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World Trade Organization Fisheries Subsidies Negotiations

On June 17, 2022, World Trade Organization (WTO) members finalized a limited agreement on long-running negotiations aimed at curbing fisheries subsidies that lead to excess capacity and may contribute to overfishing (fishing at a rate that a species cannot replenish its population.), and 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 those unsubsidized.

Negotiations began in 2001 Ministerial Conference and the negotiation mandate was renewed at the 11th Ministerial Conference in 2017. The 2022 Agreement on Fisheries Subsidies prohibits subsidies to fisheries engaged in IUU fishing and fishing of already overfished stocks. However, it does not address other key issues in the 2017 Ministerial mandate (i.e., subsidies contributing to overcapacity and special and differential treatment (SDT) for developing country members). The agreement will enter into force after it is ratified by two-thirds of WTO members. Members will continue negotiations on outstanding issues in the run-up to the 13th Ministerial Conference (MC13, date to be determined). Notably, the new agreement includes a sunset provision and will automatically terminate if members fail to agree on “comprehensive disciplines” within four years after entry into force.

Global Fisheries Trade and Subsidies

The United Nations’ (U.N.) 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 about 2.7 million metric tons, valued at \$22.2 billion. The United States exported 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.

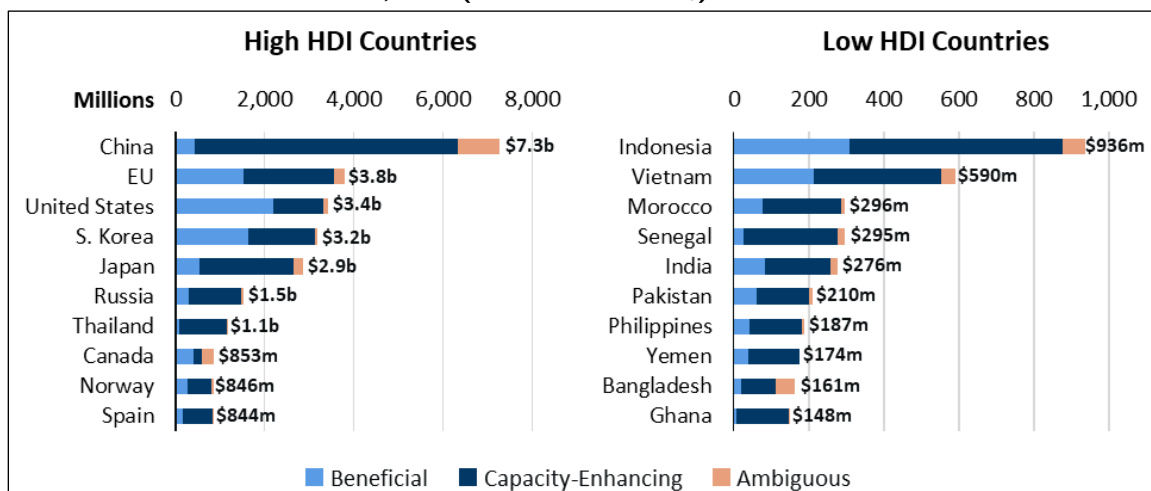
An empirical study estimated that around \$35.4 billion in subsidies were provided to fisheries globally in 2018. Countries high on the U.N. Human Development Index (HDI) provided about 87% of total fisheries subsidies. It is estimated that China, the European Union (EU), and the United States were the 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, were about 7.1%.

History of the Negotiations

In the 1990s, 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 and increase capacity to fish. Some studies observed that subsidies lead to excess capacity in fisheries, which may contribute to overfishing.

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. The 2005 Hong Kong Declaration clarified goals of the negotiations, specifically calling for the prohibition of certain subsidies

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



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

and establishment of SDT for developing country members. Lack of consensus on certain issues (e.g., 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 U.N. Sustainable Development Goals in 2015. Goal 14.6 aims to, among other things, prohibit subsidies contributing to overcapacity, overfishing, and IUU fishing.

Recent Developments

On June 17, 2022, WTO members reached an agreement to prohibit certain fisheries subsidies and agreed to continue negotiations on outstanding issues, including long-debated disagreements on the extent of flexibilities offered in SDT provisions and the scope of exceptions to certain subsidies.

Key Provisions of the Agreement

The Agreement on Fisheries Subsidies prohibits subsidies contributing to (1) IUU fishing, (2) already overfished stocks, and (3) fishing and related activities located outside a member or regional fisheries management organization's jurisdiction. It establishes a voluntary funding mechanism to provide technical assistance and capacity building to developing country members and a Committee on Fisheries Subsidies to implement the agreement. Members will also be required to adhere to a set of notification and transparency requirements. The commitments in the agreement are subject to the WTO dispute settlement process.

Outstanding Issues

WTO members disagreed on key areas in the negotiations leading up to the 2022 Ministerial Conference and much of these remain outstanding. Members agreed to continue talks on such issues, and the entire agreement may hinge on the conclusion of new disciplines within four years.

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 least-developed country (LDC) members. SDT has been a major area of disagreement in the fisheries subsidies negotiations. Members aim to address this issue by MC13. Although WTO members generally agree that developing countries should be afforded some flexibility, some members, including the U.S. 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 India, 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 agreement did not address subsidies that contribute to overcapacity and overfishing and exceptions for certain subsidies. 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 and fuel tax relief). Some developing country members argue that sustainability exceptions would disproportionately benefit developed economies who are already large subsidizers, such as the EU and the United States.

U.S. Position

On June 17, the U.S. Trade Representative (USTR) commended the agreement for its provisions prohibiting subsidies that support the most harmful activities depleting fish stocks, as well as “strong transparency provisions.” The USTR also committed to continuing negotiations on outstanding issues, including pursuing enhanced transparency requirements with respect to forced labor. The USTR previously 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 members to notify the WTO of any vessels and operators suspected of forced labor. This proposal reflects the Biden Administration’s “worker-centric” trade policy agenda. Some WTO members, such as Canada and the EU, have expressed support for addressing forced labor.

With regard to SDT, 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.

Outlook and Issues for Congress

The Agreement on Fisheries Subsidies is the first new multilateral deal successfully negotiated under the WTO since the 2013 Trade Facilitation Agreement. Though the agreement was welcomed by some environmental groups as a start in curbing harmful subsidies, critics argued that it did not do enough, specifically noting the absence of rules related to overcapacity and overfishing. Some issues Congress may consider before the agreement enters into force and outstanding issues continue to be negotiated include:

- Does the United States currently provide subsidies to any fishing activities prohibited by the agreement? If so, does Congress need to pass legislation to bring U.S. law into compliance or is executive action sufficient?
- Did the WTO demonstrate its continued relevance as an international forum for countries to complete new multilateral trade agreements addressing global trade policy challenges?
- As WTO members continue to address outstanding issues, should the United States continue to pursue U.S. negotiating priorities, such as forced labor and limiting SDT, or should those issues be negotiated separately?

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