

## Indian Fisheries Sector in the Wake Of World Trade Agreement: Paradigms and Perspectives

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International trade has become far more significant in the world economy, and over the past two decades world trade has grown faster than world output growth. However, over the 1990s, the value of world trade has fluctuated substantially. The economic environment for trade, specifically fish trade is changing in a remarkable way due to changes in domestic policies as well as international trade arrangements. GATT, the discussion on which started as early as 1947, the most important one, provided an useful forum for discussion and negotiations on international trade issues. Since then several rounds of talks were organized and the Eighth Round of Multilateral Negotiations popularly known as “Uruguay Round” was initiated in September 1986. Finally the Uruguay Round of Multilateral Trade Negotiations as per the Dunkel Text paved the way for formation of WTO which may have serious implications and consequences for India in many sectors of the economy.

The 1994 Agreement establishing the World Trade Organization was developed during the Uruguay Round, a series of trade negotiations among 125 countries spanning seven and a half years. The Agreement specifies the purpose of the WTO, its functions, structure, and legal status, and provides for a Secretariat. The preamble text states that parties to the Agreement recognize that, “their relations in the field of trade and economic endeavor should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development”.

The World Trade Organization (WTO) was born on 1<sup>st</sup> January 1995 as a result of the Uruguay Round of Trade Negotiations. Apart from setting rules for international trade, the WTO conducts trade policy review of Member Country. The WTO arrangements were negotiated through several rounds of Talks and finally signed by the main trading nations. The objectives of the WTO agreement is for “Raising standards of living of the world people, ensuring full employment, expanding the production and trade in goods and services and using natural resources optimally in accordance with the objective of sustainable development”. The consumer sees price of essential drugs and other knowledge based products go up following intellectual property protection. Subsidies are dear to producers who have to face cut throat competition in the global markets. Industry fears competition from imports.

The aim of WTO is to provide a forum for interpreting established international trade laws, for fresh negotiations among member countries and for settlement of trade – related disputes. It lays down a comprehensive set of regulations and guidelines covering all aspects of international trade. Besides, it establishes an open and liberal global environment free from trade restrictions and encourages participation of developed and developing countries in the newly established Multi-lateral Trading System.

Certification and labeling programmes operated by governments, such as the case of certification and labeling stemming from AIDCP would be considered “standards” for the purposes of the **Technical Barriers to Trade** TBT, since they are not mandatory. Other certification programmes operational in the fisheries sector, such as that of the Marine Stewardship Council (MSC), would also be considered as standards.

The most controversial aspect of certification and labeling is whether voluntary initiatives involving “non-product-related production and processing methods” are covered by the TBT Agreement. Non product- related production and processing methods (PPMs) are those PPMs that do not form part of the physical characteristics of the end product. For example, the subject of Principle 3 of the MSC Principles and Criteria would be likely to be considered a non-product-related PPM, since it relates to an intangible aspect of fishery.

It states, “The fishery is subject to an effective management system that respects local, national and international laws and standards and incorporates institutional and operational frameworks that require use of the resource to be responsible and sustainable.” If non-product-related PPMs are indeed covered by the TBT Agreement, then some of the disciplines in the Code of Good Practice might interfere with voluntary certification and labeling schemes that are based on such PPMs. These disciplines include the non-discrimination in relation to “like products” and the avoidance of unnecessary obstacles to international trade depending on how these terms are interpreted. So far, there is no consensus as to whether such PPMs are indeed covered by the TBT agreement.

### **The WTO’s Doha Agenda For Fisheries**

Once again secret deals are being cut in back rooms by corporate-dominated and little known international trade groups that will directly impact the lives of commercial fishermen and our industry for decades to come. In this account we will explain that threat and help guide you through the ‘trade-speak’ maze as well as tell you what you can do to see that fishermen’s concerns are addressed. The outcome of this struggle really matters. What happens in this fight will directly affect your markets, your price and even whether you will still be able to go fishing in the future. In one-way or another, the issue affects us all.

After failing famously in Seattle in November 1999, the World Trade Organization (WTO) finally succeeded in launching a new round of trade talks in November 2001. Two years following the “Battle in Seattle,” trade ministers from 140 nations agreed to expand the WTO’s scope over fisheries policies worldwide.

As signed in Doha, Qatar, world governments have agreed to begin negotiations in key areas of fisheries policy, making these issues, which have traditionally been decided in local or national arenas, an international trade agenda item. Everything from gear requirements to labeling requirements to fishermen’s federal pensions could be impacted. Once again, fishing men and women, and the coastal communities they support, have been shoved out of the rule-making process and currently have no voice at the table (see the November, 1999 FN article “The World Trade Organization (WTO): Flying Under Fishermen’s Radar,” available on the Internet.

