

[PRIMER]

On IUUF and WTO Elimination of Subsidies



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WTO should pivot its attention to China's imperialist plunder of global fisheries and marine resources, before implicating the small fisherfolk in semi-feudal and semi-colonial societies with their ambition to fully liberalizing the global fishery sector.

Fernando Hicap
PAMALAKAYA (Philippines)

A fisherman in Oton town in Iloilo province prepares to fold his net after collecting the day's catch, May 2015.



To most marginalized economic sectors, subsidies are lifelines. Altering or removing these subsidies altogether is thus an issue of survival. Most recently, fisherfolks all over the globe, who are among the poorest and most marginalized of the population, are facing the threat of subsidy removal by a new WTO agreement. The new rules are premised on curbing overfishing and so-called IUUF.

This primer is made to guide Pamalakaya organizers and members, PCFS members, APRN network, all fisherfolks, and fishing rights advocates, in explaining and clarifying the implications of the fisheries subsidies agenda of the WTO to sustainable small-scale and artisanal fishing.

The Agreement on Fisheries Subsidies (AFS) was one of the main agenda of the MC12 which was supposed to be held in Geneva, Switzerland last November 30 to December 03, 2021. Due to renewed lockdown measures in Europe precipitated by another surge of Covid-19 Omicron variant cases, the MC12 was postponed. Early in 2022, the WTO decided to pursue the MC12 on June 12 to 15 in Geneva, Switzerland. The key agenda includes: (1) Pandemic response; (2) WTO reforms; (3) Fisheries subsidies; and (4) Agriculture. It is, therefore, imperative that the implications of the AFS to small-scale and artisanal fishers of the world are explained from their perspective. •



List of Abbreviations and Acronyms

AFS	Agreement on Fisheries Subsidies
EEZ	Exclusive Economic Zones
ICFA	International Coalition of Fisheries Association
IPOA	International Plan of Action To Prevent, Deter, and Eliminate IUUF
IUUF	illegal, unreported and unregulated fishing
LDC	Less Developed Countries
MC	Ministerial Conference
MDG	Millennium Development Goals
MPA	Marine Protected Area
MT	metric tonnes
PLA	People's Liberation Army (of PRC)
R and D	research and development
SDG	Sustainable Development Goals
SSF	small-scale fishers
UN	United Nations
UN-FAO	United Nations-Food and Agriculture Organization
US	United States
WTO	World Trade Organization
WW2	World War II

Introduction on IUUF and WTO Elimination of Subsidies

Illegal, unreported and unregulated fishing (IUUF) and overfishing is an all-encompassing global issue. There is no debate about its importance, and small-scale and artisanal fishers are first to assert that it must be addressed judiciously.

The stocks of fish species that are overfished have tripled in the last fifty years, and about 34% of the world's fishing grounds are over-exploited, with 7% depleted while only 6% of the oceans are protected by Marine Protected Areas (MPA).

Small-scale and artisanal fishers experience first hand what the global decline, constriction, exhaustion, and pollution in fishing grounds means. The crisis of sustainability in our oceans and seas is a crisis of small fishers and their livelihoods. They are both the victims and survivors of the changing seas, brought about by IUUF and overfishing. They are at the frontlines of ocean rehabilitation and conservation.

But is eliminating fishing subsidies across all sectors in the global fishing industry the answer to IUUF and overfishing? The WTO and many other trade blocs such as the EU, OECD and TPPA believe that it is, and they have all been aggressively pushing for such measures to deter IUUF and overfishing. But Palau, in solidarity with small-scale and artisanal fishers all over the world, says it is not and vehemently opposes such measures.



The WTO, through its Agreement on Fisheries Subsidies, are bent to impose trade-related measures to force their member-states to join in their crusade against IUUF and overfishing. The negotiated text is proposing to discipline activities that contribute to IUUF and overfishing by establishing a legal framework and trade rules for fishing reduction measures. Within the text are punitive measures to discipline member states to comply and adopt the measures within their jurisdiction.

The problem is that the UN and the WTO are addressing the issue using a framework that is so narrow and biased against small-scale and artisanal fishers. They mainly focus on the supply side of the concern and heavily rely on disciplinary and punitive measures that tend to zero in on millions of small-scale and artisanal fishers. Without a doubt, such punitive measures will be highly damaging to small-scale and artisanal fishers but will not put an end to IUUF and overfishing. As it is, there remains huge carve outs in the text that tend to spare big fishing monopolies which are actually liable for overfishing.

To analyze the issue from a wider and deeper perspective, it must be asserted that fish stock collapse and overfishing are not simply a matter of illegal, unreported, and unregulated fishing. It is also not simply a matter of fishing in excess of the reproduction rate of fish stocks. In fact, these defining elements of IUUF and overfishing are only its manifestation and effects. They are not its causes; and the failure of the UN and WTO to go beyond those is what makes their framework in addressing

IUUF and overfishing narrow and, it must be added, shallow.

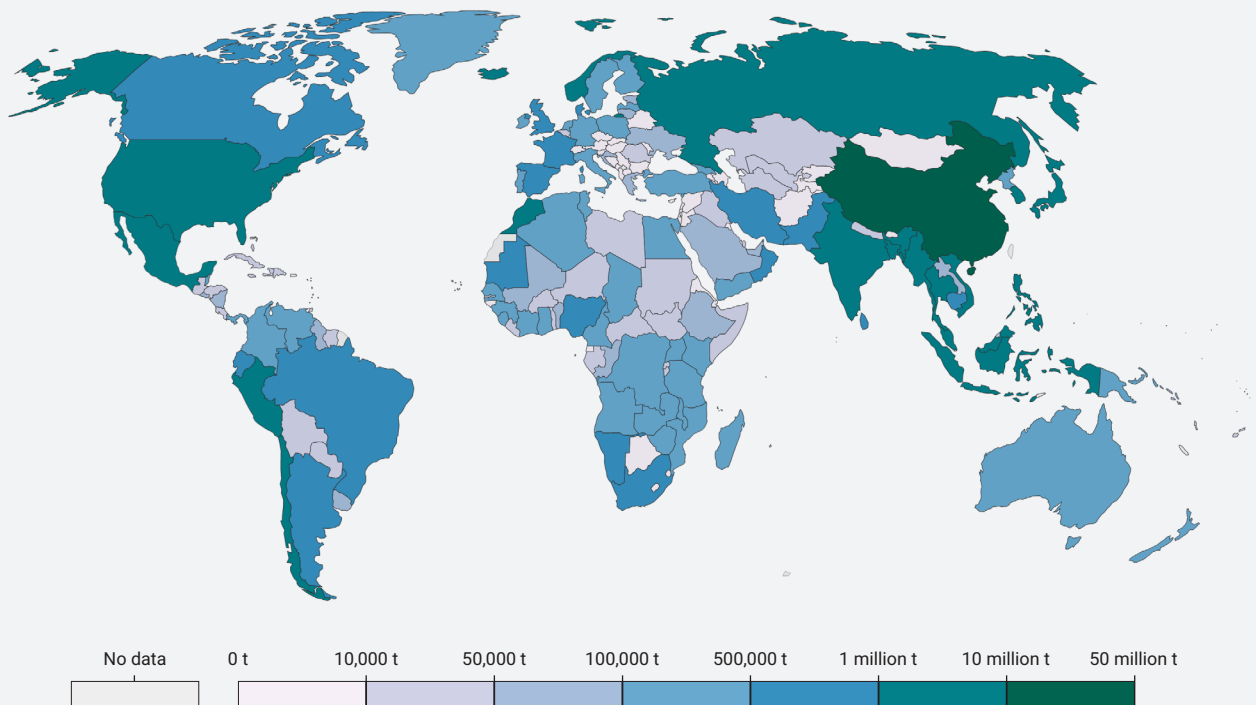
Since the 1970s, overfishing has been foremost driven by a global market that kept on expanding, even in the face of depleting fish stocks of certain species. This expansionist market exacerbated overfishing even more when the WTO was established in 1995, bringing down market barriers to global fish trade. The denationalization of fishing grounds that came with WTO drove fishing to unprecedented expansion, moving fleets from depleted areas to new or underfished fishing grounds.

