

August 28, 2014

Via www.regulations.gov

Douglas Bell, Chair
Trade Policy Staff Committee
Office of the United States Trade Representative
Washington, D.C. 20508

Re: T-TIP Environmental Review [Docket No. USTR 2014—0012]

Dear Mr. Bell:

Oceana appreciates the opportunity to submit these comments on the topics that should be included in the scope of the environmental review of the Transatlantic Trade and Investment Partnership agreement (TTIP).

Oceana is the largest international organization working solely to protect the world's oceans. Oceana's teams of professionals work in nearly every region of the world on a limited number of strategic, directed campaigns to achieve measurable outcomes that will help return our oceans to former levels of abundance. Oceana is headquartered in Washington, D.C., and has international offices in Madrid, Brussels, Copenhagen and London as well as in Chile, Belize, Brazil, and the Philippines. Because Oceana works on both sides of the Atlantic to protect and restore the world's oceans, it is particularly interested in the impacts of the proposed TTIP.

Oceana urges the inclusion and analysis of key marine conservation issues in the Environmental Review of the TTIP agreement. It is very important that the United States initiates an Environmental Review of the TTIP agreement and aims for the high standards of ambition for marine conservation that it has upheld in the WTO and Trans-Pacific Partnership (TPP) contexts. The United States and the European Union have an opportunity not only to show leadership in addressing some of the severe problems of exploitation of the oceans, but also to set high standards for future regional and multilateral agreements. The TTIP agreement presents a significant opportunity to implement the objectives of the President's Trade Policy Agenda, use trade policy to address the mounting global environmental challenges facing the oceans, and have a positive impact on trade between the United States and the European Union.

The Environmental Review is critical in identifying these severe problems of exploitation of the oceans, addressing the scope of their impact, and in setting high standards.

Comments

Trade liberalization may unintentionally promote environmental degradation resulting from increased exploitation of natural resources. Such degradation is not always controlled by regulation or management and to mitigate such impacts there have been widespread calls to address such adverse environmental impacts in trade agreements. In recognition of these potential threats facing the world's oceans, Oceana submits these comments concerning topics that should be included in the scope of the Environmental Review. Oceana's comments specifically concern marine resources – a critical part of our global environment.

Oceana urges that the scope of the Environmental Review of the TTIP agreement be comprehensive, and include the following topics:

- Fisheries management
- Illegal, unreported, and unregulated fishing, seafood fraud, and traceability
- Harmful fishing subsidies
- Shark stocks
- Emissions from shipping

Background

More than a billion people worldwide depend on fish as a key source of protein. As the global population continues to grow, the demand for food and affordable animal protein also continues to grow. Agriculture and livestock are limited in their ability to meet this increasing demand, as arable land is decreasing on a per capita basis and fresh water is becoming increasingly scarce.

Wild-caught ocean fish currently provide about as much animal protein to humans as eggs, but seafood has several advantages compared to other sources of animal protein: fishing uses no land; bringing fish to market uses negligible amounts of freshwater (for processing only); marine fish are the lowest cost per pound of animal protein to obtain; seafood production causes the lowest amount of carbon dioxide emissions per pound; and seafood provides health benefits.

In addition to providing nutritional benefits, fishing and fishery-related activities support hundreds of millions of people around the world for all or part of their incomes. These people rely on oceans, but fish populations and other ocean wildlife have been depleted to a fraction of their historical levels. The disappearance of this once abundant wildlife can trigger cascading adverse effects throughout the oceans.

Promoting Trade in Sustainable Marine Products

The United States and the European Union are leading players in the international trade of fish and fish products. They are regularly ranked in the top five importers and exporters worldwide.

The United States of America is the largest single nation importer of fish and fishery products, and is also highly dependent on imports for fish consumption (at about 60 percent of its total fish supply).¹ In 2013, the fishery imports of the United States of America reached US\$19.0 billion, up eight percent on 2012.²

The nations of the European Union together constitute the world's largest market for imported fish and fishery products.³ In 2012, its imports were valued at US\$47.0 billion and represented 36 percent of total world imports. However, official statistics also include trade among European Union nations. If intraregional trade is excluded, European Union fishery imports were worth US\$24.9 billion in 2012 – still

¹ Japan, traditionally the largest single importer of fish, was overtaken by the United States of America in 2011. (United Nations Food and Agriculture Organization. (FAO). (2014). *The State of the World's Fisheries*. Retrieved from: <http://www.fao.org/3/a-i3720e.pdf>)

² United Nations Food and Agriculture Organization. (FAO). (2014). *The State of the World's Fisheries*. Retrieved from: <http://www.fao.org/3/a-i3720e.pdf>

³ *Id.*

making it the largest market, with about 23 percent of world imports. Preliminary data for 2013 show European Union imports growing eight percent relative to 2012, to more than US\$50 billion (US\$26 billion excluding trade within the region).⁴ European Union dependence on imports for fish consumption is growing. This dependence is a result both of an increase in consumption and limits on fish productivity within European Union waters.

