



tBrief Edition #4

A 20-YEAR STRUGGLE:

Transparency in subsidies to the fisheries sector

Key messages:

- 1 Subsidies have become one of the most controversial subjects in debates on fisheries reforms. Perhaps more than any other single factor, subsidies are seen as the source of a range of problems, such as overfishing, illegal fishing and unfair benefit-sharing.
- 2 In 2001 members of the World Trade Organization (WTO) agreed on a mandate to develop new rules for disciplining fisheries subsidies. These rules would be aimed specifically at subsidies that directly cause overfishing and overcapacity in the fisheries sector. Yet, 20 years on, this mandate has still not been fulfilled.
- 3 Improving transparency in subsidies to the fisheries sector is difficult due to the lack of precise definition as well as difficulty in verifying amounts already reported to international organisations, such as the WTO and the Organisation for Economic Co-operation and Development (OECD).

Edition #4



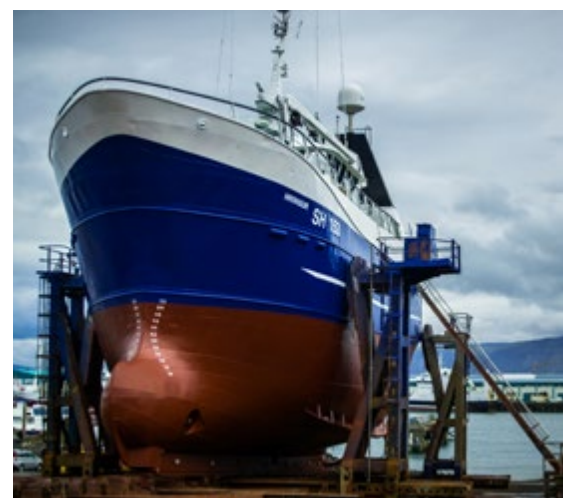
Fisheries
Transparency
Initiative

*This publication is funded by the
Gordon and Betty Moore Foundation.*

Introduction

Subsidies have been widely criticised for contributing to the perilous state of marine fisheries in debates that have been gaining pace since the 1970s. A great deal of interest lies in the impact that fisheries subsidies have on overfishing, fishing capacity and illegal fishing. Subsidies that lower operational costs, such as fuel concessions, or subsidies that contribute to capital investments in fishing, such as grants for vessel modernisation, are seen as highly problematic.* But not all fisheries subsidies are the same. In addition to these harmful, capacity-enhancing subsidies that enable fisheries to fish more, there are also subsidies that are seen as beneficial to support the sustainability of fish stocks, such as subsidies for fisheries management or research and development.

Not only are subsidies in fisheries substantial – estimated by the UN’s Food and Agriculture Organization (FAO) to have reached US\$50 billion by the early 1980s – but public information about them is often limited. Transparency in fisheries subsidies has been a longstanding policy ambition for the international community working on responsible fisheries. In 1987, the Committee of Fisheries at the OECD set goals of establishing transparency on economic assistance measures, direct and indirect, and of developing an analytical framework to understand how these measures affect the industry. In 1995, an obligation to report on subsidies to the fishing industry was established through the WTO’s “Agreement on Subsidies and Countervailing Measures” (SCM Agreement). This established the need for member countries to provide annual notifications on specific subsidies and their purposes, including for the fisheries sector. A few years later, a group of countries argued for specialised rules for fisheries subsidies, given the sector’s unique characteristics and the sheer scale of environmental problems that these subsidies were contributing to.

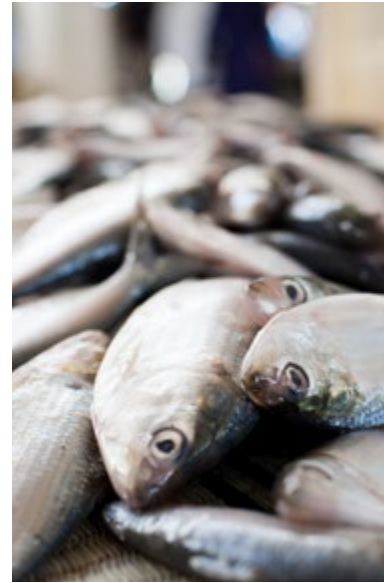


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* Kindly note that it is beyond the scope of this tBrief to comment on the full range of impacts of subsidies in the fisheries sector and the various ways in which different types of subsidies are viewed as problematic.



