



Written submission of Ms. Michele Kuruc, Vice President, Ocean Policy, World Wildlife Fund, United States, before the United States Senate Finance Committee, Hearing WTO Reform: Making Global Rules Work for Global Challenges, July 29, 2020.

The details of what has transpired during twenty years of negotiations at the World Trade Organization (WTO) on harmful fisheries subsidies is hardly riveting storytelling. But the inability to successfully conclude the negotiations and reach an agreement to date has been extremely frustrating, as we've had to witness the concurrent decline in the health of the world's ocean, fueled in large part by harmful subsidies funding too many boats chasing too few fish. Our oceans are rife with illegal fishing, (estimated at \$36.4 Billion USD per year<sup>1</sup>), overfishing (more than 80% of the world's fish stocks are overfished, or at capacity<sup>2</sup>) and overcapacity (over three million fishing vessels are estimated to fish in marine waters and there are not enough fish for all of them<sup>3</sup>). All those detrimental activities are furthered by subsidies.

On a global level, subsidies to fisheries are estimated to be \$35.4 Billion USD<sup>4</sup> annually. The top five subsidizing entities are China, the EU, the US, Republic of Korea and Japan<sup>5</sup>. Not all subsidies are considered harmful, cause damage to fish stocks or thwart sustainability. But those which are considered harmful comprise the majority, with \$22.2 Billion classified as harmful.<sup>6</sup> These harmful subsidies take many forms such as fuel, tax breaks, and capacity enhancement, which drives overcapacity of fleets and overfishing, and worsen the unsustainable, downward cycle. Many examples of the damaging impacts of these subsidies are found in the attachment to this statement.

Inappropriate subsidies not only harm the environment, they directly promote unfair trade and even contribute to geopolitical strategies of economic control. China, for example, has the world's largest distant water fishing fleet—a fleet that in multiple oceans is used not only for fishing but for projecting Chinese maritime power. That fleet is supported by subsidies allowing these Chinese boats to roam the world's oceans to prey on weaker nations and flaunt many laws designed to keep fish stocks at sustainable levels and available to support our collective future. China gives more capacity-enhancing (harmful) subsidies than any other nation. Of the \$22.2 Billion in annual harmful subsidies, China supplies about one-quarter.<sup>7</sup>

Subsidies are often claimed to be essential to help small-scale fishers; those in poverty; or only impact fishing within one country's waters. None of that withstands scrutiny. Large-scale fishing operations receive 84% of subsidies globally while small-scale operators receive only 16%<sup>8</sup>. Subsidies artificially expand the number of vessels and fuel overcapacity, contributing to declines in the entire sector's productivity and making it harder for those who depend on fishing to support their livelihoods, especially those already struggling at the margins. Subsidies support illegal fishing activities as well and are thought to provide \$1.8-3.7 Billion USD<sup>9</sup> to do so.

<sup>1</sup> 2017, Transnational Crime and the Developing World. Global Financial Integrity.

<sup>2</sup> 2020, State of the World's Fisheries and Aquaculture, FAO.

<sup>3</sup> Id.

<sup>4</sup> 2019, Updated Estimates and Analysis of Global Fisheries Subsidies, U. Rashid Sumalia, Marine Policy.

<sup>5</sup> Subsidizing the Extinction of Fish and Fisheries, U. Rashid Sumalia, webinar presented at The Link Between Fisheries Subsidies at the WTO and Small-Scale Fisheries, Pew Charitable Trusts, July 13, 2020.

<sup>6</sup> Id.

<sup>7</sup> Subsidizing the Extinction of Fish and Fisheries, U. Rashid Sumalia, webinar presented at The Link Between Fisheries Subsidies at the WTO and Small-Scale Fisheries, Pew Charitable Trusts, July 13, 2020.

<sup>8</sup> Id.

<sup>9</sup> <https://www.economist.com/leaders/2017/12/19/a-shameful-failure-to-tackle-overfishing>

Harmful subsidies undermine fisheries management. And, we will not enforce our way out of these problems. Robust enforcement is certainly an important tool, but an agreement is needed that puts an end to subsidies that perpetuate an attractive value proposition for overfishing and overcapacity. Only the WTO can deliver that agreement. Funds that fuel harmful subsidies ought to be re-directed to improving fisheries management, a far better investment. 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.<sup>10</sup> 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. In the United States our own fisheries management is strong but in many other parts of the world this is not the case. But continued poor fisheries management coupled with subsidized overfishing is not only putting law abiding fishers at a commercial disadvantage but is a recipe for larger-scale economic and biological disasters and compromised food security.

