TRADE POLICY OPTIONS FOR SUSTAINABLE OCEANS AND FISHERIES
NOTE

The policy options presented in this synthesis are the result of a collective process involving all members of the E15 Expert Group on Oceans, Fisheries and the Trade System. It draws on the active engagement of these eminent experts in discussions over multiple meetings as well as an overview paper and think pieces commissioned by the E15Initiative and authored by group members. U. Rashid Sumaila was the author of the report. While a serious attempt has been made on the part of the author to take the perspectives of all group members into account, it has not been possible to do justice to the variety of views. The policy recommendations should therefore not be considered to represent full consensus and remain the responsibility of the author. The list of group members and E15 papers are referenced.

The full volume of policy options papers covering all topics examined by the E15Initiative, jointly published by ICTSD and the World Economic Forum, and launched at the Forum’s Annual Meeting at Davos-Klosters in 2016, is complemented with a monograph that consolidates the options into overarching recommendations for the international trade and investment system for the next decade.

E15 INITIATIVE

Jointly implemented by the International Centre for Trade and Sustainable Development (ICTSD) and the World Economic Forum, the E15Initiative was established to convene world-class experts and institutions to generate a credible and comprehensive set of policy options for the evolution of the global trade and investment system to 2025. In collaboration with 16 knowledge partners, the E15Initiative brought together more than 375 leading international experts in over 80 interactive dialogues grouped into 18 themes between 2012–2015. Over 130 overview papers and think pieces were commissioned and published in the process. In a fast-changing international environment in which the ability of the global trade and investment system to respond to new dynamics and emerging challenges is being tested, the E15Initiative was designed to stimulate a fresh and strategic look at the opportunities to improve its effectiveness and advance sustainable development. The second phase of the E15Initiative in 2016–17 will see direct engagement with policy-makers and other stakeholders to consider the implementation of E15 policy recommendations.

For more information on the E15Initiative: www.e15initiative.org
The E15 Expert Group on Oceans, Fisheries and the Trade System had three objectives

■ Examine the challenges and opportunities of trade and trade policies that might affect or redress the state of the world’s oceans and fisheries.
■ Assess the adequacy of the current global trade system in promoting a healthier state of oceans and fisheries.
■ Propose options on how the global trade system or trade elements of other multilateral processes (e.g., Sustainable Development Goals) can support a transition towards healthier oceans and sustainable fisheries.

Overarching questions and issues the Expert Group was tasked to consider

■ How to ensure that trade policy frameworks and trade policies are supportive of the environmental, social, and economic aspects of oceans and fisheries, and respond to challenges such as: sustainability of natural resources; food security; and, livelihoods, employment, and rural development.
■ Explore the options for making progress towards these objectives by reforming the rules relating to policy tools such as fisheries subsidies, tariffs, and non-tariff measures.
■ Examine the approaches governments could take through the global trade system to address the following issues: countering illegal, unreported, and unregulated fishing (IUU); traceability of seafood, including through labelling schemes; and, sustainability standards (private or public).
■ Review the complementary measures that might be needed to support these efforts, including trade facilitation and the role of financial mechanisms such as Aid for Trade in supporting adjustments towards more sustainable fisheries.

Expert Group analysis and policy proposals were submitted in two forms

1. Critical issues studied through an overview paper and think pieces commissioned for the E15 Initiative. These papers are referenced on page 16 and can be accessed at http://e15initiative.org/publications/.

2. Policy options presented in this synthesis and compiled in the summary table. The options fall under three work packages:
   • Closing the market for IUU fish catch
   • Disciplining subsidies
   • Tariffs and non-tariff measures
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FOREWORD

The global population relies heavily on fisheries for nutrition, employment, and broader environmental services: wild fisheries and aquaculture support the livelihoods of about 12% of the world’s population. However, the poor management of many fisheries, compounded by other policies, like the provision of capacity-enhancing subsidies to the fishing industry, has affected wild fisheries’ ability to contribute to global food security and livelihoods. Aquaculture has largely filled the gap between the growing demand for fish products and stagnant wild fish catch, but also generates environmental impacts, including pollution and the generation of disease.

The global Sustainable Development Goals (SDGs) adopted in 2015 include several targets related to the challenges facing the world’s fisheries. The targets make specific reference to combating illegal, unreported, and unregulated (IUU) fishing, reforming fisheries subsidies, and improving small-scale fishers’ access to markets. Given that about 37% of fish and fish products are traded internationally, trade policies can play a significant role in helping the global community to meet many of the SDGs related to fisheries.

Estimates suggest that illegal and unreported fishing results in worldwide economic losses of between US$10-23.5 billion annually. Large fisheries markets are implementing unilateral measures to address imports of IUU fish catch, and a range of cooperative trade policy measures could help to address the international market for the products of IUU fishing. Subsidies to the fishing sector are estimated to be worth around US$35 billion per year. Although the global fishing fleet is severely overcapitalized, around $20 billion of global subsidies are provided in forms that tend to further increase fishing capacity. Reforming fisheries subsidies has been a priority for the international community for many years, but the difficulty of defining which subsidies to prohibit, and finding a balance of reform effort between existing and emerging fishing powers, taking into account development and sustainability concerns, has hobbled multilateral negotiations. Restructuring the negotiations could help them make progress. Market access issues affecting traded fish present several policy tensions. While the gradual lowering of tariffs on fish products may benefit developing countries with strong fish processing and exporting industries, removing tariffs across the board on a most-favoured-nation basis would result in the erosion of the preference margin enjoyed by many small countries and might affect the competitiveness of their locally-based processing industries. The proliferation of private food safety and sustainability standards presents both opportunities — as they enable access to secure supply chains — and significant challenges, particularly for small and capital-poor fish producers. Fisheries markets and supply chains are highly heterogeneous, so policies designed to shape fish production and trade need to be designed with the local context in mind, with particular consideration given to the impacts on developing countries. Trade policies should also be inclusive, transparent, and coherent with other policy settings.
The E15 Initiative Expert Group on Oceans, Fisheries, and the Trade System was tasked with identifying how trade and trade policy could support efforts to meet environmental and social sustainability objectives related to oceans and fisheries. The Group proposes policy options that can be implemented on a multilateral and regional basis, as well as trade policy options that can be implemented unilaterally — reflecting the need for urgent action to restore the world’s fisheries to sustainable levels — while supporting cooperative solutions. The options are structured around three work packages, each of which targets a priority issue in international fisheries trade. The first package provides options for the use of market access conditions to prevent, deter, and eliminate IUU fishing. The second suggests ways of building international disciplines on harmful fisheries subsidies. Options in the third package involve the use of tariff and non-tariff measures to support sustainable fishing and the sustainable development of fisheries industries, particularly as they relate to developing countries. The work packages include options which could be implemented, jointly or separately, by a range of different stakeholders.

