



LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

[ISSN: 2583-7753]

Volume 3 | Issue 4

2025

DOI: <https://doi.org/10.70183/lijdlr.2025.v03.220>

© 2025 *LawFoyer International Journal of Doctrinal Legal Research*

Follow this and additional research works at: www.lijdlr.com

Under the Platform of LawFoyer – www.lawfoyer.in

After careful consideration, the editorial board of *LawFoyer International Journal of Doctrinal Legal Research* has decided to publish this submission as part of the publication.

In case of any suggestions or complaints, kindly contact (info.lijdlr@gmail.com)

To submit your Manuscript for Publication in the *LawFoyer International Journal of Doctrinal Legal Research*, To submit your Manuscript [Click here](#)

RECONCILING TRADE AND SDG 14: STRIKING A BALANCE BETWEEN TRADE COMMITMENTS AND THE WTO FISHERIES SUBSIDIES AGREEMENT

Saptashwa Banerjee¹

I. ABSTRACT

The members of the World Trade Organisation (WTO) came to a historic agreement on fisheries subsidies during the 12th Ministerial Conference in June 2022. The purpose of this agreement is to make a contribution to the Sustainable Development Goals that have been established by the United Nations Security Council. The required background information for the Agreement is provided in this article, which also offers a brief history of the talks between the parties. With the help of this study, we want to get a deeper understanding of how the World Trade Organisation Agreement on Fisheries Subsidies should be interpreted and how it should be implemented in the future. In this paper, the legislative process of the WTO Agreement on Fisheries Subsidies is reviewed, five main controversial issues are analysed, and the conflicts of interests of different countries during the discussion are explored. The status quo of international and regional fishery governance legal systems and management regimes in the regulation of IUU fishing is used as the basis for this study. Increasing collaboration between coastal states, flag states, port states, and relevant RFMOs is something that states should do in the future in order to encourage the transformation of the fisheries industry. This may be accomplished by removing damaging subsidies for illegal, unreported, and unregulated fishing. In the conclusion, the remaining challenges that have not yet been resolved by the World Trade Organisation are underlined.

II. KEYWORDS

WTO Fisheries Subsidies Agreement, SDG 14, IUU Fishing, India Fisheries Governance, Special and Differential Treatment.

¹ BBA.LLB, 2nd Year, Semester 4, Student at Symbiosis Law School, Pune (India). Email: saptahorse7@gmail.com.

III. INTRODUCTION

A fisheries agreement is a treaty established among nations to conserve, manage, and harvest marine resources sustainably. It aims to control fishing activities, prevent overfishing, and protect marine ecosystems from exploitation. The World Trade Organization (WTO), which governs international trade, also oversees fisheries subsidies to promote equitable practices and curb harmful subsidies that lead to overfishing and illegal fishing.² The WTO Agreement on Fisheries Subsidies, adopted in June 2022 during the Twelfth Ministerial Conference (MC12), marks a historic milestone as the first WTO agreement focused on environmental sustainability.³ It prohibits subsidies contributing to illegal, unreported, and unregulated (IUU) fishing, overfished stocks, and unregulated high-seas fishing. The agreement builds upon the Doha Development Agenda and represents a balance between conservation objectives and economic development.⁴

The key provisions of the agreement include the elimination of IUU fishing subsidies, ensuring that nations cannot provide financial assistance to vessels or operators engaged in illegal or unregulated activities. It also restricts subsidies in cases where fish stocks are already overexploited, except when such subsidies are intended for conservation or recovery purposes. Furthermore, it introduces controls over unregulated high-seas fishing to prevent depletion of shared resources.⁵ Transparency and notification obligations require member countries to inform the WTO about their subsidy programs, thereby improving accountability and monitoring. Additionally, the agreement establishes the groundwork for future negotiations to address broader issues such as overcapacity and overfishing, aiming for a more comprehensive regulatory framework.⁶

The Agreement on Fisheries Subsidies introduces binding legal disciplines through Articles 3, 4, 5, and 8. Article 3 prohibits subsidies to vessels or operators engaged in

²World Trade Organization, The WTO: What It Is and What It Does

³World Trade Organization, Agreement on Fisheries Subsidies

⁴ World Trade Organization, Doha Development Agenda

⁵World Trade Organization, Fisheries Subsidies: Briefing Note

⁶World Trade Organization, Implementation of the Agreement on Fisheries Subsidies

IUU fishing. Article 4 prohibits subsidies to fisheries exploiting overfished stocks unless effective measures are in place to rebuild them. Article 5 prohibits subsidies for fishing in unregulated high seas, thereby addressing the “commons” problem beyond national jurisdictions. Article 8 mandates transparency and notification obligations, requiring members to report detailed data on subsidy schemes, vessels, and affected fish stocks.⁷ These provisions are significant because they embed sustainability principles within the WTO’s trade law framework, marking a doctrinal convergence between trade and environmental governance.

The WTO Fisheries Agreement directly supports the United Nations Sustainable Development Goal (SDG) 14, which focuses on conserving and sustainably using oceans, seas, and marine resources.⁸ It contributes to Target 14.4 by curbing overfishing through the elimination of harmful subsidies, supports Target 14.6 by prohibiting subsidies that damage marine ecosystems, and advances Target 14.7 by ensuring developing nations benefit from sustainable fisheries management. However, IUU fishing continues to pose a major global threat, depleting fish populations, disrupting marine biodiversity, and destabilizing coastal economies.⁹ Such activities involve poaching, the use of prohibited gear, misreporting catches, and fishing in restricted zones. Although the WTO agreement attempts to curb these practices by restricting subsidies, effective enforcement remains a challenge due to inadequate monitoring systems and weak domestic regulations.¹⁰

