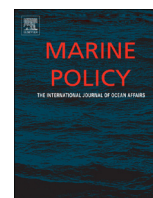




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## Building on progress in fisheries subsidies disciplines



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### ABSTRACT

Governments have tried for many years to negotiate rules to limit fisheries subsidies in the World Trade Organisation (WTO). Meanwhile, Parties to the Trans-Pacific Partnership (TPP) trade agreement have agreed to prohibit subsidies to particular kinds of fishing activity. Recent proposals in the WTO suggest a degree of support for a similar narrow prohibition. This paper uses evidence in the literature on the impact of subsidies on fish stocks, and from the WTO negotiations, to propose how disciplines on fisheries subsidies could be expanded, building on these first steps by the members of the TPP. The impact of subsidies on fishers' incentives and fish stocks depends on several factors, but many subsidies can tend to increase fishing capacity and effort beyond sustainable levels. Options for expanded disciplines include prioritising the prohibition of those subsidies that are most likely to be harmful to fisheries resources. An "actionable" category for other harmful subsidies could also be prioritised, as well as a set of exceptions for expenditures that are likely to be beneficial in the sense that they help to protect the environment or support poverty reduction.

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### 1. Introduction

Fisheries are a crucial source of nutrition, income, and employment for millions of people around the world [1,2]. The Food and Agriculture Organization of the United Nations (FAO) estimates that in 2010 fish provided 2.9 billion people with nearly 20 percent of their animal protein intake, and that fisheries and aquaculture together support the livelihoods of between 10 and 12 percent of the global population [3]. Over-exploitation, however, can undermine fisheries' ability to play their crucial role in supporting sustainable development and food security [4]. While some fish stocks around the world are well-managed, at a global level many are over-exploited [5]: in 2011, 28.8 percent of assessed fish stocks were being fished beyond biologically sustainable levels [3].<sup>1</sup> Ineffective management of fisheries resources can be compounded by the subsidisation of fishing capacity and effort.

Members of the World Trade Organisation (WTO) agreed in 2001 and again in 2005 to strengthen disciplines on fisheries subsidies as part of the Doha Development Agenda (DDA).<sup>2</sup> These negotiations have yet to produce an agreement. In October 2015, however, several WTO Members agreed under the Trans-Pacific Partnership (TPP) to a prohibition of subsidies for fishing vessels engaged in illegal, unreported and unregulated (IUU) fishing and subsidies to fishing that negatively affect over-fished fish stocks.<sup>3</sup>

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<sup>1</sup> 'Fishery' and 'fish stock' are as defined in [6].

<sup>2</sup> For the most recent mandate, see WT/MIN(05)/DEC, 22 Dec. 2005, Annex D para 9.

<sup>3</sup> See TPP Agreement Article 20.16(5). The Agreement is available on the New Zealand Ministry of Foreign Affairs and Trade's website: [www.mfat.govt.nz](http://www.mfat.govt.nz).

Recent proposals in the WTO negotiations indicate a degree of support for adopting a similar, narrow prohibition. This paper's objective is to draw on evidence of the impact of fisheries subsidies, and from the WTO negotiations, to suggest how progress made so far on fisheries subsidies disciplines could be built upon.<sup>4</sup>

The second and third parts of the paper draw on analysis in the literature, in particular, by the United Nations Environment Programme (UNEP) and the Organisation for Economic Co-operation and Development (OECD) to describe the challenge of fisheries subsidies, the policy rationales behind different kinds of subsidies and the impact they can have on the economic incentives of fishers, on trade, and on fish stocks under different management and stock conditions. Using these assessments, the fourth and fifth parts of the paper suggest how disciplines in the WTO could be built, identifying harmful subsidies that could be added to a 'base' prohibition, taking into account how these ideas have been discussed in the WTO negotiations. The same priority subsidies could be added to the TPP prohibition as the agreement is reviewed.

### 2. The challenge of fisheries subsidies

It is generally accepted by economists that the root of the fisheries challenge is that fish are a common property resource, traditionally managed on the basis of open access [8,9]. This means fish stocks are particularly vulnerable to the "tragedy of the commons" [10]. In the absence of economic incentives to ensure

<sup>4</sup> This paper builds on an E15 Initiative think piece [7].

the value of the resource is not undermined, fishers collectively will tend to harvest more than the socially optimal amount of fish [11]. The allocation of access rights to fishers is one of the approaches that can be used to provide economic incentives to mitigate the tendency to race to fish [12] but they need to be designed carefully and as part of a comprehensive management system [13]. Similarly, taxes can be imposed to create the right incentives against overfishing [14].

The commons problem exists to varying degrees at all levels of fisheries governance. Fisheries on the high seas are subject to no single national jurisdiction (see discussions in [15,16]). Although many coastal states have established fisheries management systems within their Exclusive Economic Zones (EEZs), their effectiveness in ensuring sustainable harvests varies. Compounding the challenge, between 35 and 50 percent of global catch comes from fish stocks that are shared, either because their geographical range covers two or more EEZs or includes an EEZ and the high seas, or because the fish migrate between the high seas and one or more EEZs, or because the fish live only on the high seas [17].

