FFA FISHERIES TRADE BRIEFING

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Fisheries Subsidies

Status of fisheries subsidies talks at the WTO

The negotiations that were intended to lead to the conclusion of the Doha Round collapsed on 29 July. Given the weak domestic political context of the US, the EU and India negotiators in taking the discussions forward, it was surprising that the last minute push to reach consensus apparently reached convergence on 18 of the 20 key issues in the talks on agriculture and non-agricultural market access (NAMA, or 'industrial goods'). Instead, the apparent stumbling block was on the level of the 'trigger' for the Special Safeguard Mechanism (SSMs), which concerns the scope of legal limits to protect farmers from import surges (e.g. in the face of highly subsidised imports from developed countries).[2] This issue is of particular importance to developing countries at the present juncture because of the role that SSMs might play in ensuring food security in a period of high food prices.

Prior to the collapse of the Doha Round a week of intense negotiations on fisheries subsidies disciplines had been scheduled for September. The intention of the Chair of the Negotiating Group on Rules was to take forward discussion on fisheries subsidies in an assumed context of agreement on agriculture and NAMA. However, now that the Doha Round has officially been put on hold – and potentially collapsed completely subject to the policy agenda of the new US administration – the future of fisheries subsidies discussions is not known. However, when the Doha Round was formally paused in 2006, intense negotiations on fisheries subsidies continued. Whether or not this will be the same situation in the coming months is up to the Chair of the Negotiating Group and the political will of the most powerful Members of the WTO.

Finally, it is important to note that there is still behind-the-scenes discussion among the key players on resolving some of the issues that led to the collapse of the Doha Round with the intention of reaching agreement before the end of the Bush Administration. So far, these last ditch attempts have reaped little fruit.[3]

Preferential and Free Trade Agreements

Collapse of Doha Round results in rise of FTAs

As noted in the last issue of the *FFA Fisheries Trade Briefing* (June), the failure to conclude Doha Round negotiations at the WTO would probably result in a renewed push for the negotiation of free trade agreements (FTAs). Since the most recent high-level political efforts to conclude Doha Round negotiations collapsed in July, several countries have made clear their intentions to push for bilateral trade deals. A number of these FTAs are of relevance to PICs and the trade in fish.

While asserting a commitment to multilateral trade liberalisation at the WTO, the Prime Minister of **Australia**, Kevin Rudd, made clear that his government intended to 'vigorously pursue' FTAs with countries in Asia.[4] These include the opening of preparatory talks with South Korea,[5] and a potential deal – along with New Zealand – with the Association of South East Asian Nations (ASEAN).[6] Business organisations in New Zealand have made clear their support for government to enter into FTAs since the collapse of the Doha Round.[7] (See last month's *Briefing* for details on proposed EU FTAs with non-ACP developing countries.)

Like Australia, the South Korean government has announced a strategy of pushing for bilateral trade deals since the Doha collapse. This includes potential FTAs with Canada, the European Union, Mexico and six countries from the Gulf region.[8] For its part, the ten-member **ASEAN**, re-asserted its commitment to FTAs, including with Australia and New Zealand (ANZ). The ASEAN secretariat takes a broad approach to the role of FTAs: 'Besides economic benefits, the FTAs between ASEAN and its dialogue partners are also strategic linkages that will bind our regions even closer together'. ASEAN has already signed a deal with China, which will come into operation in 2010 and create the world's largest free trade zone. In addition, it is in talks with Japan to establish an FTA (in this case called an 'economic partnership agreement') which will include all ASEAN members – Japan already has initialled or concluded FTAs with six members (Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand).[9]

The **USA** is close to finalising an FTA with Peru – one of the world's largest producers of fish and fish products. The implementation process of the agreement is expected to be completed in November, and the FTA to come into force in January 2009.[10] Stalled FTA negotiations between the US and Thailand are to be resumed,[11] which had been put on hold after the 2006 military coup in Thailand. The proposed timeline for talks here is not known, but improved market access for Thai canned tuna is likely to be high on the agenda. The Philippines is also preparing for expected FTA talks with the US in early 2009,[12] where again market access for tuna products will certainly be a key aspect. However, given the forthcoming presidential elections in the US – including heated rhetoric on FTAs and the WTO – these potential deals are far from certain.