The Pacific Coast Federation of Fishermen's Associations (PCFFA) and the World Forum of Fish Harvesters & Fish workers (WFF) are important voices for sustainable fisheries and for fishing-dependent people worldwide. Like small farmers, fishing communities everywhere are by necessity uniting globally to defend their rights and to protect their traditional livelihoods from potential WTO attack. Global trade rules currently reflect mainly the interests of large multinational businesses who certainly do not have the interests of commercial fishermen in mind. WTO rules now being proposed for the world's fisheries could also seriously restrict national governments' abilities to regulate their own fisheries, and prevent them from protecting those fisheries from rapacious multi-national corporations.

Countless popular movements have roundly criticized the WTO as a threat to democracy and the public interest. By joining the WTO, our government restricts what its own citizens can do to sustain fisheries and fishing communities, as well as set limits on the behavior of large corporations. Thus fisheries policy-making is increasingly moving offshore, to the arena of international trade negotiations between nations. As a result, nearly every national fishery management policy, tool or conservation program that might restrict corporate access to fisheries or seafood markets could, potentially, be classified to be a violation of the rules of global free trade.

### **WTO and Indian Fisheries**

The impact of these agreements on Indian Fisheries is expected to be on the following:

- i) Influence the size, composition, competitiveness and direction of India's Fish Exports;
- ii) Influence the productivity of Indian fish; the country's food security position, cost of inputs and their use rates are likely to be affected;
- iii) The shift towards export oriented production may lead to certain environmental problems;
- iv) Domestic prices of fish commodities may change; and
- v) Issues of Trade Related Intellectual Property Rights will have considerable implications on fisheries due to the product patent regime

Liberalization of Fish trade in the world has undergone remarkable change since launching of WTO in 1995. WTO commitments in the area of agriculture fall under the following categories viz., Market Access, Domestic Support, Export Competition and Trade Related Intellectual Property Rights (TRIPS). WTO encompasses three major agreements viz., General Agreement on Trade in Goods, General Agreement on Trade in Services and Trade Related Intellectual Property Rights

### **Non Agricultural Market Access (NAMA)**

A key element of the Doha Round of trade negotiations of the World Trade Organisation (WTO) is liberalisation of trade in industrial products, commonly known as non-agricultural market access (NAMA). NAMA refers to all products not covered by the Agreement on Agriculture. In other words, in practice, it includes manufacturing products, fuels and mining products, fish and fish products, and forestry products. They are sometimes referred to as industrial products or manufactured goods. The methodology for Tariff Reduction: at the core of the negotiations over NAMA. However, here too the developed and developing countries are divided over the extent to which tariff reductions will be carried out. At the heart of the debate is the reconciliation of the process of tariff reduction and the need to use tariffs as a policy tool, primarily by developing countries interested in protecting emerging

industries for developmental purposes. A tariff binding is a ceiling above which a member country cannot apply a tariff, thus representing the maximum tariff than can be applied by a member. The NAMA negotiators have opted in favour of a formula approach to tariff reductions rather than a linear approach. The Swiss formula, which has been propounded by the developed countries such as the US, the EC countries, Norway, and Japan, proposes to cut tariffs steeply without taking account of the existing tariff profile of a country. The modified Swiss formula, on the other hand, takes into account the tariff profile of the countries while carrying out tariff reductions. This approach is supported by the developing countries, group of eleven developing countries working toward strengthening NAMA. The group has two main objectives of supporting flexibilities for developing countries and balance between NAMA and other areas under negotiation. The Member countries of NAMA-11 are Argentina, Bolivarian Republic of Venezuela, Brazil, Egypt, India, Indonesia, Namibia, Philippines, South Africa and Tunisia. NAMA products have accounted for almost 90 per cent of the world merchandise exports.

