

Evolving India's Strategies for the Global Debate on Fisheries Subsidies

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Though the WTO was set up in 1995 to discipline trade-distorting actions by member-countries, fisheries subsidies escaped the WTO discipline. But during the Doha Ministerial Conference (held in November 2001), members decided to open up the subject for debate. International agencies like FAO and UNEP, and some important countries, have raised mainly two types of issues.

a) Should the regular WTO Agreement on Subsidies and Countervailing Measures (ASCM) be applied to fisheries? Should the discussion on fisheries subsidies limit itself to direct and indirect government financial transfer (the legal definition of subsidies provided by ASCM)?

Or should it also include “implicit subsidies” – which cover benefits to fishers through government actions such as research & development, and regulation? Should the discussion cover government inaction in failing to enforce measures to prevent water pollution, loss of bio-diversity, etc?

b) Another issue relates to non-transparency on subsidy issues and non-availability of data and information across countries (and hence the incomparability of data).

This paper contends that the open-access nature of fisheries is mainly responsible for overfishing and

over-capacity, the main problem that plagues marine fisheries today; subsidies merely exacerbate the problem.

The paper says that the authorities should address the question of property rights in fisheries and remove institutional hindrances to a property rights system. Merely focusing on subsidies won't do.

The paper says that international organizations like FAO, OECD, APEC and UNEP have been preparing for some time for WTO discussions on subsidies.

A large country like India will be required to come up with a policy response to the irreversible process of liberalization and globalization in fisheries. This paper is meant to help the process and provide a perspective on the issue.

The paper suggests strategies for domestic reform in India, as well as

for its international negotiation strategies. Together, these will ensure the long-term sustainability of fisheries (ecological, social and commercial viability), the authors say. These strategies are based on the authors' interaction with major stakeholders in Indian fisheries and on selected case studies from across 10 Indian states; also on a closer examination of India's submissions to the WTO.

What follows is an edited and abridged version of some sections of the paper.

Issues arising out of the debate

A. Subsidies or property rights – what is the principal cause of marine fisheries' problems?

The “Open Access” nature of most of the world's marine fisheries is generally cited as one of the two major causes of overcapitalization of the fishing industry, and therefore



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of over-fishing (the other cause being the massive state subsidies to the fishing industry). Subsidies bring down the total cost of production, encouraging further exploitation of the resource.

Overcapacity is inevitable in an open access fishery – subsidies merely exacerbate the problem.

Obviously, the problem of overcapitalization can't be resolved satisfactorily without limiting entry into marine fisheries and in most cases providing some property rights — or more precisely, exclusive use rights to producers. Ending the open access nature of the fishery would mean that producers would no longer be competing for a share of the resource, but would have an incentive to practice more responsible fishing.

A few countries – notably New Zealand, Australia, Canada, and Iceland – have introduced Individual Tradable Quotas (ITQs) into some of their fisheries.

Do some fisheries subsidies contribute to fishing fleet over-capacity?

Natural resource subsidies are classified into three following broad categories (Porter, 1998):

- (i) ***Direct subsidies*** : These are given through direct government financial transfers, which are expressed in the budgetary outlays.

- (ii) ***Indirect subsidies*** : These subsidies are provided through control of trade in certain natural resource sectors like forests, water and agriculture.

- (iii) ***Implicit subsidies*** due to government inaction or inadequate action.

This third form of natural resource subsidy occurs when, for example, a government permits private businesses to remove a natural resource from the public domain at little or no cost to the producer. Result: the government lets private companies rather than the government or the public to benefit from rent on natural resources.

The efficient allocation of natural resources requires that their prices should account for three distinct components of cost: (i) the direct cost of extraction/ harvesting the resource (ii) the cost of benefits foregone by society by consuming the resource rather than leaving it for future consumption, and (iii) the cost of any environmental externality associated with its extraction and use.

Failure to apply the “User Pays Principle” leads to prices that do not reflect the full social costs of the natural resource, thus creating room for potentially serious market distortions and environmental effects.

Can well-managed fisheries avoid or minimize the problem of over-

fishing, even if the fishing fleets are subsidized?