The implications of all of these FTAs for the PIC trade in fish can only be guessed at given the lack of available information on the terms of the proposed agreements. (Note that the commercially important

The next steps in the WTO negotiations on fisheries subsidies are not yet known, but it is possible that discussions will continue

The rise in FTAs may increase competition on principal markets for PIC fish exports

terms of FTAs are very often kept very close to negotiators' chests.) However, it can be speculated that the push by ANZ for FTAs will result in increased competition on ANZ markets for fish and fish product exports from firms based in South Korea and ASEAN countries. Similarly, FTAs being negotiated between the US and the Philippines, Peru and Thailand will certainly entail a push by these developing countries for improved market access for fish products. The same trend might be apparent in Japan's negotiations with the Philippines. For example, as part of the already-existing Economic Partnership Agreement between Japan and Indonesia, the Japanese government cut tariffs on 51 seafood products in July – although Indonesia had requested cuts on 311 products.[13] These tariff cuts include shrimps and prawns, but it is not known if Indonesian tuna exports benefited. It is known that both Japan and the US are keen to apply restrictive rules of origin on preferential market access under FTAs (e.g. this was a key aspect of early US FTA negotiations with Thailand), which may serve to limit the competitive effect of these agreements on PIC export markets.

Japan cuts import duties on selected Indonesian products

However, there continues to be fierce **opposition** to the move to FTAs as a strategy for reciprocal market access. As reported in several prior issues of this *Briefing* the proposed economic partnership agreement between Japan and the Philippines continues to meet resistance from Philippine civil society movements.[14] However, this agreement – the Philippines' first FTA – looks increasingly likely to be passed by the Philippine Senate given that a side agreement on previously controversial issues related to the constitution has been reached, which included bans on foreign utilization of natural resources.[15] Along similar lines is the opposition by Philippine fisher associations to a potential ASEAN-EU FTA. Fishers' representatives argue that such a deal will intensify overfishing and lead to the displacement of local fishing industry by EU investment.[16] But given that formal talks for an ASEAN-EU FTA have not started (see June *Briefing*), the potential impacts on Philippine fishers are probably not yet known. On a more general note, a meeting of trade unions and other workers' organisations from the ASEAN region expressed criticism against the proposed FTA with the EU.[17]

Countries hoping to receive market access under the GSP+ must submit applications to the EC before 31 October 2008

Update on EU Generalised System of Preferences regime: The EU announced in July that its GSP regime will be extended for the period 1 January 2009 to the end of 2011. This was an expected outcome and was part of a regular internal three-year review process. The regime will be subject to review in 2011 in order to allow another three year extension. It is worth re-iterating from April's *Briefing* that those countries hoping to receive market access under the GSP+ must submit applications to the EC before 31 October 2008.[18] All PICs are considered to be 'vulnerable' according to GSP+ criteria.[19] However, unlike when the GSP+ was first opened in 2004, it now requires applicants to have ratified and fully implemented 27 conventions on good governance, the environment and human rights, rather than providing for a three year transition period where the requirements of all conventions were not required to be met. No PIC is estimated to have implemented all of these conventions,[20] as such, without negotiating a special flexibility with the EU – which there *is* a precedent for – it is highly unlikely that there is sufficient time for PICs to ratify and implement these conventions in time for the GSP+ application deadline.