Subsidies, generally understood as financial support provided by government to an industry, can aggravate the commons problem by providing incentives for increased production. Both economic theory and limited existing empirical evidence suggest that cost-reducing subsidies to fishing fleets can tend to increase fishing effort (for example, [18,19]). In theory, the impact of incentives for increased production could be restrained by fisheries management systems that limit the amount of effort and harvest, but in practice, few management systems do this effectively. There is also evidence that fisheries subsidies could be harmful to fish stocks even in fisheries with well-implemented access rights regimes [20,13].

Many different definitions, classifications, and estimates of the scale of fisheries subsidies have been developed over the years (for example, [9,21–24]). The most recent and globally comprehensive estimate of the scale of global subsidies is probably from [18], which estimates that in 2009, global fisheries subsidies amounted to around USD 35 billion. The largest subsidies by value, 22 percent of the total, were provided to fuel used by fishing vessels.

The question of where and how the subsidies challenge should be addressed has been contentious. In principle, the World Trade Organization (WTO) is the logical home for multilateral disciplines, as the central global institution where rules on subsidies are negotiated, monitored and, through the WTO dispute settlement mechanism, adjudicated. The WTO's Agreement on Subsidies and Countervailing Measures (ASCM) [25] already disciplines subsidies to fisheries industries to the extent they distort international trade. However, it does not clearly address several specific impacts fisheries subsidies may have. Some fisheries subsidies can potentially impact on countries' ability to harvest shared stocks, and harm fish stocks even where trade is not involved. Other forms of subsidies, or parts thereof, can support investment in fisheries and the provision of public goods like biodiversity (see [18,26]).

Some have argued that expanding WTO subsidy rules to take account of environmental impacts and criteria would take the organisation outside its traditional area of competence [27]. However, WTO dispute panels arguably already consider the interaction of scientific evidence with trade rules, for example in disputes relating to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. It has also been argued that multilateral disciplines on subsidies that included developing countries could limit development funding through fisheries access agreements, or support for domestic fishing and processing in Pacific islands [28]. Defining space for sustainable support to be provided to developing country fisheries has been one of the most difficult areas of the WTO negotiations, but options have been

suggested which could go some way to addressing these concerns.

The priority given to the environment in the WTO fisheries subsidy negotiations has also been analysed. Campling and Havige (2013), for example, argue that the positions of groups in the negotiations, although couched in similar rhetoric around trade, the environment and development, are shaped by political economy interests [29]. Also, fisheries subsidies is one of several issues under negotiation in the WTO, and its outcome may be influenced by trade-offs with other issues.

In order to identify priorities for expanded disciplines, the next section explores the potential economic and environmental impacts of fisheries subsidies.

### 3. Assessing the impact of subsidies

#### 3.1. Impact of subsidies on fishers' incentives

Of the many classifications of subsidies, the one most suited to the development of further disciplines is probably that developed by UNEP [30], a composite list that draws together a number of previous classifications and is similar to the classification in [24]. The classification focuses on the formal incidence of the financial support, not the mechanism by which it is delivered (for example, a tax exemption versus a direct transfer). UNEP's eight categories of fisheries subsidies are the following:

- Subsidies to capital costs;
- Subsidies to variable costs;
- Subsidies for access to foreign countries' waters;
- Fisheries infrastructure;
- Income support and unemployment insurance;
- Price support subsidies;
- Vessel decommissioning and license retirement subsidies;
- Management services and research.

The classification excludes subsidies that arise from government inaction, for example the non-recovery of resource rents of the fishery, which some have argued could constitute an economic subsidy to the industry [11,9]. The question of how to address this is explored in the final section of this paper.

The impact of different fisheries subsidies on production, and therefore on trade and the resource itself, depends broadly on three variables. First, whether the subsidies incentivise fishers to increase fishing capacity and fishing effort; second, whether the management system in place (if any) effectively controls catches and effort and incentivises sustainable fishing; and third, whether there is already too much capacity in the fishery [30].

Generally, and at least in the short term, subsidies' positive effect on the profitability of the fishing industry will mean higher levels of fishing effort and catch, unless these are effectively limited by management controls or by systems of property rights with appropriate effort-limiting incentives [24]. A management system based on access rights to the resource, like ITQs, or rigorous community-based management, give fishers an incentive to limit catches to sustainable levels to maintain the value of the resource [30]. In contrast, systems based on catch controls are vulnerable to pressure from over-capitalised fleets for higher catch limits, while effort-based systems struggle to exert effective control over every possible component of fishing effort [24]. Because the introduction of access rights in a fishery changes fishers' incentives so radically, this section focuses on the impact of subsidies on incentives in fisheries without access rights, which is the vast majority.

##### 3.1.1. Subsidies to capital costs

Capital-cost subsidies are usually provided to expand or

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