FFA FISHERIES TRADE BRIEFING

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FFA

Preferential and Free Trade Agreements

US Andean Trade Preference Act (ATPA)

Established in 1991, the ATPA provides for duty-free treatment into the US for most exports from Bolivia, Colombia, Ecuador and Peru, including tuna packed in aluminium foil pouches.[2] The stated rationale for this Act is to encourage economic diversification away from coca production (and the processing of and trade in cocaine) by providing a competitive advantage relative to other countries through duty reductions on goods exported to the US.[3] The ATPA is an extension of the US Generalised System of Preferences (GSP) scheme and provides enhanced benefits to eligible countries as it covers more categories of goods and has more liberal rules of origin and related procedures.[4] However, duty free treatment is provided for most products *except* (among others) canned tuna; in fact, of the top twenty US imports from the Andean region only canned tuna incurs duty. The most important reason for this is the influence of political lobbying by certain elements of the US canned tuna industry, which has an interest in protecting its processing plants in Los Angeles, Puerto Rico and American Samoa. Nonetheless, since 2004 the ATPA provided for duty free treatment for tuna in pouches, of which Ecuador is the major supplier to the US along with Thailand.

Although the ATPA may not be compatible with the WTO, it has received one-year extensions from the US government since 2006. The most recent extension, finalised in October, allows the continuation of the ATPA until the end of 2009.[5] Importantly, under pressure from US business lobbies and a senior Republican senator, a clause was written into the extension that subjects Ecuador to review after a period of six months, with the ultimate 'stick' of cutting trade preferences if it does not comply with US demands, including improvement of the environment for foreign investors.[6]

Regardless of the validity of US demands, this case demonstrates the vulnerability of developing countries to political pressure where they are dependent upon *unilaterally* applied trade preferences, such as under GSP schemes. It is important to note that both Columbia and Peru are in the final stages of negotiating FTAs with the US, which, upon their conclusion, will supersede the ATPA. Whether or not these FTAs will be passed under the new Obama administration or, if they are, if their existence will reduce the likelihood of the ATPA being extended again solely to Bolivia and Ecuador is not know. Given the political-economic tensions between these latter two countries and the US it might be speculated that it will not, but at the same time, the Obama administration may adopt a more conciliatory line to Ecuador and, to a lesser extent, Bolivia.

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The ATPA was recently extended to the end of 2009

US political pressure associated with the continuation of the ATPA demonstrates the problems of relying on unilateral trade preferences

Fisheries Trade-related Regulation

IUU fishing regulation adopted by the EU[7]

This *Briefing* has carried several reports on the EU's proposed regulation on illegal, unreported and unregulated (IUU) fishing, most recently in May's issue. On 30 September, the EU Agriculture and Fisheries Council adopted the Regulation establishing a Community system to prevent, deter and eliminate IUU fishing.[8] This will apply from 1 January 2010. In short, for those PICs exporting – or intending to export – fish and fish products to the EU, governments and firms have just over one year to prepare to implement the extensive measures detailed in this regulation.

PIC governments and firms exporting to the EU have just over one year to get ready to implement the EU regulation on IUU fishing

One of the main tools of the regulation is the establishment of a certification scheme covering all imports of fishery products. The objective is to stop IUU caught fish and fish products entering into the EU. According to an EU representative cited in a CTA newsletter, the regulation will place strong emphasis on checking, inspection and verification activities, 'to be carried out according to common criteria governed by risk management and assessment'. EU firms importing fish products will have to submit a statement issued by the processing company of the exporting country. This will have to provide traceability information linking the processed products and the fish used as raw material. This raw material will have to be accompanied by catch certificates validated by the flag state of the fishing vessel. The number of the health certificates and the approval number of the processing plant will be included on the statement to ensure a link with – and the implementation of – existing EU sanitary and phyto-sanitary (SPS) measures.

Firms exporting to the EU will have to provide documentation tracing raw material to processed product, include validated catch certificates

In March 2008 representatives of the European Commission met with certain developing countries to inform them of the proposal and its consequences. The EC has also carried out studies to assess the situation of different exporting countries and to tailor its actions to them. As a result, regional seminars are to be held by the EC throughout the developing world (including, it is assumed, the Pacific islands) and would be accompanied by specific support actions in accordance to the needs identified. To take the agenda forward on behalf of ACP interests, the Commonwealth Secretariat commissioned a report to examine the implications of the regulation for these countries.[9] Interested readers are strongly advised to consult this report, which is available here:
http://www.thecommonwealth.org/Document/159719/159720/international_trade