Fisheries Trade-related Regulation

Soltai encounters quality problems: Noro-based Soltai Fishing and Processing Ltd did not process product for most of August due to problems with the quality of tuna. The issue seems to stem from an apparent greening of the tuna flesh. Inspectors from the partner firm – Tri Marine – are undertaking an assessment of the problem. However, Soltai had produced sufficient stock of finished product to ensure supply to local and international buyers.[21]

Update on Fiji seafood export ban to the EU

The EU ban on seafood imports from Fiji continues to be surrounded in controversy (for details see the February and June issues of this *Briefing*). The Fiji Chamber of Commerce went on record to argue that the EU decision was too stringent and that 'It seems the EU is trying to block the Pacific countries by putting up a high standard requirement'.[22] At the same time, a representative of a Fijian firm noted that – while more funding and time should have been granted in order to meet EU standards – blame for the export ban has to be shared by Fijian industry and the local competent authority at the Ministry of Health. He also pointed out that the loss of the EU market was particularly harsh because of the currently strong exchange rate between the Euro and the US dollar which had made the EU market all the more lucrative. However, concerns have been raised that swordfish exported by locally-based firms have been hit by alerts by EU authorities regarding mercury content, while Spanish long liners exporting from Fiji that are targeting the same fish have not.[23]

Fiji is setting up a new Food Unit to better regulate food and fish exports

Nonetheless, to overcome the ban, the Fijian government has agreed to the formation of a new Food Unit at the Ministry of Health that will regulate and certify food and fish export industries. One of its first priorities will be to get Fiji onto List I status in order to export to the EU once again.[24] Importantly, the previous List II is no longer available to any developing countries. It was a transitional arrangement to allow countries to get their systems up to gear and was phased out on 31 October 2007 (even this timeframe was based on a derogation from EU SPS regulations).[25]

EU sanitary inspections in other developing countries

Fiji is not the only developing country to fall foul of EU Food & Veterinary Office (FVO) inspection. After a period of speculation that a negative FVO inspection in April on seafood exports in **Malaysia** would result in a ban to the EU,[26] the local competent authority (CA) was formally deemed insufficient in its capacity to regulate the industry in late July until these problems are addressed. In effect, this means that Malaysia can no longer export seafood to the EU as a CA is a necessary requirement for doing so. The FVO found deficiencies with CA inspections and enforcement of sanitary requirements on boats, landing facilities, processing plant and aquaculture production.[27] However, the Malaysian government has since announced the creation of a new food security bureau to improve technical cooperation between local ministries of health and agriculture and agri-industry so as to resolve the issue.[28]

As a result of reports of problematic food products from **China** to the EU (amounting to 12 percent of total reported unhealthy food imports by the EU in 2007), the FVO will embark on an inspection of the seafood export sector in October.[29] At the same time, an EU ban on seafood imports from **Pakistan** imposed in 2007 continues. It is estimated that the sanction will cost Pakistani industry up to USD 100 million in 2008.[30]

Exporting under the transitional 'List II' status is no longer an option

Tuna Markets

Developments in the US debate on the mercury content of tuna

Debates in the US on the mercury content in canned tuna between consumer groups and the tuna industry have been raging for several years.[31] These debates continue in the US news media and online forums. (Any Internet search on tuna, mercury and US results in multiple hits on the debate.[32])

Malaysia has been temporarily banned from exporting seafood to the EU

A specific case by consumer groups revolves around an accusation that the Chicken-of-the-Sea brand (owned by Thai Union) did not provide warning that excessive consumption of canned tuna might result in mercury poisoning. The case was recently re-opened for legal dispute when a court ruled that the US FDA had pre-empted the findings of a prior decision because it was based on the belief that the FDA regulated the issue rather than simply provided advisory warnings.[33] The court stated that 'we conclude that the FDA has taken no regulatory action' on the issue.[34] The legal strength of the revived case is not known, but it is likely to further impact the confidence of US consumers in canned tuna (see below).

