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World Trade Organization Fisheries Subsidies Negotiations

World Trade Organization (WTO) members are currently negotiating a multilateral agreement to curb fisheries subsidies that lead to excess capacity, which may contribute to overfishing, as well as those that support illegal, unreported and unregulated (IUU) fishing. Subsidies are defined as a financial contribution, made by a government or any public body that confers a benefit, and are generally considered to be trade distorting. They provide cost advantages to subsidized fisheries and disadvantage unsubsidized fisheries.

Negotiations began in 2001 at the Doha Ministerial Conference and the mandate was renewed at the 11th Ministerial Conference in 2017, with a goal of concluding negotiations by 2020. WTO members missed that goal due to persistent disagreements on certain issues and delays caused by the Coronavirus Disease 2019 pandemic. Members hope to conclude negotiations before the 12th Ministerial Conference (MC12) is set to begin on November 30, 2021. Many observers view a successful outcome of the talks, which is the only ongoing multilateral trade negotiation, as important to preserving the WTO's credibility and relevance as a negotiating body. Members of Congress have generally supported prior U.S. negotiating efforts to ban harmful fisheries subsidies at the WTO.

Global Fisheries Trade and Subsidies

The United Nation's (UN) Food and Agricultural Organization (FAO) estimated global total marine catches to be about 84.4 million metric tons in 2018. The United States was the fifth largest producer of marine capture seafood, producing roughly 4.7 million metric tons. In 2019, U.S. imports of fishery products totaled six billion pounds (about 2.7 million metric tons), valued at \$22.2 billion. The United States exported 2.8 billion pounds

(around 1.3 million metric tons), or \$5.2 billion. The U.S. International Trade Commission estimated that about \$2.4 billion (or 11%) worth of U.S. seafood imports were products of IUU fishing in 2019.

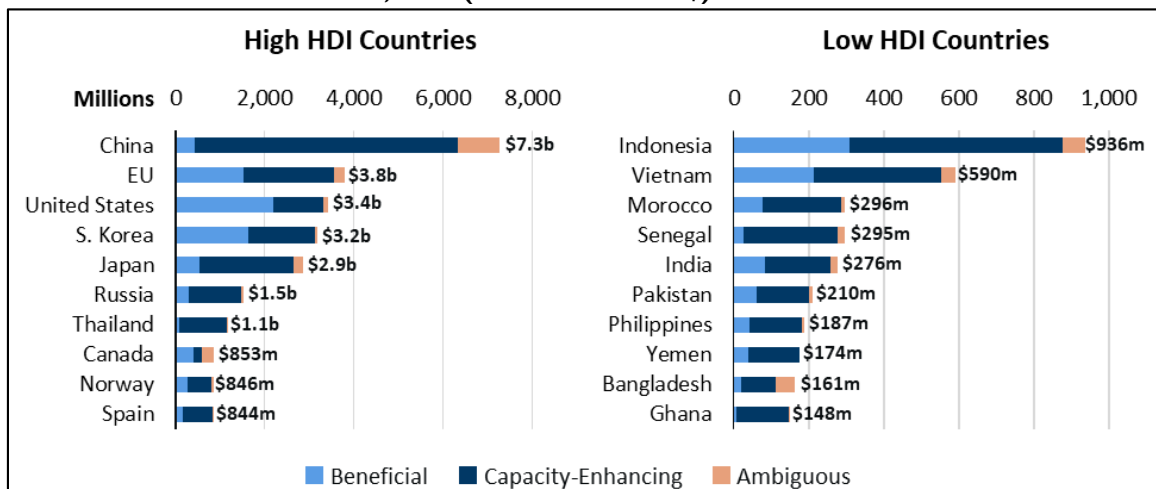
A study estimated that around \$35.4 billion in subsidies were provided to fisheries globally in 2018. Countries high on the UN Human Development Index (HDI) provided about 87% of total fisheries subsidies. It is estimated that China, the European Union (EU), and the United States were the largest subsidizers (**Figure 1**). Indonesia, Vietnam and Morocco were the largest subsidizing countries among low HDI countries. About 62.7% of global subsidies were capacity-enhancing. Beneficial subsidies, which promote sustainable fisheries management, were roughly 29.9% of global subsidies. Ambiguous subsidies, which can be helpful or harmful, are about 7.1%.

History of the Negotiations

In the 1990s, several multilateral organizations, such as the FAO, raised concerns about the economic and environmental impact of fisheries subsidies contributing to overcapacity and overfishing. Subsidies provide capital to fisheries to expand fishing fleets, increase capacity to fish, and employ greater levels of fishing effort. Some studies observed that subsidies lead to excess capacity in fisheries, which may contribute to overfishing—fishing at a rate that a species cannot replenish its population.

In 2001, WTO members agreed to “clarify and improve existing WTO disciplines on fisheries subsidies” in addition to negotiating clarifications to the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement). The 2005 Hong Kong Declaration clarified goals of the negotiations, specifically calling for the prohibition of and

Figure 1. Estimated Fisheries Subsidies, 2018 (in millions of U.S. \$)



Source: Sumaila et al., "Updated Estimates and Analysis of Global Fisheries Subsidies," *Marine Policy*, vol. 109 (November 2019).