In a word, IUUF and overfishing are primarily borne out from the current neoliberal trade and production models. This includes the gamut of fish production orientation, value chains that channel the traffic of fish products from low income countries to high income countries, tariff regimes and market without restraints that animate unhampered expansion, unequal access to fishing grounds, one-sided control of cutting-edge fishing technology, the bias of resource management regulations that favor big fishing companies at the expense of small-scale and artisanal fishing, and the uneven field that pits small-scale and artisanal fishing against big fishing monopolies. As this primer will explain, eliminating fishing subsidies within the framework of the current global production and trade regime of the WTO will not dent IUUF and overfishing one bit.

Small-scale and artisanal fishing is largely traditional. It is traditional not only in terms of

Capture fishery production, 2018

Capture (wild) fishery production does not include seafood produced from fish farming (aquaculture).



SOURCE: Food and Agriculture Organization of the United Nations (via World Bank)

OurWorldInData.org/seafood-production • CC BY

fishing methods, but also in terms of their end-product recipient. Small-scale and artisanal fishers fish for home consumption and serve the small markets of communities. Their catch drives the content of the market, not the other way around. This character acts as a self-regulatory mechanism and contributes to sustainability of fishing grounds, as well as ensuring local food security. Their access rights to the sea is, in a sense, akin to the hunting grounds of indigenous peoples.

Thus, framing their access and rights to the fishing grounds must be for the purpose of protecting and enhancing their practices. Rather than cutting off their lifelines that will further marginalize and eliminate them, fisheries rules should upscale the sustainability inherently built-in into their practices. Despite supposed exclusion of small fishers in the agreement, the current text is set to further push small fishers backward and denationalize what's left of fishing grounds in the Global South. •



01

The state of the global fisheries sector

The global fishing industry has vastly changed compared to five decades ago. It is now four times bigger than it was in the 1960s. This growth is driven mainly by the increase in fish consumption, introduction of aquaculture, and the expansion of industrial-commercial fishing. Consumption has grown by a rate of 3.1% since 1961 while production has tripled from 56 million MT in 1969 to 179.5 million MT in 2018. Global fishing is now a \$401 billion industry and occupies a key link in the global food value chain.

In short, global fishing industry has boomed and grown exponentially in the past decades. And like other industries that have grown under globalization, it is now led by huge transnational corporations. Yet, these corporations only represent 15% of the global fishing industry. Small-scale and artisanal fishing, despite being pressed from every corner, still constitutes about 85% of the industry. However, with their advanced technology and big fishing vessels, commercial or corporatized fishing accounts for 75% of the global fish production and the exploitation of the world's marine resources. •

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- fisherfolk, gear and vessel registration from LGU
- all respondents do not belong to any FA
- FAO 204 (use of superlights in fishing)

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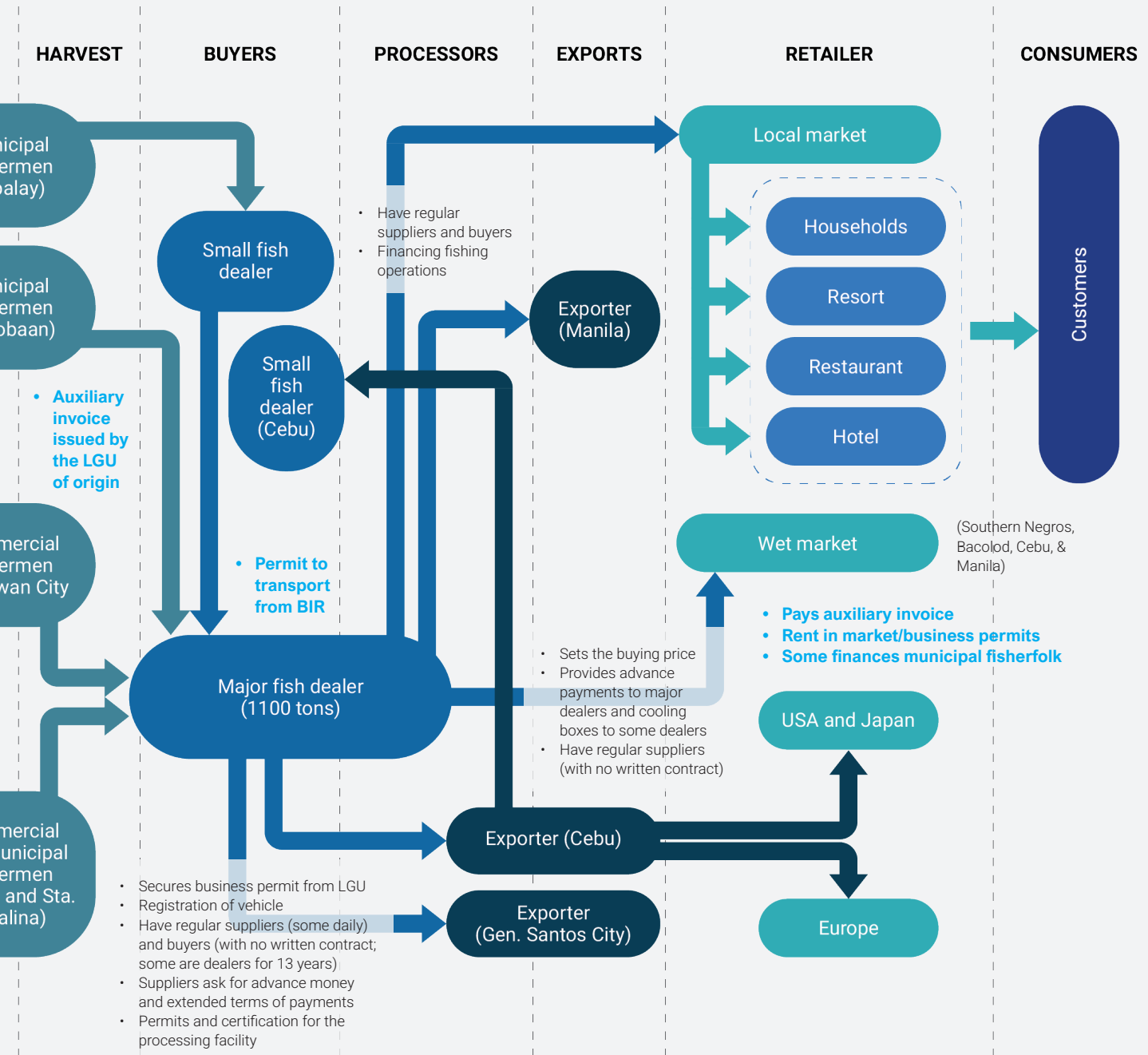
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• **Auxiliary invoice issued by the LGU of origin**

- vessel registration from MARINA
- CFV and gear license from BFAR
- fish worker registration at LGU and BFAR
- membership in MABATI (inactive)
- CFV owner provides credit/cash advance to crew

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Value Chain Analysis for Yellow Fin Tuna in Southern Negros



This illustrates how the yellow fin tuna produced in one part of the globe ends up in the big markets in the US, Japan, and Europe.

