



WWF

POSITION
PAPER

NOVEMBER
2017

Can a WTO agreement on fisheries subsidies help save the ocean?

WWF Recommendations for the 11th WTO Ministerial Conference

In December 2017, the 11th WTO Ministerial Conference (MC11) has the potential to become a milestone in global efforts to end the trade distortions and environmental harm caused by fisheries subsidies. WTO members should agree on:

- (1) **Effective prohibitions on subsidies that contribute to overfishing, overcapacity and illegal (IUU) fishing:**
 - An obligation for WTO members to include in national legislation a prohibition on the use of subsidies to IUU fishing activities. Furthermore, subsidy disciplines should go beyond blacklisted vessels to prohibit, without exceptions, subsidies to:
 - a) Operators who are involved in the ownership, management and operation of a vessel engaged in IUU fishing activities; and
 - b) IUU fishing activities within Exclusive Economic Zones (EEZ) and inland waters, based on national determinations by the flag or subsidizing state, as well as under the national laws of coastal states where IUU fishing may be occurring.
 - Disciplines on capacity and effort enhancing subsidies should apply to all fisheries conditions, not just overfished stocks, to curb the persistence of subsidies that promote overfishing and overcapacity across fisheries and the likelihood that increasing numbers of stocks will become overfished.
 - Disciplines should not differentiate by geographic area of catch. As the vast majority of fish are caught within EEZs, an agreement that only banned certain subsidies to high seas fishing would be insufficient to address the root of the problem.
- (2) **Appropriate conditions and flexibilities for developing and least developed countries (LDCs):**
 - Any exemption for subsistence fishing in developing and least developed countries should be on the basis of socio-economic imperatives rather than vessel size.
 - No blanket exemptions for small-scale fisheries.
 - Targeted technical assistance and capacity building to help LDCs and small, vulnerable economies (SVEs) comply with the new disciplines.
- (3) **Measures to increase transparency** of governments' data on fisheries subsidies programs, and to increase compliance by making reporting obligations enforceable under WTO law.

INTRODUCTION

The crisis of depletion affecting fisheries worldwide is one of the defining environmental and social challenges of our times

Over a billion people depend on fish as their primary source of protein and a hundred million are directly dependent on fishing for their livelihoods. But the productivity of wild capture fisheries has been flat since the late 1980s despite dramatic growth in global fishing capacity.

The well-documented harmful impact of certain forms of fisheries subsidies on the environment and the health of fish stocks, and the consequences for the economic stability of fishing communities, has been subject of discussion within the WTO for two decades. It is now time for WTO members to take effective action.

The UN 2030 Agenda for Sustainable Development, with its specific Sustainable Development Goal on *Life below Water* (SDG 14) and the explicit target 14.6 to reform fisheries subsidies by 2020¹ has provided renewed impetus to the WTO to craft an effective and meaningful set of disciplines on fisheries subsidies. WWF is pleased to see a resurgence of proposals and discussions on fisheries subsidies in the WTO since the last quarter of 2016.²

The WTO can make a real difference to both the sustainable exploitation of a vital natural resource and the healthy economic development of fishing communities around the world, – IF WTO members assume responsibility to conclude an effective and meaningful agreement to discipline fisheries subsidies. By doing so, the WTO will make a crucial contribution to achieving the UN Sustainable Development 2030 Agenda.

About 78% of seafood products are exposed to international trade competition

The State of World Fisheries and Aquaculture. FAO (SOFIA 2016)

With this briefing, WWF:

- Wishes to underline the vital importance of fisheries subsidies reform as one of the quintessential issues in the interface of trade, environment and development;
- Calls on WTO members to seize the unique opportunity at MC11 in Buenos Aires, Argentina, in December 2017 to accomplish the task they have assigned themselves –to adopt strong, effective new rules that put an end to subsidized overfishing, overcapacity and IUU fishing; and
- Offers thoughts on what we believe to be essential elements in a potential agreement to discipline fisheries subsidies.

¹ SDG 14.6: “By 2020, prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU fishing, and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the WTO fisheries subsidies negotiations.”

