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Office of the United States Trade Representative
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**Participation of the United States in the Transatlantic Trade and Investment Partnership
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For almost 50 years, WWF has been protecting the future of nature. Today we are the largest multinational conservation organization in the world, with programs in more than 100 countries, 1.2 million members in the United States, 2.3 million members in the European Union and more than 5 million supporters worldwide.

We thank you for this opportunity to comment on relevant environmental issues to be addressed in the Transatlantic Trade and Investment Partnership (TTIP) negotiations with the European Union, and submit the comments below on behalf of our organization and our members. We look forward to revising and supplementing our comments throughout the TTIP stakeholder process.

Environmental Provisions of the Transatlantic Trade and Investment Partnership

The economies of the United States and the European Union are the largest and wealthiest in the world, representing over 40% of global GDP. The countries are major consumers, capturing over 30% of global imports, including trade in natural resource sectors of high environmental value and sensitivity.¹ The United States and the European Union are each other's largest markets, with bilateral goods trade of \$650 billion in 2012.² As a trade and investment agreement between the largest developed states, high standard environmental provisions must be at the core of the TTIP.

Since either the European Union or the United States is the largest trading partner for almost all other countries, together they define the shape of the global economy. It is especially important that the TTIP encourages commerce based on sustainable patterns of natural resource use, to ensure that demand growth triggered in these huge markets does not lead to the depletion of natural capital which would undermine long term economic growth. To this end, the TTIP should

¹ The Transatlantic Economy 2013. Center for Transatlantic Relations, Johns Hopkins University Paul H. Nitze School of Advanced International Studies.

² Ibid.

³ Among these key environmental elements are implementation of certain multilateral environmental agreements,

include the fundamental principle that trade must promote the sustainable use of resources while preserving biodiversity.

Given the high standard of existing commitments for environmental protections in both the United States and the European Union, the TTIP offers an opportunity for an agreement on environmental considerations to go beyond the basic provisions required in all U.S. trade agreements.³ Fundamental to the basic framework of any trade agreement is that the environment obligations should be legally binding and recourse to dispute settlement be the same as for commercial obligations. The U.S. commitment to include such environmental provisions in trade agreements must not be eroded, and indeed should be built upon in the TTIP.

As the U.S. and EU negotiators seek greater compatibility of regulations and related standards development to facilitate trade, it is essential that standards that protect the environment not be compromised. The TTIP offers an important opportunity to harmonize regulations across the Atlantic to the highest possible standard, including an opportunity for the United States to review and strengthen its existing commitments where EU standards for environmental protection are higher. Not only should any harmonization be to the higher environmental standard, but the convergence of regulations should serve as a regulatory floor that allows governments the flexibility to develop more ambitious environmental and public interest policies in the future. Furthermore, it is critical that government policies that conserve exhaustible natural resources and wildlife be protected when these are in conflict with other obligations of the TTIP.

WWF has significant concerns regarding the threat that investor-state dispute settlement provisions pose to environmental and climate policies and regulations. The inclusion of very broad investor protections could open the door to investment cases when governments put in place new or amend existing laws and policies designed to protect the environment. Given the strong, independent judicial systems that are well-established in the both the United States and the European Union, investor-state arbitration provisions are particularly unwarranted in the TTIP.

Marine Fisheries

Fish and fish products are highly traded, with nearly 40% of world fishery production crossing international borders.⁴ Today, much of this trade is already based on (and provides incentives for) unsustainable fishing practices. The U.S. and the EU member countries are not only major fishing nations, together catching more than 12% of the global total,⁵ but are also major consumer markets, importing 55% of the global trade in fish products.^{6,7}

³ Among these key environmental elements are implementation of certain multilateral environmental agreements, the non-derogation from a party's environmental laws, and the application of the dispute settlement mechanism to environmental obligations.

⁴ UN. May 2010. General facts regarding world fisheries.

http://www.un.org/depts/los/convention_agreements/reviewconf/FishStocks_EN_A.pdf

⁵ FAO FishStat J. 2010. Global marine landings were approximately 78.3 million MT, with the U.S. catch about 4.4 million MT, and the EU catch about 5.3 million MT.

