

Supporting the Implementation of New WTO Rules on Fisheries Subsidies:

The role of technical assistance and capacity building

GSi POLICY BRIEF





© 2020 The International Institute for Sustainable Development
Published by the International Institute for Sustainable Development.

International Institute for Sustainable Development

The International Institute for Sustainable Development (IISD) is an independent think tank championing sustainable solutions to 21st-century problems. Our mission is to promote human development and environmental sustainability. We do this through research, analysis and knowledge products that support sound policy-making. Our big-picture view allows us to address the root causes of some of the greatest challenges facing our planet today: ecological destruction, social exclusion, unfair laws and economic rules, a changing climate. IISD's staff of over 120 people, plus over 50 associates and 100 consultants, come from across the globe and from many disciplines. Our work affects lives in nearly 100 countries. Part scientist, part strategist—IISD delivers the knowledge to act.

IISD is registered as a charitable organization in Canada and has 501(c)(3) status in the United States. IISD receives core operating support from the Province of Manitoba. The Institute receives project funding from numerous governments inside and outside Canada, United Nations agencies, foundations, the private sector and individuals.

About GSI

The IISD Global Subsidies Initiative (GSI) supports international processes, national governments and civil society organizations to align subsidies with sustainable development. GSI does this by promoting transparency on the nature and size of subsidies; evaluating the economic, social and environmental impacts of subsidies; and, where necessary, advising on how inefficient and wasteful subsidies can best be reformed. GSI is headquartered in Geneva, Switzerland, and works with partners located around the world. Its principal funders have included the governments of Denmark, Finland, New Zealand, Norway, Sweden, Switzerland and the United Kingdom, as well as the KR Foundation.

Supporting the Implementation of New WTO Rules on Fisheries Subsidies: The role of technical assistance and capacity building

November 2020

The production of this brief was funded with UK aid from the UK government.

Head Office

111 Lombard Avenue, Suite 325
Winnipeg, Manitoba
Canada R3B 0T4

Tel: +1 (204) 958-7700

Website: www.iisd.org

Twitter: @IISD_news

Global Subsidies Initiative

International Environment House 2,
9 chemin de Balaxert
1219 Châtelaine
Geneva, Switzerland

Tel: +1 (204) 958-7700

Website: www.iisd.org/gsi

Twitter: @globalsubsidies





Abbreviations and Acronyms

ASCM	Agreement on Subsidies and Countervailing Measures
CRS	Creditor Reporting System
DAC	Development Assistance Committee
EEZ	Exclusive Economic Zone
EU	European Union
FAO	Food and Agriculture Organization
IDA	International Development Association
IUU	illegal, unregulated, or unreported
LDC	least-developed countries
ODA	official development assistance
OECD	Organisation for Economic Co-operation and Development
RFMO	regional fisheries management organization
TACB	technical assistance and capacity building
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organization



Table of Contents

1.0 Introduction	1
2.0 The Role of Technical Assistance and Capacity Building	1
2.1 Complying With Future WTO Disciplines	2
2.2 Improving the Effectiveness of a New Instrument	4
3.0 The Supply Side of Fisheries-Related TACB	9
4.0 Shaping TACB to Support Compliance With and Implementation of a WTO Agreement..	15
5.0 Conclusions and a Way Forward	17
References	19



1.0 Introduction

Negotiations on fisheries subsidies have been underway at the World Trade Organization (WTO) since 2001. Their objective is to “strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing” (WTO, 2005). In doing so, members agreed that

appropriate and effective special and differential treatment (SDT) for developing and least developed Members should be an integral part of the negotiations, taking into account the importance of this sector to development priorities, poverty reduction, and livelihood and food security concerns. (WTO, 2005)

A WTO instrument, if agreed, will provide a set of new internationally binding disciplines on fisheries subsidies, which will have to be implemented and reflected in domestic laws, regulations, and administrative procedures. These adjustments are likely to have implications for a number of policy areas, including subsidy programs, but also fisheries management, monitoring, and enforcement. Many developing and least-developed countries (LDCs), who often face capacity constraints, may benefit from dedicated technical assistance and capacity building (TACB) to support particular aspects of this implementation process.¹

TACB has been one of the aspects discussed in ongoing WTO negotiations, albeit only marginally. The draft consolidated text circulated in July 2020 and revised in November 2020 by the chair of the Rules Negotiating Group addresses the question only generally, suggesting language that would have developed and developing country members declaring themselves in a position to do so by providing assistance to other members to implement the agreement (WTO, 2020). Discussions in this area are, however, at an early stage, not least because members, both developed and developing, felt the need to concentrate first on the main disciplines before addressing implementation concerns and possible support through TACB. As a contribution to this discussion, this policy brief reviews possible implementation steps that WTO members might undertake to implement a future WTO instrument on fisheries subsidies. It then assesses the extent to which support for these possible implementation steps has been provided by fisheries-related official development assistance provided by bilateral, regional, and multilateral donors over the last decade or so. Based on this analysis, it suggests possible recommendations and avenues to improve the future targeting and effectiveness of such assistance.

2.0 The Role of Technical Assistance and Capacity Building

This section provides an overview of the different steps that may be required to implement a possible new WTO instrument on fisheries subsidies based on the chair’s revised draft

¹ Technical assistance is usually defined as “knowledge-based assistance to governments intended to shape policies and institutions, support implementation and build organizational capacity,” while capacity building refers more to “assistance focused on strengthening organizations’ abilities, capacities and skills” (Cox & Norrington-Davies, 2019, p. ii).



consolidated text (WTO, 2020) and identifies areas where TACB could be useful. At the outset, it should be noted that the concrete implementation steps will obviously depend on the content of the disciplines ultimately agreed upon in the negotiations. Similarly, TACB will need to be tailored to address the specific needs of beneficiary countries. While some members might benefit from assistance, others may be able to implement a future WTO instrument without external support. With these caveats in mind, the present section identifies six main areas where TACB might be useful in light of the current state of the negotiations. While closely related, these areas can be broadly organized under two main categories. The first refers to the implementation steps necessary to meet future WTO legal obligations under a new instrument. The second involves areas where support is not strictly related to compliance but would significantly help to make the new instrument more effective in achieving its sustainability objectives.

2.1 Complying With Future WTO Disciplines

A future WTO instrument on fisheries subsidies will most likely involve a set of binding international obligations, ranging from outright subsidy prohibitions or limitations to disciplines on transparency and notifications. More specifically, the implementation steps required to comply with new WTO disciplines could include the following three closely interlinked aspects.

2.1.1 Identifying and Notifying Existing Subsidy Schemes

A first step in implementing any future instrument will consist of undertaking an inventory of existing fisheries subsidies. Under Article 25 of the WTO Agreement on Subsidies and Countervailing Measures (ASCM), members must already notify to the WTO all the subsidies they provide that are “specific,” as defined in Article 2 of the ASCM, including the amount of support they grant, the policy objectives, the duration of the program, and statistical data permitting an assessment of the trade effect of a measure. In addition to these requirements, proposals tabled so far would require information on the type of fishing activities, catch data, the status of stocks, fleet capacity, conservation and management measures, determinations of illegal, unreported and unregulated (IUU) fishing, or fisheries access agreements, to list just a few.