One of the particular challenges posed by subsidies in fisheries, which distinguishes it from other sectors, is that a large proportion of fish targeted for commercial exploitation are shared between countries. This means that one country's national subsidies can have an impact on the levels of fish available elsewhere. Thus, the reason for specialised rules on fisheries subsidies was that the problem of subsidies is not simply trade distortion – which is the primary concern of the SCM Agreement – but rather that of sustainable use of shared resources.



Concerns were raised about the WTO being used as a mechanism for resource conservation and that other institutions would be better suited for this role. Nevertheless, **in 2001 WTO members agreed to a mandate to develop new rules for disciplining fisheries subsidies**. This was specifically aimed at prohibiting subsidies that directly cause overfishing and overcapacity in the fisheries sector.¹

¹ As with other WTO agreements, it was recognised from the outset that developing countries should be subject to common but differential treatments.

Almost 20 years later, the mandate to agree on these rules remains unfulfilled. Technical disagreements on the interpretation of key terms, as well as the extent of special treatment for developing countries, have hindered the negotiations. But beyond this, many nations appear reluctant to open their fisheries policies up to external scrutiny and potential disciplining.



SDG 14: The looming deadline



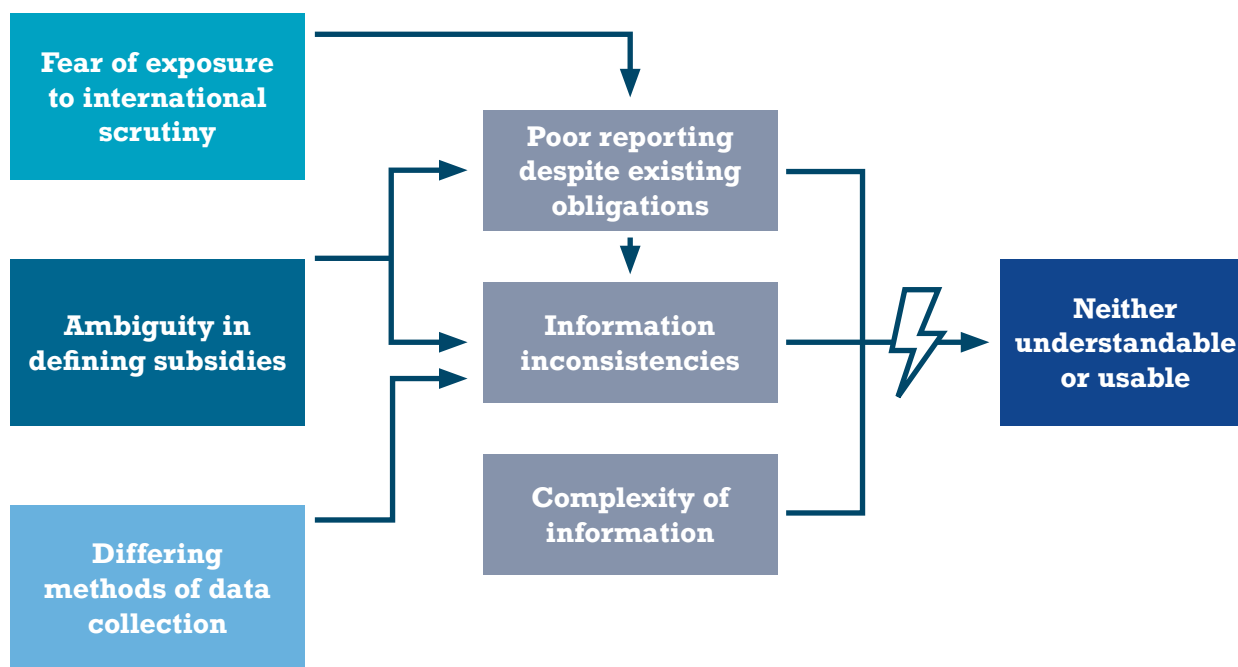
Pressure to finalise the WTO agreement has grown over the years in international forums. The final outcome document from the 2002 Johannesburg Earth Summit included the ending of subsidies that contribute to overfishing and illegal, unreported and unregulated (IUU) fishing. (It was absent from the first Earth Summit in Rio in 1992.) The same message was conveyed at the Rio+20 conference in 2012. The most definitive demand has come from the Sustainable Development Goals (SDG) in 2015. SDG 14, on *life below water*, includes the target that **governments must prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to IUU fishing and refrain from introducing new such subsidies by 2020.**

