

## **STRENGTHENING TRADE AND MARINE PROTECTION: INSIGHTS FROM MULTIPLE-LEVEL APPROACH TO FISHERIES SUBSIDIES**

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### **Abstract**

The surge in global demand, coupled with increased transportation and resource extraction, has drawn criticism for its perceived neglect of sustainable development in the realm of international trade. This economic activity poses threats by fostering the consumption and exploitation of marine resources, resulting in overfishing and habitat destruction. Recognized as a significant driver of overfishing, fisheries subsidies have been identified as a key concern. The Agreement on Fisheries Subsidies, effective since June 17, 2022, signifies a historic milestone in international cooperation aimed at preserving ocean sustainability. This policy brief firstly presented the universal approach for fisheries subsidies as well as the EU effort to enforce legal and sustainable fisheries practices. Then, the policy brief discussed the ASEAN legal framework for fisheries subsidies and some implications for Vietnam in fighting against IUU fishing.

**Keywords:** Marine Protection, Fisheries subsidies, Agreement on Fisheries Subsidies

### **1. Introduction**

The surge in global demand, coupled with increased transportation and resource extraction, has drawn criticism for its perceived neglect of sustainable development in the realm of international trade. This economic activity poses threats by fostering the consumption and exploitation of marine resources, resulting in overfishing and habitat destruction. Striking a balance between trade objectives and marine environment protection presents a complex challenge that demands the incorporation of sustainable practices and responsible policies. Recognized as a significant driver of overfishing, fisheries subsidies have been identified as a key concern. The Agreement on Fisheries Subsidies, effective since June 17, 2022, signifies a historic milestone in international cooperation aimed at preserving ocean sustainability. Given the European Union's (EU) substantial consumption of fisheries and its engagement in trade with numerous

developing countries suspected of engaging in illegal, unreported, and unregulated fishing practices, it becomes imperative for the EU to play a pivotal role in fostering sustainable practices. As a major exporter in the fisheries trade, Vietnam faces challenges associated with unsustainable fishing practices, making the ratification of the Agreement on Fisheries Subsidies a crucial step toward encouraging and promoting sustainable fisheries practices.

## **2. Universal approach for fisheries subsidies**

The application of standard trade theory to seafood trade restrictions or liberalization is complicated by two key factors. Firstly, seafood production, whether it comes from capture fisheries or aquaculture, is deeply intertwined with the environment. The problem of overexploitation in fisheries, leading to economic waste and environmental damage, is often rooted in open access or poorly managed systems that allow unrestricted entry. The quality of management systems for fisheries varies widely among countries, ranging from inadequate systems resembling open access to well-developed ones approaching optimal management. Consequently, the impact of trade restrictions or liberalization on fisheries needs to be assessed on a case-by-case basis. Secondly, there are numerous fish stocks affected by Illegal, Unregulated, and Unreported (IUU) fishing, some in international waters and others within the territorial waters of individual nations. According to Food and Agriculture Organization, around 94% of global fish stocks are fully exploited or over exploited (European Court of Auditor, 2022). Fishing practices also vary significantly across countries, and in many developing nations and among industrial fleets in international waters, the problem of overfishing is often exacerbated by subsidies. Unlike other industries, these subsidies, though wasteful, are unlikely to provide long-term competitive advantages to the countries offering them.

In June 2022, the 12th Ministerial Conference of the World Trade Organization (WTO) adopted the Agreement on Fisheries Subsidies (AFS), marking a significant step to address the challenges associated with fisheries subsidies. The AFS is essential from an environmental standpoint as it aims to discourage harmful fishing practices driven by government financial support. Fisheries subsidies are estimated to range from USD 14 billion to USD 54 billion annually, making an unintended contribution to overfishing,

overcapacity, and unsustainable fishing practices (WTO, 2022). On the other hand, the Agreement on Subsidies and Countervailing Measures (SCM) does not encompass specific regulations addressing the issue of illegal, unreported, and unregulated (IUU) fishing and neglects the environmental aspects when considering the disruptive effects of subsidies.