Negotiation under NAMA focus on market access for all products (mostly industrial) that are not covered by negotiations on agriculture and aim to reduce, if not possible to completely eliminate tariff or non-tariff barriers (NTBs) that restrict trade in these products. NAMA negotiation also considers products including natural resources such as fisheries, forests, gems and minerals. The ongoing NAMA negotiations are based on the mandate given in Doha Development Agenda (DDA), agreed at the 4th WTO Ministerial Conference, in November 2001. The Doha mandate states that the negotiation needs to address tariff peaks, tariff escalation and NTBs. The Doha text also states that, there is need for comprehensive product coverage under NAMA and less than full reciprocity i.e. developing countries need to reduce tariff to a lower extent than industrialised countries and spread commitment over a longer time period. Further, the modalities to be agreed under NAMA include appropriate capacity building measures to assist least developed countries to participate effectively in negotiations. July Framework also, as adopted on August 2004, identified NAMA as the priority area along with the other issues of WTO and reaffirmed on what was promised in Doha to reduce the tariffs and NTBs and address tariff peaks and tariff escalation, taking fully into accounts the special needs and interest of developing and least developing countries (LDCs). India wants to gain greater market access in the developed countries, not much through the reduction of their tariffs, which are already low but through the dismantling of NTBs to trade and some GSP [e.g. the proposed EU-GSP on (T&C)]. India will also like to resist sharp reduction in tariffs forced open upon by developed countries. It will reduce tariff autonomously at a pace it judges suitable for the Indian industry. India will accept any tariff reduction formula only on bound rates and will counter any attempt to use applied rates as the base for application of a tariff reduction formula. India wants an equitable tariff reduction formula in the negotiations keeping in view the concerns of the developing countries. India endorses the suggestion put forward by US for using two different coefficients for tariff reductions – one for the developed country and one for the developing countries, but with a lot of fine-tuning, rather than using the Swiss Formula. India is also against the proposal of a mandatory ‘zero for zero’ reduction on the seven specific products by 2015 as these constitutes the bulk of the India’ export basket and are also product reserved for the small-scale sector. A ‘zero for zero’ regime would spell their doom by granting unmitigated access to large foreign firms in the same market. India also highlights the need to link adoption of tariff reduction formula with concrete time bound progress on eliminating NTBs.

## Market Access

Under this, all member countries of WTO are requested to:

- i) Replace all types of non-tariff barriers with tariff barriers; and
- ii) Reduce the level of tariffs under a time bound programme.

It was agreed in the negotiation that developed countries should reduce their tariff for fish produce by 36 per cent with minimum of 15 per cent for each product over a six year period (1995-2000), while it was 24 per cent with a minimum cut of 10 per cent for each item in 10 years (1995-2000) for developing countries.

Market access also includes special safeguard provisions which permit the country to impose additional duties when import surges above a particular level or low import prices as compared to 1986-88 levels. Besides, a minimum access equal to three per cent of domestic consumption in 1986-88 will have to be established for the year 1995 which must be increased to five per cent at the end of implementation period (2004). It is now made clear that implementation of these measures had no adverse impact on Indian agriculture. Even in case of edible oils, special provisions allow India to maintain restriction till the end of the implementation period (2004).

## Domestic Support (Aggregate Measure of Support)

Domestic support deals with reduction commitments of subsidies provided to domestic producers. It stipulates that the total support given in 1986-88 measured as Aggregate Measure of Support should be reduced by 20 per cent in developed countries and 13.3 per cent in developing countries. Besides, it stipulates that the domestic support (both product and non-product) given should be less than five per cent of the total value of fish production in developed countries and less than 10 per cent in developing countries.

Policies which have been excluded from reduction commitments are government spending on research, disease control, and infrastructure and food security. It also includes direct payments under environmental programmes and regional assistance programmes. India need not reduce any kind of subsidies in the country since its Aggregate Measure of Support (AMS) to the agriculture sector is negative.

## Export Competition or Export Subsidies

Under this, WTO agreement calls for reducing direct subsidies to a level of 36 per cent below 1986-88 level in case of developed countries in value terms and 21 per cent by volume terms in six years. The percentage reductions are 24 and 14 in equal annual instalments over ten years for developing countries. In India, exporters of fish commodities do not get any direct subsidy. Only subsidies on freight charges and on export shipment of certain fruits, and floricultural products are given.

## Trade Related Intellectual Property Rights (TRIPS)

In the post WTO era, the subject of IPR has assumed greater importance in the scientific research and development and is being regarded as more valuable than traditional asset. The establishment of WTO, which now is the administrative and dispute resolving agency for all the matters related to trade related IPRs, has made it obligatory for India to honour all its commitments to safeguard the intellectual property rights of the owners.

There are seven areas of IPR that are covered by the TRIPs, namely Trademarks, Trade Secrets, Industrial Designs, Copyrights, Integrated Circuits, Geographical Indication and Patents. In the first six areas, Indian laws, regulations, administrative procedures and judicial systems are at par with the rest of the world; the norms of enforcement and protection proposed in the WTO are in conformity with the Indian system. In the last area, namely in issues related to Patents, Indian laws are however, substantially different from the provisions of WTO.

