

ClientEarth's position on fuel subsidies in the fisheries sector

Let's stop fuelling environmental and social disaster

Top Lines

- Harmful subsidies in fisheries artificially increase profits by reducing the cost of fishing and/or by increasing fishers' revenue, resulting in overcapacity and overfishing.
- Fuel exemptions are harmful subsidies that reduce the costs of fishing and therefore lead to an increase of fishing capacity. In a situation where stocks are not at sustainable levels, fuel exemptions contribute to overfishing. By reducing the costs of fishing, fuel subsidies also contribute to keeping people in the sector artificially, wastefully delaying an inevitable economic transition.
- Fuel exemptions in the fisheries sector should be eliminated through the revision of the Energy Taxation Directive (ETD).
- Fuel exemptions should also be tackled in the framework of the World Trade Organisation (WTO) negotiations on eliminating harmful fisheries subsidies.
- Eliminating fuel exemptions is compatible with – indeed is part of – making fisheries in Europe sustainable.
- Support should be redirected to low-impact fishers in Europe, who are simultaneously the most vulnerable and vital.
- The first step is to give favourable access to our fisheries to small-scale, low-impact fishers, including access to quotas, which to them means accessing the very resources that allow them to make a living.
- In order to achieve environmental sustainability in EU fisheries, support should be designed to target small-scale fisheries that operate in a way that minimises their impact on the environment.

What are harmful subsidies in fisheries?

Since the 1990s, a large number of studies have analysed and described the link between fisheries subsidies and overfishing.¹ The term “harmful subsidies” refers to subsidies that artificially increase profits by reducing the cost of fishing and/or increasing the revenue fishers receive. Harmful subsidies result in overcapacity and lead to overfishing.²

Researchers (environmental researchers as well as economists)³ have analysed different subsidies and categorised them as “beneficial”, “ambiguous” or “capacity-enhancing/harmful”. They categorise harmful fisheries subsidies as those that, for example, enable vessels to travel farther, stay at sea for longer, or have greater fishing capacity than they would otherwise. As a result, they enhance the capacity of the fleet, contributing to overfishing and illegal, unreported, and unregulated fishing. Subsidies that are widely recognised as harmful include those that: fund engine replacement; fund the modernisation of fishing vessels or the construction of new ones; or artificially keep alive a sector by reducing the cost of fishing when it is not environmentally or economically sustainable. These subsidies exacerbate the imbalance between the fishing capacity of the EU fleet and the limited fish that can be sustainably caught.

In 2002, the Food and Agriculture Organisation (FAO) defined fisheries subsidies as ‘*government actions or inactions that are specific to the fisheries industry and that modify - by increasing or decreasing - the potential profits by the industry in the short-, medium- or long-term*’.⁴

As noted by the United Nations Conference on Trade and Development (UNCTAD),⁵ “*these subsidies effectively mean that taxpayers are paying [...] boats to degrade the environment and to destroy the food security and livelihoods of vulnerable coastal communities. By fuelling unfair competition between large fleets and individual artisanal fishermen, they are also fostering inequality*”.

What makes fuel exemptions harmful subsidies?

De-taxation schemes for fuel consumption are indirect subsidies. Economists and scientists have identified them as harmful not only from an environmental perspective but also from an economic perspective. Fuel exemptions are harmful subsidies that reduce the costs of fishing and therefore lead to an increase of fishing capacity. In a situation (such as the situation we have in the EU) where stocks are not at sustainable levels, fuel exemptions contribute to overfishing. By reducing the costs of fishing, fuel subsidies also contribute to maintaining people in the sector artificially, wastefully delaying an inevitable economic transition. As described in the *Sunken Billions* report by the World Bank:⁶

“Many subsidies in the fisheries sector are pernicious because they foster overcapacity and overexploitation of fish stocks. By reducing the cost of harvesting, for example, through fuel subsidies or

¹ Sakai (2019) <https://link.springer.com/article/10.1007/s12562-019-01306-2>.

² Sumaila, U.R., Ebrahim, N., Schuhbauer, A., Skerritt, D., Li, Y., Kim, H.S., Mallory, T.G., Lam, V.W. and Pauly, D., 2019. Updated estimates and analysis of global fisheries subsidies. *Marine Policy*, 109, p.103695.

³ Sumaila, U.R., Skerritt, D., Schuhbauer, A., Ebrahim, N., Li, Y., Kim, H.S., Mallory, T.G., Lam, V.W. and Pauly, D., 2019. A global dataset on subsidies to the fisheries sector. *Data in brief*, 27, p.104706.

⁴ FAO Report of the Expert Consultation on Identifying, Assessing and Reporting on Subsidies in the Fishing Industry, 2002://www.fao.org/3/Y4446E/y4446e0k.htm.