² Eight textual proposals have been submitted by New Zealand, Iceland and Pakistan; the European Union; Indonesia; the African, Caribbean, Pacific (ACP) Group of States; a Latin American group composed of Argentina, Colombia, Costa Rica, Panama, Peru and Uruguay; the Least-Developed Countries (LDC) Group; Norway; and China. WWF’s preliminary comments on fisheries subsidies reform dated March 2017 can be accessed [here](#).

I. THE SCOPE OF PROPOSED PROHIBITIONS

WWF calls for a broad scope for prohibitions of fisheries subsidies. These include, at a minimum, subsidies that increase fishing capacity or effort, and subsidies that contribute to illegal, unreported and unregulated (IUU) fishing:

- Subsidies for **capital costs such as vessel construction and modernization that directly enhance fishing capacity, increasing pressures on stocks and reducing** the industry's productivity.
- Subsidies **to operating costs**, including fuel subsidies, **which enhance effort** and allow fishermen to continue fishing and overfishing even when it is no longer economic to do so.
- Subsidies that allow fishing **on stocks that are overfished**. Government funding to promote fishing effort on stocks that are overfished directly furthers stock depletion and prevents recovery.
- Subsidies that **contribute to IUU fishing** vessels or operators (or beneficial owners³).

A limited scope of the prohibitions –for example prohibitions only relating to subsidies linked to overfished stocks, or to IUU fishing activities, or to high-seas fisheries, and/or subject to relatively large potential exemptions– will not be enough to address the harm to fish stocks and fishing communities caused by widespread subsidies.

1. Disciplines must be sufficiently broad to end subsidization of IUU fishing activities

Global overfishing and overcapacity is exacerbated by IUU fishing practices that violate domestic or international law and undermine efforts to sustainably manage fisheries through activities such as the evasion of reporting requirements.

Estimates vary by country and region, but have revealed substantial and widespread IUU fishing, valued at between \$10 and \$23.5 billion per year.⁴ Subsidies going to illegal fishing vessels, operators and owners magnify the damage caused by IUU fishing and hamper ongoing global efforts to curtail IUU activity.

WWF supports proposals to use the definition of the FAO International Plan of Action (IPOA) on IUU as a starting place for reference. For the purpose of defining the subject of a subsidy discipline on IUU activities, WWF notes that all of the proposals apply potential disciplines to vessels or operators found to be engaged in IUU fishing based on national determinations and/or those of the Regional Fisheries Management Organizations (RFMOs) or Arrangements. WWF believes that a strong international norm is necessary, addressing all significant fisheries subsidies programs affecting wild capture fisheries, including subsidies for IUU fishing taking place in international waters as well as within EEZs or inland waters. For example, a limitation of the prohibition to the 134 vessels currently on the combined RFMO and Interpol IUU vessel list⁵ would not curtail subsidies for the vast majority of IUU fishing activity –much of which occurs within EEZs–, nor address the problem of subsidized IUU fishing in other countries' EEZs.

WWF believes that any WTO agreement on fishing subsidies must have, as a fundamental obligation, the requirement that members include in

³ This is particularly important given the global phenomenon of vessels flying flags of convenience and associated challenges in identifying these vessels' beneficial owners.

⁴ David Agnew et al.. Estimating the Extent of Illegal Fishing. PLoS ONE. February 2009.

⁵ <http://iuu-vessels.org/iuu>. Currently listed vessels as of October 23, 2017.

IUU fishing not only distorts competition, weakens coastal communities and damages ecosystems through destructive fishing practices, but is also frequently associated with transnational crime such as tax fraud, drug and human trafficking, and slavery at sea

national legislation a prohibition on subsidies for IUU fishing activities. Furthermore, WWF believes that in order to limit support for the full scope of illegal fishing activity it is essential that subsidy disciplines go beyond blacklisted vessels to prohibit subsidies to

- a) Operators who are involved in the ownership, management and operation of a vessel engaged in IUU fishing activities; and**
- b) IUU activities within EEZs and inland waters, based on national determinations by the flag or subsidizing state, as well as under the national laws of coastal states where IUU fishing may be occurring.⁶**

Given the nature of IUU fishing and the particularly pernicious and distorting nature of its subsidization, no exceptions to such a prohibition should be allowed.