The Expert Group on Oceans, Fisheries and the Trade System included trade and fisheries experts from academia, international organizations, civil society, and the private sector, coming from North America and Europe, Latin America and the Caribbean, Western and Southern Africa, and East Asia and the Pacific. The Group’s work involved a series of structured discussions, both virtual and in person, informed by an overview paper and four think pieces covering specific issues in fisheries trade. The options discussed herein represent a distillation of the information and ideas presented and discussed through 2014 and 2015.

As conveners of the E15 Initiative, we are convinced of the need to provide organized and structured input into the policy and governance debate on sustainable oceans and fisheries. The options that have resulted from these thought and dialogue processes are offered to policy-makers and stakeholders alike, in the hope that they provide paths to effectively address the most pressing challenges and respond to policy imperatives of societies the world over. In a second phase of this Initiative, we intend to engage policy-makers in advancing these options.

Ricardo Meléndez-Ortiz
Chief Executive, ICTSD

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THE OCEAN IS A VITAL COMPONENT OF THE EARTH’S SYSTEM. IT IS HOME TO OVER HALF OF THE EARTH’S BIODIVERSITY AND CONtributes significantly to the well-being of human society. OCEANS PROVIDE HALF THE PLANET’S OXYGEN AND FIX A QUARTER OF THE WORLD’S CARBON DIOXIDE. FISHERIES (MARINE, FRESHWATER, AND AQUACULTURE) PROVIDE THREE BILLION PEOPLE WITH UP TO 15% OF THE ANIMAL PROTEIN THEY CONSUME AND GENERATE EMPLOYMENT FOR AT LEAST 140 MILLION PEOPLE WORLDWIDE, INCLUDING SOME OF THE MOST VULNERABLE.

The ability of oceans and fisheries to continue to deliver these functions and services depends on their sustainable use. Ensuring ocean sustainability has become a global challenge, as unsustainable practices threaten marine biodiversity, food security, and livelihoods, especially with respect to future generation needs, which are affected by overfishing, pollution and habitat destruction, warming, ocean acidification, sea level rise, and anoxia. The rapid expansion of aquaculture and contribution to fish protein supply has eased some pressures but also raised concerns about its environmental impact, highlighting the need to continue ongoing efforts to achieve sustainable aquaculture worldwide.

Trade in fish and fishery products is extensive and shapes global production patterns. An estimated 37% of fish harvest is exported as food for human consumption or in non-edible forms. This level of trade in fish and fish products provides an avenue for trade-related policies to make an important contribution towards solving the challenges facing the ocean and fisheries. To address the role of trade policy frameworks, ICTSD, in partnership with the World Economic Forum, convened a group of world experts under the broader E15 Initiative. The objective was to provide fresh thinking on the key challenges facing the world’s oceans and fisheries, including aquaculture, and identify policy options and reform opportunities for the global trade system to support a transition towards sustainable fisheries and healthier oceans. These options are structured under three work packages and summarized below. Although the impact of trade on fisheries will be context-specific, at a global level, trade measures can influence sustainable outcomes as part of a coherent policy framework.

CHALLENGES FACING OCEANS AND FISHERIES

A number of marine fisheries management and governance institutions have been established to support the sustainability of fisheries at the local, national, regional, and global level. While there are examples of success, these attempts have failed to meet the challenge of balancing current and future use of fisheries in many regions due to the prioritization of short-term gains, the lack of precautionary and ecosystem-based management, and the weakness of enforcement mechanisms often leading to stocks being overfished. This undermines the long-term interests of many communities.

THE IMPACT OF OVERFISHING ON WILD STOCKS

The expansion of the geographic extent of fishing in the second half of the 20th century has been accompanied by a ten-fold increase in global fishing effort (Figure 1). The reasons for this large increase in fishing effort are many, with
ineffective management, technological innovation, and the provision of subsidies chief among them. The expansion of capacity has been such that the World Bank and FAO estimated in 2009 that the total global catch could be achieved with only half of the effort actually employed. The observed increase in effort and catch has impacted wild fish stocks and their habitats negatively. These impacts have significantly affected marine ecosystems and the health of oceans. To ensure the sustainability of world fisheries, the international community will have to implement comprehensive and cooperative policy responses in more effective ways than seen before.

THE GROWTH IN AQUACULTURE PRODUCTION

The aquaculture sector contributed to 3% of total fish supply in 1970. Today, the world’s fish farms supply more food fish than wild landings, although total global catch of wild fish remains larger due to non-food uses such as reduction to fishmeal. This huge increase in aquaculture production in recent years has its benefits and costs. It has helped to fill the gap between growing demand and stagnant landings from wild fish stocks. However, the increase in the production of fish in farms has resulted, in certain instances, in environmental impacts that have caused concerns among experts, including effects on the sustainability of wild fish stocks. It is thus crucial that coherent policies and measures are put in place to ensure that fish farms are operated in a manner that minimizes negative externalities.