⁶ By value. FAO FishStat J. 2009. Total global imports were about US\$101 billion in 2009, with the US importing about \$14 billion (14%) of total fish products and the EU \$41 billion (41%). Total global exports were about US\$97 billion, with the US exporting about \$4.2 billion and the EU \$24 billion.

As major exporters, markets and fishing nations, TTIP countries have the responsibility to ensure that fisheries are sustainable and that increased demand generated from trade does not translate into overexploitation of fish stocks.⁸ Complex seafood supply chains mean that the origin of fish is frequently obscured, as products often cross several borders for processing before reaching markets.

To contribute to economic growth while also ensuring that increases in trade do not exacerbate the problem of over-exploitation, the TTIP must address trade-driven threats to the world's natural resource base. The TTIP should include the fundamental principle that trade must promote the sustainable use of fisheries resources while preserving marine biodiversity. In particular, the TTIP should ensure that the European Union and the United States take further action to limit trade in illegal fish, subsidies contributing to overfishing or overcapacity are prohibited and that effective ecosystem-based fisheries management and shark conservation laws are implemented and enforced.

Trade in Illegal, Unreported and Unregulated (IUU) Fish

As the world's largest markets for seafood, the United States and the European Union should ensure that good fisheries management and enforcement measures are in place so that fishing in exporting countries is legal and sustainable. Illegal fishing is a serious and pervasive problem that is a major cause of fisheries depletion worldwide. Governments and fishermen are now struggling to reverse a steady decline of stocks resulting from decades of overfishing and weak resource management policies. Illegal, unreported, and unregulated fishing ("IUU fishing"), which accounts for 13 percent to 31 percent of the world's catch,⁹ adds a significant additional strain to already taxed fish populations, jeopardizing the sustainability of fisheries and resulting in unfair competition for fishermen who are following the rules.

Both the United States and the European Union have taken actions to fight IUU fishing.¹⁰ The EU and the United States also signed a Joint Statement in September 2011 to cooperate on efforts to combat IUU fishing globally and end unsustainable fishing practices, including through strengthening monitoring and enforcement of management measures and efforts to prevent those engaged in pirate fishing from benefiting from their activities.¹¹

The TTIP provides the opportunity to strengthen and implement the objectives of the Joint Statement with real commitments to control global trade in illegal fish and fish products. WWF

⁷ Bilateral trade is somewhat one-sided: while more than 20% of U.S. seafood exports go to the EU, the U.S. imports less than 3% of its seafood from the EU. 2012. NOAA Foreign Trade Statistics.

<http://www.st.nmfs.noaa.gov/commercial-fisheries/foreign-trade/applications/annual-product-by-countryassociation>

⁸ The State of World Fisheries and Aquaculture, 2012. FAO. The poor state of global fish stocks is well known and, with now over 85% of commercial fish stocks fully exploited or overexploited, there is very little room for expanded production from wild stocks to meet increased demand.

⁹ Agnew DJ, Pearce J, Pramod G, Peatman T, Watson R, et al. (2009) *Estimating the Worldwide Extent of Illegal Fishing*. PLoS ONE 4(2): e4570. Doi:10.1371/journal.pone.0004570

¹⁰ U.S. High Seas Driftnet Fishing Moratorium Protection Act and the EU IUU Regulation (EC) No 1005/2008.

¹¹ Address by Dr. Jane Lubchenco, September 7, 2011

believes that successful implementation of the EU-U.S. Joint Statement will require a concrete work plan for accomplishing specific goals according to a set timeline. WWF has proposed that the EU-U.S. commitments should include the following to prevent IUU fish from entering into trade.¹²

- Develop harmonized catch documentation schemes that provide information on fishing vessels, catches and catch areas to ensure that the catch is legal and work to develop measures to improve traceability and transparency in international fish trade.
- Develop harmonized and effective measures, including border controls, to screen and eliminate IUU products from landings and imports into the US and the EU.
- Implement the Port State Measures Agreement (PSMA) and encourage exporting countries to ratify and implement the PSMA.
- Promote the implementation of the Global Record of Fishing Vessels.
- Initiate work towards active and effective cooperation in anti-IUU investigations and sharing of information about suspected IUU activities.
- Coordinate and intensify capacity building and aid for developing countries to implement anti-IUU mechanisms and policies, including monitoring, control and surveillance (MCS) and seafood traceability in exporter states.