Courtesy of Rina Maria Rosales and Robert Pomeroy, et. al., Value chain analysis and small-scale fisheries management, September 2017.



02

The production trend in the global fishing industry

As mentioned above, fish production has grown dramatically in the past decades, and more so in the past few years.

Of the 179.5 million MT produced in 2018, 96.4 million MT was produced by capture fishing while aquaculture produced 82.1 million MT. But aquaculture is fast catching up with capture fishing. From 1960 to 2018, aquaculture production grew by 527% against the mere 14% growth of capture fishing. Aquaculture now accounts for 52% of the fish consumed globally.

In 2019, due to the institution of temporary fishing reduction measures, global fish production declined by about 4%. These are designed to “reboot” the industry, to refresh marine resources for future enhanced harvest.

Asian countries dominate aquaculture, accounting for 89% contribution to global production. China, India, Indonesia, Vietnam, and Bangladesh top the list as key Asian players in this industry. In capture fishing, the biggest producers are China, Peru, Indonesia, the Russian Federation, US, India, Vietnam, Japan, Norway, and Chile. These countries account for 58% of global production.

The global fishing industry employs some 50.9 million people, of which 20.5 million is in aquaculture while 30 million is in capture fishing. •

03

The class relations in the global fishing industry:

trade pattern in global fish production, its transformation from home consumption to export-oriented industry, development of productive forces and the emergence of fishing monopolies

The global fishing industry today is characterized by the most unequal relations between the developed countries and LDCs and resource-poor countries.

This inequality is reflected in the developed countries' domination of the global market, their unrestrained access to fishing grounds, and control of the value chain. It is a relationship that channels the fish products and profits from the LDCs and resource-poor countries to the markets and pockets of developed countries.

This inequality is further reinforced by unequal rules of the WTO and regional trade blocs such as EU, ASEAN Common Market and the TPPA. In turn, this disparity is replicated at the level of the national economies of LDCs, where

industrial and commercial fishing lord over small-scale and artisanal fishing.

Before WW2, the volume of global fish trade was understandably low. Fish production of most national economies was mainly geared toward supplying their domestic market, and it was through such orientation that countries drew their food security and fish-sourced protein. But under the WTO regime, protection for domestic producers were eliminated. Liberalization policies broke down tariff walls and legally opened LDC waters to plunder, resulting in fish products becoming a highly tradable commodity. This drove the global fishing industry to increase production to make the most profits out of an expanding global market for fish products. Currently, the



only measure that regulates the flow of fish products in the global market are the non-tariff barriers of quality and safety standards of the WTO.

These new standards favored developed countries and disadvantaged many LDC and developing countries, since most of the latter do not have the infrastructure for implementing quality and safety standards. Nevertheless, the tariff regime of the WTO succeeded in turning global fish production into a predominantly export-oriented business.

In 2018, of the 179.5 million MT produced, 67 million MT were traded internationally. Introduction of “flags of convenience” where companies from rich countries operate fishing vessels in LDCs gave rise to the phenomenon of developing countries exporting their fish products from their own waters. This distorts the supply chain of their domestic market that primarily affects small-scale and artisanal fishers. It resulted in turning many LDC and developing countries that were once fish self-reliant into net importers of fish products that they also produced. For example, the Philippines exports galunggong round scad) to China, Vietnam, and Taiwan. These are the very same countries that are directly engaged in massive poaching activities in the Philippine waters.

Starting in the 1990s, the trade pattern in fish products is dominated by the big markets of the US, China, Japan, Europe (Spain, Italy, France, Germany, Sweden, and Netherlands), South Korea, and the Middle East.



The Chinese fishing fleet in action off the coast of North Korea. Fishing at night with their transponders off, these fishing vessels are illegally fishing for squid. Photo courtesy of [globalfishingwatch](#), 07/22/2020.

This trade pattern has pushed coastal countries to a race to the ocean, building their fishing fleets and sending them to the furthest end of the seven seas to scour the world’s richest fishing grounds. Most of them are Asian countries such as China, Indonesia, India, Thailand, Vietnam, South Korea and Taiwan. They heavily subsidized the expansion of their fishing fleets that, in just about a decade after the WTO was established, these countries overtook Japan and the old European powerhouses in deep sea fishing in terms fishing fleet size.



WTO is an instrument of imperialism... This [WO fisheries subsidies], offers bigger opportunity for imperialists corporate to monopolize the sea resources especially in the fishery sector.

Pengki

Alliansi Gerakan Reforma Agraria (Indonesia)

Countries with the biggest fishing fleet (as of 2018)

Note: India, Vietnam and Thailand should be in the list. But they have no data for 2018. In 2017, Vietnam had 109,586 fishing boats while Thailand had 25,231 boats in 2015. India has no data whatsoever. Source: OECD Stat, 2018.

COUNTRY	SIZE OF FISHING FLEET
Indonesia	719,769
China	682,416
Japan	230,504
Mexico	77,483
South Korea	65,906
Taiwan	21,906
Canada	18,430
Turkey	15,352
Greece	14,934



Top 10 fishing monopolies

Note: There is no Chinese fishing company in the top ten biggest fishing monopolies because Chinese fishing operation is under the People's Armed Force Maritime Militia. This makes their fishing fleet a para-military force and, in fact, they are armed ships. Source: Derek Grossman, A Short History of China's Fishing Militia and What It May Tell Us, 04/06/2020.

While the race to the ocean created new big players that are mostly Asian, the top monopoly contenders for production and market domination basically remains the same. It remains dominated by Japan, US and Norway, with only Thailand and South Korea as new entrants.

These monopolies combine capture fishing and fish farming, from production to distribution. For capture fishing, they have fishing fleets that dwarf the navies of many developing countries. A number of their fleets are also specialty ships or ships that are tailor-made for specific fish species in specific seas or oceans. For example, they have ships that are specifically designed

COMPANY	COUNTRY
Maruha Nichiro	Japan
Nippon Suisan Kaisha	Japan
Thai Union Group	Thailand
Mowi	Norway
Mitsubishi Corporation	Japan
Dong Won Enterprise	South Korea
Red Chamber Group	US
Skretting	Netherlands
Trident Seafoods	US
Austevoll	Norway

for fishing grounds where cods are abundant. This inevitably resulted to concentrated fishing of cods and their rapid depletion.

These fleets are registered in multiple jurisdictions where they exert influence as automatic members of regional resource management councils as against the nominal or zero representation of small-scale and artisanal fishers in local councils. This scheme enables them to enjoy multiple subsidies, making it hard to trace its extent. They enjoy home subsidies as well as incentives and privileges akin to subsidies from the coastal countries where they are registered and operate. Moreover, this enables them to skirt around issues of

territoriality. They can fish anywhere, including in the EEZs of coastal countries, encroaching on the traditional or communal fishing grounds of indigenous peoples such as the Inuits of Alaska and the aboriginal tribes in Oceania.

