



Note

The WTO Negotiations on Fisheries Subsidies

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Summary

Fisheries subsidies -especially those provided by developed and large developing countries-+ are the main driver of unsustainable fishing practices around the world. In the East Africa Community (EAC) region, fisheries are an important sector for livelihoods, which makes its sustainability an issue of critical interest to the region. This note reviews the multilateral trade negotiations on fisheries at the WTO, highlighting issues of interest to the EAC therein.

Introduction

For millions of people in coastal communities, fish and fishing activities are equal to food security, employment opportunity and ultimately the main source of income -especially those who live in small island developing states (SIDS) and the sea zones of developing or least developed countries (LDCs). It is estimated that in 2013, fish accounted for almost 17% of the global consumption of animal protein and approximately 7% of all protein consumed. In some SIDS and LDCs, such as Bangladesh, more than 50% of animal protein intake comes from fish. In addition, fish is vital for the marine environment in the oceans and coastal biomes, as it contributes to climate regulation, biogeochemical processes and support of other indirect ecosystem services¹².

In the East African Community (EAC), there are two types of access to fish resources: fresh water fish (inland fishery resources), and fish from the south-west Indian Ocean (marine fishery resources). Uganda, Rwanda and Burundi are landlocked. However, they are located at the shorelines of some of the world's largest and deepest freshwater lakes. This unique geographical location provides these three countries with tremendous opportunities for developing their freshwater fisheries sector. For instance, Uganda has access to about 350 different fish species in Lake Victoria, which it shares with Kenya and Tanzania. Some of these

fish species -including Nile perch, Tilapia and Dagga- are commercially important and being used for direct consumption, fish-processing and export. In Burundi, where fish is the main source of animal protein intake, almost all the country's fish catch comes from Lake Tanganyika. On the east side of the region, Kenya and Tanzania not only benefit from inland fishery resources, but also have access to vast marine resources of the Indian Ocean, through 2,104 km of coastline which provides many opportunities for development of the fisheries sector -including deep-water fishing, deep-sea fishing vessels, storage infrastructure and the processing of marine fish³⁴.

Despite the importance of marine resources and fish for the environment, food security and economic growth in many parts of the world (including the EAC region), unsustainable fishing practices such as overfishing and illegal, unreported and unregulated (IUU) fishing have dramatically reduced the size of fish resources, especially in the deep-waters.

At the global level, (according to the Food and Agriculture Organization of the United Nations (FAO)) more than 80% of the world fish stocks have been either fully-exploited or overexploited -mainly as a result of fisheries subsidies that contribute to overfishing. Fishing subsidies are estimated to be about \$35 billion globally, of which \$20 billion directly fuels overfishing activities. In other words, taxpayers are paying for large and advanced fishing boats to fish in

¹ MUKIIBI, J. (2017). "Addressing Fisheries Subsidies: A Quest for Sustainable Fisheries Production". Geneva. CUTS International, Geneva.

² BAHETY, S. MUKIIBI, J. (2017). "WTO Fisheries Subsidies Negotiations: Main Issues and Interests of Least Developed Countries". Geneva. CUTS International, Geneva.

³ "Investment in Fisheries", eac.int,

"<http://www.eac.int/sectors/investment-promotion-and-private-sector-development/why-east-africa/investment-opportunities/fisheries>"

⁴ "Fishery Country Profile: The Republic of Burundi", FAO

deep waters of vulnerable coastal communities - which leads to damage of their environment, destruction of their food resources and livelihoods, and to the fostering of inequality, as local fishermen cannot compete with the fishing capabilities of large fleets of industrial boats⁵.

The United Nations has recognized the problem and specifically assigned Goal 14 of the sustainable development goals (SDGs) to protect the oceans, sea, and marine resources. Within this goal, target 14.6, directly touches on the harmful fisheries subsidies. In the context of the WTO, the adoption of Goal 14 of the UN SDGs has enhanced negotiations on fisheries subsidies disciplines- which had slowed down for a while⁶.

This note reviews the main issues under the fisheries negotiations, and highlights those of particular interest to the EAC.

Negotiations on Fisheries Subsidies in the WTO

The debate on fisheries subsidies was initiated by the FAO in the early 1990s. The core argument was that subsidies are the main cause of overfishing⁷.

The growing importance of fish for trade, coupled with concerns about overcapacity leading to overfishing, brought the issue of

fisheries subsidies into the WTO negotiations. In 1999, in the lead up to the Ministerial Conference in Seattle, several countries - including Iceland, Norway, the Philippines, Australia and Peru- submitted a position paper calling for reform in fisheries subsidies -with focus on the need for disciplines on subsidies that lead to overfishing⁸.

In 2001, the first official mandate at the WTO on fisheries subsidies was included in the Doha Development Agenda (DDA). Members agreed to improve the disciplines on fisheries subsidies and to consider the importance of the sector in developing countries. The Hong Kong Ministerial Conference in 2005 shed more light on the mandate, and led to the call for the prohibition of subsidies that fuel overcapacity and overfishing. Post-Hong Kong negotiations resulted in the drafting (in November 2007 by the Chair of NGR) of the first legal text of the proposed rules. The draft contained a wide range of harmful subsidies to be suggested for prohibition (e.g. subsidies for any vessels involved IUU fishing, or subsidies for income and price support), along with a list of general exceptions (e.g. beneficial subsidies for crew safety and fisheries management). The draft also provided complementary rules for developing countries regarding the “special and differential treatment (S&D)” including complete exceptions for LDCs and artisanal fishing⁹.