The agreement represents a historical achievement as it is the first SDG to be fully met; the first SDG target to be met through a multilateral agreement; the first WTO agreement focus on the environment and the 2nd agreement to reach WTO since its inception. The agreement prohibits subsidies to IUU fishing, overfished stocks, fishing, and related activities in the unregulated high seas. In addition, other provisions relate to special and differential treatment, the capacity-building support fund, notification obligations, and dispute settlement provisions. These provisions have also been the subject of heated discussions among WTO members – for example, the issue of "disputed waters" under the dispute settlement system.

The AFS recognizes the need to address IUU fishing and acknowledges the role of subsidies in exacerbating this problem. By targeting subsidies that contribute to overfishing and IUU fishing, the AFS aligns with the spirit and goals of SDG 14.6 which aims to protect aquaculture life. The AFS negotiations within the WTO have been ongoing for several years, and though progress has been made in addressing IUU fishing and overfished stocks in the AFS negotiations, reaching a consensus on overcapacity remains a key area of contention among WTO members. What's more, achieving the complete elimination of subsidies that contribute to IUU fishing requires broader efforts beyond the scope of the AFS. For the Agreement to become operational, and thus deliver its sustainability results, two-thirds of WTO Members have to deposit their "instruments of acceptance" in the WTO. This means they have to complete their domestic acceptance procedures.

### **3. EU effort to enforce legal and sustainable fisheries practices**

The European Union (EU) is committed to a *"New Approach for a Sustainable Blue Economy of the European Union for a Sustainable Future"* that encompasses all sectors and industries related to the oceans, seas, and coasts, whether they are marine (such as shipping, fisheries, energy production) or terrestrial (such as ports, etc.)

shipyards, land-based aquaculture and seaweed production, and coastal tourism). The IUU Regulation (1005/2008) is the core of the EU's legal framework for action against global IUU fishing. Its primary objective is to prevent, deter and eliminate the trade of IUU-caught products into the EU. One of its key components is a multiple-step procedure for dealing with non-EU countries considered uncooperative in the fight against IUU fishing (European Parliament, 2022).

Many Asia-Pacific countries involved in agreements with the EU exhibit shortcomings when it comes to incorporating robust sustainable development provisions. Issues such as labor rights, environmental protection, and government subsidies are not adequately addressed, limiting the potential for a truly sustainable and inclusive approach to trade. This raises doubts regarding the real ability to preserve the marine environment in the Asia region, given its crucial role in international maritime affairs.

The EU has been actively engaging with its Asia trading partners to promote sustainable practices and environmental protection in the blue economy sector. In the context of fisheries, the EU promotes sustainable fishing practices and seeks to prevent IUU fishing. It has a strong commitment to combating IUU fishing globally, and it expects its trading partners to take similar actions to address this issue. The EU includes provisions in its trade agreements that require partner countries to implement measures to combat IUU fishing, manage fish stocks sustainably, and protect marine ecosystems. If a trading partner does not require or enforce measures to combat IUU fishing, the EU may employ various mechanisms to address the situation. Regarding Vietnam specifically, the EU issued a "yellow card" to Vietnam in October 2017, indicating that Vietnam was not doing enough to address IUU fishing. To revoke the yellow card, Vietnam undertook significant efforts to improve its fisheries management and control systems, including strengthening legislation, enhancing monitoring and surveillance capabilities, implementing stricter sanctions for IUU fishing, and improving seafood traceability measures.

#### **4. ASEAN legal framework for fisheries subsidies**

In the ASEAN region, fisheries are an important sector and contribute across the three pillars of the ASEAN Communities (Political Security Community, Economic Community, and Socio-cultural Community). The fisheries sector is part of the broader cooperation of the ASEAN Committee on Food, Agriculture, and Forestry (COFAF) established in 1977. Under the Cooperation in Food, Agriculture and Forestry in ASEAN, the ASEAN Sectoral Working Group on Fisheries (ASWGF<sub>i</sub>) was established to oversee the development and implementation of the relevant programme and activities in the fisheries sector with the support from the following sub-working groups:

- ASEAN Fisheries Consultative Forum (AFCF) provides a platform to discuss and address common problems on fisheries management and development faced by AMS;
- ASEAN Shrimp Alliance (ASA) provides a platform for the government and private sector to formulate and harmonize shrimp production and certification standards, and to discuss issues affecting shrimp production and trade;
- Fisheries Consultative Group of the ASEAN-SEAFDEC Strategic Partnership (FCG/ASSP); and
- the Expert Working Group on ASEAN Good Aquaculture Practices (EWG-GAqP)