According to the CTA analysis, this new regulation is to be welcomed in the struggle against the global trade in IUU fish, although its implementation raises a number of concerns for PICs. The final regulation applies in a non-discriminatory manner to all, including EU operators, but PICs need to be vigilant about the implementation being based on so-called 'risk assessment'. This implies that those trade flows that are considered to be more risky will be subjected to heavier scrutiny than others. In other words, it could provide a bias in favour of EU operators whose activities may be considered by the EU as *de facto* 'less risky'. In addition, given the limited time-frame before the regulation comes into force, the requirements of the certification scheme will place immediate and costly burdens on PIC operators, including the provision of information to EU importers showing that the products have been derived from fish with the required catch certificates, etc. As an urgent priority, PICs should study the potential impacts of this regulation, identify their needs, assess how this regulation matches the region's own efforts to combat IUU fishing, and propose accompanying measures in their dialogue with the EU. However, at the same time, if PICs are able to effectively implement the regulatory requirements in time, they may have additional export opportunities to the EU if certain competitors are unable to do so.

The IUU regulation could lead to discriminatory practices and act as a non-tariff barrier to exports to the EU

Tuna Markets

Air New Zealand flight connections in the Pacific islands: Air New Zealand has asked the Cook Islands, Samoa and Tonga to increase their government subsidy paid on its flights to Los Angeles that stop-over at these destinations. The flights in question are the weekly return connections for Rarotonga-Los Angeles and Fua'amotu-Apia-Los Angeles. Air New Zealand claims that these flights are generating 'financial losses' and that an increased subsidy was necessary to stop them from being discontinued in March 2009. A reported NZD4.8million (USD2.8m) is required from Samoa and Tonga alone.[10] If these three PIC governments are unable to advance these payments it will have negative impacts on the export of fresh chilled fish to the lucrative US market, as well as for inflows of tourists.[11] Fish will instead have to be sent via Auckland which has negative implications for spoilage. Oxfam New Zealand criticised the move, pointing out the contradiction between demands for PIC subsidies to the airline which is 75 percent owned by the New Zealand government and the flow of aid to PICs from the same government.[12]

Air New Zealand demands subsidy on flights to Los Angeles via the Cook Islands, Samoa and Tonga, with negative implications for fish trade

Tuna industry in the Philippines

In 2006 the Philippines was the world's fifth largest tuna fishing nation and the twelfth largest producer of canned tuna.[13] The industry is reported to have generated 120,000 jobs in General Santos alone – the Philippines 'tuna capital' –where six of the nation's seven tuna canneries are based. But by the last quarter of 2007 a decline in catch rates had led to many plants operating at 50 percent of their productive capacity, reportedly dropping the total number of shifts from three to one per day.[14]

Growth in total capture fisheries production in the Philippines was expected to slow to seven percent in 2008 compared to initial government estimates of eleven percent, primarily due to high fuel prices and the associated reduction in fishing effort.[15] Consequently, the government was discussing the possibility of the provision of subsidies to the Philippine sardine industry. This is because of the importance of sardines to domestic protein intake (especially among the poor) and the reluctance of fishers to sell to local processors because of the latter's reported failure to increase fish prices to account for fuel price rises.[16] In response, tuna fishing associations requested subsidies for their members too, claiming that fuel constitutes between 45 and 75 percent of operating costs, depending on tuna fishing gear type. In General Santos, total landed tuna catch dropped by 35 percent between January and June compared to the same period in 2007.[17] In further support of their claim for a fuel subsidy, the Philippine tuna fishing industry pointed out that it is facing an unfair disadvantage due to the availability of fuel subsidies to competing fleets in Indonesia and Malaysia.[18] At the processing end of the value chain, some Philippine canneries were laying off workers in August apparently due to the effect of high fuel prices on profitability.[19] The government response was to announce that fishing firms were permitted to directly import fuel and thus bypass local supply costs.[20]

High fuel prices resulted in a 35 percent decline in landings in General Santos in the first half of 2007 and have contributed to cannery lay-offs