ILLEGAL, UNREPORTED, AND UNREGULATED FISHING

Illegal, unreported, and unregulated (IUU) fishing is still common in many parts of the world. It occurs not only in the high seas but also within exclusive economic zones (EEZs) that are poorly managed. IUU fishing is a barrier to the effective management and sustainability of oceans and fisheries and also represents a major loss of potential revenue and wealth for many coastal developing countries. IUU fishing occurs because of the significant overcapacity that exists in the world’s fishing fleet, growing demand for fish which boosts prices, inadequate fisheries management (especially monitoring and surveillance), and the low penalties usually meted out when fishers are apprehended fishing illegally. Trade-related policy measures have great potential in contributing to solving this source of unsustainability in fisheries.

FISHERIES SUBSIDIES

Three types of subsidies can be identified according to the impact they tend to have on fisheries resources: (i) subsidies for management and research, sometimes defined as good subsidies because they are generally assumed to have a positive effect on our ability to sustainably manage fishery resources; (ii) capacity-enhancing subsidies, including those for boat construction and renewal, fuel subsidies, and fishery development programmes, which tend to promote disinvestment in the resource by motivating overcapacity and overfishing; and (iii) ambiguous subsidies, including those to vessel buy-back programmes and rural fisher community development, which can promote or undermine the sustainability of the fish stock depending on circumstances. While reliable and accurate data remains sparse, partly due to a lack of transparency, total fisheries subsidies are estimated at around US$35 billion, which constitutes 30 to 40% of the landed values generated by the wild fisheries sector worldwide. Capacity-enhancing subsidies make up the highest share at around US$20 billion.
Tariffs and non-tariff measures shape fish processing and trade. They are widely employed by countries. From a sustainable development perspective, the question of tariff liberalization presents a number of policy tensions. The first includes balancing the interests of those who benefit versus those who may lose if tariffs on fish products are lowered. The second relates to balancing the increased demand and potential economic gains from liberalization with the need to limit catch levels to ensure the long term sustainability of fish stocks. In addition, while tariff barriers to fish products have gradually fallen through regional integration and unilateral liberalization, non-tariff measures, which include both public and private standards, are growing in significance. They can be perceived as either barriers to market access or necessary tools to protect public health and support sustainable fish production. In the context of sustainable development objectives, the manner in which fish products are produced matters. The policy options summarized below have thus been crafted with the recognition that differentiation based on process and production methods may be legitimate.

**Trade-related measures**

Trade policies and measures constitute an essential part of the overall policy framework needed to support sustainable environmental and human development priorities connected to oceans and fisheries. In support of these objectives, the policy options are divided into three work packages: closing the market for IUU fish catch, disciplining fisheries subsidies, and addressing tariffs and non-tariff measures. While in the IUU and subsidies work packages the aim is to ensure that trade does not undermine the environment, the main objective of the third package is to ensure that international markets function effectively and that they enable developing country producers to build sustainable fisheries and move up the value chain.

**Box 1 Prerequisites for Trade-related Measures in Fisheries to Succeed**

The focus is on how trade measures could be implemented to promote the sustainable use of ocean resources. To increase the likelihood that these measures will succeed, it is important to take an inclusive, transparent, and coherent approach to addressing the identified challenges.

**Inclusiveness and Fairness**: The oceans are interconnected. Fish do not respect national boundaries as they swim, and fish trade, by nature, involves more than one country. This implies that to employ trade-related measures in support of healthy oceans and sustainable fisheries, international collaboration that is fair and inclusive is needed.

**Information and Transparency**: To achieve international collaboration and joint action, the availability of good quality information is fundamental both in the design of initiatives and in their implementation. Special effort is needed to improve transparency by bringing private sector and public information together in integrated data platforms. This is a difficult yet important basic requirement for the successful implementation of trade-related measures.

**Policy Coherence**: This cross-cutting element is necessary because many of the issues to be grappled with and the trade-related measures identified herein are both interrelated and interconnected. Addressing matters at the intersection of healthy oceans, sustainable fisheries, and the trade system requires a comprehensive approach that takes into account ecological, economic, legal, and local realities as well as existing multilevel governance regimes.

**Capacity Building**: People make things happen and well-trained and equipped people make things happen better. The design and implementation of effective trade-related measures requires a concerted global effort to train people who can ensure the effective implementation not only of trade measures but also other sustainable development policies.
WORK PACKAGE 1: CLOSING THE MARKET FOR IUU FISH CATCH

At its root, the fisheries problem is caused by overcapacity in fishing fleets, inadequate management, weak governance, and greed. The goal is to suggest trade policy measures as key elements of a solution. This could be achieved by progressively closing down international trade in IUU fish products, taking into account the implications of adjustment for low-income countries. One way to work towards eliminating IUU fishing is thus to establish means to make it difficult for fish products from IUU fishing to enter the market.3

POLICY OPTION 1 – Build consultative, effective, & coordinated unilateral import measures
■ The European Union’s IUU regulation, particularly its escalating warning system, is having an impact. A key gap in the current situation is that the EU’s import policy is limited to one market although the US is developing options. For this recommendation to succeed, other large seafood markets need to adopt trade measures that incorporate good aspects of the EU system, such as those that address the transhipment and import of IUU caught fish. Coordinated unilateral measures must include consultation with affected trading partners and they should take a stepwise and fair approach with an import ban as a last step. Critically, unilateral measures need to take account of the impact of the shift in production required on producers in low-income countries. The impact of IUU import measures will depend on improving underlying marine governance systems, including Catch Documentation Schemes, IUU vessel lists, traceability, and flag state responsibilities.