Strengthening Fisheries Management

The 2014 State of the World Fisheries and Aquaculture report issued by the United Nations Food and Agriculture Organization (FAO) concludes that 90.1 percent of global fish stocks are overfished or fully fished.⁵

The current state of the world's fisheries means that increased demand for wild capture fish cannot be met by increasing fishing effort without restoring fish populations and ensuring their sustainability. The FAO states that in 2011, the ten most productive species accounted for about 24 percent of world marine capture fisheries production. Most of these stocks are fully fished.⁶ Without plans to restore stocks in place, the potential for long term and increasing productivity is low. The global economic losses due to economic overfishing are estimated at \$50 billion a year.⁷

In Europe, 63 percent of assessed fish stocks in the Atlantic are overfished and it is projected that if the status quo is maintained and fishing continues at current rates, only nine percent of European fish stocks will be managed at sustainable levels by 2022.⁸ This failure to manage fish stocks at sustainable levels comes despite the commitment of the European Union to the Rio Declaration of 1992 to manage all fisheries sustainably and the Johannesburg Plan of Implementation (JPOI) which established the deadline of 2015 to meet that objective.⁹ This commitment was reconfirmed just last year when the United Nations General Assembly endorsed "The future we want." This document that resulted from the Rio +20 meetings stated a commitment "to intensify our efforts to meet the 2015 target as agreed to in JPOI to maintain or restore [fish] stocks to levels that can produce maximum sustainable yield."¹⁰

In order for the world's fisheries to begin to recover there should be coordinated efforts from the United States and the European Union on both sides of the Atlantic to lead the way. The Environmental Review of the TTIP agreement should initiate this process by reviewing the enforcement of effective obligations under domestic fisheries management programs, regional fisheries management organizations, and multilateral environmental agreements.

⁴ *Id.*

⁵ United Nations Food and Agriculture Organization. (FAO). (2014). *The State of the World's Fisheries*. Retrieved from: <http://www.fao.org/docrep/016/i2727e/i2727e.pdf>

⁶ *Id.*

⁷ World Bank and FAO. (2009). *The sunken billions: the economic justification for fisheries reform*. Advance edition. Washington, DC, Agriculture and Rural Development, World Bank.

⁸ Schroeer, Anne. et al. (2011). *The European Union and Fishing Subsidies*. Oceana,

⁹ World Summit on Sustainable Development. *Johannesburg Plan of Implementation: JPOI Response Strategy*. 2003. Retrieved from: http://www.cooperazioneallosviluppo.esteri.it/pdgcs/documentazione/AttiConvegni/2003-01-01_JohannesburgPlanImplementation.pdf

¹⁰ United Nations General Assembly. (2012). *The future we want*. Retrieved from: <http://unstats.un.org/unsd/broaderprogress/pdf/GA%20Resolution%20-%20The%20future%20we%20want.pdf>

Combating Illegal, Unregulated, and Unreported (IUU) Fishing and Seafood Fraud

The TTIP agreement should address IUU fishing and trade in IUU products, including basic prohibitions on the trade in products taken or exported in violation of national or international laws that protect marine resources. The Environmental Review should include the feasibility of TTIP requiring catch documentation to verify whether seafood is from legal fishing, full chain traceability of seafood from final point of sale back to legal origins, require unique vessel identifiers such as IMO numbers for all fishing vessels, all European Union and United States vessels to be monitored with vessel monitoring system (VMS) equipment, a global fishing vessel database, trade flow analysis to help identify suspicious activity, enhanced enforcement to verify identity and origin of seafood products, and cooperation between authorities of the United States and the European Union to enforce regulations against IUU fishing.

Even where management exists, illegal fishing can put unsustainable pressure on fish stocks, marine wildlife and habitats, distorting markets and subverting national, regional and international efforts toward sustainable management. IUU fishing has escalated in the past 20 years, especially in high seas fisheries. Rough estimates indicate that IUU fishing takes 11–26 million tonnes of fish each year, for an estimated value of US \$10–23 billion.¹¹ A recent study estimated that 20-32 percent of the wild-caught seafood imported into the United States, at a value of US\$1.3-2.1 billion, was illegally caught.¹² The TTIP should strengthen the ability of the United States and the European Union to combat IUU fishing. Seafood fraud is a pervasive problem in the global supply chain. To date, more than 100 studies and investigations on prevalence of seafood fraud have been conducted in 29 countries and on all continents except Antarctica. In every study, seafood fraud was found.

Products derived from IUU fishing illegally find their way into local or overseas trade markets often by seafood fraud where products are misrepresented or mislabeled in the supply chain, thus undermining the local fisheries economy and depriving local communities of guaranteed food supplies. Hence, IUU fishing threatens the livelihoods of fishers and other fishery-sector stakeholders and also exacerbates poverty and food insecurity.