2. Disciplines must curtail subsidies that enhance fishing capacity or fishing effort

A tremendous increase in global fishing capacity and effort has led to a continuing long-term decline in fish stocks, falling productivity and poverty in coastal communities

The Sunken Billions Revisited: Progress and Challenges in Global Marine Fisheries. World Bank 2017

The twin reference to overcapacity and overfishing in WTO mandates⁷ and international declarations to address harmful fisheries subsidies is hardly incidental. These paired concepts capture ways that both capacity and effort enhancing subsidies most directly cause resource-depleting production distortions: by lowering the fixed costs of productive capital, and by lowering the variable costs of production itself.

Capacity and effort enhancing subsidies are harmful to the health of the natural resource that underpins the fishing industry by motivating increased fishing activity, supporting existing capacity that is uneconomic, and by creating strong incentives to undermine management plans. The resulting dismal economic performance of global marine fisheries is also reflected in poverty in many coastal fishing communities.⁸ Fishing communities cannot enjoy healthy economic development if they run out of fish. The human dimension to this problem is often not adequately understood, but for every dollar spent on subsidies there is a cost borne by an anonymous person on a coastline somewhere.

While only 10 percent of assessed global stocks were overfished in 1974, that proportion has risen to 31.4 percent in 2013. This means that, taking into account those stocks that are fully fished, nearly 90 percent of assessed stocks have no room for fisheries expansion.⁹ Subsidies increase fishing pressures on all stocks, including already fully fished stocks, pushing increasing numbers into overexploitation and depletion. At the same time, continuing to subsidize fishing on stocks that are not assessed poses significant risks to the biological and economic sustainability of those stocks.

Several WTO proposals suggest focusing on prohibiting subsidies for fishing on overfished or non-assessed stocks. While this may be valuable in prohibiting some of the most egregiously harmful subsidies, it does not address the persistence of subsidies that promote overfishing and overcapacity across fisheries. Capacity and

⁶ Given the often very complex nature of IUU activities and associated subsidies, notification of such types of activities to the WTO should be part of a suite of measures agreed upon to make a prohibition on IUU subsidies effective. See also Carl-Christian Schmidt. Issues and Options for Disciplines on Subsidies to Illegal, Unreported and Unregulated Fishing. ICTSD Reference Paper, July 2017.

⁷ https://www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm#fisheries_subsidies; https://www.wto.org/english/thewto_e/minist_e/min05_e/final_annex_e.htm#annexd1-9

⁸ The Sunken Billions Revisited: Progress and Challenges in Global Marine Fisheries. World Bank.

Environment and Sustainable Development series. doi:10.1596/978-1-4648-0919-4. (World Bank 2017)

⁹ The State of World Fisheries and Aquaculture. FAO. 2016. (SOFIA 2016)

Seafood is one of the most traded segments of the world food sector, with 29% of total fish production exported for human consumption

SOFIA 2016

effort enhancing subsidies should be halted before fish stocks are depleted rather than (only) after. The presence of a relatively robust stock is not in itself evidence that a fishery faces a reduced threat of depletion. There is ample evidence of how quickly a healthy stock (target or non-target) can become overfished if it is subject to the pressures of overcapacity or if subsidized fishing effort is shifted, for example within a multi-species fishery.¹⁰

WWF supports the general premise that evidence of depletion (or the absence of evidence of good stock health) should be considered an important factor weighing against the use of effort-enhancing or capacity-enhancing subsidies, rather than using evidence of stock health as an argument in favor of providing fisheries subsidies.

WWF strongly believes that WTO rules should address not only subsidies for fishing on overfished or non-assessed stocks, but capacity- and effort-enhancing subsidies that support fishing on any stock to avoid the problem of overcapacity and overfishing and to curb the likelihood that increasing numbers of stocks will become overfished.¹¹

3. Disciplines should not differentiate by geographic area of catch

Many of the proposals made in the run up to MC11 differentiate disciplines according to the geography of water bodies where fishing activities occur, whether territorial waters, EEZs or high seas.

Where is the catch?