Such TTIP provisions would make a real difference in practices “on the water” and in the EU and U.S. markets, while clearly signaling that the European Union and the United States are ready to implement effective joint action against IUU fishing.

Fisheries Subsidies

Fisheries subsidies are estimated to have a global value equivalent to nearly 20% of the ex-vessel sales of wild caught fish -- a scale of subsidization that cannot help having a profound impact on patterns of production and trade.¹³ Many of these subsidies continue to expand fishing capacity where there are already too many boats, or increase fishing pressure where there are already too few fish. Moreover, subsidies distort patterns of production and trade, preventing the market from rewarding the more responsible and efficient producers while maintaining the ability of bloated and inefficient fleets to compete on international markets. Currently the majority of fish stocks in the EU are overexploited, while the EU supports the fishing sector with annual funding of roughly €836 million for structural measures and about €156 million for fisheries partnership agreements.

For the past ten years, negotiating effective trade rules to discipline harmful fisheries subsidies has been a top international priority in the fight against overfishing. One of the core objectives of the WTO Doha Round was to achieve an enforceable global prohibition on subsidies that contribute to overfishing and fleet overcapacity. The failure of the Doha Round leaves this critical promise unmet. In June 2012, the European Union and the United States supported the

¹² WWF: Proposed Outcomes on IUU for the EU-US High Level Dialogue on Fisheries Brussels, 15-16 February 2012

¹³ Sumaila, U.R. et al. 2010. A bottom-up re-estimation of global fisheries subsidies. *Journal of Bioeconomics* (2010) 12:201-225. Capacity-enhancing subsidies, including fuel subsidies and boat construction, amounted to an estimated \$16.2 billion globally in 2003.

Rio+20 outcome document, in which world leaders agreed to encourage the elimination of subsidies that contribute to overcapacity and overfishing and refrain from introducing such subsidies or extending or enhancing existing ones.¹⁴

The TTIP provides a real opportunity to implement these commitments through new subsidy disciplines that would be meaningful and binding, rules that will likely influence any future discussions of fisheries subsidies disciplines at the regional or multilateral level. Strong disciplines on effort- or capacity-enhancing fisheries subsidies in the TTIP should include prohibitions on subsidies for capital costs such as fleet construction and engine replacement, as well as operating costs that support overcapacity and the continuation of uneconomic fishing activity.

Of particular importance is the question of exceptions to an eventual prohibition on effort- or capacity-enhancing fisheries subsidies. While the legitimate underlying social issues that motivate subsidies for livelihood support or for rebuilding after a natural disaster should be addressed, the link between sustainability and durable prosperity should guide the negotiations. It is vital that any exceptions (if they must be accepted at all) are narrow, strictly limited, and subject to clear “sustainability criteria” as a precondition to their application. TTIP negotiators must avoid simplistic definitions or across-the board carve-outs from fishery subsidy prohibitions and recognize that there are no conditions under which fisheries subsidies can be responsibly divorced from fisheries management considerations. As a baseline and starting place for fisheries subsidies disciplines in an eventual TTIP, the United States should make explicit reference to and build upon the draft WTO disciplines tabled by the Chair of the Doha Round Rules Group in November of 2007.

Timber (Illegal Logging) and Trade in Wildlife and Endangered Species

The United States and the European Union bilaterally traded over \$1.5 billion in forest products in 2012.¹⁵ Both are major markets for wood products, making the TTIP an ideal mechanism for implementing an environmental cooperation agreement that controls the flow of illegal wood and wood products. WWF believes that a TTIP conservation framework should reinforce existing U.S. and EU laws prohibiting the importation of illegally sourced plant and plant products including timber, wood, and paper products.