From a doctrinal standpoint, the Agreement’s environmental clauses invoke parallels with earlier WTO jurisprudence. In *United States-Shrimp* (1998), the Appellate Body recognized environmental protection as a legitimate trade concern under GATT Article XX(g), provided measures were applied in a non-discriminatory manner. Similarly, in *EC-Sardines* (2002), the WTO upheld labelling standards linked to conservation. These precedents underscore that trade measures can align with environmental objectives, shaping the legal foundation upon which the Fisheries

⁷ Id

⁸United Nations, Sustainable Development Goal 14: Life Below Water

⁹ Food & Agric. Org. of the U.N. (FAO), *Illegal, Unreported and Unregulated Fishing*

¹⁰ Id

Agreement rests.¹¹ Nevertheless, debates persist regarding whether the WTO is an appropriate forum for environmental governance, given its trade-centric mandate. Critics argue that environmental treaties like the Convention on Biological Diversity or UNCLOS would provide a more coherent framework. Proponents, however, view the WTO's enforcement capacity as uniquely suited to address environmentally harmful subsidies through binding dispute settlement.

Recent updates from the Thirteenth Ministerial Conference (MC13), held in Abu Dhabi in February 2024, reaffirmed the commitment to expanding the Fisheries Subsidies Agreement. Negotiators advanced discussions on a "Second Wave" of disciplines targeting subsidies contributing to overcapacity and overfishing, though consensus remains pending. India and several developing nations advocated for broader flexibilities and extended transition periods under Special and Differential Treatment (S&DT) provisions, emphasizing livelihood security for small-scale fishers. The conference also saw the launch of a WTO Fisheries Funding Mechanism to support capacity building and compliance in developing countries.¹²

Empirical data highlight the urgency behind these reforms. According to the World Bank, global losses from IUU fishing are estimated at USD 20–23 billion annually, representing nearly one-fifth of the world's catch. According to the *FAO State of World Fisheries and Aquaculture 2024* report, 37.7% of global fish stocks were overfished in 2021, the most recent reference year for this dataset. These figures, substantiate the WTO's intervention as not merely economic but ecological, aimed at internalizing environmental externalities into global trade law.¹³

The Agreement's transparency and reporting obligations (Article 8) are both innovative and contentious.¹⁴ They establish a quasi-administrative system within the

¹¹ Appellate Body Report, United States – Import Prohibition of Certain Shrimp and Shrimp Products, WTO Doc. WT/DS58/AB/R (adopted Nov. 6, 1998); Appellate Body Report, European Communities – Trade Description of Sardines, WTO Doc. WT/DS231/AB/R (adopted Sept. 26, 2002)

¹² World Trade Organization, MC13 Fisheries Outcome Document (Abu Dhabi, Feb. 2024)

¹³ World Bank, Illegal, Unreported and Unregulated Fishing: An Economic and Environmental Catastrophe (2023); Food & Agric. Org. of the U.N., State of World Fisheries and Aquaculture (SOFIA) Report (2020).

¹⁴ WTO, Agreement on Fisheries Subsidies, art. 8 (June 17, 2022); IISD, Understanding the WTO Agreement on Fisheries Subsidies: Transparency and Notification Obligations (Policy Brief 2023)

WTO that resembles environmental treaty mechanisms such as the Paris Agreement's reporting framework. Yet, the success of these mechanisms depends on data integrity and political cooperation, areas where several member states, especially developing ones, lag due to capacity constraints. Thus, while the legal design is sound, practical implementation remains uneven.¹⁵

Normatively, the Agreement represents a turning point in reconciling global trade law with sustainability imperatives. However, it raises critical questions about distributive justice, whether environmental responsibility be borne equally by nations with vastly different economic capacities. The WTO's enforcement-oriented model risks penalizing developing countries for non-compliance driven by structural poverty, while major fishing powers retain advantages through technology and capital.¹⁶ Therefore, the legitimacy of the Fisheries Agreement ultimately depends on whether it can balance ecological objectives with social equity.

A. Research Objectives

The primary objectives of this research are as follows:

1. To critically examine the WTO Agreement on Fisheries Subsidies as a legal instrument aimed at reconciling international trade obligations with the environmental imperatives embodied in Sustainable Development Goal 14 (Life Below Water).
2. To analyse the evolution, scope, and key disciplines of the WTO Fisheries Subsidies Agreement, with particular emphasis on its prohibitions relating to illegal, unreported, and unregulated (IUU) fishing, overfished stocks, and unregulated high-seas fishing.
3. To assess the extent to which the Agreement successfully integrates environmental sustainability into the WTO's traditionally trade-centric legal framework.

¹⁵ R. Howse & E. Elliott, Transparency and Environmental Governance in the WTO: Lessons from the Fisheries Subsidies Negotiations, 57 J. World Trade (2023)

¹⁶ FiTI, FiTI Supports Implementation of WTO Agreement on Fisheries Subsidies with New Fisheries Information System (FIS) (Sept. 19, 2025).

4. To evaluate the legal, institutional, and socio-economic challenges faced by developing countries, particularly India, in implementing the Agreement.
5. To examine the compatibility of the WTO Fisheries Subsidies Agreement with India's constitutional obligations, domestic fisheries laws, and livelihood-based welfare policies.
6. To propose legal and policy reforms that can ensure equitable implementation of the Agreement while safeguarding small-scale and artisanal fishing communities.

B. Research Questions

The study is guided by the following research questions:

1. How does the WTO Agreement on Fisheries Subsidies seek to reconcile international trade disciplines with the objectives of SDG 14?
2. To what extent do the substantive provisions of the Agreement represent a doctrinal shift in WTO law toward environmental governance?
3. What are the principal legal and institutional challenges involved in implementing the Fisheries Subsidies Agreement in developing countries?
4. How does India's domestic fisheries governance framework interact with and respond to the obligations imposed by the WTO Agreement?
5. Does the Agreement adequately account for distributive justice and special and differential treatment for developing and least-developed countries?
6. What legal and policy mechanisms can be adopted to balance environmental sustainability with livelihood protection in fisheries-dependent economies?