⁵ <https://unctad.org/en/Pages/DITC/Trade-and-Environment/Regulating-Fisheries-Susidies.aspx>.

⁶ *Sunken billions* report of the World bank, <http://documents1.worldbank.org/curated/en/656021468176334381/pdf/476060PUB0Sunk101Official0Use0Only1.pdf>, in particular Executive summary, p.13 and p.23.

grants for new fishing vessels, subsidies enable fishing to continue at previously uneconomic levels. Subsidies effectively counter the economic incentive to cease fishing when it is unprofitable."

Fuel tax exemptions are indirect subsidies that disproportionately benefit those fishing industry actors that consume more fuel,⁷ namely large-scale fishers and super-trawlers. Despite the claims made by these fishing industry actors that their energy efficiency (tonne of fish per litre of fuel) has increased, this ratio does not reflect the environmental and social externalities generated by large-scale fisheries. It is very difficult to monitor the impacts on the fish stocks targeted or the impacts on other marine species, other fish stocks, and the wider marine environment. Moreover, the social impacts that super-trawlers or large-scale fishers have on small-scale fishers in the EU or in third countries are not properly assessed.

The 2019 report of the Scientific, Technical and Economic Committee for Fisheries (STECF)⁸ explains with concrete numbers the differences in fuel consumption between large-scale (including super-trawlers) and small-scale fishing vessels:

"In 2017, the small-scale coastal fleet, excluding Greece, accounted for more than half (56%) of the total days-at-sea deployed while consuming just 6% of the fuel. The large-scale fleet on the other hand accounted for less than half of the days-at-sea (42%) and consumed more than three-fourths of the fuel while the distant-water fleet deployed less than 2% of days-at-sea and consumed 16.5% of the fuel".⁹

The report also notes that small-scale fishers landed 5% of the catch by volume and 6% of the fuel, versus 81% of the catch and 75% of the fuel for the large-scale fisheries. This explains why there seems to be a better fish-to-fuel ratio for large-scale fisheries.

These fishing vessels also usually use the most destructive fishing practices for the marine environment. This means that the problems of harmful fisheries subsidies highlighted above are exacerbated by the technical ability of these fishing vessels (speed, power, and ability to catch a lot of fish with destructive fishing techniques). Large-scale vessels are also less economically vulnerable as they are more profitable and in a position to spread the risks across a larger fleet.

To the extent that scrapping fuel tax exemptions for the fisheries sector exposes EU vessels to competition, the only part of the sector concerned is the distant-water fleet. That is, the sector that accounts for 2% of the EU fleet's days at sea and 16.5% of its fuel consumption. This small, inefficient part of the sector should not benefit from a fuel subsidy. Nor should their non-EU competitors: once the EU eliminates this harmful subsidy, it will be able to argue effectively on the world stage for a global ban. In the meantime, the EU's carbon border-adjustment mechanism can guard against imported seafood that fuel subsidies have made artificially cheap. This is the way forward. The status quo – EU vessels travelling long distances with cheap, dirty fuel to fish in other countries' waters – undermines the EU's credibility as an actor for sustainable ocean governance.

For all the above-mentioned reasons, we support the elimination of all exemptions to fuel taxation, in particular in the fisheries sector. This is the time to pave the right direction for the Union and avoid a socio-economic and environmental disaster from repeating itself. This is the time to leave behind an exemplary footprint which will benefit fishers, the environment, coastal areas, and their populations.

⁷ Sunken billions report of the World Bank, p.14.

⁸ STECF 2019 Annual economic report on the EU fishing fleet, Section 3 on the overview of the EU fishing fleet, pp. 21-38; <https://op.europa.eu/en/publication-detail/-/publication/ca63ab82-c3bf-11e9-9d01-01aa75ed71a1>;

⁹ See Section 3.1, Overview of the EU Fishing fleet in 2017.

Why should the EU eliminate fuel exemptions?

As early as 2002, the United Nations made a call to *"eliminate subsidies that contribute to illegal, unreported and unregulated fisheries and to overcapacity while completing the efforts undertaken at WTO level to clarify and improve its disciplines on fisheries subsidies"*.¹⁰

In 2014, through the United Nations, Heads of States and Governments reiterated this call with the adoption of Sustainable Development Goal (SDG) 14 on the conservation and sustainable use of the oceans, seas, and marine resources. In particular, SDG 14.6 calls for the prohibition of harmful fisheries subsidies by 2020 **and to** refrain from introducing new such ones in the future.

International commitments agreed in the context of the Paris Agreement are also extremely relevant: *"the remaining but still significant public support for oil, coal and other carbon-intensive fuels continues to distort the energy market, creates economic inefficiency and inhibits investment in the clean energy transition and innovation"*.¹¹

In her mission letter to Commissioner Sinkevičius, President von der Leyen instated *"Europe must also lead the way on international ocean governance"*.¹² This and the EU's international commitments call for a change internally. The EU's internal commitments likewise demand radical change.