There is no doubt that the SDGs have renewed the impetus for negotiations at the WTO. Recent WTO rounds of negotiations have seen revised proposals tabled by groups of countries, while the WTO Chair, along with many member states, has continued to press all members to work collaboratively and urgently to finalise the text in 2020. However, even before the COVID-19 pandemic, there was great uncertainty as to whether WTO members would reach agreement on several substantial critical issues:

- ▶▶ the nature of differential treatments for developing countries;
- ▶▶ the level and details of reporting;
- ▶▶ the interpretation of subsidies, particularly regarding fuel costs and the inclusion of foreign access fees paid to developing countries.



Technical disagreements are given as the primary reasons for holding up progress. But some governments are also resisting disclosure of information on subsidies, likely due to fear of being exposed to international disciplines or litigation by other states, which would negatively affect the profits and competitive advantages of their fishing sectors.



If these various problems confronting the WTO process are overcome this year, it would be a remarkable feat of international cooperation.

The challenges of defining subsidies

Many attempts to define what a subsidy is have failed. A technical report by the FAO on fisheries subsidies in 2003 noted that many organisations preferred not to use the term at all.² This is partly to avoid getting pulled into conceptual debates, but also because the subject of subsidies had gained such negative connotations.

The OECD has preferred the terms ‘government support’ and ‘government financial transfers’ to the fishing industry. In 2000, amid growing awareness of the harms caused by subsidies in the fisheries sector, the FAO convened an expert consultation on ‘economic incentives’.³ The meeting did try to define subsidies, but the group concluded that it was impossible to reach any firm consensus.

A **narrow understanding** of subsidies is based on financial transfers that provide a short-term economic benefit from governments to firms or individuals. However, governments may also create benefits by granting tax breaks or by providing fuel without charging VAT or other taxes that would apply to other sectors.

Under a **broader interpretation**, the concept of subsidies relates to how government actions and omissions affect the profitability of those engaged in fisheries. The extent to which governments impose regulations and fees, including resource-use fees, payments for management costs or compensation for externalities would be included in this definition, with wider implications on trade and responsible fisheries management. Subsidies can therefore be understood as covering both **explicit** government policies to support fisheries and **implicit** subsidies. However, governments tend not to adopt such a broad understanding, nor does the description of subsidies in the WTO’s SCM Agreement reflect this.

Other sectors have similar definitional problems. In 2015, the International Monetary Fund (IMF) included uncharged externalities in its work to estimate global subsidies to the fossil fuel sector. The IMF analysis produced the remarkable figure of US\$5.3 trillion.⁴ This very large estimate – far greater than many other estimates of government subsidies to the fossil fuel sector – came from calculating the economic costs caused by greenhouse emissions. While this interpretation of subsidies may seem controversial, there are several costly externalities found in the fisheries sector that go uncharged to varying extents, relating to pollution, discards, by-catch and habitat destruction. In one of the earliest in-depth analyses of global subsidies to the fisheries sector, by the World Bank in 1998, these ‘implicit’ subsidies were included.⁵



2 Schrank, W. (2003), ‘Introducing fisheries subsidies’, FAO Fisheries Technical Paper no. 437.

3 FAO (2000), ‘Expert Consultation on Economic Incentives and Responsible Fisheries’, FAO Fisheries Report, no. 638.

4 For a useful discussion on this report and how it compares to other estimates of subsidies to the fossil fuel industry, see Timperly, J. (2017), ‘Explainer: the challenge of defining fossil fuel subsidies’, Carbon Brief, 12 June.