Beyond transparency requirements, a comprehensive inventory of fisheries subsidies will be necessary for all members to ensure that they are complying with their new commitments. Certain forms of subsidies will likely be prohibited, while others will remain authorized. The clearer the picture of what support is currently being provided and in what form, the surer members will be that their measures are consistent with their WTO obligations. Some members have also proposed an overall cap on fisheries subsidies, which would limit the total amount of support allowed for each member. Here again, ensuring compliance with such commitments would require monitoring and regular notification of the amount of fisheries support provided, as is currently the case with agricultural subsidies under the Agreement on Agriculture.

In practice, many developing countries and LDCs have not fulfilled their notification obligations under Article 25.3 of the ASCM and would benefit from specific TACB in



this area. Beyond WTO notifications, however, assisting these countries in undertaking a comprehensive inventory of all relevant support measures benefiting the sector will also constitute a crucial first step in informing possible reform.

2.1.2 Ensuring Compliance With Subsidy Prohibitions

A second step in implementing future commitments will consist of establishing mechanisms to withdraw prohibited subsidies under relevant circumstances. One of the proposed prohibitions included in the revised draft consolidated text envisages the prohibition of certain forms of support that are presumed to contribute to overfishing and overcapacity (e.g., subsidies for vessel construction or fuel) unless a WTO member can demonstrate that measures are implemented to maintain relevant stocks at a biologically sustainable level (WTO, 2020). Other proposed prohibitions would apply when a determination is made that a vessel or operator has engaged in IUU fishing or that a stock is in an overfished condition—unless it is recovering.

In some cases, the envisaged new prohibitions would be triggered by a determination made by a third party. For example, the determination by a relevant regional fisheries management organization (RFMO) that a stock under its competence is overfished would trigger a subsidy prohibition for all members fishing this stock, provided the stock is not rebuilding and management measures in place are not sufficient to ensure the stock recovers. Similarly, a determination by a coastal member that a foreign vessel has engaged in IUU fishing in its Exclusive Economic Zone (EEZ) would, subject to some conditions, trigger an obligation for the subsidizing member to withdraw any support to this vessel and possibly its operator.

Complying with these disciplines is arguably more complex than simply removing whole subsidy programs. It may require setting up mechanisms to ensure the timely withdrawal of certain types of subsidies when the relevant conditions are met. It may also require coordination, including effective communication channels to share relevant information and findings across national agencies,² as well as between these national agencies and relevant third parties (other WTO members or RFMOs).

2.1.3 Establishing Substantive and Procedural Rules

Closely related to subsidy withdrawal, future disciplines may also require members to establish specific substantive and procedural rules at the domestic level. Such disciplines find precedents in the WTO Agreement on Trade-Related aspects of Intellectual Property Rights (TRIPS), under which members have committed to providing certain standards of intellectual property protection in their domestic legislation. Examples in the revised draft consolidated text circulated by the chair include a provision on IUU fishing, which requires each member to have in place laws, regulations, or administrative procedures preventing the granting and maintenance of subsidies to IUU fishing (WTO, 2020). Here, members would not only have to remove certain forms of support but also adjust their subsidy eligibility rules to exclude ex-ante the granting of subsidies to a vessel or operator having engaged in IUU fishing in the past. While other parts of the envisaged disciplines may not explicitly specify that members should

² For example, those responsible for stock assessments or IUU monitoring and those responsible for the granting of subsidies (Redding & Macfadyen, 2020).



have certain laws, regulations, and procedures in place, compliance with some of them could implicitly require members to do so. To remove existing subsidies or prevent the granting of new subsidies in cases where a stock is overfished, for example, members would also need to have a legal or regulatory basis that allows for that.

2.2 Improving the Effectiveness of a New Instrument

The aspects discussed in Section 2.1 directly aim to support compliance with binding commitments under a new subsidy instrument. However, other assistance measures may also contribute significantly to achieving the long-term sustainability objectives of a future WTO instrument even if they are not immediately related to new WTO obligations. This is particularly the case for broader TACB measures supporting overall reforms of domestic subsidy regimes, IUU monitoring and enforcement, stock assessments, and fisheries management.³

2.2.1 Re-Purposing Domestic Subsidy Schemes

By prohibiting certain types of fisheries subsidies or defining the situations where subsidies should be withdrawn while allowing others to remain unrestricted, a new WTO instrument will encourage a shift toward forms of support considered less harmful. Several provisions in the revised draft consolidated text go in this direction. For example, disciplines on subsidies that contribute to overfishing and overcapacity list prohibited subsidies (e.g., subsidies for fuel or boat construction) but would not restrict, for example, subsidies for fisheries management or research and development. Similarly, in an attempt to have total clarity about the forms of subsidies that would be allowed, some members have also called for exempting harmless or less harmful subsidies from the new disciplines by placing them in a potential “green box.”

There are a number of approaches governments can use to reform fisheries subsidy programs. When implementing a future WTO instrument, some members may want to decouple their subsidies from fishing effort, thereby removing incentives to overfish. This could include reorienting subsidies toward social-protection schemes for fishers and fish workers who may need to temporarily reduce their fishing effort or related activities while stocks recover or leave the sector to take up alternative livelihoods. Others may try to reorient subsidies to support sustainable management and technological improvements or to condition subsidies on fishery performance (e.g., based on sustainability criteria) (Cisneros-Montemayor et al., 2015). Experience tends to show that, to be successful, such reform should be an integral part of an overall fisheries strategy with clear short- and long-term goals and co-designed with fishers in a transparent manner (Cisneros-Montemayor et al., 2015). It also requires ongoing interaction and coordination with different government agencies and a wide range of stakeholders, for example, in the form of an interagency working group responsible for putting in place processes and mechanisms for the compilation and effective sharing of relevant data, articulating a reform strategy, and implementing it successfully (Redding & Macfadyen, 2020). This would go beyond

³ The following sections look at these different aspects separately but, in practice, if legislative systems and policy measures need to be reformed within the context of subsidy provision, IUU monitoring, stock assessments, and broader fisheries management at the same time, it may make sense to provide capacity to ensure coherence, integration, and harmonization between those different areas. Certain regulations and measures may be complementary or could be leveraged, while others may create loopholes or be in possible contradiction.



the specific implementation requirements of a new WTO instrument and would require assistance for legal and economic analysis, stakeholder mapping and engagement, internal coordination mechanisms, and domestic law reform and implementation.

2.2.2 Identifying IUU Activities and Overfished Stocks

Future WTO rules on fisheries subsidies will likely include disciplines in three substantive areas: (1) a prohibition of subsidies for vessels or operators engaged in IUU fishing, (2) a prohibition of subsidies for fishing or fishing-related activities regarding stocks that are already in an overfished condition, and (3) disciplines on subsidies that contribute to overfishing and overcapacity more broadly.

