



WTO Agreement on Fisheries Subsidies

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What is WTO?

A rule-based institution, currently with 164 Member States, established in 1994, providing the common institutional framework for the conduct of trade relations among its Members

Allows for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking to protect and preserve the environment

Endorses provisions relating to the conservation of exhaustible natural resources

Marine Capture Fisheries and Developing Countries

World marine capture fisheries production in 2020: 78.8 million tonnes (peaked in 1996 at 87.7 million tonnes: 24 years ago!)

Developing countries share of marine capture fisheries production: 65%

Top ten marine capture fisheries producers in the world include five developing countries: China (15%); Indonesia (8%); Peru (7%); India (5%); Viet Nam (4%)

World Fishing Fleet (2020): 2.68 million vessels (2/3rds are in Asia)

Employment; 38 million, of which 79% are employed in Asia and 13% in Africa

Source: The State of World Fisheries and Aquaculture 2022 (FAO)

Status of Marine Fish Stocks

Many stocks of shrimps, groupers, sardines (including Indian oil sardine), South American pilchard, Patagonian toothfish, American cupped oyster, abalone and horse mackerel are overfished (FAO 2020)

Share of marine stocks fished at **unsustainable** levels has increased from 10% in 1974 to 35.4% in 2019

Status of fish stocks in India: 34% are sustainable; 36% are overfished; 27% are recovering and 3% in overfishing status

Depletion of inshore fishing grounds in India; expansion of fishing grounds to deeper areas within the continental shelf (Sathianandan, T.V. et al. 2021)

Uncontrolled increase in fishing effort in India since 2011 behind the poor status of Indian fish stocks

Need for a common approach to conservation and management of fish stocks

Doha Development Round (2001)

Clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries

What is a 'subsidy' for WTO?

- Any financial contribution by a government or a public body within the territory of a WTO Member either through a **direct transfer of funds** or by **foregoing revenue**, or if there is any form of **income support** or **price support**, and **a benefit is thereby conferred** (1994 WTO Agreement on Subsidies and Countervailing Measures)
- Subsidies to marine fishing in the context of India include: subsidies to build a fishing vessel, to renovate or modernize; subsidies to buy marine engines, OBMs, fishing gear, fish finder; subsidies to the costs of fuel, etc.

WTO Agreement on Fisheries Subsidies (17 June 2022)

- **Grant or maintain subsidies** for fishing or fishing related activities if these subsidies are meant to **rebuild fish stocks**
- **Due restraint** when granting subsidies to **vessels not flying** a Member's flag
- **Due restraint** when granting subsidies to fishing **stocks of unknown status**
- **No subsidies** to be granted or maintained to a vessel or an operator engaged in **IUU fishing**
- **No subsidies** for fishing an **overfished stock**
- **No subsidies** to fish **outside the jurisdiction** of a coastal State or in an area outside the jurisdiction of a regional fisheries management organization or arrangement (RFMO/A)

1. Subsidies to IUU Fishing

Prohibit subsidies to a vessel or operator engaged in illegal, unreported and unregulated (IUU) fishing

