

# Reaching Finish Line of WTO Agreement on Fisheries Subsidies: Tough Road Ahead

Mukesh Bhatnagar, Pankhuri Gaur and Ayush Tiwari

## 1. Introduction

Concerns over fisheries subsidies have been significant on the WTO agenda for more than 20 years. At the 1999 Seattle Ministerial Conference, several Members proposed addressing the environmental effects of fisheries subsidies. The 2001 Doha Ministerial Declaration formally launched negotiations on clearer and more effective subsidy disciplines, explicitly recognising the sector's importance to developing countries. The mandate was reaffirmed in Hong Kong in 2005, where Members pledged to ban specific subsidies that lead to overcapacity and overfishing, while guaranteeing suitable and effective Special and Differential Treatment (S&DT) for developing nations. Despite the circulation of draft regulations in 2007, negotiations halted due to disputes regarding the nature of restrictions and developmental flexibilities. Momentum resumed after the support of Sustainable Development Goal (SDG) 14.6, leading to the Agreement on Fisheries Subsidies (AFS) during the 12th Ministerial Conference (MC12) in 2022.

The AFS represents the first multilateral WTO agreement with explicit environmental sustainability objectives and the first subsidy discipline since 1995. It entered into force in September 2025 after ratification by more than two-thirds of WTO Members. As of now, 116 Members have deposited instruments of acceptance, while others are completing domestic ratification processes. The agreement currently disciplines two categories of subsidies. First, it prohibits subsidies to vessels and operators engaged in illegal, unreported and unregulated (IUU) fishing. Second, it restricts subsidies to overfished stocks unless Members demonstrate that effective measures are in place to rebuild stocks to biologically sustainable levels (WTO 2022). Transparency and S&DT are important for enforcement; thus, Articles 8 and 10 necessitate comprehensive notifications of subsidy programs, with information on IUU judgements, descriptions of the fisheries regime, and measures undertaken to enforce the Agreement on Fisheries Subsidies (AFS). In addition, information is to be provided

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to the extent possible on fleet capacity, stock status, conservation and management measures, and vessel-level information. There is a two-year transition period for developing countries to implement the prohibition on IUU and Overfished stocks pillars.

However, the most complex pillar and the ‘heart and soul’ of the initial fisheries subsidies text, namely the prohibition of subsidies contributing to overcapacity and overfishing (OCOF), remains unresolved and is being negotiated as the ‘Additional Provision on Fisheries Subsidies’, commonly known as Fish 2.0. However, many Members have expressed concern that the current draft text (W/285) (WTO 2024a) contains weakened sustainability provisions and may lead to an unbalanced outcome. As MC14 approaches, the central challenge is bridging divides between Members seeking stringent sustainability disciplines and those emphasising development space and livelihood protection. The future credibility of the AFS will depend on achieving a balanced outcome that integrates ecological responsibility with equity considerations.

## 2. Importance of Fisheries Subsidies

The policy debate surrounding fisheries not only addresses environmental concerns but also addresses economic and social aspects. In 2022, direct employment in fisheries stood at 63.2 million people, with marine fisheries contributing 25.4 per cent (FAO 2025a). Small-scale fisheries (SSF) dominate the sector, accounting for around 40 per cent of global catch and supporting 90 per cent of the capture fisheries workforce (Arthur *et al.* 2022; FAO, Duke University and WorldFish 2024). Developing countries represent nearly 90 per cent of the global fisher population (FAO 2024), underscoring the developmental

centrality of the sector. From a food and nutritional security perspective, fish play a critical role by contributing significantly to human nutrition. It has also been noted that the global per capita aquatic animal food consumption has reached 20.7 kg in 2022 and is expected to grow further in the coming years (FAO 2024). Fisheries are also deeply embedded in global trade networks. Fish is among the most traded agricultural commodities, with global exports reaching USD 180.8 billion in 2023 (FAO 2025b). It accounts for more than 10 per cent of global agricultural exports (UNCTAD 2017; FAO 2021).

Yet rising demand, technological intensification, and capacity-enhancing subsidies have amplified pressure on marine ecosystems. The proportion of fish stocks within biologically sustainable levels has declined steadily, signaling growing ecological stress. Sumaila, *et al.* (2019) estimated global fisheries subsidies at USD 35.4 billion in 2018. Of these, 63 per cent are categorised as capacity-enhancing and nearly 30 per cent are beneficial subsidies. While quantifying fisheries subsidies, it has been found that 22 per cent (largest share) of the total estimated fisheries subsidies are fuel subsidies. These subsidies are heavily concentrated among a few major economies, including China, the European Union, the United States, South Korea, and Japan. Importantly, within the fuel subsidies, only 7 per cent is provided to SSF and the rest is directed towards large fishing fleets. This asymmetry intensifies industrial expansion while leaving artisanal communities under supported. The policy dilemma, therefore, lies in distinguishing harmful subsidies that drive overcapacity from development-oriented measures that sustain livelihoods and food security.