In practice, identifying vessels or operators with a record of IUU infringements requires effective information-gathering capacities, as well as monitoring and coordination among different government agencies in charge of fisheries control, inspection, and enforcement (Redding & Macfadyen, 2020). For the sake of operationalizing a subsidy prohibition, the information collected must be sufficient to assess whether a particular vessel or operator engaged in IUU has received subsidies and from whom—an issue often complicated by issues of flag and ownership. IUU determinations by a coastal member regarding foreign vessels fishing in its EEZ may also have to be based on positive evidence, as envisaged in the draft consolidated text, in order to trigger the subsidy prohibition.

Similarly, identifying overfished stocks can be particularly costly. Many developing countries' fisheries are multi-species and “data-poor,” which requires approaches tailored to the circumstances of each fishery, including less costly methodologies. To be most effective, subsidy decisions would be informed by regular information about the status of stocks, which tend to change positively or negatively, sometimes over relatively short periods of time. In the case of shared stocks, collecting information may also require international cooperation.

Helping capacity-constrained members to identify IUU infractions and monitor the status of their key fish stocks would directly contribute to the effectiveness of a future instrument and the advancement of its sustainability objectives. To be clear, however, these would not be legal obligations under a future WTO instrument. No provision would require any member to make an IUU determination or to declare that a stock is overfished. The only binding commitment of members would be to act upon such determinations when they occur and remove subsidies if the necessary conditions are fulfilled.

2.2.3 Strengthening Management Regimes

From a more general perspective, there is a widely recognized need to strengthen fisheries management regimes globally, in particular in resource-constrained contexts where effective management is often lacking. This may include establishing marine protected areas or fishing regulations, including limits on fishing capacity or total allowable catch to maintain stocks at sustainable levels. With this broad objective in mind, useful forms of support may focus on research and development, legislative reforms, law enforcement, or institutional building, to list just a few.



Unlike the more specific elements discussed in Section 2.2.2, these more general aspects of fisheries management are not required to give effect to specific disciplines of a new instrument on fisheries subsidies. They are, however, relevant for at least two reasons. First, fisheries management is a complex process made of many different yet closely interlinked activities, tools, and capacities. IUU monitoring and stock assessments are actions that should be developed in the context of coherent fisheries management planning. Second, effective management could allow WTO members to ensure their subsidy policies do not contribute to unsustainable fishing, including by implementing measures to ensure that fishing effort and capacity do not exceed the levels determined to be sustainable. The draft disciplines on overfished stocks envisage, for example, an exception to the general prohibition if the subsidies or any other appropriate measures are implemented in a way that ensures that the stocks are being rebuilt to sustainable levels as determined by the coastal member or a relevant RFMO (WTO, 2020). Similarly, the draft disciplines on overfishing and overcapacity provide an exception to the general prohibition if the subsidizing member can show that it has other policies in place to maintain the stocks at sustainable levels (WTO, 2020).

Table 1 summarizes the different implementation steps identified in this section, their objectives, and areas where TACB might be useful. Conceivably, both WTO members and international organizations can play different roles in responding to requests for assistance under the first category of measures (i.e., those directly linked to fulfilling binding commitments under a future WTO instrument) and potentially in providing assistance under the second category (i.e., those addressing broader implementation).

As negotiations progress in the WTO, capacity-constrained members may wish to examine what aspects of compliance and broader implementation they would like assistance with, and to what extent the TACB currently provided by WTO members and other international



agencies meet their specific implementation needs. Some members may also wish to signal if they would find assistance making this initial assessment useful.

Table 1. Areas of TACB associated with a possible WTO instrument on fisheries subsidies

Policy step	Objectives	Areas of possible TACB
Complying with future WTO rules		
Identifying and notifying existing subsidy schemes	<ul style="list-style-type: none"> • Comply with notification requirements • Provide the required information basis to comply with qualitative prohibitions and any applicable quantitative limits (e.g., subsidy cap) 	<ul style="list-style-type: none"> • Support in producing first WTO fisheries subsidy notification and system for subsequent notifications • Support in conducting national inventories of fisheries subsidies
Ensuring compliance with subsidy prohibitions	<ul style="list-style-type: none"> • Removal of subsidies in certain circumstances: <ul style="list-style-type: none"> • Following an IUU determination by a relevant authority (e.g., RFMO) • When stock recognized as overfished • When listed as prohibited (e.g., construction, fuel, income or price support, etc.) and no measures are in place to maintain stocks at sustainable levels • To vessels flying the flag of a third country • To vessels fishing in areas beyond national jurisdictions • When subsidies are in excess of the quantitative limit, if any exists 	<ul style="list-style-type: none"> • Support in establishing mechanisms for subsidy withdrawal • Establishing internal coordination mechanisms among relevant ministries and institutions • Support for notification of IUU determinations to third countries



Policy step	Objectives	Areas of possible TACB
Establishing laws and regulations to comply with subsidy rules	<ul style="list-style-type: none"> • Domestic laws, regulations and/ or administrative procedures preventing the granting of subsidies to vessels having engaged in IUU fishing • Domestic laws and regulations allowing for the removal of subsidies in circumstances where they are prohibited 	<ul style="list-style-type: none"> • Support for reform of domestic laws and regulations and/ or administrative procedures
Improving the effectiveness of a new instrument		
Reforming/ re-purposing domestic subsidy schemes	<ul style="list-style-type: none"> • Decouple subsidies from fishing effort • Reorient subsidies to sustainable management and technological improvements or a vulnerable segment of the sector (e.g., artisanal fishing community) • Condition subsidies on fishery performance (e.g., based on sustainability criteria) 	<ul style="list-style-type: none"> • Legal, environmental, and socioeconomic analysis of the impact of different support schemes • Stakeholder consultations and internal coordination mechanisms among relevant ministries and institutions • Legislative and regulatory reform and implementation
Identifying IUU activities and overfished stocks	<ul style="list-style-type: none"> • Ability to detect IUU infractions • Conduct regular assessments (or estimates) of the status of stocks 	<ul style="list-style-type: none"> • Data collection and analysis • Scientific assessments • Support for monitoring and surveillance units
Strengthening management regimes	<ul style="list-style-type: none"> • Reduce unregulated fishing • Establish effective limits to fishing effort and capacity based on maximum sustainable yield or alternative reference points and enable stock rebuilding • Measure fishing effort and capacity of the domestic fleet and compare against levels determined to be sustainable • Ensure subsidy policies do not contribute to unsustainable fishing 	<ul style="list-style-type: none"> • Legislative and regulatory reform and implementation • Institution building • Training and skills building • Research and development

Source: Author's elaboration



3.0 The Supply Side of Fisheries-Related TACB

This section gives an overview of the assistance provided by official donors to the fisheries sector.⁴ Fisheries-related TACB efforts are systematically documented in the Organisation for Economic Co-operation and Development (OECD) Creditor Reporting System (CRS) database, which covers bilateral donors, including the 24 Development Assistance Committee (DAC) members, several non-DAC members,⁵ and a wide range of multilateral and regional institutions.⁶ According to this data, total gross disbursements in official development assistance (ODA) classified as targeting the fisheries sector between 2009 and 2018 by bilateral and multilateral donors amounted to over USD 3.3 billion (OECD, n.d.).⁷ On average, this represented only 0.3% of total sector-allocable ODA (OECD, n.d.). Figure 1 shows the top 15 providers between 2012 and 2018, with ODA amounts expressed both in terms of commitments and effective disbursements. The discrepancy between the two provides a broad sense of the extent to which donors' intentions are realized and their policies are implemented.⁸ Overall, the figure shows that the largest providers include both bilateral DAC members, like Japan, Norway, or the United States, and also multilateral or regional donors, such as the International Development Association (IDA),⁹ the European Union (EU), the Food and Agriculture Organization of the United Nations (FAO),¹⁰ or the Global Environment Facility. It also shows that bilateral donors generally appear to perform better in terms of disbursements of committed resources.