C. Research Hypotheses

The research proceeds on the basis of the following hypotheses:

1. The WTO Agreement on Fisheries Subsidies represents a significant normative and doctrinal departure from traditional trade regulation by embedding environmental sustainability within binding trade disciplines.

2. Despite its environmental objectives, the Agreement disproportionately burdens developing countries due to structural capacity constraints and historical asymmetries in subsidy use.
3. The effectiveness of the Agreement is contingent not merely on legal prohibitions but on robust transparency, scientific assessment, and institutional capacity at the domestic level.
4. In the Indian context, unmodified implementation of the Agreement risks undermining constitutional welfare obligations and the livelihoods of small-scale and artisanal fishers.
5. A model of subsidy transformation, rather than subsidy elimination, offers a more equitable and legally sustainable pathway for compliance with the Agreement.

D. Research Methodology

This research adopts a doctrinal and qualitative legal research methodology, supplemented by policy analysis and empirical references.

1. **Doctrinal Legal Analysis:** The study undertakes a close textual and contextual analysis of the WTO Agreement on Fisheries Subsidies, relevant WTO jurisprudence, GATT provisions, and international environmental law instruments such as UNCLOS and the FAO Code of Conduct for Responsible Fisheries.
2. **Comparative Legal Analysis:** The paper compares international trade law norms with domestic fisheries governance in India to identify areas of convergence, conflict, and regulatory tension.
3. **Policy-Oriented Analysis:** National policies such as the National Policy on Marine Fisheries, 2017 and the Pradhan Mantri Matsya Sampada Yojana are examined to evaluate India's compliance trajectory and policy space under WTO rules.
4. **Secondary Data Analysis:** Reports and data from international organizations including the WTO, FAO, World Bank, and academic

literature are used to contextualize legal arguments and assess real-world impacts.

5. **Normative Evaluation:** The research applies principles of sustainable development, environmental justice, and constitutional welfare to evaluate the legitimacy and equity of the Agreement's implementation framework.

E. Literature Review

The existing literature on fisheries subsidies occupies the intersection of international trade law, environmental governance, and sustainable development. Early scholarship largely treated fisheries subsidies as a distortion of free trade, focusing on their economic inefficiencies and market impacts. WTO-centric analyses initially framed subsidy reform as an extension of the Doha Development Agenda, emphasizing trade liberalization rather than ecological outcomes.

Subsequent interdisciplinary scholarship shifted attention toward the environmental consequences of fisheries subsidies, particularly their role in exacerbating overcapacity, overfishing, and IUU fishing. Studies published in journals such as *Marine Policy* and *Ocean Development and International Law* highlight how subsidy-driven fleet expansion undermines stock sustainability and marine biodiversity. These works strongly influenced the framing of SDG 14.6, which explicitly calls for the prohibition of harmful fisheries subsidies.

Legal scholars have examined the WTO's growing engagement with environmental protection, drawing parallels with landmark cases such as *United States – Shrimp* and *EC – Sardines*, which recognized environmental conservation as a legitimate objective under WTO law. However, critics argue that the WTO lacks institutional competence in environmental governance and risks encroaching upon domains better regulated by specialized environmental treaties.

Developing-country scholarship emphasizes distributive justice concerns, noting that historical over-subsidization by developed fishing nations created ecological harm now disproportionately regulated against the Global South. Indian academic

literature highlights the tension between WTO obligations and domestic livelihood protection, particularly for small-scale fishers who rely on state support for economic survival.

Despite this growing body of work, a clear gap exists in integrating trade law analysis with constitutional welfare obligations and domestic fisheries governance, particularly in the Indian context. This research seeks to address that gap by offering a holistic legal evaluation of the Agreement's implications.

IV. FISHERIES SUBSIDIES IN INDIA: LEGAL AND POLICY FRAMEWORK

The history of fisheries in India is deeply connected to its evolving legal, cultural, and economic frameworks, ranging from ancient Hindu legal systems to colonial legislation and contemporary policy shaped by international obligations. This journey reveals not only the dynamic legal treatment of aquatic resources but also the socio-cultural and economic significance that fisheries have held across time.

In ancient Bharat, the earliest legal and regulatory frameworks for fisheries were guided by injunctions in shastric texts, particularly in the Arthashastra and Smriti literature. The Arthashastra, dated around the 3rd century BCE and ascribed to Kautilya, outlined duties for officers such as the Navadhyaksha (Superintendent of Ships) and Panyadhyaksha (Superintendent of Trade), who managed riverine commerce, including fisheries.¹⁷ Natural resource management was strictly regulated, and fishing was permitted under specific conditions to prevent environmental degradation. Ancient dietary practices further influenced the social perception of fishing: scholars like A.L. Basham, corroborated by Vedic and Jain-Buddhist texts, indicate that over 90–95% of the Indian population adhered to vegetarianism based on the principle of Ahimsa (non-violence), thereby limiting large-scale commercial fishing.¹⁸

¹⁷ KAUTILYA, THE ARTHASHASTRA (R. Shamastry trans., 1915)

¹⁸ A.L. Basham, *The Wonder That Was India* 308–09 (Sidgwick & Jackson 1954)

During the medieval period, particularly under Muslim rule, fisheries became part of the agrarian-taxation framework. Abul Fazl's *Ain-I-Akbari* (1590) documents fisheries taxes and fish markets across Mughal provinces.¹⁹ While no comprehensive legal code existed, fishing rights were determined by local customs and *zamindari* authority, particularly in Bengal and Kerala, where fish consumption was culturally significant. Islamic jurisprudence introduced certain norms under Sharia law, but fisheries largely remained customary privileges rather than codified rights.