Status of Negotiations. After COVID-related delays, a chair's text was recently distributed which is seen by many as a good basis for moving forward and text-based negotiations will resume in September, in-person and virtually. Although the talks are behind the initial Dec. 2019 deadline, linked to the UN's Sustainable Development Goals, they may conclude by the end of 2020 or they may await the ministerial-level political negotiation that is likely to be back on the schedule in the first half of 2021<sup>11</sup>.

Prospects. And if we end up with an agreement, what sort of agreement might it be? There are many issues that are unresolved around key definitions, the scope of an agreement, what and who may be covered and who decides major determinations, application of various formulas and timing issues. The United States has established a high ambition outcome and has held to that while listening to and discussing the proposals of others. This is a characteristic of US leadership, but the next few months will likely determine whether WTO members can come away with an effective agreement or not. Many who have been long-time WTO watchers in this space say they feel there is reason to be optimistic on successfully concluding the negotiations this time, as this is the closest they've come in over a decade to actually reaching an agreement.

Role of the U.S. We have excellent negotiators and they should stay the course and determine when and if compromises are needed. But this issue is also about the strength and value of the WTO as an institution. The WTO is specifically mandated to end harmful subsidies generally, and, after 20 years of preparatory debate, it is uniquely postured to put the kibosh on harmful fisheries subsidies in particular. But only continued and strong US leadership can bring the WTO to delivering this long overdue result. And the time is now to pay attention to this issue once again.

We also need to address unfair trade practices, and this means import control rules that identify and prevent illegal fish products from entering our lucrative US market. The U.S. seafood import monitoring program (SIMP) is a useful start but it only includes 40% (by volume and value. It includes 13 species) of our imports<sup>12</sup>. Other major importing countries are considering following the US lead, and collectively we can shut off the IUU tap if we do it right, and expand SIMP to include all species in our program's coverage. Notwithstanding the SIMP import screening, approx. \$1 billion in IUU products are still entering the US. Further, a consistent interpretation of IUU in US regulations needs to be applied that will allow the US more tools to address countries that are intransigent bad actors. It is important for the US to work to address unfair trade practices – subsidies and IUU fishing – that are harming the environment, fisheries and US fishermen and our seafood industry.

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<sup>10</sup> Andrés M. Cisneros-Montemayor et al. Strategies and rationale for fishery subsidy reform. *Marine Policy* 69, 229–236. 2016.

<sup>11</sup> July 21, 2020, Inside Trade.com, WTO to Start Text Negotiations in Fall; U.S. sees "missing pieces"

<sup>12</sup> 81 FR 88975, Final Rule, Seafood Import Monitoring Program, December 9, 2016.



## ENDING HARMFUL FISHERIES SUBSIDIES:

# IT IS VITAL FOR THE WTO TO TAKE ACTION NOW



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

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 high time for WTO members to take effective action to secure healthy oceans and sustainable livelihoods for the years to come.<sup>13</sup>

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. One-third of assessed global fish stocks are now overfished,<sup>14</sup> promoted by subsidies and exacerbated by illegal, unreported and unregulated (IUU) fishing. Another 60% of stocks are fished at levels that can no longer support increases in catch, meaning that well over 90% of stocks are either fully fished at their biological limits or are overfished.

Massive global subsidies help drive this depletion because they provide economic incentives for fishing even when it is not profitable. Subsidies also fund the overcapacity that undermines best efforts to fish sustainably and to limit bycatch and habitat destruction. Because of the largely unconstrained pressures on the ocean's resources, each dollar of taxpayer funds used to support fishing today places enormous costs on the environment and the well-being of future generations.

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<sup>13</sup> Through Sustainable Development Goal 14.6 the global community has committed to banning harmful fisheries subsidies by 2020. 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."

<sup>14</sup> SOFIA 2018. FAO

## THE NEED TO CURTAIL FISHERIES SUBSIDIES

Recent analysis of the extent of global subsidies indicates that over \$22 billion was spent in 2018 on capacity-enhancing subsidies, representing an astounding 17% of the value of the fish caught.<sup>15</sup> Fuel subsidies topped the list at nearly \$8 billion.<sup>16</sup> China alone provides over 25% of the capacity-enhancing subsidies provided globally, followed by Japan and the EU with over 9% each. Other significant subsidizing countries include Korea, Russia, the United States and Thailand.