POLICY OPTION 2 – Create a network of regional measures to address IUU fish trade
■ Unilateral measures are effective to the extent that producers cannot supply their products elsewhere. The global nature of fisheries trade means that many producers may be able to sell IUU fish catch in less regulated markets. To extend the reach of import measures, they need to be adopted on a bilateral or regional basis through regional trade agreements (RTAs). The real novelty in this approach is that it seeks to use RTAs to link unilateral IUU trade measures in a cohesive network with broad country coverage — either directly or by establishing platforms that will help countries converge towards best practice. Examples could include provisions in the Transatlantic Trade and Investment Partnership (TTIP) to ensure coherence between EU and US systems, and the establishment of IUU platforms in the Trans-Pacific Partnership (TPP) and the African Tripartite Free Trade Area (TFTA). To increase the effectiveness of these measures, linkages would need to be developed with large import markets, especially China, that are not parties to the agreements.

POLICY OPTION 3 – Develop a system of multilateral instruments on trade in IUU products
■ Regional approaches to closing the market for products from IUU fishing could gradually change the economics of the activity such that the cost of supplying IUU fish catch is too high to make it worthwhile on a large scale. However, a comprehensive and inclusive solution to the problem would most efficiently be negotiated multilaterally. This option is new in that it seeks to use regional agreements to support the entry into force of other multilateral instruments, and to establish, through the WTO, a code of conduct on illegal fish trade. The following options could be considered: RTAs could be used to incentivize the ratification of the FAO Port State Measures Agreement (PSMA), which targets the landing of illegal fish products; endangered marine species could be listed in Appendix I or II of the Convention on International Trade and Endangered Species (CITES); and, elements of best practice from unilateral and regional systems could be captured in a voluntary code on IUU fish imports and transshipment within the WTO.

POLICY OPTION 4 – Support the expansion of private sector schemes
■ It is generally accepted that state-based solutions alone will not suffice to address the challenges of IUU fishing. They need to be supported and complemented by private sector initiatives and actors. Several private sector certification schemes focus on assessments of the sustainability and legality of fish caught, and some already involve comprehensive and reliable traceability systems, which could be used to ensure the legality of fish provenance in the supply chain. However, private schemes could be improved by enhancing the participation of developing country fisheries in sustainability and legality certification. Assistance directed at the development of data collection and infrastructure to enable the traceability and certification of fish products could be provided as Aid for Trade.
WORK PACKAGE 2: DISCIPLINING FISHERIES SUBSIDIES

The goal of this work package is to improve transparency regarding global fisheries subsidies and build momentum towards a multilateral agreement on subsidy reform. The very high level of annual capacity-enhancing support advanced to the fisheries sector is a key driver of unsustainability that the following options would seek to discipline and reduce significantly.

POLICY OPTION 5 – Develop reliable data on fisheries subsidies

- There are few independent assessments of actual subsidy levels against which to evaluate inconsistent WTO notifications. Improving transparency is a fundamental requirement for further work on disciplines. It could stimulate action not only by revealing the scale of the problem but also by providing a dataset accepted by governments with the responsibility of implementing reform. A solid database would provide a basis for measurement by both governments and civil society of subsidy reductions or increases. This would underpin the transparency and monitoring of unilateral reform efforts, support improved coherence across national policies, strengthen momentum for collective reform, and enable the reporting and implementation of reduction commitments to be verified.4

INTERNATIONAL NEGOTIATIONS COULD PRIORITIZE AGREEMENT TO REFORM SUBSIDIES THAT AFFECT INTERNATIONAL FISH STOCKS, AND GOVERNMENTS COULD WORK UNILATERALLY TO REFORM SUBSIDIES THAT AFFECT THEIR DOMESTIC FISHERIES.

POLICY OPTION 6 – Adopt fisheries subsidies disciplines among a core group of countries

- Given the difficulty in achieving universal subsidies disciplines through the WTO and the urgent need for action, an option would be for a coalition of countries to move forward with disciplines. To reduce the extent of free-riding on the part of large subsidizers (a key limitation of the plurilateral approach), an agreement among a core group of countries to reform harmful subsidies could, in the context of an RTA, be combined with trade rules that specify preferential conditions under which this core group would engage in the trade of fish and fish products with countries that are not participating in the agreement.

POLICY OPTION 7 – Establish multilateral disciplines built stepwise and bottom-up

- Another approach would be for a group of countries to stimulate collective action with bottom-up voluntary commitments to subsidy reform. Through a process similar to the approach taken in climate change negotiations, each country would declare the amount of capacity-enhancing subsidies that they would voluntarily eliminate within a given time period. Based on these voluntary commitments, the group would then negotiate the remaining “ambition gap” between the offers made and the level of overall reductions required at a multilateral level. To effectively close the gap between the voluntary offers and the desired level of global reductions, the process would require either multilateral participation or at least the involvement of the world’s largest providers of fisheries subsidies. The stepping stone of a plurilateral agreement could eventually be multilateralized in the WTO if enough large subsidizers were involved.5

POLICY OPTION 8 – Restart WTO negotiations based on areas of relative agreement

- The first best option — an ambitious multilateral agreement — could be pursued by establishing disciplines built on areas of subsidy reform that attracted the most support in the WTO fisheries subsidies negotiations. These include subsidies to IUU fishing, vessel transfers, and access agreements. There was arguably some level of consensus with the idea of reforming vessel construction subsidies and those affecting overfished stocks. It may therefore be possible for WTO members to agree to eliminate a small list of subsidies in the interest of healthy oceans and sustainable fisheries by focusing on the low-hanging fruit.

POLICY OPTION 9 – Align incentives by focusing negotiations on international fish stocks

- A key reason for the lack of progress in protracted fisheries subsidies negotiations at the WTO is that they suffer from the requirement that negotiators should aim for an all-inclusive deal. This has limited the ability of the subsidies negotiations to make progress by confounding the subsidies issue with other problems. One way to
overcome this difficulty is to align subsidies policies with national interests by splitting the world’s fisheries into domestic and international fisheries. The former would comprise fisheries operating within a country’s EEZ, targeting fish stocks that spend all their lives within the zone. The latter would include fish stocks that are transboundary, highly migratory, or discrete high seas stocks. International negotiations could then prioritize agreement to reform subsidies that affect international fish stocks, and governments, pressured by civil society, would work unilaterally to reform subsidies that affect their domestic fisheries.