The fisheries sector holds a significant position within ASEAN's economic integration agenda. ASEAN is actively participating in the global response to the rising demand for seafood, extending up to the year 2050. As evidence of this, in 2014, a collective effort by 10 ASEAN countries resulted in them contributing 18.3% (equivalent to 30.6 million tons) of the world's total fish production, which stood at 167.3 million tons (OECD, 2022). Indonesia, Vietnam, and Myanmar have all secured places in the list of the world's top 10 fish-producing nations. The ASEAN region boasts a combined gross domestic product (GDP) exceeding USD 2.6 trillion, experiencing a growth rate of 4.7% annually, and is home to a population of 632 million as of 2015, representing 8.6% of the global population (ASEAN Secretariat, Mission of the European Union to ASEAN, 2020).

Hence, ASEAN member nations have recently taken steps to introduce collaborative mechanisms for the advancement of fisheries in a contemporary, responsible, sustainable, and efficient manner. Several policy frameworks related to fisheries have been created and voluntarily put into practice by ASEAN member states. These include the Regional Code of Conducts on Responsible Fisheries (RCCRF) and the Resolution and Plan of Action on Sustainable Fisheries for Food Security in the ASEAN region by 2020, which was adopted in 2011.

In addition, there is the Joint ASEAN-SEAFDEC Declaration on Regional Cooperation for Combating Illegal, Unreported, and Unregulated (IUU) Fishing and Enhancing the Competitiveness of ASEAN Fish and Fishery Products. This declaration was recently adopted by ASEAN-SEAFDEC Member Countries and received endorsement during the High-level Consultation held on August 3, 2016, in Thailand.

More recently, in 2019, ASEAN members established the ASEAN IUU Fishing Network. This network is designed to boost regional cooperation by creating a practical and operational tool for the real-time exchange of information and intelligence. The ASEAN IUU Fishing Network brings together ASEAN countries through this regional platform to foster collaboration in adopting and implementing measures against IUU fishing, sharing information, coordinating law enforcement efforts, and formulating strategies for sustainable fishing in the region.

## **5. Fighting against IUU fishing: implication for Vietnam**

Fighting against IUU is an irreversible trend, and ratifying AFS is crucial for long-term benefit of the country. Among one of largest fisheries exports, Vietnam is encouraged to ratify AFS as soon as possible. The new regulation will enhance the sustainability of fisheries products from Vietnam, improving market access for Vietnamese commodities. Several actions that Vietnam can adopt to achieve the sustainability of their fisheries, improving its competitiveness, including:

- **Improve the existing legal framework:** Review and update existing laws, regulations, and policies related to fisheries management to address gaps and loopholes that facilitate IUU fishing. Ensure that the legal framework includes

comprehensive provisions for vessel registration, licensing, catch reporting, and traceability requirements.

- **Promote Traceability and Certification:** Establish and enforce traceability systems for seafood products, from catch to market. Implement robust catch documentation schemes, traceability requirements, and certification programs to ensure the legality and sustainability of seafood exports. Encourage fishers, seafood processors, and exporters to obtain certifications such as the Marine Stewardship Council (MSC) certification for sustainable fisheries.
- **Improve International Cooperation:** Collaborate with neighbouring countries, regional fisheries management organizations, and international bodies to enhance regional cooperation against IUU fishing. Share information, intelligence, and best practices to strengthen enforcement efforts and address transboundary IUU fishing activities effectively.
- **Public Awareness and Education:** Conduct public awareness campaigns to educate fishers, seafood industry stakeholders, and the public about the negative impacts of IUU fishing. Promote responsible fishing practices, sustainable resource management, and the importance of compliance with fisheries regulations. Engage local communities and empower them to be vigilant against IUU fishing activities.
- **Trade negotiation:** Integrate environmental provisions into trade agreements, emphasizing the importance of sustainable practices, adherence to international environmental agreements, and the conservation of marine resources. This can include provisions on sustainable fisheries management, the prevention of marine pollution, and the promotion of renewable and eco-friendly industries, such as sustainable seafood trade.

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