⁴ The brief does not take into account funding provided by philanthropic foundations, non-governmental organizations, and other private sources of funding that can be significant in a number of areas. For further details on this form of aid, see Berger, M., Caruso, V. and Peterson, E. (2019). An updated orientation to marine conservation funding flows. *Marine Policy*, 107, 103497.

⁵ Note that China is not included in the OECD CRS database. The country nonetheless provides a large amount of support to fisheries development, mostly in the form of loans. See <https://www.aiddata.org/data/chinese-global-official-finance-dataset>.

⁶ See <https://stats.oecd.org/Index.aspx?DataSetCode=crs1>. The database provides a set of basic comparable data on where aid goes, what purposes it serves, and what policies it aims to implement. Data are collected on individual projects and programs.

⁷ This figure is in constant prices based on 2018 USD. It covers programs supporting not only wild marine capture but also aquaculture and inland fishing. The data, however, exclude ODA provided to landlocked countries.

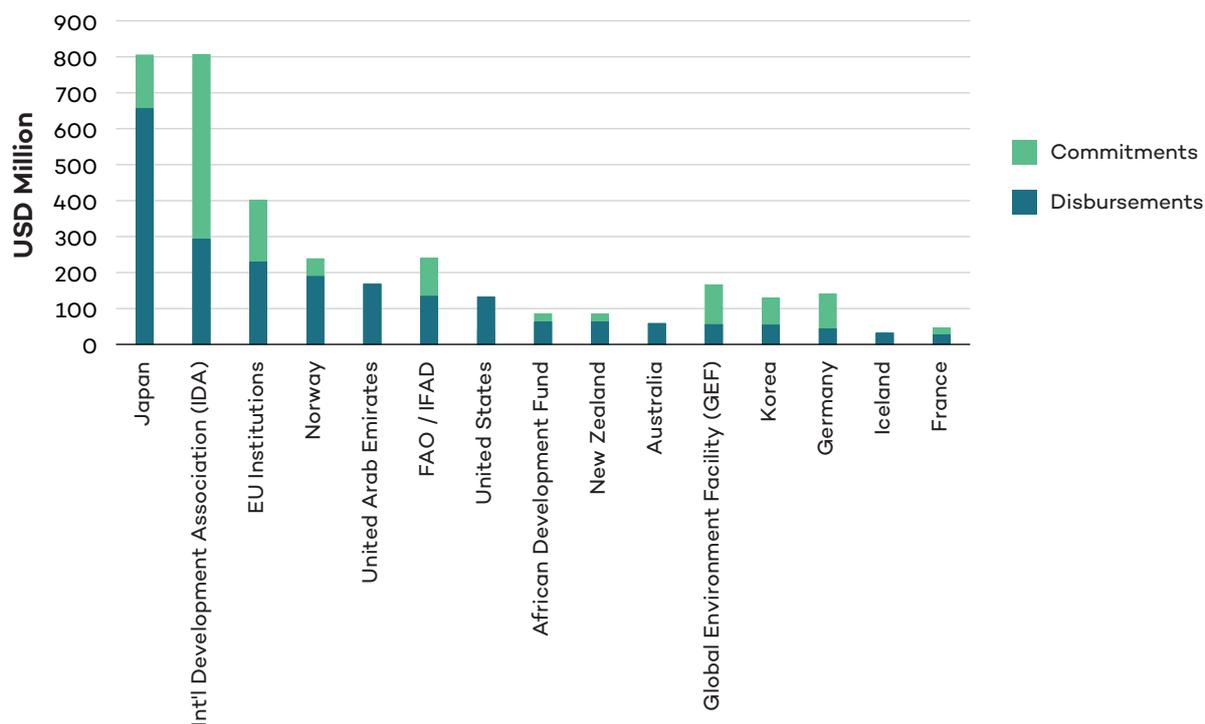
⁸ It should be noted, however, that in the OECD reporting systems, commitments—even if multi-year—are recorded in the year they are signed. Subsequent disbursements are recorded annually. Consequently, disbursements in one year cannot be directly compared to commitments in the same year, as disbursements may relate to commitments originally recorded in different years.

⁹ The IDA is the part of the World Bank that helps the world's poorest countries by providing loans and grants for programs that boost economic growth, reduce inequalities, and improve people's living conditions.

¹⁰ These contributions come from member states. Norway, Japan, Sweden, and Spain in particular provide considerable amounts of support for fisheries through the FAO.



Figure 1. Top 15 providers of fisheries-related ODA (2012–2018, in USD million)

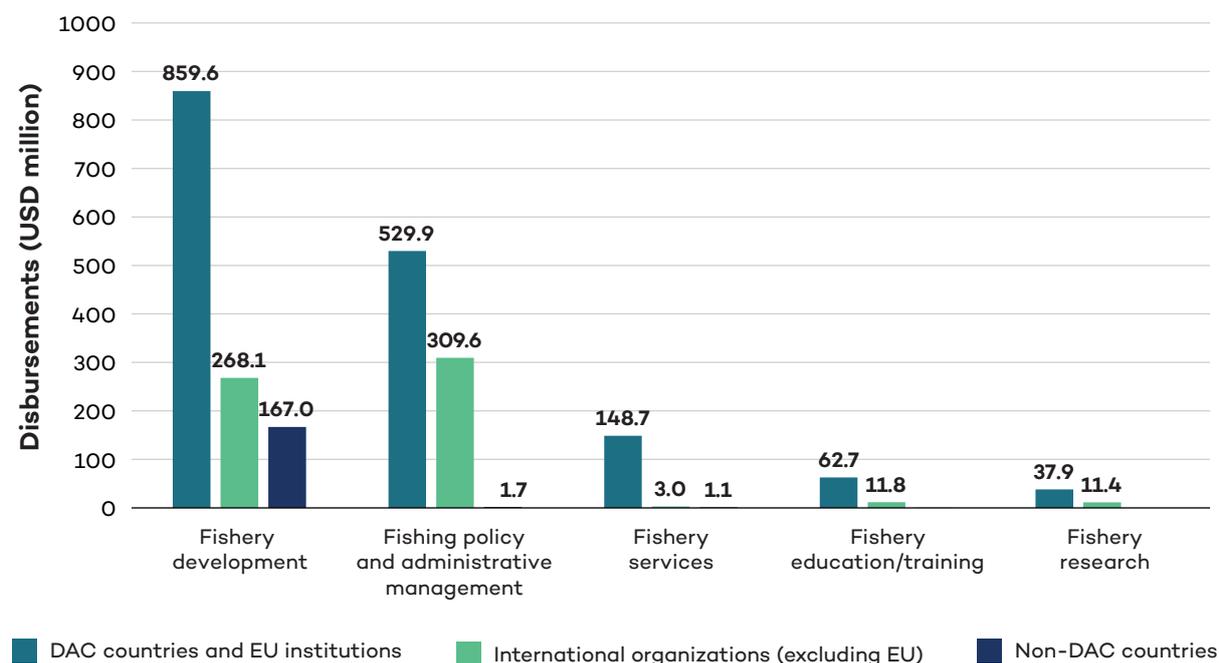


Source: Author's elaboration based on OECD, n.d.