The European Union and the United States are significant importing, exporting and transit countries for legal and illegal wildlife specimens. The U.S. and EU member countries are among the top 10 importers for several CITES-listed species groups, including mammals, birds, reptiles, amphibians, fish, invertebrates, corals, orchids, cacti, and other plants.¹⁶

As signatories to CITES, the European Union and the United States should fully implement the legal framework and species-specific resolutions of CITES. To ensure that trade in natural

¹⁴ See final text of the 2012 Rio+20 Conference, paragraph 173.

¹⁵ USDA Foreign Agricultural Service, Global Agricultural Trade System <http://www.fas.usda.gov/gats/default.aspx>

¹⁶ For years 2006-2010. CITES Trade Data Dashboards. <http://dashboards.cites.org/global>

resources and wildlife is sustainable, and biodiversity and ecosystem services are protected, it is also critical to strengthen the regulation of trade in natural resources and wildlife to prevent the trade in products that are sourced in violation of national conservation laws, while also strengthening the management of natural resources and the protection of biodiversity in exporting countries.

With regard to timber and timber products, wildlife and fish, the TTIP agreement should:

- Ensure that emerging and existing resource and wildlife trade markets are based on sustainable management principles, supporting livelihoods and species conservation and avoiding the over-exploitation of legally traded species. This may require new programs to be developed and capacity building to ensure effective application.
- Ensure that effective legal regimes are in place to prevent illegally traded products from entering markets in the US and the EU, including timber, wildlife and fish and products derived from these.
- Make use of existing mechanisms and improved channels of communication between the parties to share information on resource and wildlife management and trade regulations.
- Expand upon current capacity building efforts to ensure the effective protection of biodiversity.
- Harmonize and develop more extensive species-specific break-outs in customs and tariff codes to ensure transparency in trade and more effective monitoring, and to enable early warning for unsustainable trade.
- Explore mechanisms such as sustainability and chain of custody certification systems to ensure sustainable use and secure supply chains for commonly traded commodities.
- Increase cooperation on tools and technologies to support enforcement, including technologies for enhanced traceability of forest products, fish and wildlife products.
- Promote in situ conservation programs that positively impact wildlife and fish populations and encourage conservation within communities.

Climate Change

The European Union and the United States are signatories to the UN Framework Convention on Climate Change and to its commitment in Article 2 to “prevent dangerous anthropogenic interference with the climate system.” Both the EU and the U.S. have committed to doing their fair share to limit planetary warming to less than 2°C above pre-industrial levels. The TTIP should assist in achieving these commitments by: (1) protecting existing climate standards and initiatives; (2) providing flexibility for either party to take additional steps to address the climate crisis; and (3) taking concrete steps to phase out fossil fuel subsidies.

Maintaining Existing Climate Standards & Initiatives

Because tariffs in the United States and the EU are already very low, the TTIP negotiations will likely focus on removing non-tariff barriers or regulatory differences such as differences in environmental, food safety, and chemical standards. In addressing differences in environmental and climate regulations, any harmonization should be to the higher standard. Moreover, existing initiatives designed to account for and/or price the carbon content of goods should not be seen as

barriers to trade, but rather corrections to a trade barrier - namely the absence of a proper accounting of environmental impacts.

Both the European Union and the United States have put in place a number of standards designed to address climate change that could be impacted by the TTIP. For example, the EU's Fuel Quality Directive and the Aviation ETS Directive which includes international aviation in the EU Emissions Trading System, should not be undermined by the TTIP. Both initiatives correct the market's failure to price and account for carbon emissions and climate risks.

Both the EU and the United States use a variety of environmental labeling programs to promote the production of energy-efficient goods and to reduce greenhouse gas emissions. In addition, a number of European countries have begun experimenting with voluntary and mandatory carbon footprint labeling programs, and the European Commission itself is currently in the process of developing and proposing an EU carbon labeling system. Energy efficiency standards are also important components of an emissions-reductions strategy used in both the United States and the EU.