Apart from their influence over regional resource management areas, they have consolidated their lobbying power by associating into “the voice for the industry”, the ICFA or the International Coalition of Fisheries Association. The ICFA has an observer status and holds sway in the policy floors like the UN, WTO, EU and other regional trade blocs. Their association acts as an adviser to these international trade forums, recommending policies and programs for the global fishing industry.

With their cutting-edge digitalized operation, these monopolies know where to find fish abundance, and can detect the fish composition of schools. This alone gives them huge advantage over small-scale and artisanal fishers. They can also fish over extended periods (often in three to five months) in “ungoverned spaces” all over the globe. These parts of international waters are where there are no MPAs or where regulations are unenforceable. They also have their own ports where they can escape “on-port” state measures to determine IUUF and overfishing.

But what sets these fishing monopolies apart from the rest is not so much their long ocean reach, but the integration and linkages of their operation. They have interlinked their fish capture operation with on-board manufacture and fish processing. This integration includes storage and refrigeration, packaging,

distribution, logistics, and shipping. They do not only catch fish, they also produce a wide variety of derivative fish products such as canned fish, fish oil, fish meal, fillets, fish-based junk food, noodle ingredients and additives, and animal feeds. Their fish oil, fillets, fish-based ingredients and additives linked their capture fishing to a global network of food manufacturers and fast food chains like McDonald’s and KFC. Their animal feeds then linked their operation to aquaculture, mariculture, and animal husbandry as supplier of inputs, as markets of fish and meat products, or as direct investors.

As with many TNCs, their operations are compartmentalized into subsidiaries and affiliates which they locate in different parts of the world, with each subsidiary having the protection of corporate veil. For example, Mitsubishi Corporation deploys its industrial fishing fleet in the Indian Ocean and Africa, with its principal base in Mauritius. Its African fleet specializes in catching tuna which are transported to Great Britain for fish processing by its British subsidiary, the Princes Group which is itself a giant in food manufacturing (this group had undertaken 22 mergers since 1989). Mitsubishi has also established fish farming subsidiaries in Norway, Chile and Canada, corporately known as the Cermaq Group. Because of EU conventions against overfishing, Cermaq is engaged in salmon farming in Europe but practices salmon capture fishing in Chile and Canada. For marketing, Mitsubishi Corporation has affiliated with the fish wholesaler Toyo Reizu. These three companies are only a part of its 1,400 subsidiaries located in 90 countries.

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The political economic interests play out very clearly and very consistently within these [WTO Fisheries Subsidies] talks. This [fisheries subsidies is an area that WTO has no expertise on... So that's a key issue.

Adam Wolfenden

Pacific Network on Globalization (Fiji)



Swarming Chinese fishing ships encroaching on the EEZ of the Philippines, spotted on August 16, 2020. Photo courtesy of Getty Images, 03/21/2021

With their monopoly of advanced fishing technology and access to vast resources, they set the terms by which IUUF and overfishing are defined. In some cases, small island developing countries and regional resource management councils tolerate the illegal fishing of big industrial fishing companies because they provide employment to local fish workers as well as a steady source of tax. Moreover, big industrial fishing companies dominate fisheries management systems that are approved by international conservation bodies, which they are a part of, or by their own interest group association. With their own fisheries management system, advanced fishing technology and huge storage

capacity, big industrial fishing companies are not held liable for unreported or unregulated fishing even if they had exhausted the fish stocks in certain fishing grounds. Since they have their own fish ports, most get certified without actual inspection. In other cases, industrial fishing methods that use “sea lawnmowers” or haul entire school of fishes are allowed or tolerated because they are deemed efficient. This method has been responsible for the tuna decimation in the Indian Ocean and caused high volumes of unwanted catch. As captains of the industry, these monopolies get to play the judge, jury, and executioner in the sea. •



The Lafayette, reputedly the world's biggest fish factory at sea. The ship is attended by six supertrawlers that supply the ship with fish to process. Its supertrawlers fish mainly in the world's major oceans, escaping surveillance and monitoring. The ship does not leave water because it is supported by supplier and load transferring ships. This photo is a capture of the tracking made by Greenpeace.

04

The role of fishing subsidies in the development of productive forces in global fishing industry and in causing IUUF/overfishing and the widening inequality between fishing monopolies and small-scale and artisanal fishers

In the first three subheadings, this primer has established that increases in global capture fish production were driven by the unrestrained market expansion starting in the 1950s until it plateaued when the WTO pushed for globalization. Market expansion continued even when production growth in global capture fishing slowed down in the 1990s to 2010s. Both production and market expansion in this period was corporate and technology-driven, a period that corresponded to the most intense and great leaps in the development of the productive forces in fishing.

Advances in electronic and digital technology were leveraged to build bigger and all-weather ships, accurate weather forecasters, improved ocean scanners and fish finders, more efficient capturing equipment and more skilled crews. Advances on the internet, data processing and communication technology also helped in developing command and control of fishing fleet operations. Trawlers can now go far into the deep without getting lost from their skipper ship.



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The rights of small-scale fisheries should be at the center of policies and regulations regarding natural water bodies and to promote the rights and livelihood of fisherfolks.

Gershom Kabaso
Zambia Social Forum

Some fishermen in Tacloban City fix their nets outside their homes a year after Typhoon Haiyan ravaged the Eastern Visayas region, November 2014.

All this development summed up the transformation of fishing in developed countries into an industry enormously backed by technological advances while the fishing technology in LDCs and resource-poor countries remained rudimentary.

In the developed countries, fishing is no longer an economic activity dependent on weather and good luck. It has become far-reaching, with the capability to fish far and wide and to fish deep. Such transformation was made possible because of the huge subsidies that rich governments poured into the industry. A study made in 2016 reported that \$35 billion a year in subsidies have been poured into the

industry since 1995. Of this amount, some \$21.4 billion goes to capacity enhancement programs such as building ports and harbors, fleet modernization, management, and fuel subsidies. These are programs that easily led to overfishing. Another study reported that of the total annual subsidies, \$13.2 billion goes to large-scale fishing while only \$2.2 billion goes to small-scale fishing.

Playing a key role in the transformation of the industry into a science-backed business is research and development. R and D in the developed countries get \$2.71 billion a year in subsidies compared to the R and D subsidies in LDCs and resource-poor countries which are next



to nothing. This is a conservative estimate since many researches that start off as other disciplines also benefit fishing, such as reasearch on military technology which were later applied to fishing like sonar and drone technology, and big data.

Moreover, growing interests in resource management and conservation efforts have motivated many academic institutions and independent researchers to study fishing, coastal ecology and related issues. These researches do not always come within the purview of subsidized research and are outside the scope of the Agreement on Fisheries Subsidies (AFS).

Yet, it is through R and D that the big players are able to keep their competitive edge over LDCs and resource-poor countries.

Lagging behind in technological development, LDCs and resource-poor countries are forced to open their EEZs and fishing grounds to the big players and fishing monopolies. This perpetuates the inequity among them and between the big fishing monopolies and small-scale fishers. The table below shows that most of those in the top ten fishing subsidizers also figure in the top ten fish producers and the top ten with the biggest fishing fleet. •

The top 10 big subsidizers in the global fishing industry in 2020

COUNTRY	AMOUNT OF SUBSIDY (IN BILLION USD)
China	5.9
Japan	2.1
Korea	1.5
Russia	1.2
USA	1.1
Thailand	1.1
Taiwan	0.7
Spain	0.7
Indonesia	0.6
Norway	0.5

Source: Oceana, 2021

05

Global fish production, WTO and the Malthusian doomsayers in fishing

Coming from low production levels during the WW2 years, global capture fishing production actually started to increase in the two decades as most naval assets of the warring countries were converted into fishing fleets. Detection technology that was previously used in submarine warfare, such as sonar, also became widely used in fish finding. It was also in this period that the use of trawl fishing spread across the globe from Europe, US, and Japan. These developments and their continuing innovation industrialized the fishing industry and turned it into a highly commercialized venture so that global capture fishing grew at an average pace of 6% from 1950 to 1970.