WORK PACKAGE 3: TARIFFS AND NON-TARIFF MEASURES

There are several broad policy reforms that could support more efficient markets for fishery products. These include reducing distortions like tariff escalation, improving infrastructure, and establishing procedures to lessen the costs of trade. The options in this work package address more specific issues in international fisheries trade, particularly in relation to developing country producers. Given the heterogeneous nature of fisheries production and its socioeconomic and ecological variables, governments will need to work case-by-case to ensure that they integrate the impact of tariff liberalization on relevant production and trade flows in a sustainable manner.

POLICY OPTION 10 – Differentiate between capture and aquaculture fish in HS tariff codes

- Distinguishing between wild-caught and aquaculture fish products in tariff lines would enable better measurement of the changing structure of global fisheries trade and improve the traceability of products through the value chain. It would also help policy-makers address the distinct environmental impacts of the two production methods. The purpose would be to gather information regarding wild capture and aquaculture product flows, and not to allocate different tariff levels to these products.

POLICY OPTION 11 – Support the adaptation of preference-dependent countries

- As preference margins are gradually eroded, preference-dependent producers will need to adjust to a changing competitive environment. More flexible rules of origin in preferential arrangements could help producers diversify their sourcing of inputs and access global production networks, thereby creating more options as their competitiveness evolves. They could also facilitate the development of regional value chains. Flexibility could be conditioned on fish meeting sustainability and legality requirements. Beyond rules of origin, there may be a case for international financing mechanisms, including under the Aid for Trade initiative, to provide technical assistance for producers to adjust to a loss in competitiveness caused by preference erosion or graduation from preference schemes.

POLICY OPTION 12 – Assist low-income fish exporting countries to reach standards

- The aim of this option (which is closely related to option 4) is to help producers adapt to changing competitive conditions imposed by sustainability standards. As tariff barriers become less relevant in major markets, public and private standards are likely to become the main market access constraint for fish products. Producers that are small, located in poor countries, with limited access to capital, or operating in fragmented industries, are at a disadvantage when it comes to meeting high standards in export markets. Given the contribution of fisheries trade to employment and income in many developing countries, an inclusive approach in which producers can move towards certification is essential. The private sector has an important leadership role in this recommendation. Private actors are well positioned to both improve access to existing certification schemes and assist producers and retailers to work towards bridging the gap between production realities and sourcing requirements (as conducted, for example, in fishery improvement projects).

POLICY OPTION 13 – Ensure coherence between private standards and the TBT Code on standards

- Although the provisions of the WTO Agreements on Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) Measures do not formally cover private standards and labels, non-governmental standard-setting bodies should be urged to adhere to the TBT Agreement’s Code of Good Practice for the Preparation, Adoption and Application of Standards. In order to harness both their economic power to shape production
patterns and ensure they are inclusive, these schemes should be encouraged to follow basic principles set out in the 2000 Decision of the TBT Committee on international standards, such as transparency, openness, and coherence, while preserving their effectiveness as incentives for sustainable fisheries and aquaculture production.

POLICY OPTION 14 – Link mutual recognition systems for standards applicable to fish products

- National SPS and TBT systems differ and are sometimes applied inconsistently. Mutual recognition between large markets can exclude other producers and reduce their competitiveness — even when these standards can be met. In order to ensure that these integration tools covering behind-the-border measures are inclusive, the parties to large regional trade agreements (e.g. TPP and TTIP) could consider including a linking mechanism by which trading partners who are outside of the agreement, but whose testing and conformity assessment systems enjoy mutual recognition with one or more of the parties involved, could benefit from the agreement’s wider mutual recognition provisions. This option, combined with technical assistance and capacity building to meet recognition requirements, particularly for least developed countries, could help change the cost-benefit equation for producers outside of the regional agreements.

While there is a preference for multilateral approaches, options are proposed that may compromise on multilateralism in the short term in order to facilitate the building of broader solutions in the system in the longer term.

A sectoral trade agreement on sustainable fisheries could address a number of different aspects of fisheries trade, including tariffs and non-tariff measures, IUU fishing, and fisheries subsidies. Aid for Trade and other development finance tools can be used not only to catalyse agreement and action but also to mitigate the potential negative impacts of these policies on small-scale fisheries. Such a sectoral initiative could be developed either within the WTO as a plurilateral agreement or within the framework of regional trade agreements.

The analysis and proposals summarized herein can contribute to work currently underway in areas such as multilevel governance in fisheries, the relationship between oceans and climate change mitigation efforts, the correlation between subsidies and global fishing activities, and the intersection between trade and IUU fishing. The ideas are also relevant to ongoing work on financial aspects of the fisheries industry.

To restate the premise on which the policy options have been devised: with 37% of fish and fish products traded internationally, enlightened and well-informed trade-related policies can make an important contribution towards securing a healthy ocean and sustainable fisheries worldwide. The three work packages provide an innovative and inclusive agenda for domestic reform and international cooperation.

PRIORITY TRADE-BASED POLICY SOLUTIONS

Priority trade-based policy solutions include the reform of harmful subsidies and efforts to restrict the global fisheries market to sustainable and legal products. While there is a preference for multilateral approaches, options are proposed that may compromise on multilateralism in the short term in order to facilitate the building of broader solutions in the system in the longer term. Coordinated unilateral instruments, including trade bans as a final step, could be useful short-term measures, but they should be fair, transparent, reasonable, and proportionate. In addition, improving transparency by developing comprehensive data on fisheries subsidies would help inform reform efforts and should be prioritized.
Endnotes

1. For a definition of IUU fishing, see: FAO Committee on Fisheries. 2001. *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*.