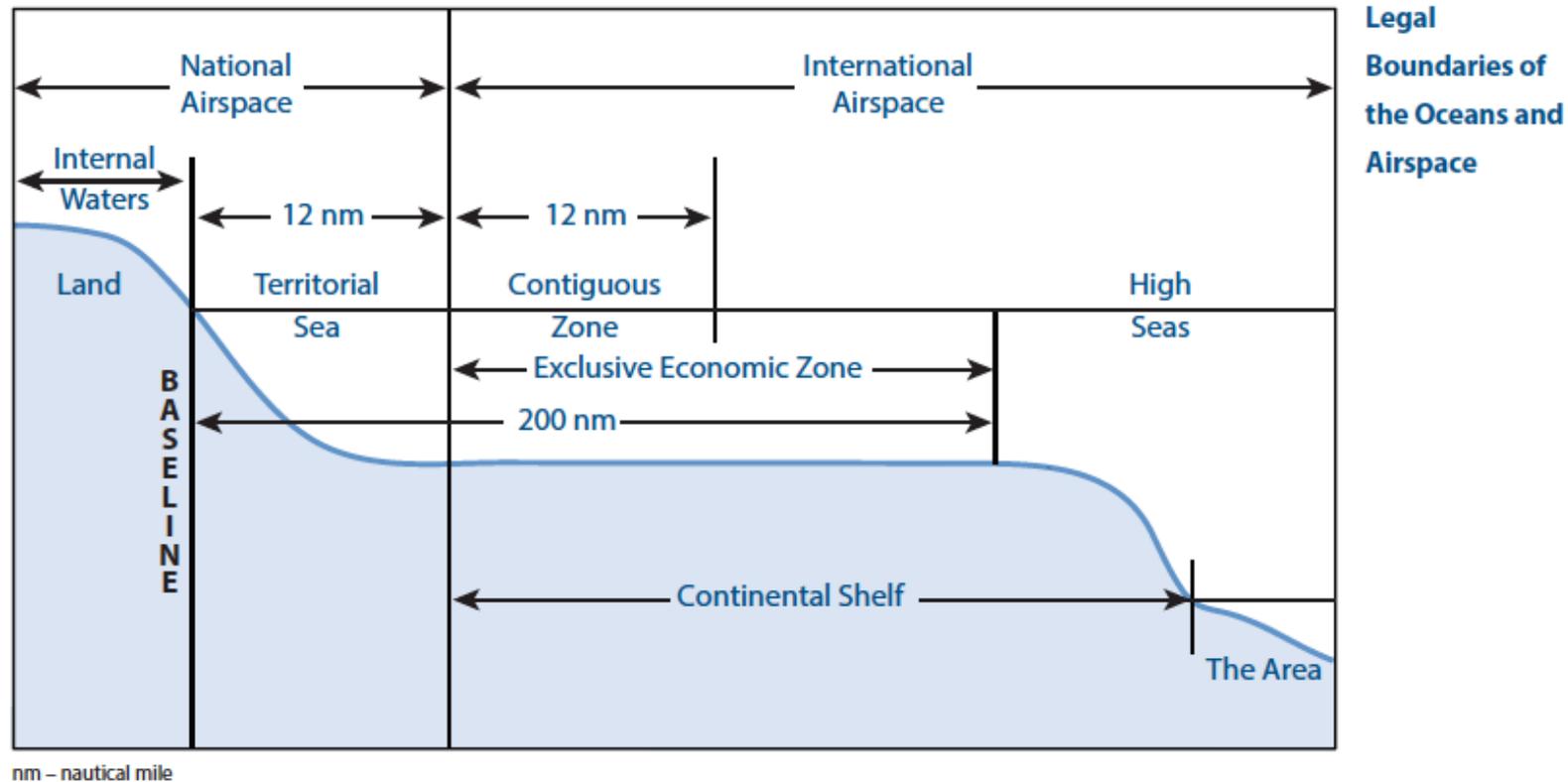
‘Illegal fishing’ refers to fishing without permission or in violation of the laws and regulations of a coastal State/RFMO/A; ‘unreported fishing’ refers to fishing activities that have not been reported or misreported in contravention of national laws and regulations; and ‘unregulated fishing’ refers to fishing in areas or for stocks in relation to which there are no applicable conservation and management measures

IUU Fishing and Subsidies

- Subsidies are contingent upon taking permission to fish, subject to reporting catches, and complying with conservation and management measures
- Onus is on a coastal State, a flag State or an RFMO/A to make an **affirmative determination** that a vessel or operator is engaged in IUU fishing **in areas under its jurisdiction; by vessels flying its flag; or in areas and for species under its jurisdiction**, respectively
- A coastal Member notifies an affirmative determination to the Committee on Fisheries Subsidies
- Five Indian longliners are on the Indian Ocean Tuna Commission (IOTC) IUU Vessels List, dated 26.05. 2022 (and four Indian longliners are on the IOTC Record of Authorized Vessels— all owned by the Fisheries Survey of India)

Areas Under National Jurisdiction

Source: Tufts University (Google)



IUU Fishing and Special and Differential Treatment of Developing Countries (SDT)

- WTO Members **required to have laws, regulations and administrative procedures** in place to ensure that subsidies are not granted or maintained at the entry into force of this Agreement to a vessel or operator engaged in IUU fishing (most likely, by 2024 for all countries)
- Subsidies to IUU fishing exempt for developing countries at least until 2026 (SDT clause)