In theory, the answer to this question is yes, but ground realities militate against the pinning of hopes on ‘well-managed’ fisheries. Porter (2002) argues that very few fisheries management systems have demonstrated the ability to keep catches below levels that put pressure on the stocks. “It would be unwise to base international policy towards the fisheries subsidies regime on the theoretical proposition that well-managed fisheries can neutralize the negative impacts of subsidies.”

Do some fisheries subsidies contribute to reducing overcapacity?

This question assumes importance because it deals with one of the largest categories of financial support to the marine fishing industry. In theory subsidies to reduce capacity, say by retiring vessels, licenses or fishermen, could lead to capacity reduction, but the ground realities and experiences of many major fishing nations indicate otherwise. These programs face difficulties in achieving their targets specifically in fisheries where the “overall incentive structure encourages the race for fish (Porter, 2002).”

The problem of subsidies therefore has also to be tackled simultaneously with the issue of property rights in marine fisheries for a permanent solution to the problems of marine fisheries.

Trade versus environment

The current debate on fisheries subsidies seems to downplay the trade- distorting effect of these subsidies and over-emphasize their environmental effects. Given that the environmental concerns are serious in that the world's marine fisheries are in a state of crisis, this should not deflect attention from two important facts (i) the global trade in fish and fish products is heavily distorted; (ii) not all marine fisheries are over-fished, with some



fisheries in developing countries actually under-exploited.

How to handle the problem of fisheries subsidies?

Porter (1998) suggests that the international community can handle the problem of fisheries subsidies in one of three broad ways: (i) It can negotiate a protocol on fisheries subsidies within the framework of an existing multilateral environmental agreement like the Convention on Biological Diversity (CBD) or the Convention on Straddling Fish Stocks and Highly Migratory Fish Stocks; (ii) It can negotiate a new stand-alone agreement on fisheries subsidies or on the broader question of fishing overcapacity; and (iii) It can deal with the issue within the framework of the global trade regime referred to as the ASCM.

What are the broad issues for India?

The broad issues that face India in the context of the debate on fisheries subsidies can be summed up as follows:

1. Can we take care of our fisheries concerns within the ASCM framework for subsidies, with minor modifications on account of the sector-specific characteristics of fisheries?
2. If the global debate over fisheries subsidies goes beyond the earlier ASCM framework for direct and indirect financial transfers, and encompasses government services, government inaction or inadequate action, can India redefine, recast or even modify fisheries subsidies and convert this challenge into opportunity to set the domestic fisheries management system in order?
3. At the same time, can India lead natural-resource-rich developing countries in protecting the interests of their fisherfolk? (e.g., by highlighting anomalies in fisheries sector property rights between developed and developing countries?)
4. India has entered into a number of international agreements and



conventions to preserve biodiversity and the environment and to follow responsible fisheries practices. Can India use this opportunity to operationalize some of these agreements and conventions?

5. Can India use this opportunity to link subsidies to the global competitiveness (in terms of both price and quality) of her fisheries products using the tools of domestic resource cost ratio and property rights? This will sensitize

Category III and IV Subsidies

Category	Subsidy Type	Effects on Industry Profit	Some examples of such subsidies
III	Government non-financial interventions and regulations	Possible negative effects in the short-term, but positive effects on industry profit in the long run.	<ul style="list-style-type: none"> • Hatchery and fish habitat programs • Environmental regulations • Enhancement of the fisheries community environment • Technology transfers • Protection of marine areas • Gear regulations (e.g. TEDs) • Food safety and hygiene regulations • Environment protection programs, chemical and drugs regulations • Production and feed quota schemes in aquaculture • License requirements for fish farming • Veterinary surveillance requirements for aquaculture
IV	Government inaction, inadequate action or inappropriate action	Allows producers to impose in the short run or the long run certain costs of production on others – this includes the environment and natural resources. This has an effect on industry profits.	<ul style="list-style-type: none"> • Free access to fishing grounds • Lack of pollution control • Lack of management measures • Non-implementation of existing regulations • Free or below market price resource access • Lack of implementation of fish quality standards • Fisheries registration fees not collected • Non-enforcement of existing regulations • No requirement of certificate of competence or fisherman’s license • Use of free public services, e.g. water; sewerage services, for fishers, etc.