Figure 2 shows how this sectoral assistance is spread around the different categories provided under the CRS system, namely fishery development, fishing policies and management, fishery services, education and training, and research. It clearly illustrates that bilateral donors prefer fishery development projects, while multilateral donors tend to favour administrative management and fishery policies. Overall, both categories dwarf support for training, education, and research.



Figure 2. Fisheries-related ODA disbursements by category (2012–2018, in USD million)



Source: Author's elaboration based on OECD, n.d.

To get more granularity on the type of ODA provided to the fisheries sector, we use a dataset published by The Pew Charitable Trusts on relevant fisheries support activities in the context of WTO negotiations. The data builds on the OECD CRS system but goes beyond programs explicitly classified as targeting the fisheries sector and further refines the categories used. Overall, more than 8,300 projects from 145 donor agencies, 33 donor countries, and 16 international institutions were identified between 2012 and 2017 (see Box 1) (The Pew Charitable Trusts, 2019). Based on this dataset, total fisheries-related ODA disbursements amounted to USD 3.12 billion between 2012 and 2017. During this period, nearly half of the funds disbursed were allocated to fisheries management (49%), followed by fisheries development (27%); projects combining management, IUU, and stock assessments (6%); climate and disaster relief (2%); IUU monitoring and enforcement (2%); and fish stock assessments and preservation (1%), with the remaining 13% being allocated to programs with insufficient information to be classified under any other category (The Pew Charitable Trusts, 2019). It is important to note, however, that some projects included in the broad fisheries management category likely also include support related to IUU monitoring and stock assessments, without such support being specified in the description provided in the OECD CRS system.



Box 1. The Pew Charitable Trusts’ dataset on “Fisheries support activities related to WTO negotiations”

The Pew Charitable Trusts dataset on “Fisheries support activities related to WTO negotiations” spans the years 2012 to 2017 and draws from statistics published by the OECD CRS database, excluding landlocked countries. The added value of The Pew Charitable Trusts’ data set lies in its analysis of the project title and descriptions provided, which was used to further classify the projects under a set of more specific categories. Projects from all other sectors in the CRS database were also filtered by any words relating to fisheries, and relevant entries were added to the list of projects explicitly classified as targeting the fisheries sector.

Based on this exercise, the data set was organized under eight categories: 1) fisheries management broadly speaking, excluding projects categorized as capacity enhancing; 2) IUU monitoring and enforcement; 3) fish stock assessments and preservation; 4) combined management, IUU, and stocks (i.e., for projects that include a mixture of general fisheries management, IUU monitoring, and stock assessment); 5) disaster and climate (e.g., resilience projects and disaster recovery); 6) fisheries development and fisheries others (i.e., projects aimed at increasing fishing capacity, including building infrastructure and new equipment such as new boats, engines, equipment, nets, but also fishing ports, landing facilities, and marketing; under fisheries others, the category also includes response to marine pollution, plastics, or fishers’ labour conditions); 7) aquaculture, fresh water, and inland-related fishing (given the WTO focus on wild marine capture in the fisheries subsidies negotiations, this category was excluded from the analysis presented here); and 8) fisheries projects with insufficient information.

Source: The Pew Charitable Trusts, 2019.

Overall, the top donors are unsurprisingly similar to those identified in Figure 1. The majority of ODA funds are provided by OECD member states and international organizations, the latter notably including a range of development and environmentally oriented multilateral and regional actors.

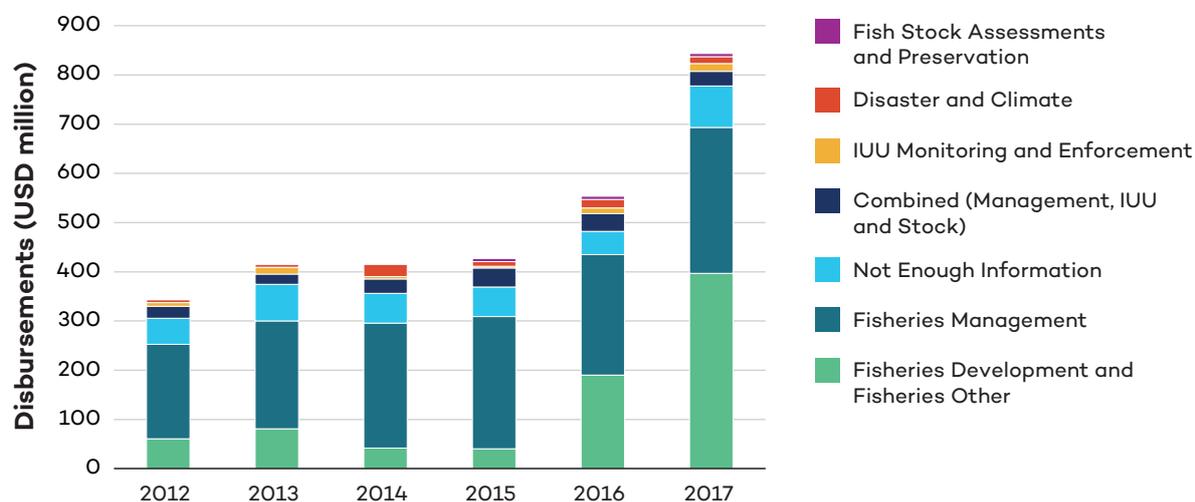
The three most prominent providers are Japan, the United States, and EU institutions, closely followed by the IDA and Norway. Japan’s contributions as the primary provider of fisheries-related ODA spiked in 2009 and again in 2016–2017. The United States’ ODA disbursement spiked earlier in 2013, whereas the EU institutions’ disbursement of fisheries-related ODA reached a new high in 2018, the most recent year for which OECD data is available.

Figure 3 depicts fisheries-related ODA disbursements by category and per year. It shows that the total amount of fisheries-related ODA has grown significantly since 2015. However, this increase seems to be related to a limited number of large projects in Africa and Oceania by a handful of donors, in particular in 2017, and may thus not necessarily indicate a long-term trend. Comparing ODA disbursements in the various categories of support, fisheries management accounts for the vast majority of ODA over the 2012–2017 period. In recent years, especially in 2016 and 2017, “fisheries development and fisheries other” is a category that has received increasing prioritization and funding. As highlighted above, however, this



increase is largely the result of a limited number of large projects and may not reflect a long-term trend among donors. Support provided under other categories remained minimal in comparison over the whole period.