Although the submission of the first draft was meant to move the negotiations forward, deep

⁵ MUKIIBI, J. (2017). “Addressing Fisheries Subsidies: A Quest for Sustainable Fisheries Production”. Geneva. CUTS International, Geneva.

⁶ Ibid

⁷ MUKIIBI, J. (2017). “Addressing Fisheries Subsidies: A Quest for Sustainable Fisheries Production”. Geneva. CUTS International, Geneva.

⁸ Ibid.

⁹ BAHETY, S. MUKIIBI, J. (2017). “WTO Fisheries Subsidies Negotiations: Main Issues and Interests of Least Developed Countries”. Geneva. CUTS International, Geneva.

disagreements among the member states (about the scope and coverage of the proposed subsidies), and the breakdown of DDA negotiations in 2008, led to revision of the text by the Chair. The new draft included a “roadmap” of the key issues of non-convergence in the text¹⁰.

Negotiations on fisheries subsidies disciplines continued during the period leading up to the 10th Ministerial Conference (MC10) in Nairobi in 2015. At MC10, members failed to achieve consensus on the proposed fisheries subsidies’ disciplines -mainly because of three issues: (1) the specific timeframe in which to complete negotiations on the prohibition of subsidies on IUU fishing and effort on overfished stocks, (2) provision of a “best-endeavor” clause on new subsidies in the prohibited areas, and (3) the specific notifications commitments under the ASCM.

Nevertheless, negotiations on fisheries subsidies in the post MC 10 period have intensified, with seven proposals submitted to the Negotiating group by July 2017. All the proposals call for a fisheries subsidies agreement to be reached by the next Ministerial Conference (MC11) -which is to be held in December 2017. According to the Chairman of the Negotiating Group, members are exploring various approaches aimed at pinpointing subsidies that lead to overfishing and overcapacity with the goal of threshing out the appropriate solution.¹¹ There is also emerging clarity with regard to the overall scope of proposed disciplines, as well as ideas on the issue of geographical scope of how different

parts of the seas and oceans would be covered by the disciplines.¹² Presently negotiations will be restricted to subsidies on maritime fishing, while excluding those granted for aquaculture and inland fishing.

Issues of Critical Interest to EAC in WTO Fisheries Negotiations

A sizeable population of the EAC derives livelihood from the fishing sector and are dependent on it for food security and protein intake. Fisheries also contribute significantly to export earnings of EAC member countries (including the landlocked) and therefore a vital source of income for national development efforts.¹³

The critical issues identified in the WTO negotiations that would contribute to sustainability, are among others, prohibition of subsidies that facilitate overcapacity and IUU fishing practices.

The EAC countries are part of WTO informal coalitions through which they have advanced both defensive and offensive interests.¹⁴

Defensive

- Ensuring that agreed-upon disciplines do not hinder the development or transformation (for example, through means such as diversification of

¹⁰ Ibid

¹¹ WTO Negotiations on fisheries subsidies: Fisheries subsidies talks move forward with seven proposals and forthcoming compilation 18 July 2014

¹² Ibid

¹³ WTO Fisheries Subsidies Negotiations Main Issues and Interests of Least Developed Countries

¹⁴ WTO Fisheries Subsidies Negotiations Main Issues and Interests of Least Developed Countries

processing methods) of the fishing sector in EAC.

- Maintaining trade preferences (in order to protect products from tariff escalation).
- Allowing flexibility for the development of fishing fleets.

Offensive

- Regulating the approaching or entering of foreign large-capacity vessels into EAC territory. This includes the detection of overcapacity fishing and the prevention of trans-boarding and under-declaring.
- Prohibiting subsidies that enable distant water fishing – particularly on the part of countries that have made technological advances in this area.
- Curtailing harmful subsidies.

It is in the above context that the EAC supported submissions of the ACP, Africa, and LDC Groups at WTO. The submissions clearly call for special and differential treatment for these groups of countries.¹⁵ Capacity building is another important issue being sought in the negotiations so as to ensure development of their fishing capacity in a sustainable manner, as well as the ability to assess and monitor stocks, and control fishing activities.¹⁶

Conclusion and Way Forward

The negotiations on fisheries subsidies at the WTO provides a platform for the Members to address the issue of unsustainable fishing

practices.

In the efforts towards an agreement on fisheries disciplines at the next Ministerial Conference (MC11), the following could be considered by EAC:

- Continue working with like minded groups both multilaterally and bilaterally so as to find a common ground on the areas that offer general consensus such as IUU fishing and subsidies for overcapacity.
- Calling for de-linking the fisheries subsidies from other DDA issues. Instead, continue the negotiations under alternative and motivating frameworks such as Peru's proposal that considers SDGs commitments in the negotiations.
- Bringing onboard certain large developing countries by taking into account their circumstances such as the need to continue supporting small fleets, which are important for their coastal communities, while disciplining subsidies related to their distance water fishing.
- Pushing for having an agreement on minimum disciplines on fisheries subsidies, which could be the basis for future substantive disciplines that would ensure sustainable fisheries trade.
- Expressing their development concerns, since the sector plays an important role in providing food security, employment and poverty reduction efforts.

¹⁵ TN/RL/GEN/184 LDC Group Submission on Elements for WTO Fisheries Subsidies Disciplines December 2016

¹⁶ ibid

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