### 3. Current Negotiations— Additional Provisions on Fisheries Subsidies

While the AFS addresses IUU fishing and overfished stocks, negotiations on subsidies contributing to OCOF remain ongoing. At the Abu Dhabi Ministerial (MC13) held in March 2024, there was an attempt to conclude the negotiations by presenting a “Hybrid” approach to OCOF prohibition. In addition, the demands of a few countries engaged in distant water fishing (DWF) were accommodated, and the text on the prohibition of subsidies for DWF was diluted substantially. India and Indonesia blocked it due to these imbalances.

The November 2024 draft text by the Chair of the Negotiating Group (WTO 2024a) proposes a hybrid framework combining a list of presumptively prohibited subsidies with conditional sustainability-based flexibility. This draft text on OCOF sets out in its substantive prohibition provisions (Article A.1) a list of subsidy categories that would generally be prohibited. However, Article A.1.1 also provides a sustainability-based exception where such subsidies may be maintained if a Member demonstrates that effective fisheries management measures are in place to ensure that stocks are maintained at biologically sustainable levels.

To operationalise this approach, the draft introduces differentiated, tiered sustainability obligations under its notification and transparency framework, which are as follows:

- **Tier 1:** Members primarily developed, and major subsidisers must provide detailed measures demonstrating sustainability and notify new subsidy programmes within six months.
- **Tier 2:** Developing Members with smaller subsidy footprints and not engaged in DWF face demonstration

obligation through their regular subsidy notifications.

The same draft text W/285 (WTO 2024a), under its S&DT provisions (Article B), outlines four key elements. First, least-developed countries retain flexibility for as long as they remain Least Developed Countries (LDCs). Second, developing countries accounting for less than 0.8 per cent of global marine capture—approximately 40 Members, largely from the Africa, Caribbean and Pacific (ACP) region—are exempted from certain prohibitions under a *de minimis* threshold. Third, developing Members are allowed to continue subsidies for artisanal and SSF without geographic limitation, recognising their livelihood-oriented and low-impact character. For India, where most fishing takes place within the Exclusive Economic Zones (EEZs) through vessels under 24 metres and where fuel tax exemptions are commonly provided, this flexibility is particularly significant.

Fourth, developing countries with more than 0.8 per cent of global marine catch, including India and other emerging fishing nations, are to be granted a negotiated transition period—previously discussed in the range of 10–25 years—to adjust to new disciplines while advancing fisheries development and infrastructure expansion. Developing country groups such as the ACP, LDCs and Africa Group coordinated efforts to secure strong prohibitions on large-scale industrial fishing subsidies alongside effective development safeguards. India, aligned with these coalitions, has advanced the principle of Common but Differentiated Responsibilities (CBDR) and proposed a 25-year prohibition on subsidies for Members engaged in DWF (WTO 2021). However, the four S&DT elements with a differential view led to difficulty in sustaining a coalition among developing countries. Countries benefiting from the 0.8 per cent *de minimis* exemption were less inclined to

support extended transition demands sought by larger developing Members, leading to several disagreements.

At the same time, safeguarding coastal state sovereignty over EEZs, as recognised under the United Nations Convention on the Law of the Sea (UNCLOS) 1982, has remained a central concern. India consistently emphasised that WTO disciplines must not undermine sovereign rights to manage marine resources within EEZs. While the AFS largely preserves these rights, recent submissions, including Indonesia's proposal (WTO 2025a), continue to highlight potential tensions between fisheries subsidy rules and UNCLOS principles.

## 4. India's Stance on Fisheries Subsidies in WTO

India's engagement in the negotiations reflects the need to balance sustainability objectives with socio-economic realities. Nearly three crore people depend on fisheries in India (Government of India 2022), with the majority engaged in small-scale and subsistence fishing within nearshore waters. Unlike major DWF nations, India's fisheries are largely artisanal and livelihood-oriented. Under its WTO commitments, India has consistently argued that global disciplines must account for structural asymmetries between historically large subsidisers and developing coastal economies. It has opposed approaches based solely on aggregate subsidy levels (WTO 2024b) and favours subsidy intensity per fisher provided, as it is a fairer metric for determining obligations. This approach would better reflect differences in fishing populations and levels of development. India have emphasised that:

- Livelihood-oriented support to artisanal fishers should not be equated with industrial capacity-enhancing subsidies;

- Countries with large DWF and historically high subsidies should undertake greater obligations;
- Policy space is necessary to modernise fleets, develop deep-sea capabilities, and strengthen fisheries infrastructure under domestic schemes such as PMMSY and PM-MKSSY;
- Non-specific fuel subsidies should be addressed carefully to avoid disproportionate burdens on developing economies.