President von der Leyen went on to list among the objectives of Commissioner Sinkevičius's mandate ensuring that: *"Europe leads discussions in the World Trade Organization on finding a **global agreement to ban fisheries subsidies** that contribute to overfishing, illegal fishing and overcapacity"*.

The Green Deal¹³ adopted by the new Commission sets a new vision and new objectives for the EU. One of these objectives is to achieve climate neutrality by 2050. One of the tools that the EU has set for itself to achieve these objectives is to eliminate fossil fuel subsidies.¹⁴

Looking only at fisheries, fuel exemptions are clearly harmful for the economic and environmental sustainability of the sector. Consider that the biggest challenge the fisheries sector faces, in the EU and in the rest of the world, is to fish at sustainable levels and with sustainable fishing practices. If fish stocks continue to be overfished and the marine environment continues being destroyed, we can pump in as many subsidies as we can afford; but the economic and environmental struggle of the sector is not going to change. On the contrary, the more subsidies are offered, the more fishing capacity is kept alive and the more overfishing is exacerbated. As long as sustainable fishing practices are not in place, the fisheries sector will always struggle because the resource that underpins their economic activity is too scarce.

¹⁰ Paragraph 28 of the Doha Declaration which precise title is "Ministerial Declaration at Ministerial Conference", Fourth Session, Doha, 9-14 November 2001, WTI MIN(OI)/DECIW/I, adopted on 14 November 2001.

¹¹ Communication from the Commission to the European Parliament, the Council, the European Economic and social Committee, the Committee of the Regions and the European Investment Bank, Clean Energy For All Europeans, COM(2016) 860 final, p.12.

¹² Ursula von der Leyen, Mission letter, 10 September 2019, page 5, available at https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-virginijus-sinkevicius_en.pdf.

¹³ Communication from the Commission to the European Parliament, The European Council, the Council, the European Social and Economic Committee and the Committee of the Regions, The European Green Deal, COM(2019)640, in particular p.5. (European Green Deal)

¹⁴ European Green Deal, COM(2019)640, para. 2.1.5.

How to eliminate fuel exemptions?

Since the Mineral Oil Directives in the 1980s,¹⁵ fuel exemptions have been applied to certain sectors including fisheries. Since 2003, Article 14 of the Energy Taxation Directive (ETD)¹⁶ requires Member States to apply fuel exemptions for the fisheries sector. The aim of this legislation at the time it was adopted was to ensure the proper functioning of the internal market and to avoid unfair competition.

The inception impact assessment of the Commission¹⁷ prepared in view of the revision of the ETD shows that the directive failed to achieve these objectives.

Times have also greatly changed since the 1980s. As mentioned above, the emergence of the climate and biodiversity crises, international commitments, and internal commitments require us to move away from fossil fuel subsidies. As mentioned in the European Green Deal,¹⁸ the revised ETD should become one of the tools to achieve EU climate objectives. This new vision for the role of the ETD ties in with the polluter-pays principle enshrined in the Treaty on the Functioning of the European Union,¹⁹ which must apply to all economic activities. All energy products should be taxed according to their energy and carbon content. In line with this legal principle and the aforementioned objectives, the revised ETD should not include general exemptions from fuel taxation for certain sectors such as the maritime sector and in particular the fisheries sector.

Similar commitments exist at international level for the fisheries sector as mentioned above in SDG 14.6: harmful fisheries subsidies should be prohibited by 2020 and countries should refrain from introducing new ones in the future.

Fuel exemptions for the fisheries sector must, therefore, be removed from the revised ETD.

The Commission should consider proposing that the taxation of fishing fuel can provide additional own resource for the Union, in accordance with paragraph 149 of the European Council conclusions of 21 July 2020.²⁰ Like other measures proposed (a contribution calculated on the weight of non-recycled plastic packaging waste and a carbon border adjustment mechanism), this measure has a strong environmental component: taxing fishing fuel is designed not only to generate revenue but also to deter unsustainable conduct. In this case, the fact that fisheries is an area of exclusive Union competence makes it even more logical for the taxation of fishing fuel to contribute to the Union's need for new own resource: since fisheries law and policy is in the hands of the entire Union acting in unison, the same should be true of taxation revenue the industry generates. This is all the more so when the tax at issue is designed not only to raise revenue but also to achieve one of the Common Fisheries Policy's principal aims: combating overfishing.

¹⁵ Directives 92/81/EEC and Directive 92/82/EEC.

¹⁶ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, OJ L 283, 31.10.2003, p.51;
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:283:0051:0070:EN:PDF>

¹⁷ Commission Staff Working Document, Evaluation of the Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, SWD(2019)329 final, p.16.