The President recently declared that “[i]t shall be the policy of the United States for all executive departments and agencies (agencies) to combat IUU fishing and seafood fraud ... where appropriate by improving the transparency and traceability of the seafood supply chain.”¹³ To implement this policy, the President established an inter-agency task force.¹⁴ In addition, the Magnuson Stevens Act authorizes the United States to prohibit imports and establishes other measures to enforce compliance with internationally established catch limits and to prevent the trade of fish caught by vessels identified as engaging in IUU fishing. The European Union adopted Commission Regulation No. 1010/2009 of October 22, 2009, establishing a system to prevent, deter, and eliminate IUU fishing.¹⁵

¹¹ Agnew, D.J., et al. (2009). *Estimating the Worldwide Extent of Illegal Fishing*. PLoS ONE 4(2) :e4570. Retrieved at : <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0004570>

¹² Ganapathiraju Pramod, et al., Estimates of illegal and unreported fish in seafood imports to the USA, 48 Marine Policy 102-13 (Sept. 2014), available at <http://www.sciencedirect.com/science/article/pii/S0308597X14000918>.

¹³ President Barack Obama, Presidential Memorandum – Comprehensive Framework to Combat Illegal, Unreported, and Unregulated Fishing and Seafood Fraud, Sec. 1(a), (June 17, 2014), available at <http://www.whitehouse.gov/the-press-office/2014/06/17/presidential-memorandum-comprehensive-framework-combat-illegal-unreported>.

¹⁴ *Id.* Sec. 2.

¹⁵ Commission Regulation (EC) No 1010/2009 of 22 October 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

TTIP should live up to these already strong domestic commitments and regulations and build upon them to set the highest international standards in combatting IUU fishing and seafood fraud as a benchmark for the rest of the world and to keep illegal, unregulated and unreported fish and fraudulent products out of the stream of commerce, as well as facilitate exchange of information on IUU activities.

Specifically, the TTIP agreement is an opportunity for the United States and European Union to commit to taking action against countries that are not doing enough to fight illegal fishing and seafood fraud and have severe difficulty with monitoring and controlling of their fisheries or supply chains, for example through import refusals and bans. Domestically the European Union and United States should commit to setting up systems that effectively sanction citizens involved in IUU and fraudulent activities. These sanctions should be sufficiently deterrent and apply to engagement on board, as operator or as beneficial owner of fishing vessels.

The market power of the United States and European Union should be used to ensure that no fish is imported, landed, or transshipped in the European Union or United States without catch documentation to verify legality and require traceability back to the fishing vessel or aquaculture facility. Fishery products that are imported to the United States and the European Union should be caught in a manner that adheres to conservation and management measures adopted in accordance with international law. The Environmental Review of the TTIP agreement should include the analysis of requiring systems to continue such documentation all the way to the consumer to combat fraudulent activities in the supply chain including smuggling, mislabeling, and laundering illegally caught seafood with legally caught product.

The Environmental Review of the TTIP agreement should closely address IUU fishing and seafood fraud, trade in IUU and fraudulent products, and associated environmental impacts.

Reducing Harmful Fishing Subsidies

The international community recognizes the importance of eliminating harmful fishing subsidies, as it made clear in the recent Rio+20 statement, “The future we want” that reaffirmed the JPOI “commitment to eliminate subsidies that contribute to illegal, unreported, and unregulated fishing and overcapacity, and to refrain from introducing new such subsidies or from extending or enhancing existing ones”.¹⁶

Oceana has been very active on the issue of fisheries subsidies both in the WTO and TPP negotiations and has supported the efforts of USTR in advocating for limiting fisheries subsidies. The scope and magnitude of fisheries subsidies and their impacts on overcapacity and overfishing are so significant that global subsidy reform is one of the most beneficial actions that can be taken to protect the oceans.

The vast majority of fisheries subsidies are capacity enhancing and drive overfishing such as programs for boat modernization, fuel, equipment, and other operating costs.¹⁷ These overfishing subsidies are

¹⁶ United Nations General Assembly. (2012). *The future we want*. Retrieved from:

<http://unstats.un.org/unsd/broaderprogress/pdf/GA%20Resolution%20-%20The%20future%20we%20want.pdf>

¹⁷ Sumaila, U. R., Pauly, D., (2006). *Catching more bait: a bottom-up re-estimation of global fisheries subsidies*. Fisheries Centre, University of British Columbia

estimated to be approximately €1.5 billion each year – an amount equivalent to approximately 20 percent of the value of the world catch.¹⁸

It is important to note that continued subsidies under a TTIP agreement will support fishing activity that may otherwise become uncompetitive under tariff reduction. Oceana's report on the European Union and fishing subsidies, released in 2011, found that subsidies to the European Union's fishing sector totaled approximately \$3 billion or nearly 42 percent of landed value in 2009.¹⁹ A trade agreement is likely to lead to an overall expansion of capacity and fishing in response to market opening. As a result, tariff reduction for fisheries products – without efforts to curtail fishing subsidies – would be a net loss for the ocean environment.