India's broader negotiating stance aligns sustainability commitments with principles of equity and differentiated responsibility. An equitable outcome, from India's perspective, must safeguard livelihoods, preserve coastal sovereignty, and enable sustainable sectoral development.

## 5. Conclusion and Way Forward

As MC14 approaches, the fisheries subsidies negotiations stand at a pivotal stage. While the AFS marked a historic step in linking trade rules with sustainability, the unresolved pillar on OCOF leaves the framework incomplete. Several Members, including India, have expressed concern that the current Fish 2.0 Text departs from the Doha mandate by adopting a "Hybrid Approach" that may dilute strong sustainability disciplines, particularly on DWF. At the same time, the United States' submission to tighten S&DT provisions (WTO 2025b) indicates increasing pressure on development flexibilities. This raises the likelihood that developing countries and LDCs will need to defend meaningful policy space in the final design of Fish 2.0.

The central challenge is to strike a balance between environmental sustainability and development equity. Uniform disciplines that do not distinguish between industrial

overcapacity and livelihood-oriented support risk undermining SSF, while weak rules may allow harmful subsidies to persist. Equally important is implementation capacity, where many developing countries require enhanced technical assistance, stronger data and monitoring systems, and greater financial support through the WTO Fish Fund to ensure effective compliance. For India and similarly placed developing Members, constructive engagement will be crucial to shaping a balanced outcome under Fish 2.0. A recent joint submission by a group of Members (WTO 2025c) acknowledges the difficulty of concluding comprehensive OCOF disciplines at MC14 and calls for continued negotiations with a view to achieving a full agreement by MC15, in line with Article 12 of the AFS.

Whether progress is secured at MC14 or carried forward to MC15, the WTO's credibility will depend on delivering rules that meaningfully discipline harmful subsidies while safeguarding development space and coastal livelihoods. A fair and durable outcome is essential both for marine conservation and for maintaining trust in the multilateral trading system. For India, submitting its instrument of ratification of the AFS at MC14 would signal a commitment to sustainable fisheries governance, and parallelly strengthening of domestic regulatory frameworks and sustainability practices will reinforce its credibility in the upcoming negotiations.

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Fisheries negotiations must balance sustainability with development. India needs policy space before accepting strict subsidy disciplines. S&DT, longer transition periods, and protection for SSF are essential, and developing countries must build coalitions to ensure equity in future WTO outcomes.

**Amb. J. S. Deepak**, Former Representative of India to the WTO, Geneva



Historical overfishing by industrial fleets must be acknowledged, and sustainability rules should not impose disproportionate burdens on developing countries. Institutional capacity-building are necessary to protect livelihoods while strengthening governance and conservation.

**Prof. Mukesh Bhatnagar**, Former Professor, Centre for WTO Studies



India's fisheries sector is livelihood-driven, with millions dependent on small-scale operations and limited offshore capacity. Subsidy narratives must reflect reality by restricting subsidies for distant water fishing. We need a full EEZ carve-out, longer transition periods, and flexibility to define SSF while continuing sustainability efforts.

**Ms. Neetu Kumari Prasad**, Joint Secretary, Department of Fisheries



India has resisted imbalanced negotiating texts and pushed for stronger S&DT and EEZ protections. Disciplines must target DWF subsidies, not small developing economies. Coalition-building with other developing members remains crucial to reshape the narrative and ensure fair, development-oriented outcomes.

**Ms. Tanu Singh**, First Secretary, Permanent Mission of India, WTO



Sustainability goals must align with equity and institutional capacity in developing countries. One-size-fits-all disciplines will not work. We need technical support, credible data systems, and policy flexibility so conservation objectives do not undermine food security, livelihoods, and national development priorities

**Ms. Vahini Naidu**, Programme Coordinator, Trade for Development Programme, South Centre



We need to move from a defensive to proactive strategy-strengthen governance, conservation, and value chains rather than harmful subsidies. Sustainability risks exist even in SSF, so India must invest in monitoring, legal preparedness, and management systems while using WTO transition time to build long-term resilience.

**Mr. Sebastian Mathew**, Independent Advisor, Small-scale Fisheries



Evolving text creates stricter demonstration, notification, and peer-review requirements that may strain India's institutional capacity and policy autonomy. Sustainability carve-outs, transition periods, and S&DT need careful legal scrutiny to ensure development realities are reflected and domestic policy space remains protected.

**Ms. Pallavi Arora**, Legal Consultant, Centre for WTO Studies

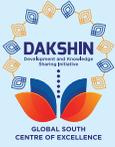


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