5 Milazo, M. (1998), ‘Subsidies in World Fisheries’, World Bank Technical Paper, no. 46, Fisheries.

Three points from this definitional dilemma are most relevant when thinking about transparency of subsidies in the fisheries sector:

1 The parameters for defining what is and is not a subsidy is not just a technical matter: it determines what government information is subject to disclosure. The WTO's definition, which is the only legally binding definition relevant to fisheries, is regularly described as being narrower than other definitions.⁶ The WTO definition does not capture the value of a range of subsidies that are measured by others, such as the OECD in its ongoing database, or the World Bank in its early global survey. This makes cross-comparison between different sets of information difficult if not downright impossible.

2 Formal definitions of subsidies from different organisations do not only differ in their scope; they are also inherently vague and therefore what governments decide to publish as information on their subsidies to the fisheries sector is a matter of interpretation.

3 Given the room for interpretations, governments can influence the prioritisation of subsidies for public disclosure, subject to underlying interests that are at stake.

The last point is worth reflecting on, as there are other concerns about the management of fisheries, beyond overfishing or illegal fishing. This includes, for example, the contribution of fisheries to social and economic development and food & nutrition security at the national or local level.⁷ If these issues are prioritised when scrutinising subsidies, then different types of subsidies may become the focus, such as the value of resource fees relative to company profits, the use of preferential levies that encourage domestic landings or uncharged externalities. A recent review of the impacts of subsidies in the fisheries sector therefore urged caution that a focus on environmental impacts can obscure information on how subsidies influence social outcomes, including for different groups and between men and women.⁸

⁶ See WTO (2006), 'World Trade Report'.

⁷ For example, fisheries subsidies are often justified to improve national food security by indirectly reducing the price of fish for households. However, such subsidised fish often ends up being exported, instead of consumed locally, and thus, benefits foreign nations more than local populations.

⁸ Merayo, E., et al. (2019), 'Subsidy reform and distributive justice in fisheries', Institute for International Development, Working Paper.

Despite the vague boundaries and complexities surrounding subsidies, several organisations have produced useful categorisations of fisheries subsidies. One recent example is based on research commissioned by the European Union. This illustration captures the range of aspects that can be considered as subsidies in fisheries, going beyond the initial assumption of production and access support.⁹

⁹ Adapted from Arthur, R., et al. (2019), 'The cost of harmful fisheries subsidies', IIED Working Paper. The blue boxes indicate an expansion of the categorisation over time.

Fisheries research	Services	Production	Social assistance	Resource access
<ul style="list-style-type: none">• Research allowing more efficiency in the industry• Research in coastal states or regionally through RFMOs	<ul style="list-style-type: none">• Enforcement• Management• Infrastructure development (such as port construction)	<ul style="list-style-type: none">• Modernisation• Construction of ponds/tanks• Vessel purchase and construction• Tax exemptions• Fuel subsidy• Ice subsidy• Feed subsidy• Special insurance• Price support• Marketing subsidy• Storage subsidy• Vessel buy-back programmes	<ul style="list-style-type: none">• Fisher assistance programmes• Training and learning• Rural fisher community development programmes	<ul style="list-style-type: none">• Vessel owner assistance for temporary cessation• Fisher assistance for temporary cessation• Foreign access agreements
		<ul style="list-style-type: none">• Education and provision of employment• Payment of guarantee of loans• <i>Unknown</i>	<ul style="list-style-type: none">• Foreign access agreements plus (includes investment in local, developing countries' fishing industry)• Reduction/re-moval of licence fees for national vessels• <i>Unknown</i>	
		<ul style="list-style-type: none">• Gear construction and purchase• <i>Unknown</i>		

Original categories

Additional or altered categories

However, the inclusion of several 'unknown' categories (which allow for additions that have not been anticipated) indicates the ongoing difficulties that researchers face in conceptualising the subject.

