

# *Trade & Fisheries Issues*

*A Primer*



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## *Introduction*

This Trade and Fisheries Primer aims to present in a simple yet comprehensive way the basic issues in relation to trade liberalization inherent in recent multilateral, regional and bilateral trade agreements and their implications in the fisheries sector.

This Primer is intended as a reading and discussion material for fisherfolk leaders and as a basic reference that can help in the formulation or refinement of their positions in fisheries trade issues.

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### **I. Trade and its development**

Trade as the exchange in goods already existed between communities, civilizations and countries in pre-historic and ancient times. Over time, the meaning of trade would gradually expand to include the exchange in services and investments.

Trade among countries began to increase in the 16<sup>th</sup> century as competing European powers, with their growing capital, embarked on mercantilist expeditions to Asia and America to gain possession of large quantities of gold and valuable goods which are necessary to gain trade and economic advantage over rival powers and other countries.



However, trade increased on a worldwide scale only with the mass production of goods made possible by the new capitalist system of production in the 18<sup>th</sup> century. During this period, David Ricardo came up with the economic theory of comparative advantage in the context of expanding capitalist production. This theory would go on to become the basis of trade liberalization in post-World War II 20<sup>th</sup> century.

*What is comparative advantage? This theory argues that some countries can produce some goods and services more efficiently than others. In an unrestricted marketplace, countries will tend to produce and export those that they are good at producing and import those that they can do less. Regardless of its level of development, all that a country has to do is to identify those goods and services which it can produce more efficiently than the others and sell these in the world market; and buy those that it cannot produce from other countries. The net result, so the theory goes, will be an increase in income and ultimately wealth and well-being for everyone.*

### **II. From trade restrictions to trade liberalization**

Up to the 20<sup>th</sup> century and despite the theory on comparative advantage, individual countries opened their borders to imports only if it was in the national interest to do so.

Up until the end of World War II, no international trade system existed with the power to prescribe trade liberalization policies and measures that individual countries were committed to follow.

***What trade measures were used?** Capitalist powers used trade restrictions to protect domestic industries or to prevent foreign competitors from making headway in domestic markets. The trade measures used by countries to limit imports include quantitative restrictions (QRs) like import quotas and licenses. On the other hand, tariffs are taxes that a country levies on its imports, resulting in higher prices for imports. As such, tariffs can be used – and were used in fact – to protect domestic industries just like import quotas.*

In retrospect, increasing production in the context of restricted markets worldwide would intensify capitalist rivalries resulting in the two world wars of the 20<sup>th</sup> century, besides causing the first world economic depression in the 1930s. Thus after World War II, having become the world's most powerful nation, the United States spearheaded the establishment of an international trade system prescribing trade liberalization policies and measures. A series of conferences from 1944 to 1948 resulted in the General Agreement on Tariffs and Trade (GATT), as well as the establishment of the International Monetary Fund and the World Bank.

***What is trade liberalization?** Since GATT, trade liberalization has been the main thrust of international trade agreements; it consists of trade policies and measures aiming to achieve freer trade through the removal of trade barriers in general. Under GATT, one of the major trade policies is tarrification, which prescribe replacing quantitative restrictions (QRs) with tariffs. QRs like import quotas and licenses are characterized as discriminatory non-tariff barriers to be replaced with tariffs which are much easier to establish uniformly and to monitor across countries.*

Trade liberalization did not stop with tarrification. To achieve freer trade, GATT prescribed *tariff reduction* measures with the ultimate goal of tariff elimination – the complete removal of tariffs. The World Trade Organization that succeeded GATT has continued the policies of tarrification and tariff reduction.

### **III. The World Trade Organization**

By the time the Uruguay Round of GATT negotiations culminated in the Marrakech Agreement of 1993, the scope of trade liberalization already covered not only industrial goods but also agricultural products. Moreover, the Marrakech Agreement called for the replacement of GATT by the international trade organization called World Trade Organization (WTO).

Established in 1995, the WTO has sought to expand the scope of trade negotiations from trade in goods to trade in services and investments, as well as intellec-

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tual property rights and government procurement. It also has mechanisms on dispute settlement and the conduct of reviews of the trade policies of governments.

At present, the WTO has 153 member-nations which represent more than 95 percent of total world trade and 30 observers, most seeking membership. It is governed by a ministerial conference that meets every two years; a general council which implements the conference policy decisions and is responsible for day-to-day administration; and a director-general who is appointed by the ministerial conference. The WTO headquarters is at the Centre William Rappard, Geneva, Switzerland.