From the perspective of industry and a number of scientific evidence, a major problem with the mercury debate stems from the fact that

FDA warnings themselves are inaccurate in that they are already *overly* strict. This is because they are based on old scientific research and ignore more recent findings on the relationship between mercury and selenium (the latter is thought to cancel out the effects of mercury poisoning).[35]

Other developments in the US market

US consumers ate less seafood in 2007 than they did in 2006 dropping from 7.48kg per capita to 7.39kg.[36] This may appear to be a small drop, but given the very large size and purchasing power of the US population it has a significant effect on global supply chains. In line with this trend, US consumption of canned tuna continued its trend of decline; from 1.41kg per person in 2005, to 1.32kg in 2006 and 1.22 kg in 2007.[37]

The US market is becoming ever less attractive as a principal market due to the decline of the US dollar to both the euro and the yen.[38] This is affecting US based seafood firms as they are paying more for imported product. It is also leading some firms to be hit by declining economies of scale in their position in the supply chain as orders get smaller, and end-buyers are delaying payment which is resulting in cash flow problems. In addition, the wider economic downturn is compelling consumers to shift to lower priced products, impacting profitability achieved through higher range 'value added' items. Firms are responding by trying to boost volume and find new clients.[39]

At the same time, Bumble Bee – which sources albacore loins from Pafco in Fiji – is working on product innovation to make tuna a more premium item (e.g. by marketing 'value added' products which use less fish and more packing materials).[40] While another firm – Wild Planet – which markets a range of sustainably caught canned tuna products received a recent boost as an eco-venture capital fund agreed to finance the expansion of the range.[41] For details on this financing firm – Sea Change Investment Fund – see: http://www.seachangefund.com The remit of this fund is to invest in 'seafood companies which meet strict sustainability and financial criteria'.

Japanese tuna fisheries and seafood markets

As detailed in June's *Briefing*, several East Asian longline fleets have suspended operations. Initially this was reported as a response to the impact of rising fuel costs on profitability, which was brokered by the Organization for the Promotion of Responsible Tuna Fisheries (OPRT).[42] But now representatives of Japan Tuna (the major industry association) are maintaining that the continuation of the suspension into August is motivated by the objective of allowing stocks to revive. Around 230 Japanese longliners (around 60 percent of the national

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The revived legal case on mercury in canned tuna might impact US consumption of the product

US consumption of canned tuna declined in 2007. And the low US dollar exchange rate makes it a less attractive principal market for exporters

US processed tuna firms are pushing forward both value added and sustainably caught product

fleet) will stay in port for a total of two months over a total period of two years, which is expected to lead to a five percent reduction in catch by the domestic fleet.[43] Whether the activities of other fleets will negatively impact this conservation objective is not known.

Japanese fishers receive new government subsidies

Japanese fishers received a boost from their government when it was announced that it would set aside 74.5 billion yen (USD 693 million) for a package of new programmes to facilitate the reform of the industry and to reduce fuel consumption. The government made it clear that this was not a standard direct fuel subsidy, but would be contingent upon fishers working to reduce their fuel consumption (e.g. through the purchase of fuel-efficient engines).[44] This move was certainly triggered in part by direct action campaigns by Japanese fishers in protest against fuel price hikes.[45]

Japan implements DNA testing of tuna imports

In an attempt to combat IUU fishing and fraudulently labelled fish, the Japanese government, OPRT and the National Research Institute of Far Seas Fisheries have joined forces to test the DNA of imported tuna.[46] The objective is to stop cases where, for example, bigeye tuna were labelled as Pacific caught but actually came from the Atlantic. It is not known if the same process is applied to Japanese caught fish or is exclusively for imports. *If* it is solely applied to imports it might be considered a discriminatory non-tariff barrier.