2. The policy options are presented in detail in terms of current status, gaps, steps, and parties involved in the summary table. Although the paper concentrates primarily on industrial fisheries, it is recognized that the options will have both direct and indirect effects on small-scale fisheries (SSF), which need to be taken into account. For example, SSF producers aiming to enter the export market may face the burden of proving the legality of their catch. A similar challenge exists with respect to sanitary and phytosanitary regulations, which are seen as a major export barrier to some developing country fisheries.

3. This work package considers unilateral options both in light of the urgency of the IUU challenge and because they are more feasible in the short term than a multilateral deal. They are also potentially of high impact. Unilateral measures, however, represent second best options compared to international cooperative action. There is significant scope for regional, plurilateral, and multilateral efforts to address IUU fishing through trade-related measures. Unilateral measures that are anchored in multilaterally agreed frameworks and principles would be particularly useful as stepping stones towards more collective approaches. Moving from unilateral to collective approaches would be facilitated by an international discussion on what these frameworks, principles, and technical building blocks could be.

4. The E15 Task Force on Subsidies recommends the establishment of an international consortium of universities and independent think tanks, which could develop a platform for data collection using common standards, definitions, and measurement methodologies.

5. The E15 Task Force on Subsidies offers a top-down approach by recommending that the category of subsidies subject to prohibition in the WTO Agreement on Subsidies and Countervailing Measures could be expanded. This would cover, amongst others, resource-depleting subsidies, including fish stocks. The proposal is to combine a prohibition of the most egregious types of subsidies that encourage environmentally harmful activity (e.g. subsidies to capital costs and price supports) while leaving others as actionable.

6. The E15 Task Force on Regulatory Systems Coherence recommends that recourse to international standards should be encouraged among WTO members by enriching Article 2.4 of TBT and 3.1 of SPS in two ways: through an explicit reference of the 2000 Decision and through the addition of an indicative list of standard-setting organizations. The Task Force further suggests that the relevance of the WTO to private standards be clarified by dedicating a forum to address the issue, and that this effort be conducted along sector-specific negotiations.
### TABLE SUMMARY OF MAIN POLICY OPTIONS

<table>
<thead>
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<th>TIMESCALE</th>
<th>CURRENT STATUS</th>
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<td><strong>Work Package 1: Market access conditions to prevent, deter and eliminate IUU fishing</strong></td>
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<tr>
<td><strong>POLICY OPTION 1. Build consultative, effective, and coordinated unilateral import measures</strong></td>
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<td>Short Term</td>
<td>This is already happening. The EU import measure is currently the strongest option being implemented. While the ideal would be to have a multilateral agreement to address the challenge of illegal fishing, in the meantime, transparent and consultative unilateral trade policy measures are a useful way forward. A US Presidential Task Force has also released an action plan to begin to address the challenge of illegal fish trade.</td>
<td>1) Currently, a key gap in the effectiveness of the EU’s measure is that it is limited to one import market; other main markets don’t have similar systems. 2) Compliance by the EU’s own member states with the import measures is not always clear. The impact of any IUU measure will depend on improving the reliability of marine governance systems and fisheries management tools, including Catch Documentation Schemes, IUU vessel lists, and flag state responsibilities.</td>
<td>1) Other large seafood markets, particularly the US and Japan, should be encouraged to adopt transparent and consultative trade measures, taking into account current best practice in the form of the EU’s system, to address IUU fish transhipment and imports, that include a ban as the last option. 2) Those countries implementing unilateral measures should strive to continuously improve them, including by monitoring and providing strong (positive and negative) incentives for compliance by their own nationals.</td>
<td>1) Implementing unilateral measures in other large markets will require leadership by the relevant governments, civil society as well as domestic fishing and processing industries. 2) Improving existing unilateral measures will require leadership by governments and the fishing industry.</td>
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<td>Medium Term</td>
<td>The EU import measure is currently the strongest option being implemented. It is possible that the TPP agreement may impose relatively soft obligations on its parties to address IUU fish trade. The existing EU import measure and the potential system to be applied to TPP parties (including large markets like the US and Japan) do not appear to be linked. The membership of existing regional agreements (into which platforms would be built) currently excludes some large import markets (particularly China). The approach in this policy option seeks to use regional trade agreements to link unilateral IUU trade measures together, either directly or by establishing platforms that will help countries converge towards best practice. Regional trade agreements could be used to build a cohesive network of regional platforms for IUU measures in several ways: 1) The US-EU TTIP agreement could include provisions to ensure coherence between, or directly link, the EU IUU system and the evolving US system. 2) The TPP agreement could establish a platform for TPP parties to move towards current best practice in import measures (the EU system) or a linked US-EU import system. 3) Other large import markets could join the TPP IUU platform, either through accession to the TPP (with market access as the incentive) or through separate adherence to the provisions of the agreement establishing the IUU platform (with normative leadership as the incentive).</td>
<td></td>
<td>1) The TTIP parties would negotiate and approve these provisions. 2) TPP parties would negotiate and approve the IUU measures platform. 3) Other large markets (e.g. China) would be key to expanding the coverage of the TPP platform.</td>
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<td>Long Term</td>
<td>Illegal fish trade is addressed in some existing multilateral instruments, but not in the trade system itself. 1) In the FAO, the Port State Measures Agreement (PSMA) addressing the landing of illegal products has 11 ratifications but is not yet in force. 2) In CITES, several important and vulnerable marine fish species are not subject to protected trade controls. 1) PSMA not yet in force. 2) Key endangered fish species (e.g. Bluefin tuna) not listed on CITES. 3) There is currently no multilateral agreement focused on trade in products of IUU fishing. The approach in this option seeks to use regional trade agreements to support the entry into force of other multilateral instruments and to establish, through the WTO, a code of conduct on illegal trade. Regional trade agreements could be used to incentivize ratification, and eventual entry into force, of the PSMA. For example, parties to the TPP agreement could agree to ratify the PSMA, and to make PSMA ratification a requirement for accession to the agreement. 2) CITES parties should work to list key fish species on CITES Appendix I or II, combined with support for industry adjustment in countries affected by the resulting restriction of trade. 3) Key elements of best practice unilateral or regional IUU systems could be captured in a voluntary code (or reference paper) on IUU fish imports and transhipment, in the WTO, for WTO members to subscribe to.</td>
<td>1) Regional trade agreements could be used to incentivize ratification, and eventual entry into force, of the PSMA. For example, parties to the TPP agreement could agree to ratify the PSMA, and to make PSMA ratification a requirement for accession to the agreement. 2) CITES parties should work to list key fish species on CITES Appendix I or II, combined with support for industry adjustment in countries affected by the resulting restriction of trade. 3) Key elements of best practice unilateral or regional IUU systems could be captured in a voluntary code (or reference paper) on IUU fish imports and transhipment, in the WTO, for WTO members to subscribe to.</td>
<td>1) TPP parties would need to establish this obligation in the agreement. 2) CITES parties would need to agree to these listings and provide the required support for adjustment. 3) WTO members participating in unilateral or regional IUU schemes could lead the development of this voluntary code.</td>
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## TIMESCALE | CURRENT STATUS | GAP | STEPS | PARTIES INVOLVED
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### POLICY OPTION 4. Support the expansion of private sector schemes
**Short Term**
Several private sector certification schemes include, or focus on, assessments of the legality of the fish caught.
- Marine Stewardship Council (MSC) includes a legality element.
- There are species-specific legal catch systems (e.g. Barents Sea cod).