Poor reporting despite existing obligations

Once agreed upon, the WTO's rules on fisheries subsidies will determine the parameters for international reporting on subsidies for this sector. **But members of the WTO are already obliged to submit annual notifications on the value and purpose of subsidies to the fisheries sector.** The SCM Agreement also allows for any member to request information on subsidies from another, with the expectation that these requests will be dealt with promptly. If the agreement was implemented effectively, then a substantial amount of government information on subsidies should already be in the public domain.

However, compliance with the SCM Agreement is poor. Many states have failed to submit annual notifications to the WTO, and those that do often provide limited information. Worryingly, the numbers of notifications submitted to the WTO have been declining over the years. **In 2018, the WTO reported that less than half of member states had managed to report on fisheries subsidies.**¹⁰ It has been speculated that some members, including China, are withholding information until there is clarity on the rules for disciplines.¹¹ Other than 'naming and shaming', there is little the WTO and member states can do to encourage greater disclosure.

Several other organisations collate and publish information on fisheries subsidies. Arguably the most comprehensive effort remains that undertaken by the OECD. Since it set the goal of increasing transparency on this support to fisheries, the OECD's Committee of Fisheries has undertaken regular surveys of its members, based on an extensive inventory of different types of government support. The method relies predominantly on a questionnaire. The resulting data is compiled on an online database that is freely available. However, the OECD draws attention to certain limitations of this data.¹²

10 WTO (2018), 'Subsidies Committee members express concerns on lack of notifications', 23 October.

11 Woody, T. (2019), 'High stakes for China as WTO deadline looms', 3 July, China Dialogue.

12 OECD (2017), 'OECD Review of Fisheries: Policies and Summary Statistics 2017'.



- » **Number of countries covered:** The OECD aims to encourage far more countries to contribute information, and not only those that are OECD members.
- » **Quality of data:** Even for those countries that are covered, data quality is largely determined by member states' responses, and not all provide complete information – for example, on fuel subsidies. Because the WTO definition of subsidies is that these must be specific to the sector, many member states argue that, as fuel concessions are often granted to many sectors, they are not specific enough to count as subsidies.
- » **Cost recovery:** The OECD database allows for reporting that takes into consideration cost recovery, although it is unclear if all countries reporting information to the OECD make this distinction. For example, in Iceland, in some years the total value of subsidies to the fisheries sector have been recorded as negative, based on the fact that payments made by the fishing industry to the government are greater than the value of government transfers and support to the fishing industry.
- » **Sub-national reporting:** Additionally, information is often not made available on the support provided by regional or local public authorities, although it is known that support at this level is often significant.

Another influential attempt to gather information on fisheries subsidies has been by the Sea Around Us Project, hosted by the University of British Columbia. Data is compiled for more than 150 countries, and has been updated several times. Its first report on global fisheries was published in 2009, most recently updated with information for 2018.¹³ It combines data from WTO notifications, the OECD database and published government data, with non-government information obtained from ad hoc reports, academic studies and expert consultations. However, the survey has been critiqued for having large gaps, as therefore the values of fishing subsidies for many countries are based on estimates only.¹⁴

In 2016, the European Union published a study into fisheries subsidies of the major fishing non-EU nations, including Japan, South Korea, China, Russia and the United States. This combined information from the WTO, OECD and the Sea Around Us Project, with other government reports and interviews with a range of country experts to fill in missing data. The authors of the study also drew attention to the difficulties in finding complete information, and again noted that this included information at the sub-national level.¹⁵

It is evident that while published data on subsidies in fisheries is patchy, in the past decade or so, the level of data in the public domain seems to have increased substantially. But there are still enormous shortfalls and challenges.



13 Sumaila, R., et al. (2019), 'Updated estimates and analysis on global fisheries subsidies', Marine Policy, 109.

14 The OECD describes the Sea Around Us data on subsidies as having 'limited empirical basis' due to the over-reliance on extrapolations, which the OECD questions as being valid. OECD (2017), 'Support to fisheries: Levels and Impacts', OECD Food, Agriculture and Fisheries Papers, 103.