The TRIPS agreement states that patents shall be available for any inventions in all fields of technology provided they are new, involve an inventive step and are capable of industrial application. Biotechnology firms will benefit from improved IP protection for a technology having inventive step with commercial utility under such a system. The increased investment in animal biotechnology research and development implies an increased likelihood of finding solutions to some of the fish diseases (like White Spot Syndrome Virus) that currently defy treatments. In this way, consumers and farmers benefit from the improvements in the practices that may take place in aquaculture. But, the patenting of higher animal life forms was left unresolved, with signatories having the option to use or not use patents to protect such intellectual property rights. The US, EU, Japan, Australia and a few other countries have legalized the patenting of animals even though none of them has as yet patented a farm animal. India has decided not to patent farm animal though it adopted *sui generis* system for protection of plant varieties. However, India being a signatory to the GATT is obliged to adopt a patent system for microorganisms that may open up new avenues in this sector.

### **Trade Related Investment Measures (TRIMS)**

The proposals of a Multiple Agreement on Investment (MAI) spell concern for fisheries sector. The provisions of MAI would fundamentally alter the climate for international investment by preventing governments from providing more favourable conditions for their citizens and domestic companies than for other investors. Under new regime, countries would be required to treat foreign investors no less favorably than domestic ones. It allows foreign fishing fleets the same access to domestic waters that local enjoys.

One of the most contentious aspects of fisheries management is the allocation of the total allowable catch (TAC). Most countries give preferential access to their domestic fishermen, only allowing others in for those species which are not fully utilized. If all foreign investors are to be treated at least as favourably as domestic companies it may not be possible to give continuous support to our poor fisher folk. Further, governments and regional management organizations usually set the TAC based upon some variant of Maximum Sustainable Yield as a target. There are many other possible targets, though, based upon other biological or even economic criteria. If, as a conservation measure, a country wishes to maintain fish stocks at somewhat greater abundance, it may not be possible to do so under the provisions of MAI. Thus, WTO has great impact on the global fishing industry, the conservation of fisheries resources and the communities who depend upon them.

The WTO's current rules apply mostly to international trade in goods and services. But the Doha Summit agenda would also expand the WTO's powers to cover foreign investment. If accepted and implemented by WTO member nations, citizens would lose enormous power to regulate foreign capital through their own governments, threatening fisheries resources in a number of ways. Around the world, many state and local governments grant commercial fishing licenses based on various criteria, such as fleet sizes,

standards of gear, and residency requirements (“fish here, live here” policies). Trade negotiators (especially from nations with substantial long-distance fleets looking for new fishing grounds to exploit) view these kinds of measure as “discriminatory” against foreign investors and are trying to use the WTO process to prohibit all WTO member nations from using them.

Individual Fishing Quotas (IFQs) may also be seriously impacted by new WTO investment rules. The capital-rich nations, looking to “liberalize” markets for themselves, want to make it so that any time any member government privatizes a public entity (say, state-owned companies, social services or even concessions to exploit natural resources), they must do so only according to new WTO rules. Thus, conditions imposed on IFQ systems to protect fishermen and fishing communities could be threatened by WTO investment rules.

The investment agenda’s worst element, according to many critics, is the “Investor-State Mechanism,” which already exists under the North American Free Trade Agreement (NAFTA) and which the U.S. would like to universalize via the Free Trade Area of the Americas (FTAA) Agreement and through the WTO. By establishing new legal protections for foreign investors, this policy allows private corporations to sue a foreign government for enacting measures that reduce the planned profits of the foreign investor. Under NAFTA, for instance, a Canadian chemical manufacturer sued U.S. government for projected profits lost because of California’s recent legislative ban on the fuel-additive MTBE. Even though the state’s fresh water supply is heavily contaminated by cancer-causing MTBE, and even though the cleanup of that pollution may now cost California billions of dollars, the foreign investor is demanding cash compensation from the U.S. government of nearly one billion dollars for losing its MTBE market because of the state ban on what is clearly a dangerous pollutant.

Allowing “regulatory takings” of this sort would make it impossible to protect our environment from whatever environmental assault some foreign investor figured to make money off of. Among other things, it might make dam removal, watershed restoration and limits on clear-cut logging, all necessary for salmon restoration, nearly impossible, and then only at great cost to the taxpayer. The corporations and their investors, who make money from destroying those watersheds, would thus have to be paid “protection money” not to continue their destruction.