2. Subsidies Regarding Overfished Stocks

- Subsidies are not to be granted or maintained for fishing an **overfished** stock,
- Overfished stocks are those having abundance at or close to the level of maximum sustainable yield (MSY) (FAO 2018. The State of World Fisheries and Aquaculture. FAO. Rome)
- Some examples of overfished stocks from India:
 - Gujarat: Crabs, Frigate and bullet tunas, Lizardfishes, Other clupeids, Other perches, Penaeid prawns, Rays, Ribbonfish, Silver pomfrets, Soles, Threadfin breams, Thryssa and Wolf herring
 - Maharashtra: Black pomfret, Catfishes, Crabs, Indian mackerel, Little tunny, Lizard fishes, Oil sardine, Other clupeids, Other perches, Penaeid prawns, Scads, Soles and Thryssa
 - Goa: Oil sardine
 - Karnataka: Black pomfret, Indian mackerel, Other clupeids, Other perches, Other sardines, Scads, Silver pomfrets and Threadfin breams
 - Kerala: Anchovies, Other clupeids, Other perches, Penaeid prawns, Scads, and Sharks

Overfished stocks: East Coast of India

West Bengal: Cat fishes, crabs, Hilsa shad, Penaeid prawns and Soles

Odisha: Bombayduck, Crabs, Horse Mackerel, Indian mackerel, Non-penaeid prawns, Other clupeids, Other perches, Thryssa

Andhra Pradesh: Horse mackerel, Lizardfishes, Penaeid prawns, Skipjack tuna, Spotted seerfish

Tamil Nadu: Cephalopods, Goatfishes, Other sardines, Skipjack tuna, Threadfin breams

- Source: Sathianandan, T.V. et al. 2021. Status of Indian marine fish stocks: modelling stock biomass dynamics in multigear fisheries. *ICES Journal of Marine Science*, Volume 78, Issue 5, August 2021, Pages 1744–1757

Exceptions and Exemptions

Subsidies may be **granted and maintained** if such subsidies are implemented to rebuild fish stocks (examples of such subsidies are: social adjustment payments, paying to keep fishing vessels away from fishing, finding alternative species to target permanently or in the interim; utilizing excess capacity to assist in evaluating the state of stocks, payment for permanent retirement of fishing vessels, etc.) (Source: See: Murawski. 2010. **Rebuilding depleted fish stocks: the good, the bad, and, mostly, the ugly.** *ICES Journal of Marine Science*, Volume 67, Issue 9, December 2010, Pages 1830–1840)

Subsidies for overfished stocks by developing countries are exempt until 2026 (most likely)

Subsidies also can be granted for **disaster relief**, subject to certain conditions

3. Other Subsidies

Subsidies are prohibited to vessels fishing outside the jurisdiction of a Coastal State and outside the competence of an RFMO/A

Exercise due restraint when granting subsidies to vessels not flying the flag of a Member

Exercise due restraint while granting subsidies to fishing activities regarding stocks having an unknown biological status

Notification Requirements

Regular notification obligations under the Agreement on Subsidies and Countervailing Measures (every three years)

“to the extent possible”: status of the fish stocks in the fishery that enjoy subsidies (are they: Overfished? Maximally sustainably fished? Underfished?); conservation and management measures in place; fleet capacity; name and identification number of the fishing benefitting from the subsidy; catch data by species in the fishery for which the subsidy is provided

Annual notification to the Committee on Fisheries Subsidies: List of vessels and operators affirmatively determined as having been engaged in IUU fishing; steps taken to implement prohibitions; description of the fisheries regime including laws, regulations, and administrative procedures; similar procedures with regard to RFMO/A

Termination of the Agreement

Overcapacity and overfishing subsidies are to be addressed by 2028 if the Agreement is not to be terminated (unless otherwise decided by the General Council, the highest-level decision-making body of WTO)

Implications for India

Need to develop and implement relevant laws, regulations and administrative procedures for all maritime zones of India by 2026

Affirmative determination of IUU fishing vessels after 2026 including for vessels that undertake fishing in waters under the jurisdiction of other coastal States

Subsidies not to be extended to fishing vessels targeting overfished stocks

Laws and regulations for fishing undertaken by Indian-flagged vessels in the EEZ, in the high seas and in the waters of other coastal States

Need to develop a comprehensive fisheries management framework for the EEZ and the territorial sea (intra- and inter-state arrangements, sharing of resources in the EEZ, authorization of vessels to fish outside areas under Indian jurisdiction)

Examples of Good Subsidies

- To move towards sustainable and low-carbon fishing;
- To protect marine biodiversity and ecosystems;
- To improve supply of quality and healthy seafood to local consumers;
- To renew small-scale coastal fisheries; and
- To improve skills and working conditions in fisheries.

Thank you