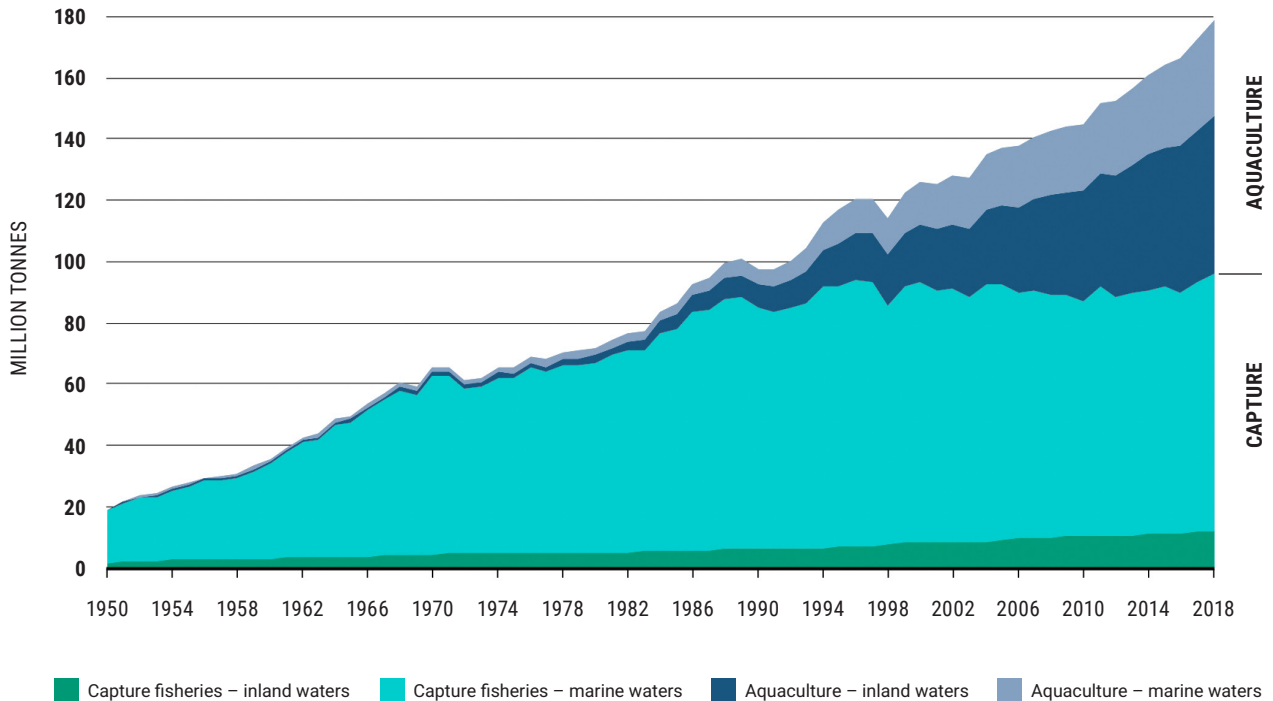
When the WTO regime of “no-tariffs” to fish products was established in the 1990s, global capture fishing production already slowed down and leveled off at 2%. UN-FAO experts attributed this slow down to the presumption that “most of the world’s fishing areas have already reached their maximum potential”. This would have been an occasion for the WTO to

exercise caution and heed broad concerns about food security as well as fisherfolk demands to exclude the fishing industry from its tariffication regime. Instead, the WTO seized on this raw presumption to introduce in the Doha Round in 2001. The proposal was to include in its Agreement on Subsidies and Countervailing Measures disciplinary schemes the fishing practices that accordingly cause “trade distortion and environmental damage”.

Meanwhile, industry leaders, especially those of Asia, with their eyes set on the expanding global market, started to turn inwards. Aquaculture emerged as a contending supplementary industry in fish production. It is this developing industry which drove increases in global fish production starting in 1994.

In 2006, the slowdown of the global fishing industry became a serious global concern when a team of marine conservation ecologists led by Boris Worm released their study titled “Impacts of Biodiversity Loss on Ocean Ecosystem Services”. It concluded that, at the rate in which

World Capture Fisheries and Aquaculture Production



Excludes aquatic mammals, crocodiles, alligators and caimans, seaweeds and other aquatic plants.

SOURCE: FAO

the oceans had been exploited, “the world’s oceans would be emptied of fishes by 2048”.

This conclusion catapulted the concept of overfishing into the mainstream. Although it was later debunked by many experts, it had the same effect as the Malthusian alarm bells sounded by the Club of Rome in 1972 and later re-echoed by Lester Brown. The theory suggests an imminent collapse of

civilization because the world’s industrial and food production capacity could not catch up with global population growth. It became a clarion call for UN-FAO, regional trading blocs, and many marine resource management area councils to ratchet up demands to regulate fishing, casting the blame for overfishing and IUUF on the lack of an international framework to address the issue. •

06

UN/WTO collaborative efforts in fighting IUUF and overfishing

As early as 1995, as global fish production flattened, UN-FAO already set its eyes on regulating global fishing. In that same year, it organized a conference that adopted a Code of Conduct for Responsible Fisheries. But since the Code was voluntary, its enforcement was nominal as many UN member-states shied away from adopting and implementing it in their respective countries.

The continued slow increase in global capture fishing in the 2000s prompted several regional or localized initiatives to create instruments that address IUUF. Trade blocs like the EU and the OECD and regional resource management councils like the Mediterranean Fisheries Management Area Council began tracking and profiling practices and subsidies they suspected of aiding IUUF and overfishing. They used their huge fish market to pressure other countries to implement anti-IUUF and anti-overfishing measures. They began issuing color-coded warnings to LDCs and resource-poor countries whose anti-IUUF and anti-overfishing measures they found wanting. But it's notable that they turned a blind eye to their partner countries notorious for IUUF and overfishing practices, such as Japan and China.



In 2009, the UN-FAO organized another conference that adopted a more binding instrument, the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. But it was not until the UN launched its SDG 2016-2030, as a sequel to the MDG, that the campaign against overfishing and IUUF became a consolidated global agenda.

The SDG Goal 14.6 called on UN member-states to implement by 2020 measures that would “prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU fishing”. In 2017, upon the recommendation of the UN-FAO, the UN General Assembly resolved to adopt the International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing. To kick off the adopted IPOA, it declared June 5 as “International Day for the Fight Against Illegal, Unreported and Unregulated Fishing”. The IPOA along with the June 5 International Day declaration amounted to proclaiming a global war against small-scale and artisanal fishers.