Japanese seafood retail sales decline

Seafood sales in Japan's retail sector declined by 1.7 percent in June, yet overall food sales grew by 2.4 percent.[47] The fact that overall food sales expanded indicates that there is a specific problem around seafood consumption. This might be explained by the case of one major Japanese seafood firm – Maruha-Nichiro (formerly called Taiyo Gyogyo) – which registered a decline in sales for the second quarter of 2008 compared to the previous year. This was reportedly due to the impact of a number of food safety scares, which involved product from China in particular. The impact on sales of tuna is not known, although retail discounts (such as buy-one get one free – a common marketing tool in the sale of canned tuna) were put on hold by this firm in 2008 because of higher raw material prices. [48]

On a separate issue, one retailer has attempted to bypass the normal marketing channels in Japan to buy direct from vessels. This move will supply around 25 percent of this supermarket chain's fresh fish.[49] This is an almost unprecedented move away both from Japan's 'traditional channels' (via wholesale markets) and its 'unofficial channels' (via trading companies).[50]

Greenpeace tuna campaign moves to the UK

The Greenpeace campaign around sustainability concerns in global tuna fisheries has turned to the UK. Several past issues of this *Briefing* have reported on the Greenpeace direct action campaign around the Pacific Commons (the high seas 'donut holes' in-between PIC

EEZs) in the WCPO, as well its retail-orientated campaigns, which were global in scope on bluefin and on canned tuna in North American supermarkets. The UK chapter of Greenpeace launched a new report called *Tinned Tuna's Hidden Catch* in August.[51] Unlike some of the other Greenpeace activities, this is a carefully targeted campaign as it is focussed on: a) addressing the use of fish aggregating devices (FADs) in the global purse seine fishery which supplies canning-grade tuna. This is because of the negative impact of FADs on juvenile yellowfin and bigeye tuna, as well as bycatch; and, b) as part of the wider Greenpeace campaign to establish 40 percent of the world's oceans as marine reserves, they want UK brands and retailers to ensure that no tuna used in their products is sourced from the new Pacific Commons.

A cornerstone of this campaign was the development of a league table of UK supermarkets, ranking them based upon such criteria as their approach to sustainability in their procurement of tuna, catch methods (Greenpeace has a preference for pole & line and trolling gear types), transparency in labelling and support for marine reserves.[52] Sainsbury's came out on top of the survey, not least because all of its own-brand canned tuna is pole and line caught. At the bottom came John West, managed by MW Brands and the largest UK tuna brand, which controls 31.3 percent in value of the market share for canned tuna. It was ranked last because, among other criteria, it has no restrictions on FAD fisheries and it does not label which gear type was used to catch the fish. Princes was ranked in the second from last place – it is the second largest UK brand of canned tuna.

John West and Princes brands were ranked the worst in the Greenpeace UK campaign on canned tuna

The response by John West to this negative publicity was simply to deny any relationship between certain types of bycatch and FADs.[53] But Greenpeace UK has countered this by arguing that this fails to take due account of the available science.[54] The commercial impact of this campaign on John West is not known, although there were several critical media reports on the story.[55] However, the Greenpeace campaign certainly adds to John West's woes given that it is majority owned by the merchant banking firm Lehman Brothers, which has recently encountered very severe financial problems due to poor investments in, among other areas, the mortgage market.[56]

Thai Union predicts growth for 2008: One of the world's largest canned tuna processing firms – the Bangkok based Thai Union – has announced that it is set to expand by 10 percent in 2008. The firm has benefited from a weak exchange rate of the Thai Baht to the US dollar, which has allowed it to weather the storm of high fish prices because around one-third of its exports are to the USA (only 10 percent of sales are in the Thai market). The president of Thai Union Thiraphong Chansiri also announced ambitious plans for expansion by 2012, including a reported investment of USD 10 million on a joint venture tuna plant in PNG. The overall objective is to increase US dollar revenue by 50 percent to USD 3 billion over the next four years.[57] However, as a result of the EU's temporary ban on fish exports from Malaysia, the Thailand government has warned domestic processors to improve food safety and hygiene standards.[58]

Coming in the next issue

(September 2008, Vol. 1: Issue 10)

- Special feature: Sustainability and product innovation in the canned tuna industry
- In-depth analysis of fresh chilled and frozen tuna markets in the UK
- Tuna industry in the Philippines

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