Transnational differences in product labeling, including energy efficiency labeling, can impact the export of goods and may fall under the scope of technical barriers to trade (TBT). If a chapter on TBT is included in TTIP, it should include a strong exception for environmental measures to ensure that green labeling and other green certification programs are not subject to trade litigation under TTIP. Furthermore, TTIP must not reduce the product coverage of current environmental labels nor derail new environmental and carbon labeling efforts such as the EU's carbon labeling initiatives.

Maintaining Flexibility for Future Climate Policies and Regulations

In addition to preserving existing climate policies, any harmonization of regulations related to climate change should not only harmonize up to the highest standard, but be set as a regulatory floor instead of a regulatory ceiling. In so doing, the TTIP should provide governments the flexibility to put in place new and strengthen existing climate policies, such as feed-in tariffs, a carbon tax, renewable energy and energy efficiency standards without constraints and without fear of trade litigation. Therefore, any chapter that may address issues related to climate change, including a chapter on technical standards or technical barriers to trade, services, subsidies, or investment should explicitly provide governments the flexibility to put in place climate mitigation and adaptation strategies.

Phasing Out Fossil Fuel Subsidies

The TTIP presents an opportunity to “phase out fossil fuel subsidies and reduce other perverse or trade distorting subsidies,” as recommended by a UN report on Global Sustainability.¹⁷ Recent estimates of global fossil fuel subsidies for production and consumption are staggering, putting the total at around US\$730 billion annually.¹⁸ In a time of economic hardship,

¹⁷ Resilient People, Resilient Planet: A Future Worth Choosing, Recommendation 27f., page 18, available at <http://www.un.org/gsp/The GSP>.

dangerous climate change, and growing demand for reliable and cleaner sources of energy, these subsidies represent a reckless and irrational use of taxpayer money and government investments. In 2009, G20 leaders, including many TTIP countries, recognized this recklessness, and committed to “phase out and rationalize over the medium term inefficient fossil fuel subsidies while providing targeted support for the poorest.” A similar commitment was agreed at a subsequent APEC Leaders meeting, which brings the total number of countries with such a commitment to more than fifty.

While WWF applauded the G20 commitment by leaders at the time, we are concerned that progress in meeting this commitment has been slow. A number of steps should be taken in the context of the TTIP to reinforce and advance the G20 commitments, including commitments for each country to: (1) develop final plans by 2015 to phase out fossil fuel subsidies; and (2) increase the transparency of subsidies, including through required reporting on existing fossil fuel subsidies as well as the current price on carbon, if any. Continuing to subsidize fossil fuels makes little sense given the need to greatly reduce our collective reliance on fossil fuels that are contributing to climate change. The steps above represent critical initial, overdue elements of that transition.¹⁹

Conclusion

The TTIP must be a high-standard agreement that reinforces rather than undermines environmental sustainability in the European Union and the United States. To address the significant challenges of trade and the environment, the TTIP should establish strong principles and binding commitments that lead to improvements in environmental sustainability and wildlife conservation in all of the countries linked by global trade to the U.S. and EU markets.

WWF welcomes the opportunity to comment and would be happy to provide further information or clarifications.

Vanessa Dick
Senior Policy Officer, U.S. Government Relations
World Wildlife Fund
Vanessa.dick@wwfus.org
202-495-4501

¹⁸ Fatih Birol, chief economist at the IEA, estimated that consumption subsidies in 2012 would be \$630 billion, <http://www.iea.org/weo/quotes.asp>. An additional estimate of \$100 billion in annual production subsidies is cited in the report commissioned by the G20 and prepared by OECD, OPEC, World Bank and IEA Study November 2010. Abstract available at: www.iea.org/files/energy_subsidies.pdf.

¹⁹ WWF recognizes that vulnerable groups should receive non-consumption linked support and that the world’s least developed countries should receive financial, technical and capacity-building assistance for the transition to an economy without fossil fuel subsidies.