Many fisheries, particularly in developing countries, are not covered by effective governance, private sector certification, or other schemes.
- The traceability of fish products, particularly in low-capital fisheries, is very difficult.

1) Certification bodies should include evidence of legal harvest in certification and pre-certification systems (if not already present).
2) Certification bodies should ensure the standards are accessible to developing country fisheries.
3) Increase Aid for Trade (AfT) support for the development of infrastructure to enable traceability and eventual certification of fish products.

1) Certification bodies, both public and private, and for pre-certification, fish buyers and the fishing industry would need to be involved.
2) Private and public fisheries legality and sustainability certification bodies.
3) AfT donor and recipient governments’ involvement required.

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### Work Package 2: Disciplining fisheries subsidies

**Short Term**
WTO members are obliged to notify fisheries subsidies under the Agreement on Subsidies and Countervailing Measures (ASCM).
- TPP parties are also likely to be subject to an additional obligation to notify their fisheries subsidies.
- The OECD and others maintain databases of notified and estimated subsidy levels.
- The G2O receives reports on certain subsidies from different IGOs.

Despite the obligation in the WTO, notification of fisheries subsidies is patchy. There are very few sources of independent assessments of real subsidy levels against which to assess notifications, and also no strong consequences of not fully notifying.
- Independent (IGO, NGO, academic) databases and reports are helpful, but coverage of countries is limited, and in some cases must rely on estimates.

1) Further support to the development of comprehensive independent databases of fisheries subsidies (similar to the OECD’s work on agricultural subsidies) that could be used by NGOs to publish independent subsidy analysis.
2) WTO members could file counter-notifications of fisheries subsidies.
3) Specific additional notification requirements for fisheries subsidies could be established in the WTO.
4) The WTO Secretariat could reference counter-notifications by governments, or analysis by IGOs or NGOs in Trade Policy Reviews.
5) Committees in the TPP could reference analysis or counter-notifications by governments or NGOs in their review of members’ notifications.

1) The academic, IGO, and NGO community would need to lead this independent research and assessment work.
2) WTO members would need to file these counter-notifications, but would rely on IGO, NGO, and academic research.
3) WTO members would need to agree perhaps as a decision in the SCM Committee.
4) The WTO Secretariat would do this, but would require the support of WTO members.
5) TPP Parties would need to lead this in the relevant TPP committees, relying on IGO, NGO, and academic research.

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### POLICY OPTION 6. Adopt fisheries subsidies disciplines among a core group of countries

**Short Term**
The TPP may include disciplines on subsidies to overfished stocks and IUU vessels.

Any plurilateral disciplines would need to cover several large subsidizers (e.g. EU, China, Chinese Taipei, Russia) to be effective.

Regional outcomes could be used as a stepping stone towards multilateral disciplines by way of a plurilateral agreement on subsidies, subscribed to by a “core group” of large subsidizers, built by one or more of the following options:
1) Accession to an RTA would require acceptance of the RTA’s subsidies disciplines in exchange for preferential market access.
2) RTA disciplines could also become a “stand alone” code that large subsidizers would have political incentives to join.
3) The US could push to introduce TPP disciplines into the TTIP agreement, binding the EU.
4) Other regional agreements (e.g. ASEAN, the Pacific Alliance, Caricom, African TFTA) could also adopt subsidy disciplines on a regional basis.

1) RTA parties would need to agree to the accession of others on condition that they accepted subsidy disciplines.
2) RTA parties and others would need to build this stand-alone agreement.
3) RTA parties would need to push this, with the support of NGOs and some European countries.
4) Governments that are parties to regional agreements would need to push this, with support from local civil society.
### TABLE SUMMARY OF MAIN POLICY OPTIONS (continued)