About 45 percent of global catch is from shared stocks, including stocks that straddle different countries' EEZs (transboundary stocks), straddle EEZs and the adjacent high seas (straddling stocks), or are highly migratory fish stocks. The high volume of global catch coming from shared stocks highlights the potential direct harm to other fishing nations that can come from subsidized fishing.¹²

At the same time, the vast majority of fish, from both shared and domestic stocks, are found and caught within countries' national jurisdictions.¹³ A number of factors, from sustained demand, improved transportation and logistics, technological innovation, and changes in distribution have in many regions of the world facilitated the shift from local consumption to international markets and driven the rapid pace of change.

As the vast majority of fish are caught within EEZs, there is no conservation rationale for splitting the world's fisheries in the framework of a WTO agreement. An agreement that imposed no

¹⁰ David K. Schorr. Healthy Fisheries, Sustainable Trade: Crafting New Rules of Fishing Subsidies in the World Trade Organization. A WWF Position Paper and Technical Resource. https://www.wto.org/english/forums_e/ngo_e/posp43_wwf_e.pdf. 2004.

¹¹ A further narrowing of a prohibition for subsidies to those that "negatively affect" overfished stock raises practical concerns of how such a concept may be operationalized and how the requirement will not render the prohibition ineffective.

¹² U. Rashid Sumaila. Shared Stocks and Fisheries Subsidies Disciplines: Definitions, Catches, and Revenues. ICTSD Information Note. September 2017. Countries that are major fishing nations on shared stocks include Peru, Chile, Japan, China, Norway and Korea.

¹³ An estimated 88% of marine catch is from within national jurisdictions. U. Rashid Sumaila, Vicky W. Y. Lam, Dana D. Miller, Louise The, Reg A. Watson, Dirk Zeller, William W. L. Cheung, Isabelle M. Côté, Alex D. Rogers, Callum Roterts, Enric Sala and Daniel Pauly. [Winners and losers in a world where the high seas is closed to fishing](#). Scientific Reports 5, 8481. 2015.

disciplines on countries' subsidies to fishing and fishing activities within a country's EEZ and only banned certain subsidies to high seas fishing would be insufficient to address the problem and fail to meet SDG target 14.6.

II. SPECIAL AND DIFFERENTIAL TREATMENT

The WTO ministerial mandates, affirmed by UN SDG 14.6, call on members to *'take account of the importance of the fisheries subsidies sector to developing and least developed countries'*.^{14,15} WWF fully embraces this mandate, understanding that attention to the unique challenges faced by developing and least developed countries is critical not only to economic and social development, but also to the sustainable management of ocean resources. At the same time, some developing countries are major fishing nations with significant global fleets.

Since 90 percent of the people who derive their livelihoods from fishing live in developing and least developed countries, they are disproportionately threatened by the depletion of stocks. The widespread and significant decline in fish abundance has meant smaller catches per unit of fishing effort and smaller fish being caught.

In the end, the scope and content of any S&DT will depend on what will be agreed in terms of binding prohibitions. WWF believes that limited prohibitions involving only the most egregiously harmful subsidies, such as those for IUU vessels and operators or for fishing on overfished stocks, would be too narrow to merit broad exemptions.

The benefits of subsidies reform

At the national level, WWF recommends that instead of subsidizing increased capacity and effort in their EEZs, a far more rational policy to maximize government return on investments in the sector would be for countries to (re-)allocate funds to effectively manage their own fishing grounds and ensure a careful balance of fleet capacity and fisheries resources.¹⁶ In fact, the World Bank estimates that effective management of global marine fisheries and the recovery of fish stocks would yield increased revenues of \$83 billion a year.¹⁷ Research on subsidies reform using 30 case studies worldwide indicates that reorienting subsidies away from capacity-enhancement, and/or conditioning them on specific sustainable performance metrics had the best economic and ecological outcome in terms of fishery performance.¹⁸

¹⁴ https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm

¹⁵ <http://www.un.org/sustainabledevelopment/oceans/>

¹⁶ For example, in Indonesia, WWF is working with the government to facilitate the development and use of a new fisheries subsidies guideline to assess programs and re-allocate government support to activities that encourage the establishment of responsible and sustainable fishing practices.

¹⁷ World Bank 2017.