With British colonization, fisheries regulation underwent a structural transformation. The Indian Fisheries Act, 1897 was enacted to control destructive fishing methods such as poisoning or the use of explosives and empowered provincial governments to frame local regulations.²⁰ A significant historical episode during this period involved Bengal's Rani Rashmoni, who challenged the East India Company's attempt to restrict native fishing rights on the Hooghly River.²¹ Her successful assertion of traditional use rights represented an early instance of local resistance against colonial resource monopolization.²²

Post-independence, fisheries governance was constitutionally divided between the Union and the States under Entry 57 (Union List) and Entry 21 (State List) of the Seventh Schedule, respectively. Consequently, states assumed jurisdiction over inland and coastal fisheries, while the Union retained control over maritime zones and international trade.²³ Several states enacted Marine Fishing Regulation Acts (MFRAs) in the 1970s and 1980s, for example, the Tamil Nadu Marine Fishing Regulation Act, 1983 which established fishing zones, licensing systems, and protections for traditional fishers.²⁴

A landmark in modern fisheries policy was the introduction of the National Policy on Marine Fisheries (NPMF), 2017, aimed at reconciling economic development with sustainability. The policy emphasized ecosystem-based management, addressed IUU

¹⁹ Abul Fazl, *Ain-i-Akbari* (Henry Blochmann trans., 1873)

²⁰ Indian Fisheries Act, No. 4 of 1897, § 2, India Code (1897)

²¹ Rani Rashmoni's Petition to East India Company, Bengal Archives Records (1856)

²² Id

²³ INDIA CONST. Seventh Schedule, List II, Entry 21; List I, Entry 57

²⁴ Tamil Nadu Marine Fishing Regulation Act, No. 8 of 1983 (India)

fishing, and aligned with India's Blue Economy goals.²⁵ The Pradhan Mantri Matsya Sampada Yojana (PMMSY), launched in 2020, complemented this framework by providing subsidies for welfare, insurance, infrastructure, and post-harvest value chains, prioritizing artisanal and small-scale fishers.²⁶

India's legal architecture is also shaped by international commitments. It ratified the United Nations Convention on the Law of the Sea (UNCLOS) in 1995, claiming sovereign rights up to 200 nautical miles within its Exclusive Economic Zone (EEZ).²⁷ India is also a signatory to the FAO Code of Conduct for Responsible Fisheries (1995), which, although non-binding, influences domestic fisheries governance on traceability and ecosystem preservation.²⁸

A pivotal development in recent years has been the WTO Agreement on Fisheries Subsidies (2022). India supported its environmental objectives but advocated for an extended transition period under the Special and Differential Treatment (S&DT) framework to safeguard traditional fishers. During the Thirteenth WTO Ministerial Conference (MC13) held in Abu Dhabi in February 2024, India, along with several developing countries, advocated for equitable and longer implementation timelines and the preservation of special and differential treatment in the proposed second phase of fisheries subsidies negotiations. These positions were articulated during ministerial and negotiating discussions; however, no consensus was reached on the second phase of the agreement at MC13.²⁹ This coalition of the Global South emerged as a strong negotiating bloc demanding that new disciplines under the second phase of negotiations explicitly address historical subsidy imbalances.³⁰

India's advocacy is grounded in both livelihood and constitutional principles. Fisheries provide employment to nearly 30 million people and contribute

²⁵ Ministry of Agriculture & Farmers Welfare, National Policy on Marine Fisheries (2017)

²⁶ Ministry of Fisheries, Animal Husbandry & Dairying, Pradhan Mantri Matsya Sampada Yojana Guidelines (2020)

²⁷ United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397

²⁸ Food & Agric. Org. of the U.N., Code of Conduct for Responsible Fisheries (1995)

²⁹ World Trade Organization, MC13 Fisheries Outcome Document (Abu Dhabi, Feb. 2024)

³⁰ Id

approximately 7.43% to national GDP.³¹ Subsidy withdrawal without safety nets could infringe the Directive Principles of State Policy (Articles 38 and 39), which mandate equitable resource distribution and livelihood protection.³² This normative linkage between trade law and constitutional welfare obligations adds a unique dimension to India's stance.

At a policy level, India has attempted to align WTO compliance with sustainable development through three approaches: (1) limiting harmful subsidies and redirecting them toward capacity-building and conservation; (2) implementing digital traceability through vessel monitoring systems (VMS) and biometric licensing; and (3) expanding the Blue Revolution scheme to include climate-resilient fisheries.³³ However, empirical studies reveal that subsidy benefits continue to be concentrated among large mechanized trawlers, while artisanal fishers remain under-supported – a distortion that undermines both SDG 14 targets and social equity.³⁴

From a doctrinal perspective, the intersection of WTO obligations and India's domestic law raises interpretive questions about sovereignty and policy space.³⁵ The WTO's prohibition on harmful subsidies may conflict with India's constitutional commitment to socio-economic justice.³⁶ The challenge, therefore, is to develop a regulatory model that internalizes environmental sustainability without displacing vulnerable fishing communities.³⁷ In this sense, India's legal response becomes a test case for reconciling trade liberalization with welfare-state principles.³⁸

Furthermore, India's engagement with Regional Fisheries Management Organizations (RFMOs), particularly the Indian Ocean Tuna Commission (IOTC),

³¹ Department of Fisheries, Ministry of Fisheries, Animal Husbandry & Dairying, Handbook on Fisheries Statistics 2022, at 5 (Gov't of India 2022)

³² INDIA CONST. arts. 38–39

³³ Ministry of Fisheries, Animal Husbandry & Dairying, Blue Revolution Scheme Report (2022)