Recent research comparing mapped vessel movements against the cost of labor and fuel suggests that as much as 54% of high seas fishing may be unprofitable in the absence of government subsidies.<sup>17</sup> The high seas fleets of China (35% of high seas catch), Taiwan (12%) and Russia (4%) are all operating at a loss. Nonetheless, industrial fishing on the high seas is a relatively small portion of global fishing, accounting for only 6% of all fishing activity.<sup>18</sup> The vast majority of fish are found and caught within countries' national jurisdictions.<sup>19</sup>

## THE HARMFUL EFFECTS OF FISHERIES SUBSIDIES

A report by the Organization for Economic Co-operation and Development (OECD) found subsidies that reduce the cost of fishing through financial support for fuel, gear, or bait expenditures, are the most likely to increase both legal and illicit fishing effort, potentially leading to stock depletion.<sup>20</sup>

Fuel subsidies encourage the wasteful use of fuel. They also maintain uneconomic and environmentally destructive fishing practices, such as deep-sea trawling, and distort the competition between large-scale, fuel-intensive fishing vessels and small-scale vessels using passive gear. To the extent that fishing capacity remains in use because of these fuel subsidies, the necessary restructuring of the sector through capacity reductions is prevented. In turn, the chronic excess capacity that exists in most countries creates powerful interests in support of ongoing subsidies and continued high fishing quotas, leading to persistent overfishing.

Examples of the negative impact of fisheries subsidies abound. In the Mediterranean, one of the world's richest bluefin tuna fisheries was shut down in the 1990s, being the target of overfishing by heavily subsidized fleets, and only with recent management measures in place have slowly recovered; in the North West Atlantic, the historic cod fishery was closed after years of subsidized overfishing; in the Western and Central Pacific and the Indian Ocean, tuna and other valuable stocks face increased pressure as subsidized competition pushes fleets into fisheries far from their traditional grounds; off the coasts of Africa and in the South Pacific, local fishermen compete with subsidized foreign vessels, many fishing illegally.

In Ghana, subsidized foreign fishing vessels engage in a practice known as saiko, where large canoes meet illegal trawling vessels to trade for slabs of frozen bycatch to sell in local markets. Although the practice is illegal and undercuts local jobs, the lucrative saiko business attracts foreign vessels due to the prevalent challenges of enforcement.<sup>21</sup>

In Suriname, fishermen, fisherfolk organizations, legislators and NGO's have expressed their concern about overfishing and the impact that factory trawlers will have on their stocks. Collectively they have successfully prevented the introduction of factory trawlers in Surinamese waters.<sup>22</sup>

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<sup>15</sup> FAO Status of World Fisheries. 2016 fisheries production was \$130 billion.

<sup>16</sup> Sumaila, R. et al. Updated estimates and analysis of global fisheries subsidies. *Marine Policy* 109 (2019) 103695. <https://doi.org/10.1016/j.marpol.2019.103695>

<sup>17</sup> Sala et al., *Science Advances* June 6 2018. The economics of fishing the high seas. <http://advances.sciencemag.org/content/4/6/eaat2504.full>

<sup>18</sup> Ibid.

<sup>19</sup> 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.

<sup>20</sup> Martini, R. and Innes, J. "Relative Effects of Fisheries Support Policies", *OECD Food, Agriculture and Fisheries Papers* No. 115. 2018 <http://dx.doi.org/10.1787/bd9b0dc3-en>

<sup>21</sup> EJF and Hen Mpoano (2019). Stolen at sea. How illegal 'saiko' fishing is fueling the collapse of Ghana's fisheries.

<sup>22</sup> See e.g., September 4, 2019 <http://www.starnieuws.com/index.php/welcome/index/nieuwsitem/54397>



An analysis undertaken by WWF Mexico found no evidence to prove that fisheries subsidies are helping Mexico develop its industry.<sup>23</sup> While subsidies were key to increasing the size of the fleet and continue to support its operation, catch levels have remained constant for the last two decades, which means the industry is less productive per vessel and workers make less money. Furthermore, the greatest share of subsidies is given to the wealthier participants in a fishery, instead of the low-income fishers in coastal communities. For example, in Mexico one quarter of beneficiaries receive 80% of fisheries fuel subsidies and industrial fishing entities receive 70% of modernization subsidies. Overall, capacity and effort-enhancing subsidies are decreasing fisheries productivity, encouraging overfishing and threatening livelihoods in coastal communities.

