind closed doors. In the case of fishing subsidies, the lack of transparency and public accountability is a major concern. Studies commissioned by WWF have repeatedly found that govern-

ments often cannot, or will not tell, the public what really happens to the taxpayers' money they spend on fishing subsidies.⁸ Meanwhile, current WTO rules that require governments to report fishing subsidies to the WTO are blatantly disregarded 90 percent of the time.⁹ For its part, the WTO has never provided adequate means for public participation in WTO operations, despite years of public outcry. Symptomatic of the closed nature of the WTO is the fact that, as the WTO fishing subsidies negotiations were getting under way, other

⁸ For an overview of this subject, see *Fishing in the Dark* issues brief and symposium proceedings (WWF 2000). For a comprehensive review of national underreporting to intergovernmental bodies, see *Hard Facts, Hidden Problems*.

⁹ See *Towards Rational Disciplines*; for an updated review of WTO performance see WWF Press Release "Fishing Subsidies: Governments Admit US\$ billions; hide billions more," 5 October 2001.

intergovernmental agencies with expertise and authority over fisheries—agencies that should be active participants at the negotiations—were not even granted passive observer status.

The current negotiations on fishing subsidies should address these problems by emphasizing transparency and public participation in three ways:

- 🦞 Improved WTO fishing subsidy disciplines should include substantially improved and more enforceable reporting requirements. These requirements will be particularly important for monitoring any “beneficial” fishing subsidies allowed under new WTO rules.
- 🦞 Improved WTO fishing subsidy disciplines should be administered in a manner that is fully transparent and that provides meaningful opportunities for effective public participation. This effort will require significant changes in current WTO practices regarding access to WTO information, deliberation, and dispute resolution processes.¹⁰
- 🦞 The WTO fishing subsidies negotiations themselves should be transparent, should allow for the formal and effective involvement of other appropriate intergovernmental bodies, and should guarantee adequate opportunities for participation by all affected stakeholder groups within civil society.

¹⁰ Obviously, WWF does not seek such reforms only with regard to fishing subsidies. See, e.g., *Reform of the WTO's Dispute Settlement Mechanism for Sustainable Development* (WWF 1999).



Mauritanian fisherman at work, untangling catch from the mesh.



© WWF-Canon/Hartmut Jungius

Fishing boat, Waddensea, Netherlands.

Moving Ahead

Disciplining fishing subsidies presents challenges that are at once straightforward and complex, and achieving a positive outcome at the WTO will require both creativity and technical skill. Above all, however, WTO members will need the political commitment to embrace environmental and developmental interests among the WTO's core clientele. Governments can do this without weakening traditional trade disciplines. And they can do it without overstepping the WTO's legitimate authority.

If governments succeed at seizing this first concrete "win-win-win" opportunity, they not only will make a lasting contribution to the health of the world's marine ecosystems, but they also will set a precedent for a better balanced and more productive WTO. If governments fail, threats to the world's fisheries will increase, and skeptics will have solid reason to believe that the WTO is incapable of living up to its promises—and its mandate—to make a real contribution to sustainable development and the stewardship of natural resources. Now is the time for the WTO to prove it really can help turn the tide on harmful fishing subsidies.



WWF is the world's largest and most experienced independent conservation organization. We have 4.7 million supporters and a global network in over 96 countries. WWF's mission is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature by

- conserving the world's biological diversity,
- ensuring that the use of renewable natural resources is sustainable, and
- promoting the reduction of pollution and wasteful consumption.

For more information contact

Claudia Saladin
 Director
 Sustainable Commerce Program
 World Wildlife Fund
 1250 24th Street, NW
 Washington, D.C. 20037
claudia.saladin@wwfus.org
<http://www.worldwildlife.org/commerce>

Aimee Gonzales
 Senior Trade Policy Advisor
 Trade and Investment Unit
 WWF International
 Avenue du Mont Blanc 27
 CH 1196, Gland, Switzerland
agonzales@wwfint.org
<http://www.panda.org/>

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FRONT COVER (top to bottom)

Background: Fishing boat, Waddensea, Netherlands.

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Fishing village on Kefalonia Island, Greece.

© WWF-Canon/Michel Gunther

Icelandic fishing harbor.

© Michael Sutton

Codend on the deck of a factory trawler. Reykjaviks Ridge, southwest of Iceland.

© WWF-Canon/Quentin Bates

Fishing port, Korangi town, Karachi, Pakistan.

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Emptying the codend on the deck of beam trawler "Liliane J".

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