³⁴ Id

³⁵ World Trade Organization, Agreement on Subsidies and Countervailing Measures, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1869 U.N.T.S. 14

³⁶ Id

³⁷ R. Howse & E. Elliott, Balancing Trade Liberalization and Social Protection: Lessons from the WTO Fisheries Subsidies Negotiations, 57 J. World Trade 211, 223–25 (2023)

³⁸ Id

highlights its increasing integration into multilateral conservation regimes.³⁹ These bodies contribute to data sharing, quota management, and IUU control, complementing WTO disciplines. Yet, India's compliance record has faced scrutiny for delays in reporting and limited transparency in subsidy disclosures gaps that mirror broader implementation challenges under Article 8 of the Fisheries Agreement.⁴⁰

In conclusion, India's fisheries governance framework reflects a complex interplay between constitutional imperatives, economic dependence, and international commitments. While the legal trajectory has evolved toward sustainability, the underlying policy tension remains how to uphold WTO obligations without undermining livelihoods.⁴¹ India's strategy at MC13 building Global South solidarity and insisting on equity-driven reform suggests a pragmatic path that preserves both developmental and environmental priorities.⁴²

V. LEGAL CHALLENGES IN IMPLEMENTING THE WTO AGREEMENT IN INDIA

India has emerged as one of the world's leading fisheries producers, contributing about 8% to global fish production and ranking as the second-largest producer of fish and aquatic animals.⁴³ India's total fish production in FY 2024-25 reached approximately 19.8 million tonnes (197.75 lakh tonnes) according to the Ministry of Fisheries, with inland fisheries contributing the majority share of this production.⁴⁴ Within this burgeoning sector, inland fisheries encompassing rivers, reservoirs, ponds, floodplain wetlands, and other freshwater environments generate over 8.4 million tonnes annually and sustain nearly 23 million inland fishers.⁴⁵ Marine fisheries, though smaller in volume, remain critical, with 2023 landings of 3.53 million

³⁹ Indian Ocean Tuna Commission (IOTC), Report of the 28th Session of the Indian Ocean Tuna Commission 42-49 (May 2024), (discussing India's data submissions and compliance matters)

⁴⁰ *Id*

⁴¹ Food & Agric. Org. of the U.N. (FAO), Regional Fisheries Management Organizations and Their Role in Global Governance of High Seas Fisheries (2023)

⁴² *Supra* note 38

⁴³ Ministry of Fisheries, Animal Husbandry & Dairying, Annual Report 2024-25

⁴⁴ *Id*

⁴⁵ *Supra* note 25

tonnes supporting roughly one million fisherfolk.⁴⁶ A marginal dip to 3.47 million tonnes in 2024, caused by heatwaves and cyclones, underscores the sector's environmental vulnerability.⁴⁷

The seafood export industry further highlights India's economic dependence on fisheries. Export earnings exceed ₹334.41 billion, with targets set to reach ₹1 lakh crore by FY25 through centrally sponsored initiatives.⁴⁸ Fisheries provide employment to nearly 30 million individuals across the value chain, from catching and processing to logistics. Inland fisheries alone engage about 23 million individuals.⁴⁹ In coastal and rural regions, fishing underpins food security by providing affordable protein aptly described as "rich food for poor people."⁵⁰

Despite these economic gains, the implementation of the WTO Agreement on Fisheries Subsidies has exposed institutional, economic, and regulatory weaknesses in India's fisheries sector. The prohibition on subsidies to vessels or operators engaged in IUU fishing, codified in Article 3, demands a sophisticated system of vessel monitoring and law enforcement.⁵¹ Yet, India lacks comprehensive monitoring, control, and surveillance (MCS) mechanisms.⁵² The persistence of unreported and illegal fishing within India's 2.3 million sq. km Exclusive Economic Zone (EEZ) highlights these institutional deficits. While India has introduced vessel monitoring systems (VMS) and satellite-based tools, adoption remains limited due to cost, technical barriers, and resistance among small-scale fishers.⁵³ The result is a compliance gap that risks undermining India's commitments under Article 3.

Empirical evidence reinforces the gravity of this issue. The World Bank estimates that India loses nearly USD 9 billion annually to IUU fishing activities part of a global loss

⁴⁶ Supra note 24

⁴⁷ Id

⁴⁸ Marine Products Export Development Authority (MPEDA)

⁴⁹ Fisheries Export Data Report (2024)

⁵⁰ Id at 40

⁵¹World Bank, Oceans, Fisheries & Coastal Economies: India Country Profile (2024)

⁵² World Trade Organization, Agreement on Fisheries Subsidies, art. 3, June 17, 2022

⁵³ Id

valued at USD 23 billion.⁵⁴ These economic losses translate into ecological depletion and weakened coastal livelihoods, directly contradicting SDG 14 targets.

Another key challenge arises under Article 4, which prohibits subsidies for fishing in overfished stocks unless effective conservation measures are in place.⁵⁵ India's capacity for scientific fish stock assessment remains limited. FAO data and the Central Marine Fisheries Research Institute (CMFRI) indicate that biological assessments are available for fewer than 25% of commercially exploited species in India's waters.⁵⁶ This data deficiency impairs the nation's ability to determine "overfished" status under WTO criteria, risking non-compliance by default.