***What are the principles of trade liberalization?** The WTO, like its predecessor GATT, is founded on the theory of comparative advantage which believes in the free market as the vehicle for achieving economic prosperity for all countries. It thus aims to advance the negotiations for trade liberalization based on the following principles.*

*One of the principles is **non-discrimination** which consists of the Most Favored Nation (MFN) rule and the national treatment policy. The MFN rule requires that a WTO member must apply the same trade conditions to all other WTO members. For example, if a WTO member gives a special favor to another WTO member, that special favor should be given to all other WTO members. National treatment means that imported and locally produced goods should be treated equally.*

*Another principle is **reciprocity** which aims to secure better access to foreign markets through reciprocal concessions among WTO members in trade negotiations. Reciprocal concessions are meant to ensure that the gains a WTO member can obtain from trade negotiations would be greater than the gains available from unilateral liberalization.*

*A third principle is made up **binding and enforceable commitments**. WTO members make tariff reduction commitments which are enumerated in a schedule (i.e. list) of concessions. These schedules establish "binding ceilings" which set a country's maximum allowable tariff levels for its imports.*

*A fourth principle is **transparency** which requires WTO members to publish their trade regulations, allow the review of government decisions affecting trade, respond to requests for information by other members and notify changes in trade policies to the WTO. These internal transparency requirements are complemented by periodic country-specific reports through the Trade Policy Review Mechanism (TPRM). Transparency aims to improve predictability and stability in trade policies and discourages the use of quotas and other quantitative restrictions on imports.*

*A fifth principle involves **safety valves** which allow governments certain exceptions to the MFN principle for preferential treatment of developing nations, regional free trade areas and customs unions.*

Through the application of these principles, the WTO intends to harmonize the trade policies of member-nations toward the general direction of a free market on a worldwide scale. But contrary to expectation, the wholesale removal of trade barriers undertaken since the Uruguay Round did not bring about economic prosperity especially in the poorer nations (i.e. the developing and least developed nations). In fact, the loss of trade barriers that served to protect fledgling and small-scale industries in poorer nations has produced disastrous socio-economic consequences.

### The Doha Round

The WTO is currently endeavoring to persist with trade negotiations on the Doha Development Agenda (or Doha Round), which was launched in 2001 after the ministerial talks in Doha, Qatar to take into account the development concerns of poorer nations which represent a majority of the world's population. The Doha Round followed the Seattle Ministerial meeting which failed to secure an agreement on key issues in the Agreement on Agriculture (AoA) as poorer nations protested against provisions that favored the rich nations.

The Doha Round came up with the principles of *special and differential treatment* and *less than full reciprocity* for poorer nations which were supposed to give them more flexibilities in trade commitments. In addition, there was the *prohibition on tariff escalations* by the rich countries (i.e. the developed countries) which limited market access to the exports of poorer countries.

However, the Doha Round itself has been dogged mainly by disagreement in the AoA negotiations. The rich countries would not give up their massive subsidies for farm exports that have already wreak havoc on the livelihoods of millions of subsistence farmers in poorer nations. Still and all, no agreement could be reached on the special safeguard measure that would protect the latter from import surges in accordance with the principle of special and differential treatment for poorer countries.

### Non-Agricultural Market Access (NAMA)

The NAMA negotiations are mandated by the Doha Round to include all goods not covered under the AoA, namely: industrial goods and goods considered as natural resources like *fisheries*, forests, gems and minerals.

Prior to July 2008, the NAMA draft text of negotiations contained "stand-alone" flexibilities for poorer nations such as "half of formula cuts" (instead of full tariff cuts resulting from the binding formula) for a percentage of goods and outright exemptions from binding coverage. But on July 10, 2008, the WTO released a new NAMA draft text that deleted these "stand-



**World Fisheries Production**

Global capture fisheries production in 2006 was about 92 million tons, with an estimated value of US\$91.2 billion, comprising about 82 million tons from marine waters and 10 million tons from inland waters. China was the global leader with more than 17 million tons in 2006. Asian countries accounted for 52 percent of the global capture production.