Binding disciplines on fishing subsidies in the TTIP agreement are critical not only to address overfishing, but to help even the playing field for American fishermen, giving them equal opportunities in domestic and export markets. The United States should continue its recent progress on subsidies control by addressing harmful subsidies, particularly those that are provided to fisheries suffering from overcapacity or overfishing, in the Environmental Review of the TTIP agreement.

Shark Conservation

Sharks are found in nearly every ocean around the world and play a vital role in maintaining the health of marine ecosystems. Shark populations are particularly vulnerable to fishing because of sharks' slow growth and low reproductive potential. Each year, tens of millions of sharks are killed solely for their fins. More than half of the highly migratory oceanic shark populations are considered overexploited or depleted.

Because the international trade of shark fins is a major driver of the worldwide depletion of shark populations, it is appropriate to address this issue, as well as management of shark stocks, in the TTIP. The European Union and United States are to be applauded for sharing a productive approach to this issue, including requiring that sharks be landed with fins attached. The European Union and the United States can use the TTIP as a means to work with their mutual trading partners to implement and enforce prohibitions on shark fining, to work within shared regional fisheries management organizations to achieve better policies on shark management, and to educate their consumers about the consequences of fueling demand for this product.

The TTIP should be a vehicle to reinforce the progress made in both the United States and European Union by requiring that all shark fins traded, transshipped, or landed in a jurisdiction have accompanying documents establishing the source of the fins and that the fins come from a shark landed with the fin naturally attached. Shark management should ensure catch limits for each individual stock requiring management, including each target stock, each significant incidental catch stock, and each shark stock. The management system should ensure that the total catch for each stock, including discards, cannot exceed the catch resulting from a rate consistent with Maximum Sustainable Yield (MSY) or stock rebuilding to a level consistent with MSY, whichever is lower and that fishing ceases before it exceeds the catch limit. A commitment should be made to ensure accurate and precise monitoring and reporting of the

¹⁸ Sumaila, U.R., et al. (2010) *A Bottom-up Re-Estimation of Global Fisheries Subsidies*, Journal of Bioeconomics.

¹⁹ Schroerer, A. et al. (2011). *The European Union and Fishing Subsidies*. Oceana.

catch of all stocks, including discards and including the incidental catch of protected species, sufficient to enforce catch limits and conduct stock assessments to establish catch limits.

Accordingly, the Environmental Review should look at shark finning in relation to trade and the beneficial impacts that an ambitious TTIP agreement could have on shark conservation.

Shipping and Climate Change

A TTIP agreement may promote growth in the marine shipping industry if the volume of goods traded increases. It is important to make sure that that growth is sustainable and is consistent with addressing the pressing need to reduce emissions that contribute to global climate change. Climate change emissions from shipping are not yet regulated, but the way forward is understood. Emissions standards based either on operating procedures, such as slower speeds to use fuel more effectively, or based on technology, are reasonable and feasible and could also reduce costs for the shipping industry.

Performance standards based on indexing carbon dioxide emissions are also feasible.

As a first step towards cutting emissions, the European Commission has proposed that owners of large ships using European Union ports should report their verified emissions from 2018.²⁰

The United States should show leadership by seeking opportunities in the TTIP agreement to reduce climate change emissions from shipping and by including this issue in the Environmental Review.

* * *

In conclusion, although the challenges facing the oceans are enormous, Oceana is optimistic that the United States and the European Union can make progress in overcoming them. Oceana encourages the United States to continue the ambitious stances it has already taken at the WTO and in the TPP negotiations by including the issues above in the Environmental Review of the TTIP agreement. Oceana urges you to ensure that the scope of the Environmental Review of the TTIP agreement is comprehensive, and that the following topics be addressed:

- Fisheries management
- Illegal, unreported, and unregulated fishing, seafood fraud and traceability
- Harmful fishing subsidies
- Shark stocks
- Emissions from shipping

²⁰ European Commission. (2013). *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Integrating maritime transport emissions in the EU's Greenhouse Gas Reduction Policies*. Retrieved at: http://ec.europa.eu/clima/policies/transport/shipping/docs/com_2013_479_en.pdf

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Chair, Trade Policy Staff Committee
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Oceana thanks you for your efforts to ensure that the Environmental Review is comprehensive. Oceana remains committed to continue its advocacy and involvement in the TTIP process on these and other issues, and looks forward to continuing its dialogue with you and your colleagues.

Sincerely,

/s/

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