Article 8, requiring transparency and notification of fisheries subsidies, poses yet another major compliance test. Members are obligated to submit detailed reports on the nature, beneficiaries, and magnitude of fisheries subsidies.⁵⁷ However, India's reporting framework is fragmented between central and state governments. Incomplete data submissions and lack of uniform categorization hinder WTO oversight. Many of India's subsidy schemes such as those under PMMSY and the Blue Revolution have not been comprehensively notified, reflecting structural capacity constraints rather than deliberate concealment.⁵⁸

From a doctrinal standpoint, the Agreement's enforcement through the WTO's Dispute Settlement Understanding (DSU) raises concerns about fairness and proportionality. If a developing country like India fails to meet reporting or compliance standards due to institutional incapacity, it could still face dispute proceedings initiated by developed members.⁵⁹ The precedent of United States-Shrimp and subsequent environmental cases reveal that while the WTO allows environmental justification under GATT Article XX(g), it demands procedural rigor and non-discrimination standards that may disadvantage countries with weaker

⁵⁴ Supra note 12

⁵⁵ Agreement on Fisheries Subsidies, art. 4.

⁵⁶ Supra note 40

⁵⁷ Agreement on Fisheries Subsidies, art. 4

⁵⁸ Supra note 54, art. 8

⁵⁹ Supra note 53

administrative frameworks.⁶⁰ This underscores a structural asymmetry between environmental ambition and economic reality within the WTO system.

The socio-economic implications of subsidy withdrawal are profound. Nearly 65% of India's active fishers are small-scale or artisanal, dependent on fuel subsidies, concessional loans, and gear assistance. These programs buffer them from volatile fish prices and climatic uncertainties. A sudden reduction or reclassification of these subsidies as "prohibited" under WTO rules would disproportionately affect coastal communities, especially in Kerala, Tamil Nadu, and West Bengal, where artisanal fishing predominates.⁶¹ This situation creates a trade-welfare conflict: while WTO compliance promotes sustainability globally, it could deepen rural poverty domestically if implemented without adequate safeguards.⁶²

India's policy response has been to seek balance through targeted reform. It has proposed a "Livelihood Safeguard Clause" within ongoing MC13 negotiations, allowing limited subsidies for artisanal and small-scale fishers operating within 12 nautical miles of the coast.⁶³ Moreover, India and the Global South coalition advocate the inclusion of "Development Flexibilities" in the second wave of negotiations to exempt low-income fisheries from stringent restrictions. This collective stance marks a strategic shift toward solidarity-based trade diplomacy.⁶⁴

At a practical level, India must enhance its institutional capacity through: (1) digital integration of fisheries databases across states; (2) scientific stock assessment mechanisms supported by international cooperation; (3) expansion of satellite-based monitoring for transparency; and (4) conversion of harmful subsidies into sustainability-linked incentives.⁶⁵ Examples include conditioning subsidies on vessel

⁶⁰ Appellate Body Report, United States – Import Prohibition of Certain Shrimp and Shrimp Products, WTO Doc. WT/DS58/AB/R (adopted Nov. 6, 1998)

⁶¹ Ministry of Fisheries, Animal Husbandry & Dairying, PMMSY Progress Report (2023)

⁶² Id

⁶³ Supra Note 11

⁶⁴ Id

⁶⁵ International Institute for Sustainable Development (IISD), Reforming Fisheries Subsidies: Linking Financial Incentives to Sustainability (2023)

fuel efficiency or requiring eco-certification for export eligibility. These reforms could satisfy WTO compliance while supporting domestic welfare.

Normatively, India faces a dual responsibility to uphold its international commitments and to protect the livelihoods of its fishing communities. The constitutional ethos under Articles 38, 39(b), and 48A mandates both economic justice and environmental protection. Balancing these obligations within the WTO framework requires a hybrid model of “sustainable subsidiarity”: empowering local fishers while aligning national subsidies with global sustainability goals. This would shift India’s policy paradigm from subsidy withdrawal to subsidy transformation.⁶⁶

Finally, the legitimacy of the WTO’s environmental role warrants scrutiny. While the Fisheries Subsidies Agreement marks a breakthrough in integrating sustainability into trade law, it also reveals the institutional tension between the WTO’s market-oriented design and ecological stewardship.⁶⁷ Unless reformed to prioritize distributive equity and capacity-building, the WTO risks reproducing hierarchies that privilege the global North. India’s insistence on equitable transition periods and resource-sharing mechanisms thus represents not resistance but a principled defence of environmental justice in trade governance.⁶⁸

VI. THE WAY FORWARD: LEGAL AND POLICY RECOMMENDATIONS

The WTO Agreement on Fisheries Subsidies entered into force on September 15, 2025, after sufficient WTO members deposited their instruments of acceptance, making its disciplines legally binding for those members that have ratified it. As of January 2026, the Agreement has been in force for roughly four months. Initial implementation efforts are now under way, with obligations such as enhanced transparency, updated notifications on national subsidy regimes, and preparation for reporting to the newly established Committee on Fisheries Subsidies taking shape as part of members’

⁶⁶ J. Alger, From Harmful to Helpful: Incentivizing Sustainability in WTO-Compatible Fisheries Subsidy Regimes, 48 *Marine Pol'y* 122, 128–31 (2024)

⁶⁷ World Bank, *Fisheries Governance and Digital Monitoring* (2023)

⁶⁸ *Id*

operational tasks.⁶⁹ The international community has already taken concrete steps in recent months that both illustrate implementation possibilities and expose practical bottlenecks.