¹⁸ Communication from the Commission to the European Parliament, The European Council, the Council, the European Social and Economic Committee and the Committee of the Regions, The European Green Deal, COM(2019)640, in particular p.5.

¹⁹ Article 191 (2) of Treaty on the Functioning of the European Union.

²⁰ Available at <https://www.consilium.europa.eu/media/45109/210720-euco-final-conclusions-en.pdf>.

How to bring these changes while preserving sustainable fisheries in the EU?

Bearing this in mind, we are fully aware that some parts of the sector are particularly vulnerable and particularly vital to maintaining the social fabric in our coastal areas. Understanding this, we also believe that social schemes to support the most vulnerable fisheries actors can be financed and designed within existing aid schemes and EU funds. Throughout the EU, small-scale fishers will be the most acutely affected by the elimination of fuel exemptions as they face ongoing challenges such as accessing quotas, accessing beneficial subsidies through EU funds or national schemes, or accessing markets.

Although small-scale fishers will feel the impact of eliminating the exemption the most, fuel exemptions have disproportionately benefited fishing vessels that are heavy fuel consumers. These vessels use the most destructive fishing practices for the marine environment and for fish stocks. They access fishing quotas more easily because of their historic records of catches and have benefitted the most from EU subsidies. One way to protect the most vulnerable and less economically resilient fisheries actors is to implement the Common Fisheries Policy (CFP) to its full potential. The first step is to give favorable access to small-scale fishers, including access to quotas, which to them means accessing the very resources that allow them to make a living. In particular, Article 17 of the CFP Regulation on the distribution of quotas should be implemented at national level in such a way that small-scale and more environmentally friendly fishers receive more quotas. Implementing these measures would also make coastal communities more resilient to economic hardship.

In order to achieve environmental sustainability in EU fisheries, support should be designed to target those small-scale fisheries that operate in a less impactful way for the environment. Like the current European Maritime and Fisheries Fund (EMFF), the future fund (i.e. the post-2020 EMFF) will offer different ways to support fishers. However, the Commission recognises that 80% of EU funds, which are direct subsidies, benefit large-scale fishing vessels above 12 metres.²¹ It is the responsibility of the Commission together with the Member States to plan better and design how these funds will be used and who will be the main beneficiaries. The post-2020 EMFF, which will enter into force in 2021, can be designed in such a way that the elimination of fuel exemptions is not perceived as a challenge but rather as an opportunity to achieve the important changes needed in the fisheries sector. Fishers should move towards less-consuming fishing practices with a lower impact on the environment. Small-scale fishers should have better and direct access to markets in order to get a fair price for the fish provided. Aid will be available to increase the selectivity of fishing practices, to support the transition towards low-impact fishing, and to develop better tools for direct sales. In a situation where EU fish stocks are still overfished, it is economically unviable to maintain fishers artificially in the sector. Fuel de-taxation schemes have largely contributed to this economically unsustainable situation. Training and financial support for those fishers who want to transition towards another sector are already available under the EMFF and will continue to be available in the post-2020 EMFF. Promoting and supporting this transition would enable maintenance of the social fabric and vitality of the coastal regions affected.

The fisheries sector also benefits from various forms of state aid at national level (fisheries state aid, *de minimis* aid, and block exemptions).²² Under *de minimis* state aid, the amount that can be granted,

²¹ <https://www.documents.clientearth.org/wp-content/uploads/library/2020-03-03-how-to-better-use-eu-citizens-money-in-fisheries-beyond-2020-ce-en1.pdf>, p.13.

²² Communication from the Commission — Guidelines for the examination of State aid to the fishery and aquaculture sector, OJ C 217, 2.7.2015, pp.1. Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector, OJ L 190, 28.6.2014, pp. 45 ; Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 369, 24.12.2014, pp. 37.

according to the current Fisheries State Aid guidelines, is 30,000 EUR during a period of three fiscal years. Fishers also benefitted in 2020 from all the measures adopted to face the COVID crisis, with an increase of *de minimis* state aid up to 120,000 EUR.²³ Fisheries state aid guidelines will be revised in 2021 but will continue to offer support in the form of state aid, *de minimis* aid, and block exemptions to the sector. The EU's external fishing fleet also benefits from privileged access to certain non-EU fishing grounds through the Sustainable Fisheries Partnership Agreements that the EU concludes with third countries. Those agreements include financial support to those countries in exchange for access to their fishing grounds.

The industrial fisheries sector has been heavily subsidised for decades and does not need additional financial support even if fuel exemptions are eliminated. The available subsidies simply need to be directed towards supporting the most vulnerable actors in the sector who operate in the most sustainable ways and are essential actors for our coastal areas.

²³ https://ec.europa.eu/fisheries/press/coronavirus-european-commission-helps-member-states-support-local-fishing-and-aquaculture_en

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