Animal aquaculture production in 2006 was reported to be 51.7 million tons with a value of US\$78.8 billion. The Asia-Pacific region accounts for 89 percent of global production in terms of quantity and 77 percent in terms of value. Seaweed aquaculture in 2006 was 15.1 million tons. The cultures of both aquatic animals and plants have increased consistently since 1970. In 2006, the Asia-Pacific region contributed 93 percent of the world's total supply of aquatic plants, or 15.1 million tons (US\$7.2 billion), some 72 percent of which was produced by China. <http://www.greenfacts.org/en/fisheries/l-2/01-fisheries-production.htm>

Fisheries and aquaculture play an essential role in the livelihoods of millions of people around the world. In 2006, 43.5 million people were directly engaged, part time or full time, in fishing or in aquaculture. Eighty-six percent of the fishers and fish farmers worldwide are located in Asia, with China having the most in 8.1 million fishers and 4.5 million fish farmers. In 2006, other countries with a significant number of fishers and fish farmers were India, Indonesia, the Philippines and Viet Nam. Most are small-scale, artisanal fishers, operating on coastal and inland fisheries. <http://www.greenfacts.org/en/fisheries/l-2/02-fishers-farmers-fleet.htm#0>

a l o n e " flexibilities and instead linked them to the co-efficient rates of the binding formula.

This "linking" means that apart from their limited coverage, flexibilities are valid only in relation to the choice of the lowest co-efficient rate which would naturally result in lower tariff levels after binding. Moreover, the proposed co-efficient rates for poorer countries are so low that they would result in steep tariff cuts after application of the binding formula.

Critics of the July 10 NAMA text regard the linking of flexibilities to low formula coefficients as contrary to the "developmental" character of the Doha Round since it severely restricts the policy options of poorer nations to protect and develop their fledgling and small-scale industries, including the fisheries.

**Arguments against the WTO**

It is argued that the theory of comparative advantage refers only to aggregate wealth and says nothing about the distribution of wealth. Rather than benefiting all member-nations, there are significant losers under a free market system, especially industries with a comparative disadvantage in the poorer nations. In fact, the loss of protective trade barriers in poorer countries have led to the economic dislocation and worsening poverty of millions of subsistence and small-scale producers.

The WTO trade liberalization measures with their devastating impacts on poorer countries are thus inconsistent with the *right to development* which has been recognized by the United Nations since 1986 as a fundamental right of nations and peoples.

It is also argued that the WTO operates with a systematic bias toward rich countries and transnational corporations based in these countries – because rich countries have far greater negotiating power than poorer countries. The large majority of poorer nations have very little say in decision-making in the WTO which has been characterized as undemocratic. Decision-making is based on the consensus of a few major trading nations, which are reached in backroom negotiations prior to the WTO ministerial or general council meetings. Other countries are then expected to fall in line or be isolated. As such, the issues under negotiations are not decided by a majority vote of all member-nations as one would expect under a democratic system. It is also noted that the WTO recognizes only the role of governments – not civil society – in trade negotiations.

As a result, the WTO agreements have generally worked in favor of rich nations and did not benefit the poorer countries. Market access for their products has not improved because rich nations are allowed to make use of non-tariff barriers like anti-dumping measures and to maintain high levels of domestic and export subsidies for agricultural products.

Moreover, it is pointed out that social and environmental issues related to trade continue to be ignored in the WTO negotiations, despite their significance in the trade of natural and biological resources (e.g. fisheries) which have limited renewability. In this sense, the NAMA negotiations are flawed because they focus only on market access and do not consider the impact of trade liberalization measures on small-scale fisheries and the sustainability of fisheries resources. The huge fisheries subsidies of leading fishing nations that cause overfishing remain undisciplined under WTO.



#### IV. Free Trade Agreements (FTAs)

A free trade agreement is a pact between two or more countries in which they agree to lift most or all tariffs, quotas, special fees and taxes, and other barriers to trade between or among them. The purpose of free trade agreements is to allow faster and more business between or among the countries, which is regarded to benefit all of them.

In the context of the stalled negotiations in the WTO, regional and bilateral types of FTAs have been increasingly resorted to by pro-free trade governments around the world. As more and more FTAs are negotiated, they have become cumulative to some degree: if some countries sign an FTA and choose to negotiate together another FTA with some external country (or countries), then the new FTA will consist of the old FTA plus the new country (or countries).

In general, FTAs adhere to the same principles of free trade and trade liberalization originally set forth by GATT and the WTO. In ASEAN countries, there are several regional and bilateral FTAs in effect or under negotiations. The more significant of these FTAs are AFTA, EPAs (e.g., JPEPA/IJEPA) and ASEAN-EU.