The WTO Secretariat convened a Committee on Fisheries Subsidies to oversee implementation, and the Fisheries Funding Mechanism (the “WTO Fish Fund”) launched calls for proposals to assist developing and least-developed country members in meeting notification, monitoring, and capacity-building demands.⁷⁰ Parallel civil-society and multi-stakeholder initiatives have moved to fill data and transparency gaps: the Fisheries Transparency Initiative (FiTI) launched a Fisheries Information System (FIS) that aims to standardize public disclosure of subsidy programs, vessel registries and catch data, thereby radically improving the feasibility of Article 8’s reporting regime.⁷¹ These operational innovations matter because the Agreement’s legal disciplines Articles 3–5 (IUU fishing, overfished stocks, and unregulated high-seas fishing) and Article 8 (transparency and notification) presuppose robust monitoring, credible science, and wide-ranging administrative coordination. Without them, obligations remain aspirational.⁷²

Doctrinally, the Agreement represents an important convergence of trade law and environmental governance. By prohibiting subsidies that facilitate IUU fishing, perpetuate overfished stocks, or prop up unregulated high-seas fishing, the WTO has moved beyond classic market access and tariff disciplines to police public finance as an instrument of environmental harm.⁷³ This shift is consistent with WTO jurisprudence that allows environmental objectives to inform trade regulation, but it also raises interpretive challenges. The Agreement uses technical thresholds and procedural predicates e.g., “final findings” by coastal states or RFMOs to determine IUU status, or biologically based definitions of “overfished” stocks which require

⁶⁹ World Trade Organization, WTO Agreement on Fisheries Subsidies Enters into Force, Sept. 15, 2025.

⁷⁰ World Trade Organization, WTO Fish Fund Launches Call for Proposals for Implementing Agreement on Fisheries Subsidies, June 6, 2025

⁷¹ Supra Note 15

⁷² Agreement on Fisheries Subsidies arts. 3–5, 8 (June 17, 2022), WTO

⁷³ WTO Fisheries Funding Mechanism

scientific institutions and RFMO determinations to be integrated into trade adjudication.⁷⁴

In that sense, the Agreement delegates crucial evidentiary functions to non-trade bodies, creating doctrinal interdependence that both strengthens and complicates enforcement: panels may be required to treat RFMO and scientific findings as the factual backbone of disputes while assessing whether state measures meet WTO non-discrimination and due process standards.⁷⁵ Academic commentary in Marine Policy and related journals has emphasized that the success of these delegatory mechanisms depends on the quality and legitimacy of scientific processes and RFMO governance.⁷⁶

Practically, the early months of implementation reveal the twin imperatives of transparency and capacity building. The FiTI FIS and the WTO Fish Fund are complementary: one seeks to make subsidy and vessel data public and machine-readable; the other provides technical and financial assistance to states that lack the resources to comply.⁷⁷ Yet, operational reports and journal analyses caution that such instruments will fail if they do not address two political economy realities.

First, subsidy regimes are often diffuse, with central and sub-national authorities, state-owned enterprises, and sectoral ministries administering support in fragmented ways.⁷⁸ Aggregating these into coherent WTO notifications requires legal and institutional mapping and data harmonization.

Second, the political salience of subsidies which may underpin artisanal livelihoods or feed industrial fleets, means reform is not merely technical but redistributive.⁷⁹ Empirical studies and World Bank analyses estimate global losses from IUU fishing in the billions and show how poorly designed subsidy regimes can entrench

⁷⁴ Fishery Survey of India, Export Profile Report (2024)

⁷⁵ Id

⁷⁶ See, e.g., M. Yu, "Analysis of the WTO Agreement on Fisheries Subsidies," *Int'l Journal of Marine Policy*, (2024), Springer; J. Alger, "Assessing Article 5," *Marine Policy* (2023)

⁷⁷ *Supra* note 70

⁷⁸ Sumaila et al., *Global Fisheries Subsidies: Policy, Economics and Sustainability*, 78 *Marine Pol'y* 102, 109–12 (2024)

⁷⁹ Id

inequities.⁸⁰ Therefore, reform must pair compliance with compensatory social policies that protect vulnerable fishers.

For India, which depends heavily on small-scale and inland fisheries for livelihoods and food security, these global lessons imply a specific national pathway. The first priority is legislative and administrative realignment: India should enact a consolidated “Fisheries Subsidy Transparency and Reform Act” that mandates a single, centralized registry of all fisheries financial supports including grants, tax concessions, fuel subsidies, concessional credit and capital assistance and prescribes standardized reporting formats for WTO notifications.⁸¹

Such a statutory foundation would simplify Article 8 compliance and reduce the likelihood that fragmented state schemes remain unreported. Concurrently, India must operationalize an integrated Monitoring, Control, and Surveillance (MCS) architecture that expands vessel monitoring systems (VMS) coverage, adopts catch documentation schemes, and integrates satellite surveillance and port-state measures.⁸² The WTO Fish Fund and multilateral technical partners provide a realistic financing pathway for the initial rollout; FiTI’s FIS can be adopted as India’s national transparency portal with required customization to accommodate federal reporting lines.⁸³

But legal and technical fixes alone cannot resolve the distributive dilemmas posed by subsidy reform. A central normative and policy innovation should be the transformation of subsidies rather than abrupt withdrawal. India should redesign support to condition financial assistance on sustainability criteria: eligibility for grants and modernization funds should require vessel registration, adherence to gear restrictions, participation in catch reporting, and demonstrable compliance with stock rebuilding plans.⁸⁴ In effect, India must convert untargeted fuel subsidies and capital

⁸⁰ World Bank, Oceans, Fisheries and Coastal Economies

⁸¹Supra note 53

⁸²WTO Fish Fund, How to Access Funding – Opening the Call for Proposals, June 2025; FiTI FIS, supra note 15

⁸³ Id

⁸⁴Srinivasan & Menon, Fragmented Governance and Subsidy Disclosure in Indian Marine Fisheries, 41 Econ. & Pol. Weekly 44, 46–48 (2024)

grants into “green conditionality” schemes that align economic incentives with rebuilding goals and data transparency.