### **Sanitary and Phytosanitary (SPS) Measures**

The SPS agreement confirms the right of WTO member countries to apply measures necessary to protect human, animal and plant life and health. This right was included in original GATT (1947) as a general exclusion from the other provisions of the agreement provided that “such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same condition prevail, or disguised restrictions on international trade”. Despite this general conditions for the application of national measures to protect human, animal and plant life and health, it had become apparent that national sanitary and phytosanitary measures had become, whether by design or by accident, effective trade barriers. The SPS agreement therefore sets new rules in an area previously excluded from GATT disciplines.

The purpose of the SPS agreement is to ensure that measures established by government to protect human, animal and plant life and health are consistent with obligations prohibiting arbitrary or unjustifiable discrimination on trade between countries

where the same conditions prevail and are not disguised restrictions on international trade. It requires that, with regard to food safety measures, WTO members base their national measures on international standards, guidelines and other recommendations adopted by the FAO/WHO Codex Alimentarius commission where they exist. This does not prevent a member country from adopting stricter measures if there is a scientific justification of doing so, or if the level of protection offered by the codex standard is inconsistent with the level of protection generally applied when deemed appropriate by the country concerned.

The SPS agreement covers all food hygiene measures and food safety measures such as the control of residues of veterinary drugs, pesticides and other chemical used in meat production. In addition, it also covers animal and plant quarantine measures. The SPS agreement states that any measures taken that conform to international codex standards; guidelines or other recommendations are deemed to be appropriate, necessary and non-discriminatory. Furthermore, the SPS agreement calls for a programme of harmonization of national requirements based on international standards. This work is guided by the WTO committee on sanitary and phytosanitary measures, to which representatives of CAC, the international office of Epizootics (OIE) and the international plant protection convention (IPPC) are invited.

The export market has been rapidly growing. However, it might be affected by the insistence of USA and other developed countries on imports of food products only from those suppliers who have established HACCP system at their plants. India is a signatory to the WTO, SPS and TBT Agreements. With about one hundred sixty two nations being a part of WTO, basic food safety standards as per CODEX Alimentarius becomes mandatory. When the member countries have started implementing HACCP and our industry does not follow the same standard, our goods exported to those countries may be rejected.

In order to have safe food and larger Foreign and Domestic market for the Indian seafood products, and also to challenge any possible threats under SPS measures it will become increasingly necessary for all the seafood processing companies to follow the guidelines of HACCP and get their products and plants HACCP certified. These SPS measures also protect Indian industry from discriminate policies of developed nations and disguised restrictions imposed on Indian seafood exports.

### **Quantitative Restrictions (QR)**

Quantitative Restrictions (QRs) refer to measures other than tariffs or duties taken to restrict imports (or exports). Article XI of the GATT generally prohibits quantitative restrictions on the import or the export of any product. The Quantitative Restrictions are considered to have a greater protective effect than tariff measures and are most likely to distort free trade. When a trading partner uses tariff to restrict imports, it is still possible to increase exports as long as foreign products become price competitive enough to overcome the barriers created by the tariff. When a trading partner uses QRs, however, it is impossible to export in excess of the quota no matter how price competitive products may be. Thus, QRs are considered to have a greater distortional effect on trade than tariffs and their prohibition is one of the fundamental principles of the GATT. Although multilateral trade rules, in general, prohibit QRs on import (or export) of any product, the GATT provides exceptions to this fundamental principle. These exceptional rules permit the imposition of quantitative measures under limited conditions and only if they are taken under policy grounds justifiable under the GATT such as critical shortage of food stuffs (Article XI: 2) and Balance of payment (Article XVIII: B).



Developing countries like India were permitted to maintain Quantitative restrictions (QRs) due to Balance of payment (BoP) position and initially committed to phasing out the QRs in a phased manner. The Government has accordingly phased out these QRs on imports with respect to 714 items. Commodities such as fish and fishery products figure prominently on the list of items that can now be imported freely and such a step is going to have an impact on the Fisheries sector.

The Indian seafood factories, which are mostly idle during the monsoon season due to trawl ban, can process imported raw material in the changed scenario. Due to the low capacity utilization, seafood has become a low profit industry. The new policy would enable the import of tuna. Since tuna prices are high in the Indian market, exporters do not enjoy a comfortable margin. The situation will change dramatically once cheaper tuna is imported into the country.