¹⁸ Andrés M. Cisneros-Montemayor et al.. Strategies and rationale for fishery subsidy reform. Marine Policy 69, 229–236. 2016.

1. Any exemption for subsistence fishing in developing and least developed countries should be on the basis of socio-economic imperatives

Subsistence or near subsistence level fishing has been a matter of special concern from the outset of WTO negotiations, and the need for special rules for fishing communities at the lowest end of the development scale appears to be broadly agreed. Nonetheless, **WWF reiterates its concerns regarding basing a class distinction for subsistence and/or artisanal fisheries even partly on vessel size (e.g. vessels less than 24m long). Vessel size has little to do with the level of social or economic organization of a fishery, or with its ability to cause depletion, or its readiness for regulatory management.**

Subsidizing overfishing undermines the resource base that underpins both the industrial and small-scale fishing sectors

2. No blanket exemptions for small-scale fisheries

Many of the proposals on S&DT and flexibilities for developing and least developed countries are closely intertwined with proposals for the small-scale fishing fleet sector in those countries. Several proposals appear to indicate that special consideration should be expanded to include subsidies to commercial fishing far above subsistence levels of development. This stems out of the legitimate desire of many developing countries to make appropriate public investments in their fisheries sectors and take fuller advantage of their own fisheries resources. WWF emphasizes that this 'right to develop' should not mean a 'carte blanche' exemption for all types of fisheries in developing countries fisheries. A discussion of S&DT should focus on the conditions and potential flexibilities to enable developing and least developed countries to implement the proposed new disciplines effectively, rather than on what kinds of subsidies should be allowed.

Even where subsidies to artisanal communities may be perceived as necessary to offset competition from subsidized foreign fleets, it is important to ensure that subsidy policies are not used in ways that would cause inadvertent economic or environmental harm. Responsible management is important where subsidized fishing is intended to alter fishing patterns or transform a fishery's traditional economics.

Small-scale fisheries are far from immune to overfishing or other harmful effects of subsidies

There is no universally agreed legal definition of small-scale fisheries. Beyond the definitions based on size and gross tonnage, the usages of the terms vary widely from country to country. It has been proposed by some that the WTO disciplines adopt a carve out for a broadly defined class of small-scale and artisanal fisheries based on national determinations and guided by the FAO Small-scale Fisheries guidelines.¹⁹

WWF encourages members to adhere to globally applicable guidelines; however, for the reasons outlined above, WWF cautions against a blanket carve out for a broadly defined class of small-scale fishers, given the proven ability of many 'small' vessels to operate at high levels of technical and commercial development, and to aggregate into fleets with massive overcapacity and the ability to deplete fisheries.²⁰

Also, WWF believes that evidence that small-scale fisheries receive a relatively small share of global subsidies is not a reason to provide an

¹⁹ <http://www.fao.org/fishery/ssf/guidelines/en>

²⁰ WWF Briefing. Small Boats, Big Problems.

https://www.wto.org/english/forums_e/ngo_e/posp72_www_e.pdf, 2008. In addition, some small scale fisheries, particularly those using gillnets and longlines, often have a high bycatch of cetaceans, sharks and sea turtles.

exemption to provide capacity- or effort-enhancing subsidies.²¹ Rather, it suggests the need for subsidies reform at national level to ensure that when governments spend money on their fisheries sectors, they do so wisely and in ways that encourage healthy and profitable fisheries (e.g. through improved fisheries management, surveillance and enforcement) and/or enable the establishment of alternative livelihoods, coordinating government expenditures with sustainable resource management and economic and social development strategies.²²

S&DT: Flexibilities/adjustment measures to enable implementation of new disciplines

To the extent that new disciplines include broad prohibitions on harmful subsidies, implementation of these disciplines may require certain flexibilities for developing and least developed countries. These would include basic sustainability criteria such as assessing fish stocks and fleet capacity before allowing subsidies in any fisheries, as proposed by WWF and UN Environment.²³ However, other adjustments and flexibilities may be necessary for artisanal fisheries where there is a relative lack of capacity to manage fisheries. These could include:

- A transitional period to implement stock assessments, whereby the use of informal non-quantitative assessments (but transparent and based as closely as possible on best available science as conditions allow) could be accepted;
- ‘Qualitative’ fleet capacity assessments instead of the quantitative benchmarks used for non-artisanal fisheries;
- Criteria related to vessel registries, licensing and catch documentation could likewise be delayed or relaxed if certain other conditions are fulfilled, such as maintaining the local, inshore character of the fleet, or requiring phase-in of catch documentation to the extent that the fishery moves towards export orientation.
- Use of critical indicator species and changes in catch composition as indicators of stock status in multi-species fisheries.²⁴

3. Technical assistance and capacity building to help LDCs and SVEs comply with new disciplines

WWF endorses the calls for targeted capacity building and technical assistance as a vital element to help the LDCs and Small Vulnerable Economies (SVEs) comply with WTO disciplines on fisheries subsidies.

We urge members to bear in mind that implementation of the disciplines may require capacity building and cooperation, to e.g. enable better stock assessment, and technical assistance, in particular with regard to the design and implementation of effective regulatory measures and their enforcement as well as improved transparency.

²¹ U. Rashid Sumaila. Small-scale Fisheries and Subsidies Disciplines: Definitions, Catches, Revenues, and Subsidies. ICTSD Information Note. September 2017. Small-scale fisheries are estimated to receive 16 percent of subsidies while providing 31 percent of global catch value. The estimates include recreational fisheries.

²² [WWF Briefing, Reforming Fisheries Subsidies](#). November 2011.

²³ <http://unep.ch/etb/events/pdf/UNEP-WWF%20Draft%20Symposium%20Paper.pdf>

²⁴ Maren Headley. Caribbean Regional Fisheries Mechanism. Presentation 18 September 2017. ICTSD.

III. MECHANISMS OF TRANSPARENCY

WWF welcomes proposals for improved transparency measures that would include the identity of enterprises receiving subsidies, how the subsidies are applied, information about the particular fisheries affected by a given subsidy program (*e.g.*, catch data, stock status, fleet capacity, management measures), and the subsidy amounts on a per vessel, per fleet, and per fishery basis.

WWF calls for an end to the dangerous lack of transparency that characterizes most subsidy programs today. Transparent reporting and better data is essential to the effectiveness of the proposed new disciplines to curb mismanagement of subsidies and potential abuse.

WTO notification rules for fisheries subsidies must also be enforceable. The proposed rules should provide measures to encourage better compliance with real consequences when governments fail to notify their programs.

IV. CONCLUSIONS

The longstanding discussions in the WTO on the harmful effect of fisheries subsidies on trade and the environment have been given recent impetus by the SDG 14 targets. MC11 provides a unique opportunity for WTO members to put decades of negotiations into action and pave the way to end trade distortions and environmental harm caused by fisheries subsidies.

In December 2017, WTO members at MC 11 should agree on the parameters of a robust agreement for curtailing fisheries subsidies, including:

- (1) Effective prohibitions on subsidies that contribute to overfishing, overcapacity and IUU fishing.
- (2) Appropriate conditions and flexibilities for developing and least developed countries to implement the disciplines.
- (3) Measures to increase the transparency of governments' data on fisheries subsidies programs.

WTO members at MC11 also must not lose sight of the need for an agreement on a binding standstill commitment in line with the commitment adopted at Rio +20 and reaffirmed by the SDG Agenda, combined with a robust and enforceable reporting requirement and a commitment to a comprehensive work program, covering all subsidies contributing to overcapacity and overfishing, until full prohibitions that reflect the objectives of SDG 14.6 come into effect. However, these measures alone are inadequate as they would allow existing harmful subsidy programs to continue.

WWF urges WTO Members to muster the political will and rise above the inclination to have 'tit for tat' negotiations on a matter where the cost of inaction is too high and where solutions are within reach. We can—and must— act to secure healthy oceans and sustainable livelihoods for the years to come.



Why we are here

To stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature.

www.wwf.eu

For further information:

Anna Holl-Buhl

WWF Deutschland
anna.holl@wwf.de
+49 40 530 200 339

Leslie Delagran

WWF United States
leslie.delagran@wwfus.org
+1 202 495 4181