### **Government subsidies can fuel massive increases in fleet capacity and support IUU fishing**

Large subsidies have led to an expansion of fishing capacity and effort in many regions of the world. For example, government subsidies in China have supported China's distant water fleet (DWF) when the operations may not otherwise be viable,<sup>24</sup> largely through subsidies for fuel that comprise a significant share of income for China's distant water vessels. Operators also receive tax exemptions under the DWF-connected "going out" programs, ship construction subsidies provided by provincial governments and tax breaks provided by coastal Chinese provinces and cities to support local fishing companies.<sup>25</sup>

Subsidies to the fishing industry provided by the central government alone reached nearly \$22 billion between 2011 and 2015, almost triple the amount spent during the previous 4 years.<sup>26</sup> Evidence that these subsidies supported illegal fishing by DWF fleets in West Africa -- including using illegal nets, shark finning and fishing without a license -- recently prompted the Chinese Ministry of Agriculture to sanction three DWF companies by cancelling the subsidies and removing the fishing permits.<sup>27</sup>

In 2016, the Argentine coast guard sank a Chinese trawler fishing in its territorial waters,<sup>28</sup> and Chinese vessels were detained by Indonesia and South Africa. Since 2016, in an effort to combat IUU fishing by its DWF, China reportedly has cancelled €90 million in subsidies for 264 vessels.<sup>29</sup>

## **SUBSIDIES FOR IUU FISHING**

Estimates vary by country and region, but have revealed substantial and widespread IUU fishing, valued at between \$10 and \$23.5 billion per year and accounting for 13% to 31% of global marine catch. The Economist estimates that, based on the extent of IUU fishing and of global subsidies, about \$1.8- \$3.7 billion of government subsidies a year may support illegal fishing activity.<sup>30</sup>

Subsidies granted to illegal fishing vessels, operators and owners magnify the damage caused by IUU fishing and hamper ongoing global efforts to curtail IUU fishing activity. IUU fishing operators have a lower cost of production than legitimate fishers because they avoid some or all of the rules on catch, monitoring, labor, safety and health that fishing vessels face. Subsidies compound the problem to make IUU fishing even more profitable.

Despite national, regional and global efforts, IUU fishing remains widespread. Much more needs to be done to combat it effectively. The WTO has a special role to play in curtailing the economic benefits of IUU fishing by eliminating the subsidies that promote it.

<sup>23</sup> Reforming Harmful Fisheries Subsidies: Making the Economic Case for Mexico. WWF. April 2019.

<sup>24</sup> Greenpeace. Give a Man a Fish – Five Facts on China's Distant Water Fishing Subsidies, [https://www.greenpeace.org/eastasia/PageFiles/299371/FINAL\\_The%20problem%20with%20China%27s%20distant%20water%20fishing%20industry%20subsidies\\_.pdf](https://www.greenpeace.org/eastasia/PageFiles/299371/FINAL_The%20problem%20with%20China%27s%20distant%20water%20fishing%20industry%20subsidies_.pdf)

<sup>25</sup> Ibid. Half the cost of DWF vessels may be covered by provincial governments, with Shandong and Fujian provinces commissioning two-thirds of China's more than 600 new DWF vessels built between 2012 and 2014.

<sup>26</sup> NYT April 30, 2017. China's appetite pushes fisheries to the brink. <https://www.nytimes.com/2017/04/30/world/asia/chinas-appetite-pushes-fisheries-to-the-brink.html>

<sup>27</sup> Greenpeace press release March 9, 2018. Chinese companies see subsidies cancelled and permits removed for illegal fishing in West Africa. <https://www.greenpeace.org/international/press-release/15209/chinese-companies-see-subsidies-cancelled-and-permits-removed-for-illegal-fishing-in-west-africa/>

<sup>28</sup> <https://www.reuters.com/article/us-argentina-defense-china/argentina-coast-guard-sinks-chinese-trawler-fishing-illegally-idUSKCN0WH2QL>

<sup>29</sup> Greenpeace press release March 9, 2018.