In parallel moves, the WTO worked its way to pursue what it started in the 2001 Doha Round. In 2005 in Hong Kong, the WTO called for an agreement that would prohibit those types of subsidies that are “enablers” of IUUF and overfishing. Then, in 2017 in its MC11 in Buenos Aires, Argentina, it herded member-states to adopt an agreement in its next ministerial conference and created a working committee tasked to draft an agreement on eliminating fisheries subsidies, invoking the SDG Goal 14.6 of the UN. The output of the drafting committee would have been among the main proposals to be approved in MC12 which was originally scheduled in 2019 in Kazakhstan and was reset to 2021 in Geneva, Switzerland. Though postponed indefinitely, negotiations on the draft’s contentious provisions will continue in January 2022. •

07

The framework of UN/WTO moves to deter IUUF and overfishing by eliminating fishing subsidies:

escalating the war on small-scale and artisanal fishers

Fisherfolks all over the world, especially small-scale and artisanal fishers, should oppose this twin initiative of the UN and WTO to eliminate fishing subsidies in the name of preventing overfishing and IUUF.

Its framework of fighting IUUF and overfishing by using trade-related measures amounts to prohibiting fishing subsidies without necessarily prohibiting IUUF and overfishing. By relying on trade-related measures, the ASF actually bows to the resistance of US, EU, China and Japan to proposals to regulate fishing in the high seas where IUUF and overfishing are perpetrated with impunity. Such a framework is patently biased against LDCs and resource-poor countries whose subsidies for small-scale fishing are nominal and easy to trace.

Consequently, it is also biased to small-scale and artisanal fishers who are easy targets of its punitive measures. In fact, since small-scale and artisanal fishing are largely unreported, the AFS already amounts to a blanket class indictment of small-scale and artisanal fishers.

On the other hand, the AFS is highly favorable to developed countries with industrialized and highly commercialized fishing sectors. They can maintain their huge subsidies under the AFS, enhance or even redesign them to skirt around its anti-IUUF and anti-overfishing measures.

Their subsidy programs are also diversified, and some of them are difficult to trace as support to fishing. If the anti-IUUF and anti-overfishing measures of the AFS are applied to their industrial and commercial fishing companies, they can always shuffle their subsidies to other fishing-related programs, such as promoting aquaculture and mariculture. As with Regional Fisheries Management Organizations, they can hijack the efforts to restocking, conservation, and resource management measures. They can also use their subsidies to buy access to the fishing grounds of LDCs and resource-poor countries which are granted exemption and long grace periods under the AFS. They cannot worry much about their industrial and commercial fishers since they enjoy the protection of corporate veil and have their own



resources and capability to avoid the AFS' anti-IUUF and anti-overfishing measures.

Its framework and sets of anti-IUUF and anti-overfishing measures are designed so that industrial and commercial fishing can have a wide berth of maneuvers for escaping, exemption and exculpation. If interdicted, industrial and commercial fishing can always invoke the AFS provision that allows maintaining the subsidy if it is applied to restocking and conservation activities, an opportunity that small-scale and artisanal cannot have due to lack of resources. If preventing IUUF and overfishing is the intention, the AFS is a scam.

The anti-IUUF and anti-overfishing measures of the AFS are mostly "on-port" or post-harvest measures. They do not prevent IUUF and overfishing before the act is committed but rather apply administrative and punitive measures after the act or when the fishing vessel calls port.

This means that their method for stopping IUUF and overfishing is "confessional" or upon discovery, not through proactive preventive measures. It does not even have a "cease and desist" provision after finding a fishing vessel has committed IUUF and overfishing. This framework renders the entire anti-IUUF and anti-overfishing measures of the AFS ineffectual to industrial and commercial fishers since they have their own ports, and they usually dispose their fish haul directly to their linked markets and processing networks. With their convoy of fishing vessels, they can always make "at-sea transfer" to make it appear that their haul

does not exceed their capacity. Since they are registered in multiple jurisdictions, they can always sail away to friendly coasts and ports.

This will leave small-scale and artisanal fishers as the only class of fishers that will have no escape from the AFS and will be affected the most by its anti-IUUF and anti-overfishing measures. Since they are confined to a bounded fishing ground and fixed landing, they are under local governance which can easily identify, trace and apprehend them.

The AFS could have simply interdicted developed countries with huge capacity enhancement subsidies that contribute to IUUF and overfishing. Or it could have simply mandated them to rechannel those subsidies to conservation measures especially in areas where there are no MPAs or pool these for small-scale and artisanal fishers.

Since the world's overfished seas are identified, it could have limited its anti-IUUF and anti-overfishing measures selectively to these seas coupled by rules-based conservation programs in areas that remain viable for sustainable fishing. To do all this, it should have developed a framework that addresses the interconnection of IUUF and overfishing with global monopolies.

Instead, it chose to deal with IUUF and overfishing by surveiling individual value chains. It attaches the liability for IUUF and overfishing on individual fishing vessels or operators and their support systems. This liability-assigning measure will make it easy for local authorities

to apprehend small-scale and artisanal fishers since they operate singly. But it favors erring big fishing companies with compartmentalized operations, with large fleets which go fishing in multiple jurisdictions and multiple fishing grounds. If a fishing company practices IUUF and overfishing, but only one of its fishing vessels is caught red-handed, it can go on with its IUUF and overfishing activities with just a scratch to worry about.

In fact, the AFS is so deliberately worded so that its anti-IUUF and anti-overfishing measures will not disrupt the entire expanded and complex operations of industrial and commercial fishing but will hurt the most simple and rudimentary operations of small-scale and artisanal fishers.

Although the AFS has a grace period and exemption provisions for LDCs and resource-poor countries, its thrust is to remove these exemptions in the long run. It must therefore be bared for what it is. It continues and aligns itself with the long and sustained but escalating thrust of big fishing monopolies to clear the world's fishing grounds of small-scale and artisanal fishers. Such fishing grounds can become reserve areas for their expansion and continuing plunder of seas. This calibrated thrust, which first came with the rubric of fighting illegal fishing, aimed to cut off, piece by piece and link by link, the nexus of small-scale and artisanal fishers to their means of production and access to fishing grounds that would ultimately put an end to their fishing rights, livelihood, food security, resources, sovereignty, and their very own existence. In

short, to inflict a tortuous slow death to small-scale and artisanal fishing.

This sustained attack on the fishing rights of small-scale and artisanal fishers started in the 1970s with illegalizing their traditional gears and methods of catching fish, limiting them to a few allowable. Then, in the 1990s, it was followed by limiting the size and capacity of their fishing boats and the delineation of their fishing grounds, thus constricting their operative areas for fishing. This was followed by resource management regulations that limited the fishing activities of small-scale and artisanal fishers, such as fishing bans and establishing "no fishing zones" on the pretext of marine conservation.

In the 2000s, with overfishing added to the mix of excuses, measures that forced small-scale and artisanal fishers to submit to registration (both their persons and their boats) were instituted. This paved the way for their criminalization as "illegal fishers" if they failed to register. The result is that small-scale and artisanal fishing has become a highly-regulated livelihood while industrial and commercial fishing is enjoying deregulated and liberalized fishing regimes under which they enjoy the liberty of unrestrained expansion, building bigger fishing vessels, increasing the number of their fishing fleets and of continuing innovation of catch-maximizing fishing technology.

Today, this sustained attack is aiming at the subsidy lifelines of small-scale and artisanal fishers that most probably will deliver the death blow on small-scale and artisanal fishing. •



08

The scope of the anti-IUUF and anti-overfishing measures of the AFS

The AFS thrust of eliminating fishing subsidies to deter IUUF and overfishing will not only cover fishing, but also “fishing-related activities in support of such fishing”. Fishing-related activities are defined in the AFS as “any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping, or transporting of fish that have not been previously landed at port, as well as the provisioning of personnel, fuel, gear, and other supplies at sea”.