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<td>POLICY OPTION 7.</td>
<td>Establish multilateral disciplines built stepwise and bottom-up based on a plurilateral deal</td>
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<td>The stepping stone of a plurilateral agreement could eventually be multilateralized in the WTO if there were enough large subsidizers involved. There are several options for this: 1) Parties to plurilateral disciplines (and members of a wider core group) would re-commit in the WTO to agreed subsidy disciplines in the form of a most-favoured-nation agreement or voluntary code. 2) The core group would then negotiate the phase-out of the remaining important subsidies in the “ambition gap” e.g. fuel, construction. 3) Accession other WTO members to the agreement (or code) would require adherence to the basic disciplines agreed by the core group and a commitment to phase-out the gap subsidies.</td>
<td>A core group of major subsidizers would need to be involved for this series of steps to be effective in the WTO.</td>
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| POLICY OPTION 8.   | Restart WTO negotiations based on areas of (relatively) more agreement          |                                                                    | The first-best option – an ambitious multilateral agreement – could be pursued by restarting the WTO negotiations based on: 1) Areas of (relatively more) agreement: subsidies to IUU, transfer of vessels, access agreements (and maybe also overfished stocks). 2) Identify the subsidies that evidence suggests are most likely to be harmful (construction, fuel) and focus on developing a way of phasing them out. | WTO members would lead this, with support from the scientific community on the evidence of harm. |

| POLICY OPTION 9.   | Align incentives by focusing international subsidy negotiations on international stocks |                                                                    | 1) Restart the WTO negotiations giving a higher priority to subsidies that affect international stocks (discrete high seas, shared, straddling, highly migratory), then expand disciplines to EEZ subsidies. 2) Build evidence around the impact of domestic subsidies on domestic fish stocks in key countries. 3) Lobby for reform of domestic fishing subsidies. | WTO members would need to lead this, with support from the FAO around which stocks would fall within the new scope. 2) National governments, the research community and NGOs would need to build this evidence. 3) Local civil society would need to push this. |

### Work Package 3: Tariffs and non-tariff measures

| POLICY OPTION 10. | Differentiate between capture and aquaculture fish in HS tariff codes           |                                                                    | Decision pending. Encourage governments to support differentiation decision.                                                                                                                                                                                                 | National customs authorities would need to move this decision. |

<p>| POLICY OPTION 11. | Support the adaptation of preference-dependent countries                    |                                                                    | Renegotiated preference agreements should allow more flexible sourcing to balance the loss of competitiveness as preferences are eroded. Negotiate more flexible rules of origin for fish products, conditioned on fish meeting sustainability and legality requirements, in European Partnership Agreements and preference agreements. Least developed countries are presumably covered by duty-free and quota-free market access. | Preference-giving and receiving countries would need to negotiate this in their agreements. There may be a case for international financing mechanisms, including under the AfT initiative, to provide technical assistance for producers to adjust to a loss in competitiveness caused by preference erosion. |</p>
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<td><strong>POLICY OPTION 12. Assist low-income fish exporting countries to reach standards</strong></td>
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<td>Short Term</td>
<td>Aid for Trade, International Trade Centre (ITC), and WTO technical assistance are provided for countries to meet standards.</td>
<td>Support appears to be insufficient.</td>
<td>Fish importing countries could re-orient AfT or tariff revenue to adaptation support.</td>
<td>Fish importing countries would need to re-shape their tariff revenue use and AfT supply priorities. AfT donor and recipient countries would need to re-shape their AfT demand priorities. The private sector has a leadership role. Private actors are well positioned to both improve access to certification schemes and assist producers and retailers to work towards bridging the gap between production realities and sourcing requirements.</td>
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<td><strong>POLICY OPTION 13. Ensure coherence between private standards and the TBT Code on standards</strong></td>
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<td>Medium Term</td>
<td>Some private standards may reflect TBT (Technical Barriers to Trade) principles.</td>
<td>Some private standards may not reflect TBT principles.</td>
<td>1) Encourage private sector standard-setters to follow the principles of the TBT Code on standards. 2) UNFSS and ITC standards platforms could focus on fisheries product standards.</td>
<td>1) Private sector standard-setters and certification bodies. 2) UNFSS and ITC Secretariats.</td>
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<td>Long Term</td>
<td>National sanitary and phytosanitary (SPS) and TBT systems vary, and are applied inconsistently. The TTIP and TPP are considering mutual recognition (MR) provisions.</td>
<td>MR between large markets can exclude other producers and reduce their competitiveness, even if their countries’ systems meet the standard. Transmissible mutual recognition built into RTAs is a novel approach.</td>
<td>Large regional trade agreements’ MR systems should allow non-parties to achieve mutual recognition if they are recognized as meeting the required standard by any one of the parties to the RTA.</td>
<td>TPP and TTIP parties.</td>
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EXPERT GROUP PAPERS AND THINK PIECES

The papers commissioned for the E15 Expert Group on Oceans, Fisheries and the Trade System can be accessed at http://e15initiative.org/publications/.


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policy recommendations are not attributable to any institution with
which members of the E15 Expert Group are associated.
E15 INITIATIVE: EXPERT GROUPS AND TASK FORCES

In the quest for effective responses to the challenges faced by the global economy at this time, foremost experts were invited to contribute to 15 thematic groups as well as three task forces addressing horizontal issues. The groups met regularly between 2012 and 2015 with the goal of delivering a set of policy options on the occasion of the WTO’s 20th anniversary. These options are intended to animate discussions and feed the present and future international trade and investment policy agenda for sustainable development. The full volume of policy options papers, jointly published by ICTSD and the World Economic Forum, and launched at the Forum’s Annual Meeting in Davos-Klosters in 2016, is complemented with a monograph that consolidates the options into overarching recommendations for the international trade and investment system for the next decade. The second phase of the E15 Initiative in 2016–17 will see direct engagement with policy-makers and other stakeholders to consider the implementation of E15 policy recommendations.

E15 INITIATIVE THEMES

1 – Agriculture and Food Security
2 – Clean Energy Technologies
3 – Climate Change
4 – Competition Policy
5 – Digital Economy
6 – Extractive Industries
7 – Finance and Development
8 – Fisheries and Oceans
9 – Functioning of the WTO
10 – Global Trade and Investment Architecture*
11 – Global Value Chains
12 – Industrial Policy
13 – Innovation
14 – Investment Policy
15 – Regional Trade Agreements
16 – Regulatory Coherence
17 – Services
18 – Subsidies

* Policy options to be released in late 2016
Implemented jointly by ICTSD and the World Economic Forum, the E15 Initiative convenes world-class experts and institutions to generate strategic analysis and recommendations for government, business and civil society geared towards strengthening the global trade and investment system for sustainable development.