## **AFTA**

AFTA stands for *ASEAN Free Trade Area* which is committed to the liberalization of trade in the region through the elimination of intra-regional tariffs and non-tariff barriers among the member-states of the Association of Southeast Asian Nations (ASEAN) as a critical step to its long-term goal of establishing an integrated market in the region.

AFTA prescribes the abolition of high tariffs or taxes on traded goods and the scrapping of quantitative restrictions (QRs) and other non-tariff barriers (NTBs) that limit the entry of imports. Along this line, a cooperative arrangement called Common Effective Preferential Tariff Scheme (CEPT) was formed in AFTA to reduce intra-regional tariffs and remove non-tariff barriers over a 10-year period starting in 1993.

CEPT covers all manufactured products, including capital goods and processed agricultural products, as well as products like fisheries which fall outside the definition of agricultural products. Apart from tariff reductions, CEPT provides for the elimination of QRs (e.g. quotas and licenses), NTBs and exceptions to foreign exchange restrictions on CEPT products.

As of this writing (2009), majority of goods under CEPT only have 0-5 percent tariff rates. By January 2010, the tariffs of most goods, including fisheries products, are scheduled to be reduced to 0 percent. The few exempted goods are those classified in the “sensitive track” which has a longer timeframe of tariff reductions until 2018.

Consistent with the cumulative character of FTAs, ASEAN countries have jointly negotiated an *ASEAN Free Trade Area with China*. This could have a serious impact on the small-scale fisheries (including artisanal fisheries) in the Philippines and other ASEAN nations since China is a leading exporter of fisheries products and has one of the biggest fisheries subsidies in the world.

## **Japan EPAs**

Japan has negotiated Economic Partnership Agreements (EPAs) with individual ASEAN countries and more recently, with ASEAN as a bloc. It has concluded at least three such EPAs – with Thailand, Philippines and Indonesia.

The EPAs are comprehensive economic agreements involving not just trade in goods but also trade in investments and services, as well as intellectual property rights, government procurement and movement of natural persons.

For example, the Japan-Philippines EPA (JPEPA) has provisions for tariff reduction on goods and national treatment provisions for investments and services, as well as the removal of performance indicators like the hiring of local workers and local sourcing of raw materials. JPEPA also affirms in Annex 7 of the agreement the provision under the Philippine investment code allowing foreign fishing activities in deep-sea Philippine waters. In contrast, JPEPA mentions that foreign fishing activities are not allowed under Japanese laws.

Japanese fishing activities and fisheries investments under JPEPA would be a threat to small-scale fisheries and the sustainability of fisheries resources in the Philippines given the weak fisheries management in this country.

IJEPA will eliminate tariffs on 90 percent of Indonesian exports to Japan within the 15-year duration of IJEPA. The list includes 72 fishery products, aside from 51 fishery products that gets immediate zero tariffs upon the effectivity of IJEPA in 2008. Among these products are shrimp, milkfish, lobsters, trout, eels and carp.

However, there is no provision on environmental protection in IJEPA. This is a danger considering that many species found in Indonesian waters that are considered fully exploited or overfished, including several tuna species, sardines, mackerel and wild shrimp species. Also, intensive shrimp farming has remained unregulated in Indonesia, destroying large tracts of mangrove forests since the 1980s.

#### **ASEAN-EU**

At present, the ASEAN-EU FTA negotiations have been suspended due to the European Union's human rights issue with Myanmar. Prior to the suspension, the talks had been conducted in a very secretive manner; and up to the present virtually no information has been made available regarding the content and progress of the trade negotiations. This is in stark contrast to the WTO negotiations in which the outcome of every negotiations at the ministerial and committee levels are immediately posted on the WTO website.



However, as may be gleaned from its trade deals with several African, Pacific and Caribbean (APC) countries, the EU has shown an interest in fishery access agreements, in many cases offering financial aid amounting to hundreds of millions of Euros to secure such agreements. But over the years, overfishing by EU boats has led to falling fish stocks especially in the African countries.



In this context, the ASEAN-EU FTA would be a threat to small-scale fisheries and the sustainability of fisheries resources in Southeast Asia especially in a situation where fisheries management remain weak in this region.