Figure 3. Fisheries-related ODA disbursements by category per year (2012–2017, in USD million)

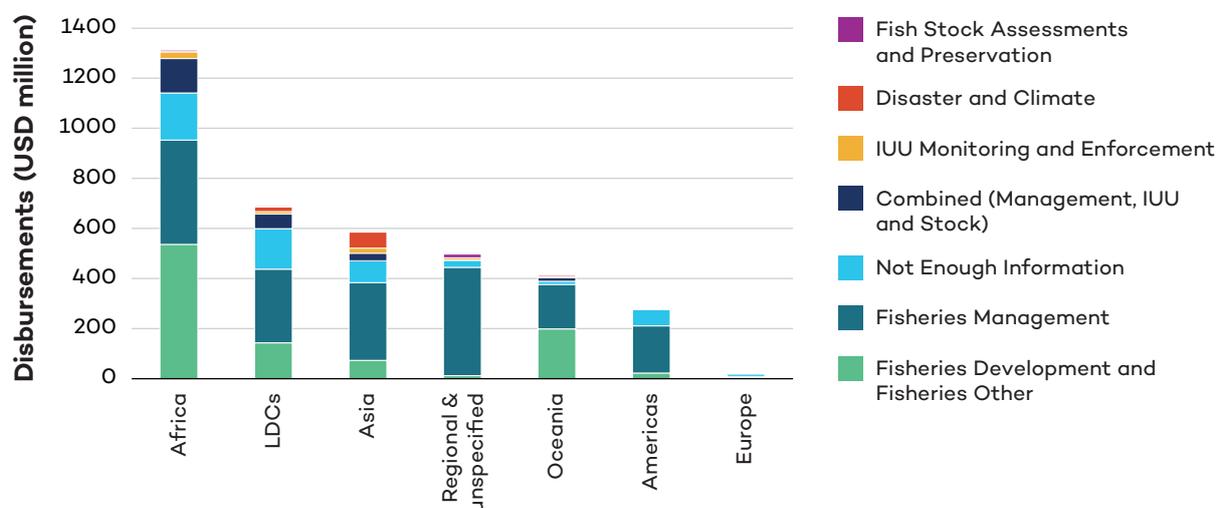


Source: Author's elaboration based on data collected by The Pew Charitable Trusts, 2019.

Figure 4 shows fisheries-related ODA disbursements per region, displaying the recipients of TACB. It shows that the largest amount of TACB support flows to countries in Africa, which receive nearly twice as much assistance as countries in Asia, the second-ranked region. Moreover, the figure also reflects the uneven distribution of ODA across different categories of disbursement between different regions. For example, while “fisheries development and fisheries other” is an evident priority for ODA donors supporting African countries, the proportion of this category is negligible in ODA flows to the Americas and also quite small in the total support directed toward Asia. One point to flag here is the possibility that this form of assistance could potentially have the result of increasing fishing capacity and effort in some recipient countries where fisheries management capacities may be relatively limited. This is, for example, the case for several projects aimed at building better access for landing catches or processing facilities. While these may contribute to reducing waste and improving livelihood opportunities, these projects may support greater fishing pressure, especially when combined with boat construction or engine acquisition. Donors might consider whether it would be useful to examine in more detail whether these ODA flows are consistent with the objective of the WTO negotiations, which is to ensure that governments do not contribute to overcapacity and overfishing through subsidies. Where fisheries development ODA is likely to contribute to increased fishing capacity or fishing effort, donors should be careful to provide it only where there is effective management that will ensure that fishing will be sustainable.



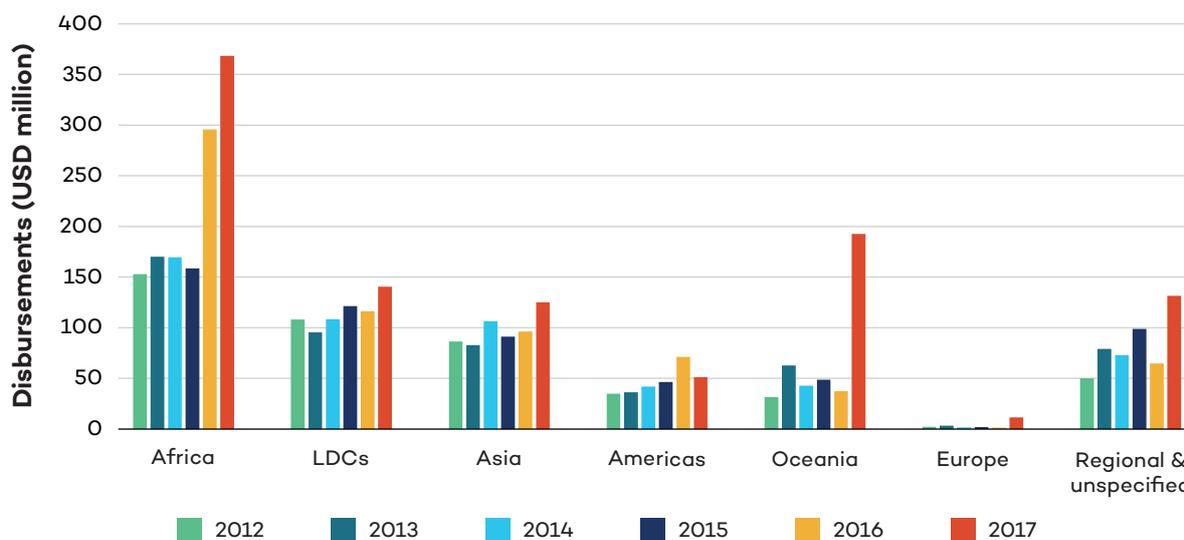
Figure 4. Fisheries-related ODA disbursements by category per region (2012–2017, in USD million)



Note: LDC data is also included in the statistics regarding their respective geographical continents.
Source: Author's elaboration based on data collected by The Pew Charitable Trusts, 2019.

Finally, Figure 5 maps annual disbursements by region. It shows that ODA flows have remained relatively stable between 2012 and 2015 but increased significantly in 2016 or 2017 in several regions. As highlighted above, however, the increase is largely due to a handful of projects. In 2016, for example, disbursements under one single program funded by Japan entitled Project Loans for Promotion of Overseas Fisheries accounted for nearly 60% of total assistance to Africa. In 2017, three large port infrastructure projects funded by the Abu Dhabi Fund for Development in Morocco represented together over 70% of total funds disbursed to Africa. Similarly, in the case of Oceania, the spike observed in 2017 is mainly due to one large project by Japan and should not necessarily be considered as a trend.