15 Europe Commission (2016), 'Study on the subsidies to the fisheries, aquaculture, and marketing and processing subsectors in major fishing nations beyond the EU'. Authors of this study from the UK-based Marine Resources Assessment Group (MRAG) have subsequently updated this analysis with information from other countries, including the EU. Their results have recently been published, although have remained focused on the level of fisheries subsidies for 2016 only. Arthur, R., et al. (2019), 'The cost of harmful fisheries subsidies', IIED Working Paper.

Information inconsistencies

What is clear from these various attempts to collate and publish information is that the value of government subsidies varies considerably between reports. A study commissioned by the United Nations Conference on Trade and Development compared OECD data and WTO notifications for both China and the United States. This found that government reporting to the OECD revealed much higher levels of fisheries subsidies than was indicated in government notifications to the WTO for the same years.¹⁶ The disparity was stark for the United States, as the OECD data was almost 10 times higher than the value of subsidies reported to the WTO. Research published by the International Institute for Sustainable Development has argued that not only is information recorded by the OECD on fuel subsidies incomplete, but also that in their notifications to the WTO OECD countries under-report fuel subsidies in comparison to what is captured by the OECD.¹⁷

Part of the reason for these differing estimates are definitional ambiguity and the fact that surveys of fisheries subsidies use differing terminology and parameters. But as the EU study described, the disparity is also found for the same types of subsidy categories, therefore discrepancies are also due to differing methods of data collection.

To illustrate the last point, it is worth looking at the value of payments made by governments to access another country's waters. This information is not reported to the WTO, and there is inconsistent information on this recorded by the OECD. Precise information on access fee payments made by governments on behalf of their fishing fleets lacks transparency; it is not known in many cases what percentage is covered by the vessel owners themselves and what is paid for by governments, or what is linked to other government projects and investments. The Sea Around Us Project estimates these payments to be 6 per cent of the reported value of catches taken by vessels from a third country, and it assumes that governments of distant water fishing fleets cover all of these costs. The result is quite a substantial figure; payments for access made by all countries came to just under US\$1.5 billion in 2018, according to the Sea Around Us project. However, other studies produce much lower figures. The UK-based Marine Resources Assessment Group (MRAG) claimed in their study of fisheries subsidies for 2016 that total spending on access fees by all distant water fishing was US\$324 million – about a billion dollars less than the Sea Around Us Project.



¹⁶ Forment, L. (2019), 'Transparency in fisheries subsidies: Notification-driven analytics of country performance and disclosure requirements', UNCTAD Research Paper, 36.

¹⁷ Both the OECD and WTO recognise that some countries may decide that fuel subsidies are not specific to the fisheries sector, triggering inconsistent approaches by countries when reporting to the OECD and the WTO. Moerenhout, T. (2019), 'Support for fuel consumption to fisheries', Policy Brief, IIED.

Making sense and use of data on fisheries subsidies

A major recurring theme in our tBrief series is that transparency is not just about the visibility of data, but also whether information is understandable and usable. This is particularly relevant if greater public disclosure of information on subsidies is intended to help public debates about fisheries policy. In addition to poor reporting from countries and significant data inconsistencies in major data collection efforts, WTO notifications on fisheries subsidies are often extremely hard to understand. Thus, a flood of technical and disaggregated data on subsidies may not lead to informed public debates, while highly aggregated data on subsidies may not reveal answers to questions that are important to some people – for example, the extent to which subsidies distribute costs and benefits within the fisheries sector, or contribute to problems such as illegal fishing by specific companies.

The ongoing WTO negotiations aim to address this by ensuring that information on subsidies is supported by supplementary data to demonstrate where subsidies contribute to the three problems of overfishing, overcapacity and IUU fishing. However, compiling this supplementary information may produce further challenges in that such information may be further seen as incomplete, unreliable or contested. Furthermore, research on subsidies has highlighted that understanding how specific types of subsidies impact fishers' behaviours is not always clear. Indeed, several countries have been critical of the way the WTO process assumes that all subsidies that confer economic benefits to fishers will end up increasing fishing activities. Much depends on the quality of fisheries management. Fisheries management, including research, monitoring and enforcement, is generally categorised as a 'good subsidy', however the extent to which public fisheries management supports responsible fisheries is of course disputed.