*The SEAFish Network*

*The Southeast Asia Fish for Justice (SEAFish) is a regional network of fisherfolk organizations and fisheries non-government organizations that envisions equity in access to and control over off-shore, coastal, and inland aquatic natural resources, including the termination of social and environmental costs of unsustainable use of natural resources and/or privatized control over public resource rents.*

*The goal of SEAFish is to have positioned itself by 2010 as a regional network with a clear mandate from artisanal fisherfolk, coastal communities and their advocates to engage governments and multilateral institutions towards recognition of their rights and their perspectives in fisheries management and trade.*

*Toward realizing this goal, SEAFish has the following objectives:*

- *Recognition of the role of artisanal fisherfolk in policy formulation and decision making in fisheries in the WTO, ASEAN and ADB*
- *Adoption of CBCRM as a framework for sustainable fisheries and trade*
- *Reduced expansion of industrial shrimp aquaculture, and advocacy for socially and environmentally sound aquaculture practices that benefit communities, address property rights and promote social justice*
- *Developed SEAFish as an active network advocating a regional agenda on gender equality and women in fisheries based on local and national experiences in asserting women's rights*

*Presently, SEAFish has a program divided into four (4) major themes, namely: Fisheries and Trade, CBCRM and Markets, Shrimp and Aquaculture and Gender Equality and Women in Fisheries. <http://www.seafish4justice.net/index.php>*

**Arguments against FTAs**

Several points have been raised against the FTAs which are similar to the arguments made against the WTO. One is that FTAs worsen the economic inequalities that exist among nations with different levels of development. As protective barriers are removed, fledgling or weaker domestic industries are destroyed by stronger or highly subsidized foreign competitors – resulting in significant loss of critical livelihoods and jobs usually in poorer nations. FTAs often do not include measures like performance indicators in foreign investments that would be beneficial to poorer nations.

Furthermore, foreign investments in

the fisheries and other natural resources of poorer countries are seen to produce massive social and environmental costs like the loss of livelihoods of small-scale producers and the degradation of resources. This is because of the lack of regard for social and environmental standards in FTAs (and in international trade rules in general), along with a weak social and environmental policy framework in many poorer countries.

In terms of decision-making, FTAs are regarded as undemocratic because only government bodies are involved in the negotiations. In certain aspects FTAs are even worse than the WTO—as in the lack of transparency in the ASEAN-EU negotiations or the lack of a dispute settlement mechanism in AFTA.

## V. Toward a Sustainable Fisheries and Trade

In 2005, prior to the Hongkong Ministerial meeting, the Southeast Asia Fish for Justice (SEAFish), a regional network of artisanal fisherfolk and fisheries non-government organizations, came out with the alternative framework of sustainable fisheries and trade. It said that the pursuit of greater market access and profits should be guided by the development principles of food security, livelihood security and the general well-being of peoples and communities, especially the artisanal fishers and their families. Toward the attainment of a sustainable fisheries and trade, SEAFish formulated the following specific calls:

**No to further liberalization in fisheries for developing countries:** This is the “general” call to ensure developing governments are not committed to a further opening of domestic economies. Any trade liberalization regime will have a negative impact on small-scale fisheries in developing countries.

**Exempt fisheries from NAMA tariff reduction formula:** The WTO can agree to create exemptions for fishery products (and other product groups) as a means of protecting the domestic fisheries sector.

**Maintain domestic protection in developing countries:** Protection includes tariff application and imposition of quantitative restrictions to take into account seasonality of fishery products and the fragility of rural economies. Current tariff-rate ceilings should be maintained or even raised to such necessary levels as would ensure domestic protection. Existing policy options of developing countries to limit, if and when it is necessary, the quantities of imported fish should likewise be continued.

**No to subsidies in developed countries, but yes to subsidies in developing countries:** This means that trade distorting and environmentally harmful fisheries subsidies of developed countries should be removed, such as subsidies to commercial fishing fleets, but not the current options for developing countries to subsidize their fleets, particularly those that are still undeveloped. Equalize the playing field first because the relatively backward small-scale fisheries of developing countries still need subsidies for years to come.

**Fisheries trade must not lead to socio-environmental costs:** Instead, fisheries trade should be compatible with the precautionary principle which advises to disengage in fisheries production and trade if it entails too much risk to both communities and the environment. Fish is an environmental good with limited capacity for renewing itself. Thus, fisheries trade needs to be based on sound fishery practices, but the WTO and FTAs facilitate trade without being able to facilitate a sustainable fisheries sector.

**Developing countries need higher tariffs to raise revenues:** This is a specific argument to continue with current (maximum allowable) tariff rates for developing countries and not reduce these further; besides serving as protection, tariffs are a revenue-making mechanism for them. Money is needed to pay for more effective fisheries management.

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