US based Red Chamber, the largest importer of Indian seafood, is aiming to shift its re-processing base from China to India with an investment of \$ 1.3 billion directly in areas like marine product procurement, processing and value addition. Japan is also keen on tie-ups in this sector. This is a welcoming sign and such collaborations will generate more employment in pre-processing facilities and factories and also bring about a general upgradation in qualitative standards.

The significance of international trade in fish and fish products is further enhanced by the fact that the net foreign exchange earnings from seafood exports is one of the highest in India. However, tariff and non-tariff barriers hamper the access to international markets. If the entire member countries remove QR's in compliance with WTO provisions/agreements, Indian seafood products may find new markets which will enable the fish processing industry more vibrant in the coming years. This may lead to many new enterprises coming in this sector by exploiting the available cheap labor and skilled manpower. In case of any possible inflow of fish/ fish products into Indian market due to removal of Quantitative restrictions, the consumers may be benefited to have the taste of cold-water species such as trout and salmon.

### **MARKET ACCESS: The Global Free-Fishing Agreement**

WTO bureaucrats and corporations already consider many of the policies that conserve fisheries (and the communities that depend on the resource) to be “barriers to free trade.” Since conservation measures always imply some restrictions on harvest, the WTO's market access agenda could undermine sustainable fisheries and livelihoods by weakening legal protections that promote natural resource conservation and communities. The forestry, fishing, and farming sectors are particularly likely to be impacted. Ongoing WTO negotiations for wider market access are broken down into two general categories: 1) eliminating tariffs, and; 2) eliminating “Non-Tariff Measures (NTMs)”.

#### **(i) Eliminating Tariffs**

In Seattle, trade ministers were pushing to finalize a deal to eliminate tariffs (import taxes) between nations. Critics pointed out that tariff elimination could also expose small-scale fishing communities, whose survival depends on sustaining local fisheries, in a variety of ways. Lowering tariffs in the absence of adequate safeguards for marine ecosystems and for fishermen, for instance, could accelerate the death spiral of the world's fish stocks and fishing communities.

Although the UN Food & Agriculture Organization (FAO) reports increasingly dire news about dwindling worldwide stocks, no assessment has yet been done on the biological health impacts on fish stocks that are being prioritized for tariff elimination. Nor has anyone even consulted the fishing communities themselves about what issues they want addressed. The Pacific Coast Federation of Fishermen's Associations in the US has been unable to even obtain information on the status of these trade talks. Apparently the only ones who are kept aware of the WTO fisheries agenda are the very importers, processors, and distributors who are driving the "full market access" trade agenda via the WTO. Their goal is to be able to dominate local markets everywhere at the expense of local fishermen.

Cutting tariffs reduces prices for consumers, in turn stimulating consumption, especially in the rich nations where tariffs are highest. This could be disastrous for fisheries. In third world nations it creates pressures on government to export fish otherwise intended for local markets or simply sell quotas to foreign fleets to the detriment of local fishing fleets. In turn, these cheap imports hurt fishermen in the wealthy countries by driving their ex-vessel prices down and subjecting them to a type of third world poverty. Also, some of America's oldest fisheries conservation programs (like the 1954 Saltonstall-Kennedy Act) that are financed by tariff revenues could face difficulty in securing continued funding.

## **(ii) Eliminating Non Tariff Measures (NTMs)**

The most dangerous thrust to fishermen of world trade agreements is the covert effort, by some countries who want to flood our markets, to include just about anything that might keep them out as a "non-tariff measure" or "NTM." In trade-speak, NTMs are considered to be any government measure, policy, or practice that has the effect of "distorting" trade. Obviously this definition is wide open to interpretation and abuse.

Proposed lists of fishing NTMs by some countries have included measures such as normal and biologically necessary harvesting restrictions, bans on destructive gear, precautionary measures against the import of species suspected of disease or illness, residency requirements ("fish here, live here" provisions), and even ecolabels. The Asia Pacific Economic Community (or APEC, which includes the U.S.) has already surveyed what it considers the various NTMs in Pacific Rim markets, with a view to using its list as a framework for negotiations on market access in the WTO. Governments have yet to make this NTM report public, however, as it could reveal a laundry list of important fisheries regulatory or conservation measures being targeted for elimination via WTO negotiations. Yet the United States Trade Representative (USTR) plans to also use this still-secret APEC laundry list as a "negotiating framework" for upcoming market access talks in Geneva.

In the forestry sector, the WTO official definition of NTMs already extends to measures that may have a "potential" to impact trade, such as labeling requirements. Although they admittedly have not yet had any impact on trade, eco-labels are also being closely observed under the WTO microscope.