<sup>30</sup> <https://www.economist.com/leaders/2017/12/19/a-shameful-failure-to-tackle-overfishing>

### **Penalties and Sanctions on IUU fishing are often inadequate to deter further IUU fishing**

- The absence of severe penalties, combined with limited enforcement, makes IUU fishing a lucrative option. One study found that maximum penalties should be increased considerably – by as much as 24 times – compared to current levels, if they are to have a deterrent effect on IUU fishing.\*
- Very few countries have levels of fines that are effective deterrents to IUU activities. Fines and penalties across many legal systems concluded that they are often based on the “ability to pay.” Given that fishers often have little income compared to the societal costs of their action and that the true owners of vessels are often disguised, this often works against the deterrence effect.

\* Sumaila, U. R., Alder, J., and Keith, H. (2006). Global scope and economics of illegal fishing. *Mar. Policy* 30, 696–703.

## **THE BENEFITS OF SUBSIDIES REFORM**

At the national level, 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. This is also vital to ensure sustainable livelihoods in the long term.

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.<sup>31</sup> 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.<sup>32</sup>

Fisheries management is critical for sustainability but subsidies for vessels and operations provide a strong incentive to undermine any attempt to control fishing activities. Ending harmful fisheries subsidies is a pre-requisite for long-term sustainable fisheries management.

## **CONCLUSION**

Harmful subsidies fund a vicious cycle, supporting fishing when it is not economically viable and creating domestic constituencies for bad policies that lead to unsustainable exploitation of fisheries.

Countries must address subsidies reform at the national level, and some are, but the WTO is the only body that can take meaningful action to curtail harmful fisheries subsidies at a global scale. By curtailing subsidies that drive overcapacity and overfishing and support illegal fishing vessels, WTO disciplines can undercut ongoing economic support for activities that destroy our oceans and the livelihoods of millions.

WTO members have made a commitment to fulfil Sustainable Development Goal 14.6 by adopting an agreement on comprehensive and effective disciplines on harmful fisheries subsidies by December 2019. It is time to live up to that promise.

<sup>31</sup> Andrés M. Cisneros-Montemayor et al. Strategies and rationale for fishery subsidy reform. *Marine Policy* 69, 229–236. 2016.

<sup>32</sup> World Bank 2017.

## ENDING HARMFUL FISHERIES SUBSIDIES<sup>33</sup>

WWF calls for a broad scope of prohibitions on fisheries subsidies. These include prohibitions on, at a minimum, subsidies that increase fishing capacity or effort, as well as subsidies that contribute to IUU fishing, including subsidies for **capital costs including vessel construction and modernization**, subsidies to **operating costs**, subsidies that allow fishing **on stocks that are overfished** and subsidies that **contribute to IUU fishing** vessels, operators or owners.

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

WWF supports appropriate conditions and flexibilities for developing and least developed countries to implement the disciplines, but there should be no blanket exemption for small-scale fisheries and any exemption for subsistence fishing should be on the basis of socio-economic imperatives rather than vessel size.

New measures are also necessary to increase transparency on fisheries subsidies programs and to increase compliance by making reporting requirements enforceable under WTO law.

## PROHIBITING SUBSIDIES FOR IUU FISHING

Strong rules are necessary to address all significant fisheries subsidies programs affecting wild capture fisheries, including subsidies for IUU fishing in international waters as well as within EEZs.<sup>34</sup>

***Any WTO agreement on fishing subsidies must have, as a fundamental obligation, the requirement that members include in national legislation a prohibition on subsidies for IUU fishing activities. Furthermore, to limit support for the full scope of illegal fishing activity it is essential that subsidy disciplines go beyond listed vessels to prohibit subsidies to:***

- a) Operators who are involved in the ownership,<sup>35</sup> management and operation of a vessel engaged in IUU fishing activities; and***
- b) IUU activities within EEZs, 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.<sup>36</sup>***

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.

<sup>33</sup> [http://awsassets.panda.org/downloads/WWF\\_briefing\\_WTO\\_Fisheries\\_Subsidies\\_MC11\\_2017.pdf](http://awsassets.panda.org/downloads/WWF_briefing_WTO_Fisheries_Subsidies_MC11_2017.pdf)

<sup>34</sup> WWF supports proposals to use the FAO International Plan of Action (IPOA) on IUU as a starting reference for defining IUU fishing and applying 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.

<sup>35</sup> This is particularly important given the global phenomenon of vessels flying flags of convenience and associated challenges in identifying these vessels' beneficial owners.

<sup>36</sup> 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.



**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