Note: Graphic created by CRS Visual Information Specialist, Mari Y. Lee.

establishment of special and differential treatment (SDT) for developing country members. A first draft of rules was introduced in November 2007, but lack of consensus on certain issues, like SDT provisions, the general scope of prohibited subsidies, and the broader stalemate among members that impeded progress in the Doha round of trade talks reportedly slowed down negotiations from 2010-2015.

The negotiations gained momentum after countries adopted the UN Sustainable Development Goals in 2015. Goal 14.6 aims to, among other things, prohibit subsidies contributing to overcapacity, overfishing, and IUU fishing. The 2017 Ministerial Conference reaffirmed WTO members' commitments to conclude the negotiations by 2020.

Recent Developments

On June 30, 2021, the chair of the WTO negotiations released a revised negotiating text, noting that it will serve as a basis for upcoming discussions. Major provisions in the draft text include prohibition of subsidies contributing to: IUU fishing, fishing or fishing related activities regarding overfished stock, and overcapacity and overfishing (e.g., subsidies for building or upgrading vessels, fuel subsidies, price support for fish caught). The draft text also includes SDT for developing countries and least-developed countries (LDC), including delayed implementation of provisions and aid for technical assistance and capacity building, and strengthened notification requirements of fisheries subsidies to increase transparency on top of similar requirements under the SCM Agreement.

Following the release of the revised text and the July fisheries ministerial meeting, the WTO director-general stated that the negotiations will move onto text-based discussions and expressed hope that a final agreement could be reached before the MC12 in November.

Key Areas of Disagreement

The fisheries subsidies negotiations continue to be beset by key areas of disagreements. In particular, WTO members have long debated the extent of flexibilities offered in SDT provisions and the scope of exceptions to certain subsidies.

Special and Differential Treatment. Developing economies are afforded flexibilities to implementing their WTO commitments through SDT under WTO agreements. Such flexibilities can include a longer implementation period, technical assistance and capacity building, exceptions, and special provisions for LDC members. SDT has been a major area of disagreement in the fisheries subsidies negotiations. Although WTO members generally agree that developing countries should be afforded some flexibility, some members argue that flexibilities should be more limited and targeted to the specific needs of the developing country, and should not contain permanent exceptions. On the other hand, developing country members, such as China, support broader SDT provisions, arguing that more flexibilities are necessary to support low income, resource poor fishing industries in developing countries.

Exceptions for Certain Subsidies. The draft text includes provisions allowing fisheries subsidies that promote the rebuilding of or maintaining a sustainable level of fish stock. Some WTO members advocate limiting the

exceptions to subsidies, while others say that it should be expanded to include other non-subsidy measures (e.g., tax incentives for sustainable fisheries management programs). Some developing country members argue that the sustainability condition would disproportionately benefit developed economies who are already large subsidizers, such as the EU and the United States.

U.S. Position in Negotiations

In July 2021, the U.S. Trade Representative (USTR) commented that a final agreement should be a “meaningful conclusion” and that the latest negotiating text “can serve as the basis for a Member-led, text-based negotiation,” but that it does not “contain the elements required for reaching conclusion.” The USTR also expressed that the United States supports some flexibilities for developing economies (including LDCs), but does not support broad and permanent exceptions in the fisheries agreement. U.S. trade officials and some Members of Congress have raised concerns that allowing member countries to self-designate as developing economies in the WTO provides unfair advantages, particularly for countries with large, more advanced economies, such as China, that may not warrant SDT flexibilities but continue to use them.

In May 2021, reflecting the Biden Administration's emphasis of a “worker-centric” trade policy agenda, the USTR submitted a proposal to the WTO that would address the use of forced labor on fishing vessels, which is often linked to IUU fishing. The proposal included: (1) recognition of the use of forced labor on fishing vessels; (2) rules on subsidies for fishing activities associated with the use of forced labor; and (3) reporting requirements for member countries to notify the WTO of any vessels and operators suspected of using forced labor. The proposed language was not included in the June 30 revised text, but some WTO members, such as Canada, have expressed support for addressing forced labor on fishing vessels.

Outlook and Issues for Congress

WTO members aim to conclude negotiations before the MC12, which is set for November 2021. A successful agreement would be the first multilateral trade deal completed under the WTO since 2015. Some issues Congress may consider as the negotiations continue include:

- Can the WTO achieve a meaningful agreement that includes effective disciplines and rules to curb harmful fisheries subsidies and demonstrate its continued relevance as an international forum for countries to complete new multilateral trade agreements addressing global trade policy challenges?
- How much flexibility should be provided to developing countries in the fisheries subsidies agreement and in future WTO negotiations, and will China be considered a developing country in a potential agreement?
- Should a final agreement include U.S. negotiating priorities, such as forced labor, or should those issues be negotiated separately?

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