Thus, a person or entity which does not do actual fishing but comes within the ambit of “in support of, or in preparation for, fishing”, can be included in the AFS’s punitive measures. If applied to small-scale and artisanal fishers and their support system, this definition leaves nothing standing since these fishers survive on one-dimensional support. For example, most fishing villages have only one or two boat builders. This is similar to the “scorched-earth” tactics in war and to “guilt by association” in penal law. It virtually encompasses every conceivable public and private activities that support small-scale and artisanal fishing. As enumerated in Article 5.1 of the AFS, the elimination of subsidies covers the whole ground of supporting fishing and fishing-related activities, such as:



Subsidies to construction, acquisition, modernization, renovation or upgrading of vessels



Subsidies to at-sea support



Subsidies to the purchase of machines and equipment for vessels (including fishing gear and engine, fish processing machinery, fish-finding technology, refrigerators, or machinery for sorting or cleaning fish)



Subsidies contingent upon, or tied to, actual or anticipated fishing or fishing related activities in areas beyond the subsidizing Member's jurisdiction (whether solely or as one of several other conditions)



Subsidies to the purchase/costs of fuel, ice or bait



Subsidies to costs of personnel, social charges, or insurance



Income support of vessels or operators or workers they employ



Price support of fish caught



Subsidies covering operating losses of vessels or fishing or fishing related activities

As can be seen from the enumeration, the coverage is so broad that it overkills. Apart from inflicting a direct hit on small-scale and artisanal fishing, it will affect a wide range of village livelihoods and employment which amounts to demolishing entire fishing economies and communities. It can include boat building and repair, bait and net making and selling, fuel and maintenance oil retailing, fish marketing and processing, and even insurance companies. Although not specifically mentioned, it can also affect self-help and mutual aid initiatives of small fishing communities such as their *paluwagan* (a form of communal savings and credit fund) and cooperatives which are sources of credit funds for fueling and refueling and for starting fishing-related livelihoods. It can also prohibit NGO and civil society work for small fishing communities. It can even include government support services and social protection programs for fishing supplement livelihood, damages, old age and disability, and lost income due to climate change. •

09

One size for different support/subsidy regimes:

making the uneven seas even more uneven for small-scale and artisanal fishers



Due to their differences in economies of scale, small-scale and artisanal fishing and the industrial-commercial fishing of big monopolies enjoy different sets of state subsidies and support. Since small-scale and artisanal fishing are largely seen as under-productive and uncompetitive, most state support for the sector is in accessing resources and increasing productivity. Examples of this support are micro-financing and small credit facilities, boat and fishing gears distribution, renewal of species stocking, post-harvest facilities and marketing support.

On the other hand, most state programs for industrial and commercial fishing do not come under the term “state subsidies” since these programs are more in the nature of enticing foreign and local investments. What industrial and commercial fishing enjoy are “perks and privileges” which are not essential to fish production but play a significant role in controlling resource areas and market domination. Examples of this type of state programs are investment laws that give industrial and commercial fishing exclusive leasing and exploitation rights over certain areas, special credit windows, tax privileges, exemption from import duties, low or zero

tariffs and freedom of profit repatriation. Moreover, because industrial and commercial fishing operates in multiple jurisdictions, they enjoy these perks and privileges in overlap across several national territories.

An interesting gray area in the AFS is how its anti-IUUF and anti-overfishing provisions can apply to China. Being a command economy, she has transparency problems with regards to her expenditure for state enterprises and support subsidies for the private sector. To be specific, her fishing fleets are paramilitary in character and under the command and control of the PLA and they are all over the world. Their support and subsidies might not come within the category of “support to fishing”. Since its fishing sector is paramilitary in character, her budget for fishing support can be passed off as defense expenditure.

Removing subsidies as a mode for disciplining overfishing and IUUF is thus like implementing a “one-size-fits-all” to different industry players which are under different regimes of state support. It will only pose a grave impact on small-scale and artisanal fishers, but pose little to no effect on industrial and commercial fishing. •

10

Overfishing and the WTO fishing reduction measures

Overfishing is a very complex problem made even more complicated by approaches that are influenced by economic interests rather than marine conservation and ecological science. Its indicators and control approaches vary according to the interest of the main stakeholders of a given territory or resource management structure.

The AFS' anti-IUUF and anti-overfishing measures are more remarkable for what they do not do than what they do. It has been already mentioned that those measures are mostly post-harvest measures, which renders the entire AFS ineffectual to industrial and commercial fishing. It must be added that, while the UN and WTO and the big fishing monopolies agree to regulate the supply side of the problem, they refuse to institute measures that can truly and effectively regulate industrial and commercial fishing.

Among other things, they could have instituted more effective measures such as fleet strength

reduction and downsizing of fishing vessels according to standards based on science-determined conservation objectives, putting a cap on fish haul, prohibiting fishing methods that are tools for overfishing and high volumes of by-catch, putting a stop to exclusive leasing and fishing rights for industrial and commercial fishers (since these exclusive rights give IUUF and overfishing perpetrators private power that places them beyond the pale of effective regulation), attaching the liability on the corporate entity (not vessel-based liability), equalizing access to fishing grounds, and declaring "no fishing zones" based on threats to the entire ecology of a fishing ground, not just threats to the stock of certain fish species. Most importantly, they refuse to use a framework that will reorient the industry toward ensuring global food security and regulate the market, which is the driving force of IUUF and overfishing.

Although the WTO definition of overfishing is stock of species specific, the fishing reduction

measures to resuscitate stock levels are a major point of contention among the developed countries. But whatever fishing reduction measure they can agree on, it will barely affect the big fishing monopolies since they enjoy extraterritorial privileges and can fish anywhere. If a fishing ban is instituted in one place, they can always fish in other areas where the fishing reduction measure is lower or none at all. On the other hand, small-scale and artisanal fishing are bound by the delineation of their fishing grounds, usually limiting them to a legally-imposed distance from the shoreline. This will make any such measure highly discriminatory and disadvantageous to small-scale and artisanal fishers. •

11

IUUF and small-scale and artisanal fishing

The provisions on IUUF can be the most damaging to small-scale and artisanal fishers. Although the intention of the AFS is to use only trade-related measures in order to avoid legal complications in imposing penal sanctions, it at the same time encourages member-states to put more teeth into their anti-IUUF legal framework. In fact, its chapter on IUUF allows for detaining and impounding fishing vessels suspected of committing IUUF and undergoing investigation.

The encouragement could give rise to national and localized legislation that could go beyond trade-related measures, such as blacklisting, perpetual or lifetime cancellation of permit, confiscation of fishing boats and paraphernalias, confiscation of the fish catch, and imposing jail sentences and higher fines on IUU fishers and other persons or entities supporting IUUF. Noticeably, there is nothing in the AFS that prevents member-states from criminalizing IUUF.



But even if member-states would not pass supplementary penal laws, the IUUF, once it becomes part of the lexicon of ordinary people, can stigmatize small-scale and artisanal fishers in much the same way that dynamite fishing stigmatized them in the 1970s although only a few of them used it. In fact, that stigma is beginning to attach to them because of the UN and WTO's loose use of the word "illegal" alongside unreported and unregulated fishing. It gives the impression that small-scale and artisanal fishers are "law violators" even though they are merely living up to a traditional mode of existence that did not require them to report their daily catch, a traditional economy with built-in conservation system but which was demolished by structural changes in the global fishing

industry, most specifically by the emergence of industrial and commercial fishing.