The usefulness of government information on fisheries subsidies is also revealed in ongoing discussions about the level of details – or in other words, data granularity – another grey area in WTO guidelines for annual notifications. Government reports on the use of subsidies should provide information about the recipients. But whether this includes listing individual firms and indicating the value of the support that each receives is not specified. Clearly this would be an enormous and burdensome task. However, if the WTO rules on fisheries subsidies can pinpoint where subsidies have led to specific cases of illegal fishing, then collating firm-level data is probably necessary. The US proposal tabled for WTO negotiations is for member states to include this level of reporting in their annual notifications, but few other countries seem to support the idea.¹⁸

The issue of the appropriate detail in reporting is not only relevant to IUU fishing. Disaggregated data may be required to understand the extent to which fisheries subsidies disproportionately benefit certain sub-sectors over others, such as large-scale fisheries as opposed to small-scale ones, or fishers in one part of a country compared to others. This information may be highly relevant to national policies debates about a better distribution of public resources among diverse stakeholders, to address economic inequalities and reduce poverty in fishing communities.

Questions regarding the impacts of fisheries subsidies at national level are also likely to be different from the questions prioritised at WTO level. This is recognised by the OECD, whose work on analysing the impact of fisheries subsidies at national and sub-national levels demonstrates the quite substantial technical assistance needed to turn data that is nominally available into tangible input to inform policy debates, including for marginalised sectors of the industry. Other efforts from non-governmental actors can also be helpful. For example, Causa Natura, a Mexican civic organisation, has developed through access to information laws an easy-to-use digital platform with historic databases on the different fisheries subsidies implemented by Mexico with a high level of disaggregation. Initiatives like this can support government efforts to develop technical and analytical capacities that contribute to inform fisheries policy.¹⁹



¹⁸ See Appleton, A., 'Options for improving transparency of fisheries subsidies', in ICTSD (2018), Fisheries Subsidies and WTO Rules, International Centre for Trade and Sustainable Development.

¹⁹ See Pescando Datos at www.pescandodatos.org

Conclusion

Subsidies are one of the most controversial subjects in international debates on fisheries reforms. Perhaps more than any other single factor, subsidies are seen as the source of many problems like overfishing, illegal fishing and unfair benefit-sharing. Much hope rests on the WTO process to reduce harmful subsidies. Unfortunately, this process has been frustrated by disagreements on the scope of the final text, and quite likely by some governments that would prefer progress on subsidy reforms to stall in order to continue benefiting their fishing industry.

The lack of transparency surrounding subsidies has long been signalled as a major obstacle to progress. It is evident that while published data on subsidies in fisheries is still patchy, in the past decade or so, the level of data in the public domain seems to have increased substantially. But at the same time, a consistent picture has emerged: public information on fisheries subsidies is not only limited, but is also quite conflicting. Despite this, all sources of information agree that there is considerable use of subsidies that are quite likely to have massive harmful impacts on rates of overfishing and overcapacity in the fisheries sector.

One implication of all this is that transparency of fisheries subsidies requires considerable additional efforts on behalf of governments and independent organisations to provide analysis on their impacts of fisheries. The Fisheries Transparency Initiative (FiTI) addresses these two aspects of transparency. As part of the FiTI, implementing countries publish information on the type, values and recipients of government financial transfers or subsidies to the fisheries sector, including the average annual value of any fuel subsidies per unit of fuel in nominal and percentage terms. At the same time, stakeholders in these countries are obliged to ensure that such information is widely distributed among key audiences, including government, parliamentarians, companies, civil society groups, academia, the media and international stakeholders.