However, the economic logic behind extending subsidies to the tuna fishing industry might be brought into question in the light of concerns for the sustainability of stocks in the Philippines EEZ, especially given that sustainability issues were highlighted by the Philippines industry *itself* in its tenth annual National Tuna Congress this September.[21] For its part, the Philippine government has banned the catch and trade in undersized tuna (fish at under 500g) in an effort to conserve stocks and is phasing in various management regulations, including on mesh size.[22] In the face of the decline in tuna landings, canneries have increased reliance on foreign sources of supply to maintain profitable levels of production, including from PNG.[23] In an attempt to expand sources of domestic-caught supply, the Philippines Bureau of Fisheries and Aquatic Resources will start a survey of tuna stocks in Timor Leste's Banda Sea in November, with the potential for Philippine vessels to fish there. These two countries already signed an agreement to cooperate in fisheries sectors in August.[24] Industry is also promoting the creation of access agreements with Indonesia and several PICs, as well as 'second generation' agreements – access in return for onshore investment – so as to supply canneries in the Philippines with surplus catch.[25] On the flip side, prior concerns that the Japan-Philippines Economic Partnership Agreement (JPEPA) would provide access for the Japanese tuna fleet to the Philippine EEZ (reported on in various issues of this *Briefing*) have been firmly denied by the Philippines Bureau of Fisheries and Aquatic Resources.[26]

Philippine processors have increased their reliance on foreign sources of tuna and vessel owners are keen on expanding their access arrangements

The extent to which the emerging global recession's downward effect on fuel prices improves the profitability of the sector is open to question, not least because of the simultaneous impact on tuna consumption in principal markets. Canned tuna remained the largest export of the Central Mindanao region of the Philippines in the first half of 2008, which includes General Santos. The total value of exports from this region in this six month period was USD 136.6 million. The EU rose to first place as the principal market, while the US fell to second place with a 20 percent decline in import value from the Philippines compared to the same period in 2007. Japan maintained its consistent third place.[27] Some Philippine processors are reported to have passed on higher fish prices through a 50 percent increase in canned tuna export prices and a 'minimal' price increase on product for the domestic market. An industry representative claimed in early September that this price increase would not lead to consumers substituting canned tuna for alternative sources of meat-based protein,[28] but one month later the president of the Philippines Tuna Canners Association reported that his members had not received orders from the US for November, leading to backlog in local warehouses.[29] In the US context this is probably a combination of the increase in canned tuna prices, the mercury content issue (see the July-August issue of this *Briefing*) and the lack of consumer up-take of value added shelf-stable tuna products as an additional area of consumption.[30] If this situation does not improve some tuna canneries would be forced to shut down.[31] In addition, Philippine tuna exporters have encountered difficulties in meeting strict EU food safety standards, an issue that industry and government are trying to resolve.[32]

Philippine canneries report that they have not received any orders from the US for November

However, even before the onset of the global economic downturn, one medium sized tuna processor in the Philippines – Frescomar Seahelm – had turned to the domestic market to expand its sales. Its 'Ocean Deli' range uses premium cuts of tuna and targets wealthier local consumers, including frozen smoked tuna panga (fish meat close to the head), tails and belly in easy-to-open formats. Frescomar Seahelm already produces a range of value added items using by-products from the domestic canned tuna industry, such as tuna chorizo (a type of spicy sausage), patties, embutido (a type of tuna-based meatloaf), spring rolls, and tuna nuggets.[33] While domestic and sub-regional markets are important to several processors based in PICs, the small size of domestic populations and their limited purchasing power puts them at a disadvantage in relation to firms

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in the Philippines and Thailand, which have far larger populations, including a small minority of very wealthy consumers. In a separate development, representatives of the Philippine aquaculture industry attending the National Tuna Congress suggested that investors in the domestic tuna industry should shift to aquaculture production in light of the pressure on tuna stocks and the widening and deepening of fisheries management regulations.[34]

A Philippine processor has turned to the domestic market to launch a range of 'value added' products

General overview of seafood markets in France

France is one of the largest consumers of seafood in the EU at almost 35kg per capita. The average household spends seven percent of their food budget on seafood.[35] The French market is likened to that of the UK in terms of the importance attached to 'modern' consumption habits, including demand for a wider selection of species and products, product traceability and sustainability criteria (see September's issue of this *Briefing* for an overview of the UK market). [36] However, France is reckoned to be a few years behind the UK in terms of the up-take of these major trends, especially in regard to sustainability criteria.[37] Certainly though, these two markets are very similar in that grocery sales are highly concentrated through a small number of major supermarkets.

Aside from the delay in acceptance of seafood sustainability criteria, a major difference from the UK is that the French seafood market is currently typified by some trading firms as a 'mass' market rather than one based on quality and associated high price. This is because of a squeeze on the mid-priced segments of the market. In other words, if a seafood trading firm is holding a large amount of volume it will target the French market as it will be assured of sales, but if that same firm has low volumes and is interested in marketing higher priced product, it will shift to an alternative market.[38] As such, the French market is characterised as highly polarised with the majority segment being focussed on low prices and the wealthy small minority on very high quality.