Figure 5. Fisheries-related ODA disbursements by region per year (2012–2017, in USD million)



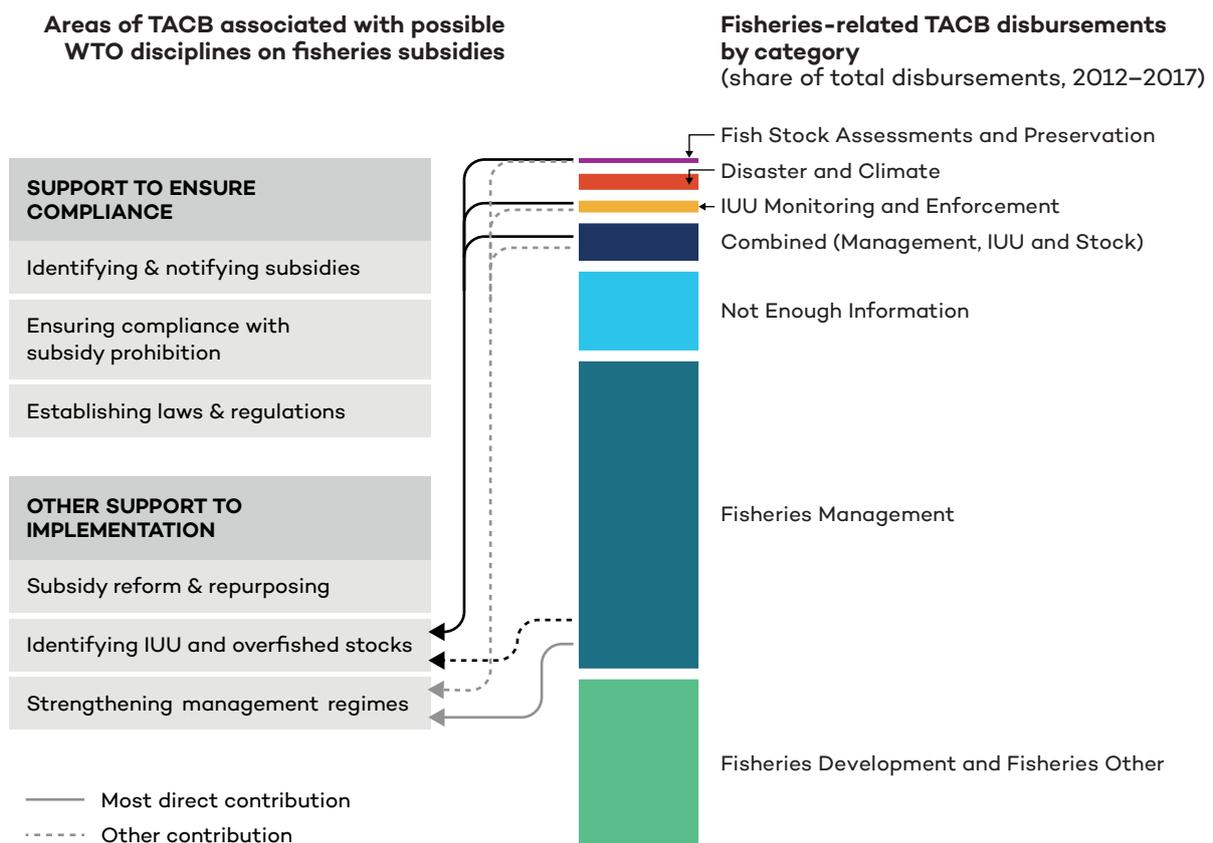
Note: LDC data is also included in the statistics regarding their respective geographical continents.
Source: Author's elaboration based on data collected by The Pew Charitable Trusts, 2019.



4.0 Shaping TACB to Support Compliance With and Implementation of a WTO Agreement

Overall, fisheries-related TACB represents a growing but still very small amount of ODA, accounting for only 0.3% of total sector-allocable disbursements, as highlighted in Section 3. Based on the analysis so far, Figure 6 attempts to visually match the areas where TACB may be useful for supporting compliance with and the implementation of a WTO instrument on fisheries subsidies, as identified in Section 2, with fisheries-related ODA supply in the last decade, showing the relative amounts allocated to the different categories. To be clear, this broad comparison is for illustration purposes only and does not pretend to establish a detailed and precise correspondence between the supply of ODA and areas where implementation would benefit from support. It nonetheless points to several aspects that may need to be further explored and considered by WTO members when assessing the need for and the potential shape of TACB in this area.

Figure 6. Areas of TACB for compliance and implementation of WTO rules compared to disbursements



Source: Author's elaboration based on data collected by The Pew Charitable Trusts, 2019.



A first element that stands out is that fisheries-related ODA programs do not specifically single out subsidy reform as an area of assistance. With WTO negotiations on fisheries subsidies still ongoing, the absence of support for compliance with specific WTO rules is not particularly surprising.¹¹ However, no evidence was found regarding broader subsidy assessment, let alone reform at the domestic level. This may be because of a lack of demand on the side of beneficiary countries. One cannot exclude either that some of the projects classified under fisheries management or fisheries development assistance may contain a subsidy reform component that is not specified in the project descriptions included in the OECD CRE database. That said, analysis of past subsidy reform experiences tends to confirm the limited involvement of traditional donors in such processes (Cisneros-Montemayor et al., 2015). The conclusion of a new instrument in the WTO may possibly change this reality.

A second observation relates to the relative weight of the different categories of ODA disbursements. As highlighted in Section 2.2.1, helping capacity-constrained members to identify IUU infractions, undertake regular stock assessments, and accurately measure domestic fishing effort will help to achieve sustainable development objectives under a future WTO instrument. Given recent progress in current negotiations, it appears likely that the issues of IUU fishing and overfished stocks will be included in a final deal. Many developing countries and LDCs have complained, however, that they lack the capacity to conduct regular stock assessments and to police their EEZs through monitoring and surveillance, with a large portion of IUU activity going undetected. Yet, as highlighted above, data from The Pew Charitable Trusts indicates that ODA support that specifically targets IUU monitoring and enforcement only accounted for 2% of total disbursements over the last decade. Assistance projects focused specifically on fish stock assessments, and preservation also received limited attention, with only 1% of fisheries-related ODA disbursements allocated to this category. More generally, between 2012 and 2017, the combined categories of (a) IUU monitoring and enforcement, (b) stock assessment and preservation, and (c) programs combining management, IUU, and stocks represented only 12% of all disbursements to African countries, 10% to LDCs, 9% to Asia, and less than 5% to Oceania.¹²

By contrast, The Pew Charitable Trusts data (2019) indicates that assistance for enhanced fisheries management represented a major share of fisheries-related disbursements between 2012 and 2017, namely 32% for Africa, 42% for LDCs, 53% in Asia, and up to 67% in the Americas. This type of assistance can significantly contribute to establishing fishing regulations; limiting fishing capacity, effort, or catches; and maintaining stocks at sustainable levels. While supporting strong and effective fisheries management systems is important, it should also be noted that, among the six policy steps identified in this policy brief, this area is probably the least directly related to the implementation of a future subsidy agreement. This is partly because several WTO members have insisted on the need to maintain fisheries management considerations separate from the disciplines being negotiated in Geneva, arguing that the WTO is not a fisheries management organization and should not interfere with

¹¹ The negotiations have also really intensified in the last 2–3 years, a period that is not covered by the ODA data presented here.

¹² This figure may, however, be underestimated, as support for IUU monitoring and stock assessments and preservation may also be hidden in fisheries management programs that have only basic or general descriptions in the OECD CRE database.



such policies. The agreement will therefore not require members to adopt certain fisheries management policies; however, improving those practices would help to make the subsidy rules, which in some cases depend on fisheries management decisions, considerably more effective at supporting sustainability.