WTO's predecessor, the General Agreement on Tariffs and Trade (GATT), used to lecture "misguided conservationists" not to use trade measures to influence foreign fishing practices. Instead, GATT insisted, informing consumers through labeling would be a more efficient and effective method that would not impede trade. But now that such labeling systems exist, WTO is saying that labels informing consumers are themselves barriers to trade because they might discriminate against imports.

The rising occurrence of genetically modified organisms (GMOs) that are hitting world markets are also of major concern to scientists and the general public. However, the WTO

has already ruled that governments may not “discriminate” against imports based on how something was produced, for instance by traditional and sustainable versus industrial and destructive methods of production. Under this rubric, other nations’ initiatives to label genetically engineered species are already being threatened with WTO action.

Eco-labels, such as the Marine Stewardship Council’s (MSC) program for sustainably harvested seafood products, are also directly threatened by WTO’s new mandate given in Doha, including the recent certification by MSC of Alaskan salmon as a sustainable fishery. Trade ministers specified in the Doha Summit’s final declaration that eco-labels would be closely observed and assessed for their impacts on trade. Some nations have already made clear their intentions to challenge eco-labels as discriminatory under the WTO’s free trade rules. However you might feel about such labeling schemes, this attack, if successful, would also eliminate another type of eco-label most fishermen support, the labeling of wild versus farmed seafood products.

The WTO also restrains governments from taking precautionary measures to prevent the entry of invasive species and foreign diseases. Canada has already successfully challenged Tasmania’s ban on salmon eggs, imposed because of possible entry of foreign salmon diseases with foreign eggs. The Sanitary & Phyto-Sanitary (or SPS) Agreement of the WTO does not recognize the precautionary principle at all when allowing governments to implement protections at the border. The burden of proof is thus always on the public to prove something is NOT safe, never on the industries to prove that it is.

U.S. Congressman Nick Rahal (D-WV) has proposed the Invasive Species & Coastal Protection Act (H.R. 3558) to set up a comprehensive national program to protect native fish and wildlife from the impacts of invasive species. In drafting such bills, however, lawmakers are discouraged from enacting any meaningfully precautionary measures, on the theory that such measures would impede global trade and thus could be slapped down by the WTO.

In short, the NTM elimination agenda has become the final push by major multi-national corporations to remove all national or regional governmental controls over natural resources like fisheries. If their full agenda is ultimately adopted, any nation’s policies or regulations for the conservation of important biological resources, or for the protection of the communities that depend upon those resources, would become subservient to expanding global trade requirements.

### **ANTI-DUMPING: When Cheap Imports Kill**

It is no secret that the international trading system is currently seeing a multitude of complaints about “dumping,” which is the practice of exporting a product at a price lower than it can be produced in an effort to drive out competition and eventually monopolize the market. As global recession deepens, nations are intensifying their promotion of exports to keep their economies afloat. In reaction, importing nations are imposing tariffs and quotas (so-called “anti-dumping measures”) to control the flood of cheap products that are driving domestic producers out of business. The Bush Administration, for example, recently imposed restrictions on steel imports into the U.S. to protect our own industry from dumping.

However, the WTO sets strict rules on what measures governments can take, and under what conditions, to stem the tide of damaging imports. The Doha Declaration set forth negotiations “aimed at clarifying and improving disciplines” under the WTO Agreements on Subsidies and Countervailing Measures, also known as the “Anti-Dumping Agreement.” Although anti-dumping provisions were heavily pushed in Doha by developing nations who

are frustrated with U.S. attempts to block imports from their countries of steel and textiles, small producers in many nations (especially the poorest) will be the ultimate victims of stronger WTO rules that prevent those nations from regulating the flood of cheap imports into their countries from elsewhere.

From fisheries to forestry to farming, millions of people around the world whose survival depends directly on accessing natural resources (for their own subsistence or for small-scale production) are now threatened by cheap imports. Yet compared to mass-produced, industrial, export-oriented production, many of these small-scale producers employ traditional management practices that distribute natural resources more equitably and are far more sustainable.

From Sri Lanka to California, local fishing communities who have long practiced sustainable harvesting methods are threatened by cheap seafood imports. Sri Lankan fishermen can no longer sell their products since import barriers were lifted to allow industrial trawlers from other Asian nations to flood local markets. Salmon fishermen along the Pacific Coast of the U.S. cannot compete with below-cost imports of farmed salmon from Chile, where export aquaculture that damages coastal habitat and requires massive amount of antibiotics is also being fought by local artisanal fishermen, indigenous peoples, workers, and conservationists. These are but two examples of a worldwide problem.