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France is also the fourth largest fishing nation in the EU, accounting for eleven percent of total landings in the EU in 2006 (Denmark, Spain and the UK are the first three largest).[39] There are however, considerable tensions between French fishers and the major retailers. On the one hand, supermarkets (and the traders supplying them) are focussed on low price and in so doing are increasingly turning to foreign sources of supply. On the other hand, French fishers have historically attempted to resist this move, most recently in their protests against high fuel prices in August, which included the blocking of French ports.[40] With the onset of the global recession, it is probable that the shift to cheaper foreign sources of supply will become a deepening trend.

With the onset of global recession it is likely that buyers in France will continue to look to foreign sources for cheaper supply rather than to domestic fishers

Tuna-related developments in American Samoa

The USD 700 billion package announced by the Bush administration in September to pump capital into the failing US financial system includes direct benefits for American Samoa. In particular it extends tax breaks for the firms owning the two canneries based there.[41] Congressman Faleomavaega Eni claims that the tax break is an important component in maintaining a competitive advantage for the industry in face of lower cost competition in other sites of production.[42]

On a separate issue, Faleomavaega introduced a bill to allow newly built US purse seiners to fish in the waters of US islands north of American Samoa. The rationale is to ensure supply to American Samoa's canneries and to strengthen the revival of the US fleet (the new vessels were built in Taiwan with US capital). This measure has encountered criticism from the recently formed US Tunaboat Owners Coalition. This is a minority lobby organisation that is separate from the longstanding American Tunaboat Association, which represents the majority of the US tuna fleet. The US Tunaboat Owners Coalition argues that these waters should be reserved for vessels built in the US.[43] However, Faleomavaega's bill is supported by the 'big three' US brands – Bumble Bee, Chicken of the Sea and StarKist – making the US Tunaboat Owners Coalition opposition largely impotent. One reason for Chicken of the Sea's – owned by Thai Union – support for the bill is because it has entered into an agreement with the new boats providing right of first refusal for the purchase of their catch. Tuna caught closer to Bangkok will be sent to Thai Union's canneries, while that caught near American Samoa will be supplied to Chicken of the Sea/Samoa Packing. Bumble Bee benefits as the arrangement will increase the flow of tuna sent to Thailand for loining before being freighted to its canning plants in Los Angeles and Puerto Rico.[44]

American Samoa has benefitted from the extension a tax break to its canneries

Foreign-built US tuna fleet to gain access to waters north of American Samoa

Piracy and tuna fisheries in the western Indian Ocean

Since 1991 Somali has generally lacked an effective centralised government to maintain political and military control over its territory, including the EEZ. One of the outcomes of this situation has been a rise is in the incidence of piracy in and around Somalia's EEZ in the Western Indian Ocean. Some of the pirates are apparently former fishers and their stated motivation is simply to make money, mainly through demanding ransom for the return of crew, vessels and cargo.[45] They also report that they target vessels that are illegally fishing and dumping toxic waste in Somali waters.[46] The pirates are reportedly also using neighbouring Yemen as a base, partly to get away from Western naval patrols attempting to target them.[47]

These activities have had a negative impact on tuna fisheries in the region. In April 2008 a Spanish purse seiner – the *Playa de Bakio* – was captured by Somali pirates. It was only released after a reported USD1.2 million ransom was paid.[48] As of September, 56 vessels had been attacked by pirates in this region in 2008. Consequently, there is a voluntary 200 nautical mile no-go zone around the Somali EEZ.[49] The precise economic impact on tuna fisheries in the Western Indian Ocean is not known, but the fact that 30 out of 50 tuna boats remained moored in Port Victoria in the Seychelles in protest in September indicates that it has impacted the supply of tuna.[50]

Activities of Somali pirates have negatively impacted tuna fisheries in the Western Indian Ocean

Coming in the next issue (November 2008, Vol. 1: Issue 12)

- Special feature: challenges facing tuna sashimi markets
- Tuna investment in the Solomon Islands
- Update on EU and US markets for tuna loins
- Update on free trade agreements between tuna exporting-consuming countries

1. Liam Campling is Consultant Fisheries Trade Analyst, FFA. The author would like to thank Béatrice Gorez, Amanda Hamilton and John Pearce for their input on elements of this briefing. The contents of this briefing (including all analysis and opinions) are solely the responsibility of the author and do not necessarily reflect the positions or thinking of the FFA Secretariat or its Members.
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