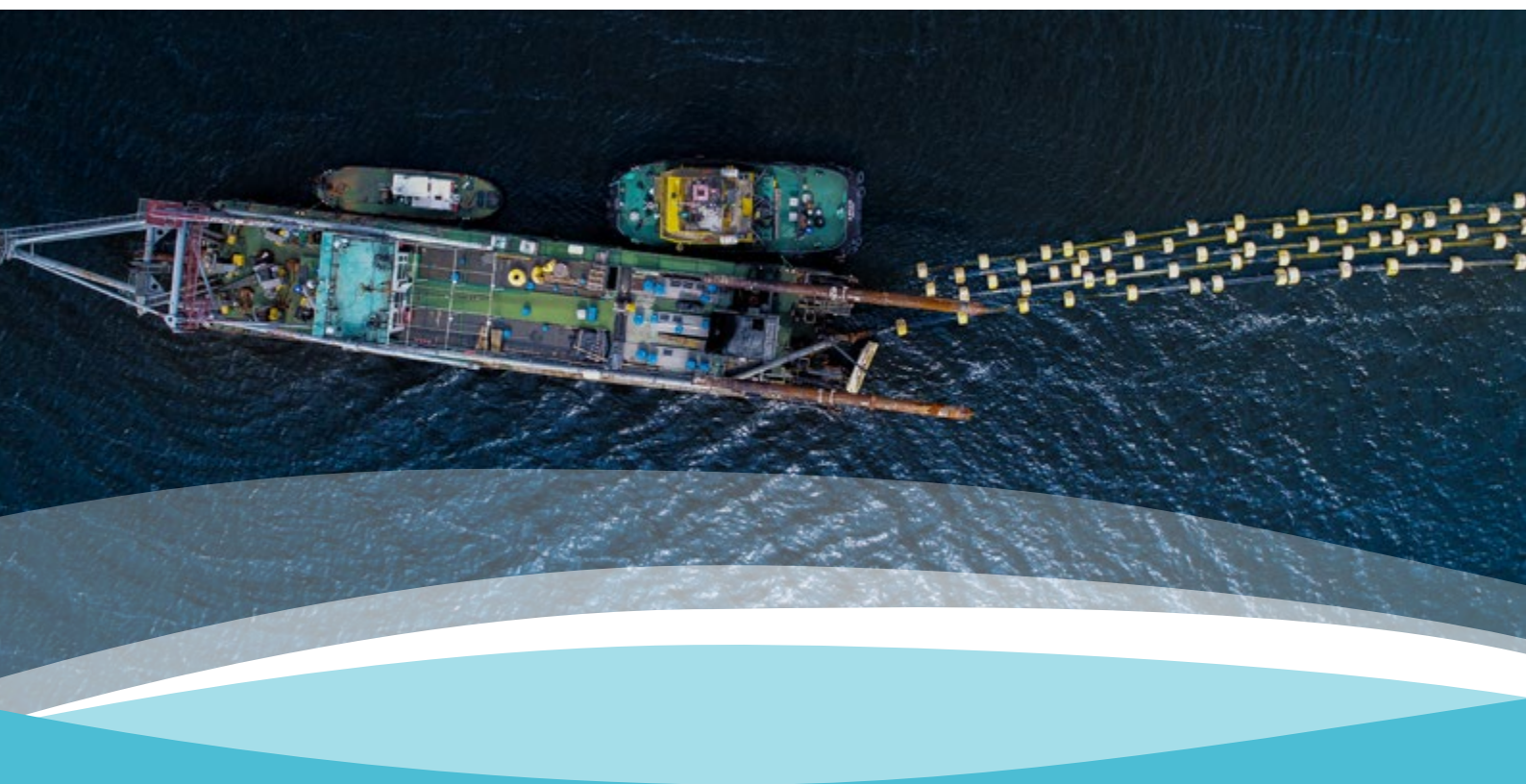


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Outlook for next tBrief

The subject of subsidies to the fishing industry is becoming increasingly important due to the COVID-19 pandemic. How governments are working to support their fisheries sector through the crisis, and what are the long-term impacts of this support, are matters requiring careful attention. The sustainable management of fisheries is now more important than ever. Yet, sincere efforts are constantly undermined by illegal activities, including various forms of corruption. This cross-cutting factor has received surprisingly little attention, although there is substantial evidence to suggest that corruption in fisheries is perceived to be widespread and highly damaging. Combating corruption is often linked with increased transparency, which makes this subject particularly relevant for the FiTI. In our next tBrief, we will consider the nature of corruption in the fisheries sector and critically examine how transparency might help to improve the situation, and where it may not.



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