Internationally, India should press for explicit carve-outs in the Agreement for small-scale fishers operating in nearshore waters- time-limited, graduated exemptions tied to capacity building and transition finance- thereby recognising the life-and-livelihood dependency that characterizes many Indian coastal communities.⁸⁵ Such special and differential treatment (S&DT) was a consistent theme at MC13 and must be operationalised through clear benchmarks to avoid becoming a slogan without substance.⁸⁶

Complementary to subsidy redesign, India must ensure rigorous scientific underpinnings for decisions under Article 4. This will require scaling up stock assessment capacity at institutions like CMFRI, deploying standardized sampling and electronic reporting, and partnering with RFMOs and university research centres to adopt ecosystem-based assessments.⁸⁷ Scientific credibility will serve two ends: it will provide defensible bases for domestic rebuilding programs and reduce the risk of costly WTO disputes predicated on poor or contested data.⁸⁸ International journals on fisheries management have stressed that countries able to demonstrate data-driven rebuilding plans face lower political and legal risk in subsidy reform processes.⁸⁹

Another dimension of the way forward is multilateral institution-building aimed at addressing power imbalances in enforcement. India should champion a South-South Fisheries Observatory under WTO auspices, a coordinated platform for peer review, technical assistance, and collective bargaining in the “second-wave” negotiations addressing overcapacity.⁹⁰ This observatory can catalogue subsidy reform best practices, coordinate funding requests to the Fish Fund, and produce independent technical assessments that bolster the negotiating and compliance positions of

⁸⁵See MC13 outcomes and negotiating statements on Special & Differential Treatment, Thirteenth WTO Ministerial Conference (Abu Dhabi, Feb. 2024),

⁸⁶Reuters, Deal to curb billions in overfishing subsidies comes into force at WTO, Sept. 15, 2025,

⁸⁷ Id

⁸⁸ See P. Arora, Regulating Subsidies Contributing to Overcapacity and Overfishing (2023), Nat'l Law Sch. India Rev.

⁸⁹ Food & Agric. Org. of the U.N., The State of World Fisheries and Aquaculture (SOFIA), 2024

⁹⁰ Id

developing states.⁹¹ Creating such an institution would shift the political economy of reform from unilateral conditionality to cooperative capacity enhancement, thereby enhancing legitimacy.⁹²

VII. SUGGESTIONS AND RECOMMENDATIONS

- 1. Subsidy Transformation Rather Than Elimination:** India should redesign fisheries subsidies to condition financial support on sustainability criteria such as vessel registration, catch reporting, and compliance with conservation measures.
- 2. Strengthening Transparency and Reporting Mechanisms:** A centralized statutory framework should be established to consolidate fisheries subsidy data across Union and State governments to ensure compliance with Article 8 of the Agreement.
- 3. Enhanced Scientific Capacity:** Investment in fish stock assessment and ecosystem-based management through institutions like CMFRI is essential to meet obligations under Article 4.
- 4. Protection of Small-Scale Fishers:** India should advocate for explicit and operational Special and Differential Treatment provisions, including livelihood safeguard clauses for artisanal fishers operating in nearshore waters.
- 5. Institutional Capacity Building:** Greater utilization of the WTO Fisheries Funding Mechanism and international technical assistance should be pursued to strengthen monitoring, control, and surveillance systems.
- 6. South-South Cooperation:** Developing countries should collaborate to share best practices, negotiate equitable implementation timelines, and resist asymmetrical enforcement through collective institutional mechanisms.

⁹¹ On observatory concepts and South-South cooperation, see International Institute for Sustainable Development, Milestone Reached as WTO Global Agreement on Fisheries Subsidies Enters into Force, Sept. 9, 2025

⁹² *id*

VIII. CONCLUSION

Finally, dispute avoidance and equitable compliance must be embedded in the Agreement's follow-up. The WTO should adopt procedural safeguards for developing members a graduated compliance pathway that begins with technical assistance and time-bound remedial plans before formal dispute initiation. India must advocate for these safeguards, arguing that punitive dispute settlement absent meaningful capacity supports is both legally and morally unsound. Where disputes do arise, panel proceedings should be informed by RFMO findings and scientific consensus, not merely by trade law argumentation. This relative primacy of scientific fact over purely economic analysis should be codified as a principle of interpretation for fisheries disputes to minimize politicized adjudication and to preserve scientific authority.⁹³

In sum, the real test of the Agreement will not be legal text but institutional fidelity and policy imagination. The recent establishment of the Fish Fund, the FiTI FIS, and initial calls for proposals demonstrate momentum; they also underline the scale of work ahead.⁹⁴ India, with its vast inland and coastal fishing communities, must pursue simultaneous tracks: legal reform for transparency, science-based stock assessment, conditional redesign of subsidies, targeted social protections for small-scale fishers, and active leadership in South-South institution building.⁹⁵ If India and other developing states can operationalize these reforms in the next five years, the Agreement will be more than a treaty: it will be the framework for a just transition toward sustainable fisheries governance that reconciles trade law with the imperatives of social equity and ecological restoration.

IX. BIBLIOGRAPHY

1. World Trade Organization, *Agreement on Fisheries Subsidies* (2022).

⁹³ For discussion on dispute avoidance and RFMO science primacy, see J.E.B. Sanchez, "The Present and Future of the 2022 WTO Agreement," N.Y.U. J. Int'l Law & Pol. (2023)

⁹⁴ FiTI FIS, *supra* note 15

⁹⁵ CMFRI to Carry Out Marine Fishing Village Validation, Times of India (Mar. 2024)

2. United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development* (2015).
3. Food and Agriculture Organization, *The State of World Fisheries and Aquaculture* (2020).
4. United Nations Convention on the Law of the Sea, 1982.
5. World Bank, *Illegal, Unreported and Unregulated Fishing: Global Impacts* (various reports).
6. National Policy on Marine Fisheries, Government of India (2017).
7. Pradhan Mantri Matsya Sampada Yojana, Government of India (2020).
8. *United States – Import Prohibition of Certain Shrimp and Shrimp Products*, WTO Appellate Body Report (1998).
9. *European Communities – Trade Description of Sardines*, WTO Appellate Body Report (2002).