To criminalize IUUF, member-states would have to create the infrastructure for detecting IUUF as well as the mechanism for regulating, reporting and certifying fish catch. Such infrastructure includes a wide array of costly facilities as well as monitoring and surveillance systems, which they have to acquire from developed countries with monopoly control over the required technology. But since many member-states do not have such infrastructure and are resource-poor, it is not far-fetched for them to pass to small-scale and artisanal fishers the bureaucratic burden of reporting their daily fish catch. •

12

The Covid-19 pandemic and small-scale fishers

Small-scale and artisanal fishers are among the hardest hit by the Covid-19 pandemic. The lockdown measures implemented in their communities either shrunk or shut down their small markets. Many of them were scattered into the cities during the pandemic not only to scavenge for odd jobs, but also because the stimulus programs of most governments were concentrated in urban areas. It is estimated that the pandemic took away at least 50-75% of their income.

In the Philippines, the income of small fisherfolk decreased dramatically at the height of the pandemic from PHP 500 (USD 10) to PHP 150-PHP 300 (USD 3-USD 6) per fishing trip.

Decreased income is primarily due to limitation in transporting their fish catch to fishports and trading posts due to strict suspension of transportation for almost half a year. As a result of strict travel restrictions, hundreds of tons of fish and other marine and aquatic products were left unsold. Despite this, fishers' group PAMALAKAYA has recorded only a number of fishing communities that were able to receive government aid three times within three months.

On average, each fishing family only received a subsidy worth P6,500 (USD 130), or an average of P100/day (USD 2) from mid-March to May.

A similar picture has emerged in Indonesia as their small fisherfolk, making up 95% of the sector, saw a dramatic decline in fish prices at the heels of the lockdowns. The spread of the virus and the restrictions have stranded the

over 650,000 small boats they operate. Without subsidies, according to AGRA-Indonesia, fisherfolk had to rely on numerous strategies to circumvent restrictions -- leading to worse crackdowns in some areas.

Worse, 2020 saw the enactment of the highly contested Jobs Creation Act which redefined and deregulated the fishing industry. It had reversed the 2014 ban on foreign fishing boats which had already rehabilitated the depleting fish stocks supply.

In Chile, the sudden halt in fishing activities have meant mounting debt and technical expenses for the small fishers. According to CONAPACH, the government was "indifferent" to the plight of the small fishers and called for subsidies amid the pandemic. The calls fell on deaf ears as subsidies and bailouts did not hit the small fishers' shores. On the other hand, large fleets benefited from the bailouts as enterprises.

Like other economic sectors, they need massive government support to help them economically recover and bring back their lives, families and communities back to normalcy. They need a stimulus package to reboot their livelihood, recover lost income and rebuild their fishing economies. But if the AFS would be approved this year, it can induce governments of member-states to place their meager or borrowed resources to constructing the infrastructure necessary for complying with the anti-IUUF and anti-overfishing measures of the AFS, instead of giving small-scale and artisanal fishers the stimulus package they need. •

Conclusion and Action Calls

Eliminating subsidies to fight IUUF and overfishing actually holds the same promise as the WTO brag in the 1990s that smuggling would be eliminated if the global trade shifted from the quota system to tariff regime. It failed because the tariff regime of the WTO only encouraged monopoly traders to use smarter methods to avoid tariff walls.

People heard that mantra of promises many times before. For example, when the UN promoted marine resource management structures in the 1990s to curb environmental degradation, it promised the rejuvenation of the world's coastal ecosystems. Some thirty years later, that promise could only produce some islets of success amid an ocean of hastened environmental destruction. The promotion of tourism, mining, and other economic activities that put pressure on the environment and ecology reduced many of those structures into useless entities.

However, they succeeded to marginalize even more small-scale and artisanal fishers with their array of management regulations that hit hard on the politically powerless but leaving unscathed the high and mighty of the seas. The same vicious results await the WTO's AFS.

Given the pandemic situation and its post-pandemic scenario, the fisherfolks of the world might not be able to stop the AFS. But they can fight its implementation in their respective countries and local government units, where the arena of struggle will shift after the AFS is approved in the next MC of the WTO.



They should start launching information and mass protest campaigns to bring to the public their analysis of the AFS and gain more support, adherents, and advocates. They should draw an agenda that will serve as counterfoil to the anti-small scale fishing framework of the AFS. They should demand for the non-inclusion of small-scale and artisanal fishers from the AFS and lobby for legislative measures that will strengthen subsidy programs for small-scale and artisanal fishers.

Equally important, they should advance proposals that will truly prevent, deter and eliminate IUUF and overfishing by targeting those big monopolies in industrial and

commercial fishing which are truly responsible for IUUF and overfishing.

Last year, the PAMALAKAYA, PCFS, APRN, IBON International and PANG, held a webinar on WTO's New Waves of Plunder under the Global Peoples Summit on Food Systems (GPS) to expose and oppose the ongoing State of Play in the Fisheries Agreement negotiations. The small fisherfolk and advocates from the Philippines, Indonesia, Sri Lanka, Pakistan, India, Zambia, Chile, Pacific Islands, among others, reprimanded the railroaded negotiations, exposed its pro-corporate text, and mapped out a people-centered policy agenda for the fisheries sector.





Dozens of organizations and hundreds of activists rallied behind the conclusions of the webinar and expressed condemnation towards the WTO. Participants agreed that a people-powered and sustainable fisheries and aquatic resource development paradigm should be adopted. Pivoting towards just, equitable, healthy, and sustainable food systems requires policies that put people's rights, justice, and the planet at the center and not profit. In particular, we demand that policymakers and duty bearers:

- **Uphold Sustainable Fisheries** by giving the small-scale and artisanal fisherfolk sectors around the globe, more and adequate subsidies, in the framework of Social Justice, Right to Food, Right to Work and Equal Remuneration, Right to Adequate Standard of Living, National Food Security, People's Food Sovereignty, Environmental Protection, National Development, and National Sovereignty.
- **Cooperativize the fishery distribution sector and abolish the monopoly control of big traders.**
- **Hold imperialist China, US and other imperialist countries who are engaging in plundering the global fishery and marine resources and destruction of the marine environment, seriously accountable for the crisis in fisheries, as manifested by overfishing indicators.**
- **Cooperativize the small to medium scale commercial fishing vessels** (up to 150 GT), regulate their operations and subsidize them to be able to operate in their respective countries' EEZ and distant waters, in the framework of National Food Security, Food Sovereignty, Environmental Protection and National Development.
- **Respect the Fishing Rights of the small-scale and artisanal fisherfolk in the communal fishing waters**, and protect it from abuse of plunderous and destructive industrial and commercial fishing operations.
- **Revoke the World Trade Organization's Agreement on Agriculture, and abolish the WTO.** Instead, it would be necessary to envision a trade and investment regime founded on principles of sovereignty, people's rights, solidarity, mutual cooperation and benefit, as well as democracy and accountability to the people. The current situation requires a system that serves the needs of working people and small-scale producers, and their right to lead development paths at national level. •

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ON IUUF AND WTO ELIMINATION OF SUBSIDIES

This primer is a product of collaboration involving the National Federation of Small fisherfolks in the Philippines (Pamalakaya), People's Coalition on Food Sovereignty (PCFS) and Asia-Pacific Research Network (APRN). It is part of the campaign to fight for the rights of small producers affected by globalization and its neoliberal policies.

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