The expansion of global trade and investment overseen by the WTO has created a crisis in rural communities everywhere. Fluctuating global commodity prices have destabilized local communities and made long-term planning for natural resource protections impossible. Trade rules need to give communities and nations the right to do whatever is necessary to protect sustainable resource management practices and the livelihoods those resources support.

### **SUBSIDIES: The WTO Swings Its Axe Again**

WTO's binding powers force member nations to continuously lower tariffs and reducing tariffs on imported fish lowers prices and stimulates consumption, magnifying pressures on dwindling stocks and ecosystems. WTO also predicted that the last round of tariff reductions would increase the trade in fish. But, to date there has been no impact assessment. Many countries have developed extensive programmes of subsidies to support certain parts of the fisheries sector, including unemployment and reconversion schemes, shipbuilding and modernisation support, fuel subsidies and others. But, as per the WTO agreement, developed countries would reduce subsidies and tariff. So, better overseas markets will be available for Indian fish products. It is important to note that the subsidies reduction requirement under WTO is not applicable to India. The countries having less than \$1,000 per capita income annually does not fall under this category.

One of the major fisheries problems covered in the Doha Summit was the problem of the world's badly overcapitalized fishing fleets, with several proposals for cutting national subsidies that maintain fleets too large for the available fish resource. This item on the Doha agenda, which at first glance may appear innocuous if not helpful, could easily turn out to be a corporate Trojan horse. Embedded within it are hidden agendas of large corporations for capturing what is left of the planet's fisheries resources. While governments absolutely need to cut subsidies and reduce overcapacity in their fishing industry, the WTO is not the appropriate place to handle this problem. Letting a trade body, whose main constituents are global trading firms and not people tied to the land and sea, decide which subsidies are

allowable almost ensures that what happened to small scale family farmers under the WTO's last round will now be repeated with the world's small scale family fishermen.

Beyond the WTO's well-documented history of cutting subsidies for the poor while further enriching the wealthy, the true WTO agenda for dealing with fisheries subsidies is revealed by who has been at the table in the discussion to date. Attempts by national networks of fishermen's organizations (including PCFFA) to get a seat at the negotiating table have been ignored, while the U.S. trade association of importers, processors, and distributors (the National Fisheries Institute) has long been an official advisor to U.S. trade negotiators. Some environmental organizations involved with the WTO seem to be playing into this strategy as well, despite being informed repeatedly of the concerns of small fishermen's organizations.

The Doha Summit text mentions the subject of fisheries subsidies under the section calling for the strengthening of the Agreements on Subsidies and Countervailing Measures (Anti-Dumping). But the language contains no explicit conservation mandate, nor even an implied one. Indeed, its only specific directive is "taking into account the importance of this sector to developing countries," which likely signals an orientation toward maximizing and industrializing the exports of fish products from poor countries, where, not coincidentally, some wealthy nations are increasingly investing in foreign fishing because they have overfished their own territories.

It is still not clear how the WTO will be defining "fisheries subsidies." If past negotiations on farming subsidies are any guide, definitions can range as far as the largest multinationals can stretch them. With no clear conservation mandate, it is hard to say how the WTO's Doha Declaration will impact federally financed programs specifically intended to develop more selective/less destructive fisheries, or efforts to restore habitat, or for the buyback of excessive fleet capacity and permits (including through the Capital Construction Fund), to guarantee retirement accounts for fishermen, or to provide marketing assistance (such as Alaska, Oregon and California's seafood marketing commissions). If any of these important programs are deemed "fisheries subsidies" they could ultimately be declared violations of the WTO rules, exposing the U.S. to stiff sanctions.

### **Apprehension of the developing countries**

The major apprehension of the developing countries is that the developed countries did not implement the commitments made in the agreement on market access, provision of subsidies for export and production of fish commodities. Instead of implementation, the developed countries are continuing their subsidies and reducing the market access to developing countries thereby affecting the competitiveness of agriculture of developing countries. First, market access negotiations should cut tariffs and trade-distorting subsidies, particularly in fisheries in developed countries. We need to put an end to a situation where subsidies and other support to agriculture in rich countries are about US \$1 billion a day which is more than six times of all development assistance of developing countries.

India is fully justified in asserting that implementation of existing commitments is more important. In this regard it is to be pointed out that India has convinced the rest of the world and Doha Ministerial Conference which had agreed to take up implementation issues.

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