Source: Adapted from Westlund (2002).

stakeholders, especially commercial enterprises engaged in processing and exports.

Fisheries subsidies –reporting mechanisms and subsidy figures

The WTO mandates members to notify all subsidy programs (as defined by the WTO, which follows the ASCM definition of a subsidy). But the WTO register records fewer subsidies than APEC and OECD studies.

There are two reasons. (1) The WTO follows a narrow definition of a subsidy, defined by the ASCM, whereas OECD and APEC follow broader definitions. (2) Even programs that meet ASCM criteria for a subsidy are not being reported to the WTO. In fact, Schorr and Cripps (2001) estimated that WTO members were reporting fewer than 10 percent of their fishing subsidies.

The WTO reporting mechanism for fisheries subsidies is thus like a leaky colander – it allows much more to escape than it retains! In fact, the only thing that is certain about the official numbers for fisheries subsidies is that they are grossly inadequate – they capture at best a small fraction of the subsidies actually conferred.

For all countries, there is a large difference in subsidization as per the ASCM and FAO definitions. In several cases, countries reported no subsidies under the ASCM definition, but sometimes large amounts of subsidies under the FAO definition. For developing countries, subsidies as per the FAO definition exceeded ASCM-defined subsidies by \$924.7 million. For developed countries, the comparable figure was \$5 886.0 million.

Towards an operational framework to address FAO Category III and Category IV subsidies

The FAO definition of a subsidy explicitly recognizes the effects on industry profits of ‘Government non-financial interventions and regulations’ and ‘Government inaction or inadequate action’.

International strategies for negotiations

Problem	Strategy
Failure to address property rights problems and focus only on subsidies will not solve problems that afflict marine fisheries. It will only result only in harsh curbs on subsidies	Continuously highlight importance of property rights. Urge greater emphasis on research into allocation of property rights over open seas.
“Traffic light” approach to subsidy discipline will allow travesty of “Green Box” to continue	Oppose Green/Blue Box category of exempt fisheries subsidies, based on faulty assumptions of market structure — especially in the light of subsidies meant to reduce over-capacity which have failed.
Unequal structural features of countries may be perpetuated by AMS style cap	Argue for adoption of comprehensive FAO definition to bring out unequal structural features. Go for tradable permits to prevent lock-in effects.
Linking of trade and environment issues will make trade even less free and fair, given tendency of developed countries to use NTBs like TEDs.	Argue against bad theory of using one instrument (subsidy) to address two policy objectives (trade and environment). Devote energies to creating a new policy instrument for environmental issues that is delinked from trade.
Concern that climate of debate will not permit stock-specific characteristics from moderating disciplines	Many of the world’s marine fisheries are still under-exploited e.g. India’s. So disciplines must take into account the status of stock exploitation.
Concern regarding conspiracy of silence on aquaculture - important for much of the developing world	India has substantial interest in inland fisheries both for nutritional security and trade. Must be more transparent on subsidies given to inland fisheries.
Definition of fisheries subsidy must be theoretically superior and all inclusive to address all sectoral problems / distortions	Argue for adoption of FAO’s most comprehensive definition - work towards operationalizing categories III and IV to overcome opposition to definition
Poor quality of subsidy notifications and lack of transparency which rewards the guilty and penalizes the innocent.	India should lead by example by offering a comprehensive list of all domestic subsidies offered to morally induce data flow from other countries

The box on pre-page shows these categories of subsidies, their possible effects on industry profits and how they arise.

IV. India’s strategies for domestic reform & international negotiations

A. Domestic strategies:

On the domestic front, India’s fisheries sector is unfortunately a victim to large-scale negative implicit subsidies on account of inaction and inadequate action by various authorities. These reduce the already meager support the sector receives. The sector is rife with property rights problems, making it difficult for the Coasian value maximization process to continue unhindered.

B. International strategies

On the international front, India has to actively ensure that its special interests on account of the peculiar stylized features of its fisheries are not compromised. Box above highlights some problems and strategies for India to address those problems.

If these points are addressed in a holistic manner, taking care to follow all the principles of Coasian value maximization, they can usher in an era of prosperity for a country blessed with a vast fisheries resource, but an incomplete and obsolete property rights framework.