A third observation relates to the category of “fisheries development and fisheries others.” While this category involves activities related to maritime safety, responses to marine pollution incidents, the reduction of marine plastics/litter, or projects concerning fishers’ labour conditions, it also covers programs that may contribute to enhancing fishing capacity and effort. These include, for example, building infrastructure and landing facilities or providing equipment such as new boats, engines, dredgers, or fishing nets. Assessing the respective weight of these different components in the ODA provided in recent years is beyond the scope of this brief. However, the importance of this category in total disbursements calls for some caution and further examination.

On the one hand, it is true that the fisheries sector in several developing countries and LDCs remains underdeveloped, which is probably why the demand for this type of support figures prominently in the assistance requested by beneficiaries. On the other hand, it is worth recalling that, with 60% of assessed global fish stocks being maximally sustainably fished and 34% already fished at biologically unsustainable levels (FAO, 2020), the scope for increasing fishing capacity and effort is limited in most parts of the world. While sustaining the coastal livelihoods of vulnerable fishing communities is a legitimate and important policy objective, such assistance should not be provided in ways that increase fishing capacity or effort beyond sustainable limits and risk jeopardizing the sustainability of resources upon which those communities’ well-being depends. This is particularly critical when fisheries management, monitoring, and enforcement capacities are limited, as is often the case in LDCs.

5.0 Conclusions and a Way Forward

This policy brief provides a summary of possible implementation steps and a preliminary review of current TACB disbursements that may be relevant to a possible new fisheries subsidy instrument in the WTO. While reaching a definite conclusion would require a more in-depth and comprehensive review, early findings tend to suggest that new thinking may be required on how to support the implementation of a possible WTO instrument in this area in coordination with existing funding mechanisms. This may include some re-balancing in the supply of fisheries-related ODA to provide support for compliance with the new agreement, which is new support, and for the broader policy steps within traditional ODA that would help the agreement to be most effective. As highlighted above, the data collected so far shows no clear evidence of donor support for subsidy assessment and reform. Addressing this gap could be the first priority. Similarly, support specifically targeting IUU monitoring and enforcement as well as stock assessments seems to remain marginal and may require additional resources. Finally, donors might want to ensure full policy coherence when designing fisheries development programs, taking into account all relevant dimensions of food security, livelihoods, and environmental sustainability.



From a general perspective, TACB should respond to the needs of beneficiaries. Countries requiring assistance could therefore start by mapping their country-specific TACB needs in the different areas identified in Section 2. These diagnostic studies should provide a comprehensive assessment of current gaps and associated existing and future needs. They should be developed in consultation with relevant government agencies and stakeholders likely to be affected by new WTO disciplines. Some countries may benefit from assistance in undertaking those needs assessments. Here, the experience with implementing the WTO Trade Facilitation Agreement could provide some inspiration. In that context, the WTO Secretariat, in cooperation with the International Monetary Fund, the OECD, the United Nations Conference on Trade and Development (UNCTAD), the World Bank, and the World Customs Organization, as well as experts from donor countries, assisted 94 WTO members in identifying their trade facilitation needs and priorities by conducting a series of country-specific needs assessments. The process was supported by a needs assessment guide produced by the Secretariat and involving national trade facilitation task forces or committees composed of border agencies, the private sector, and government agencies affected by the new agreement.¹³ Members could consider whether elements of such a process might help to facilitate support for implementing a future WTO instrument on fisheries subsidies.

This exercise, however, should not be conceived solely as a compliance exercise. Ideally, it should form an integral part of the sustainable development strategy for WTO members' fisheries sectors. As highlighted previously, this may require the participation of a wide range of relevant stakeholders and government agencies to compile data; articulate a comprehensive reform strategy, including short- and long-term goals; and implement it over time in coordination with efforts in other related policy areas. It may also require tapping the expertise that is already being provided by a number of specialized agencies, such as the FAO, the World Bank, UNCTAD, or the United Nations Environment Programme, as well as non-governmental organizations, think-tanks, and regional fisheries organizations or development agencies. UNCTAD, the FAO, and the United Nations Environment Programme have recently established an interagency plan of action for achieving the trade-related targets under Sustainable Development Goal 14.

With only a few months left to conclude the fisheries subsidies negotiations, defining the precise areas where TACB would be useful to support implementation and how the donor community should respond to them is becoming urgent. Progress on this front will not only facilitate compliance with and support the effectiveness of a future instrument, but it might also help to provide some comfort for capacity-constrained members to engage in the negotiations and assess the levels of commitment they are able to undertake.

¹³ See <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/TN/TF/W143R8.pdf&Open=True>



References

- Cisneros-Montemayor, A., Sanjurjo, E., Munro, G. R., Hernández-Trejo, V., & Sumaila, U.R. (2015, July). Strategies and rationale for fishery subsidy reform. *Marine Policy*, 69, 229–236. <https://doi.org/10.1016/j.marpol.2015.10.001>
- Cox, M., & Norrington-Davies, G. (2019). *Technical assistance: New thinking on an old problem*. <https://agulhas.co.uk/wp-content/uploads/2019/02/OSF-Landscaping-Study-on-TA-final-version-2.pdf>
- Food and Agriculture Organization of the United Nations (FAO). (2020). *The state of the world fisheries and aquaculture 2020: Sustainability in action*. <http://www.fao.org/documents/card/en/c/ca9229en>
- Organisation for Economic Co-operation and Development (OECD). (n.d.). OECD.Stat Creditor Reporting System (CRS). <https://stats.oecd.org/Index.aspx?DataSetCode=crs1>
- The Pew Charitable Trusts. (2019). *Fisheries support activities related to WTO negotiations*. <https://public.tableau.com/profile/the.pew.charitable.trusts#!/vizhome/WTOFisheriesProjects/Dashboard>
- Redding, T., & Macfadyen, G. (2020). *Potential implementation steps of a WTO Agreement on Fisheries Subsidies*. Global Subsidies Initiative of the International Institute for Sustainable Development. <https://www.iisd.org/publications/steps-wto-agreement-fisheries-subsidies>
- World Trade Organization. (2005, December 18). *Annex D. Hong Kong Ministerial Declaration (WT/MIN(05)/DEC)*. https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=70196&CurrentCatalogueIdIndex=0&FullTextSearch=
- World Trade Organization. (2020). *Negotiating Group on Rules – Fisheries Subsidies: Draft consolidated text (RD/TN/RL/126/Rev.1)*.

© 2020 The International Institute for Sustainable Development
Published by the International Institute for Sustainable Development.

IISD Head Office

111 Lombard Avenue, Suite 325
Winnipeg, Manitoba
Canada R3B 0T4

Tel: +1 (204) 958-7700

Website: www.iisd.org

Twitter: [@IISD_news](https://twitter.com/IISD_news)

Global Subsidies Initiative

International Environment House 2
9 chemin de Balaxert, 1219 Châtelaine
Geneva, Switzerland

Tel: +41 22 917-8683

Website: www.iisd.org/gsi

Twitter: [@globalsubsidies](https://twitter.com/globalsubsidies)

