

By Liam Campling¹

FISHERIES SUBSIDIES

First WTO meeting to discuss Chair's 'Roadmap' on fisheries subsidies disciplines²

The Chair of the Negotiating Group on Rules convened a new meeting on proposed disciplines for fisheries subsidies in Geneva on 2-3 February. This was conceived as a forum for WTO Members to provide their first general responses to the Chair's new Roadmap (summarised in the last issue of *FFA Fisheries Trade News*).³ The Chair acknowledged that a systematic discussion of the questions raised in his Roadmap would be a lengthy process, but – as was also aired by several Members – he felt that it was necessary to obtain additional inputs for a new draft text given the lack of consensus in prior discussions on the Chair's 2007 draft text.⁴ The roadmap of questions attempt to tackle fundamental issues relating to the very concepts and structure of the rules (i.e. the very roots of the deep divergences that existed between Members as witnessed during the first technical reading of the Chair's text in the period December 2007-May 2008). This is with the view to revert to the text at some point and improve the existing legal draft to reflect a new and better consensus. The Chair noted that the two main objectives of this process remained to: 1) strengthen disciplines on those forms of subsidies that contribute to overcapacity and overfishing; and, 2) to meet developing country Members' interests and concerns.

The spokesperson for the Small, Vulnerable Economies Group (SVEs) – which includes Fiji, PNG, Solomon Islands and Tonga – stated that, although there were issues in the Chair's 2007 draft text that they had fundamental problems with such as the limited and unrealistic scope for Special and Differential (S&D) treatment, they were comfortable with the format and approach taken in that text and with the topics covered. As such, like many other Members including the USA, the SVEs acknowledged that the 2007 draft text remains one of the main bases for discussions. Based on this, the SVE representative raised the important point that they did not expect the Roadmap to roll-back on understandings that were achieved in the first round of negotiations in 2008. This includes the general understanding that the scope of the disciplines would only cover marine-capture fisheries (i.e. not aquaculture or inland fisheries) and would not seek to focus on downstream



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elements such as onshore fish processing.⁵ The SVEs were supported on this position by the ACP group statement, which was delivered by Tonga. It stated that: 'on issues on which consensus had already been reached among Members, the Roadmap should not be misunderstood to unravel this consensus'.⁶ Other Members such as China and the Philippines also raised concerns that the Roadmap went beyond a focus on marine-capture fisheries.

Larger developing countries shared the view of the ACP and SVE groups that S&D treatment required particular attention. China raised the point that flexibility for operating costs for developing members has become even more important given the current global economic crisis. But it went on to note that Members will be unable to take S&D issues forward until the extent and effectiveness of eventual general disciplines are known. Korea also noted the context of the current crisis. It pointed out that, as subsidies are currently being injected into manufacturing, there might be a conflict of interest between sovereign trade policies and multilateral rules. Indonesia made a proposal for a new category or concept of 'fisheries-LDCs'. The current categorisation of LDCs by the UN Development Committee was used in the Chair's 2007 text to provide a full exemption for these countries. The Indonesian representative argued that because most of its fishers are in poverty, a new specific category could be developed that would take into account fish workers' average income as criterion. The justification was that Indonesian fish workers need government assistance for their daily survival. The representatives of the European Communities and Mexico made the point that developing countries are at varying degrees of development, so one-size S&D treatment does not fit all. The SVEs and the ACP groups, supported by Indonesia and the Philippines, called for strengthened language on technical assistance for monitoring and surveillance of fishing activities in their jurisdictions and for compliance with all other fisheries management-related conditionality (i.e. Article V of the 2007 Chair's text).

Japan repeated its long held argument that subsidies do not contribute to overcapacity and overfishing where good fisheries management exists. In this context, the representative stated that Members may need to go back to the 2005 position on creating a balance between the prohibition of certain subsidies and the role which effective fisheries management systems can play to address these issues. Korea made the point that work done on identifying prohibited subsidies should be done by the demandeurs (i.e. those Members who want strict disciplines). New Zealand contested that view and said

The ACP and SVE groups asked that the Roadmap would not roll-back certain key understandings reached during the 2008 negotiations

Korea argued that demandeurs should identify prohibited subsidies. New Zealand cited the Roadmap to disagree



that the burden of proof should lie with the subsidisers and not with demandeurs for disciplines. New Zealand drew on the Roadmap (point 11(b)), which asks: 'If you believe that a given subsidy should not be prohibited, why? If this is because you do not consider that it contributes to overcapacity or overfishing, what are the specific reasons for this view?'¹⁷ In addition, it appears that New Zealand may be vying for a re-opening of extending disciplines to areas that were previously assumed to be outside of the remit. This discussion may have contributed to Brazil raising its concern that the Roadmap might be an opportunity to reduce the level of ambition for disciplines and the United States' worry that it might be used to re-open the entire negotiation mandate settled by the 2005 WTO Ministerial in Hong Kong.

Taken together, the above elements may suggest a major flaw in the Chair's Roadmap. The majority of Members appear to wish to draw upon and improve the 2007 draft text, including the broad agreements and assumptions reached during extensive debates in 2008. But the Roadmap puts into question several of these assumptions, including on extending the scope of disciplines downstream to onshore processing. Therefore, the Roadmap could be used by certain Members as a tool to ask subsidisers to demonstrate why they should be allowed to subsidise something that was not even under discussion in 2008. If so, this will likely lead to deepened deadlock in negotiations rather than taking them forward.

New study attempts to quantify US fisheries subsidies

An academic study has been published that attempts to quantify the value of subsidies paid by the United States to its fishing industry.⁸ The authors – Rene E. Sharp and U. Rashid Sumaila – estimate that US government subsidies to the fisheries sector total over USD700 million per year. They argue that '[m]ost of this subsidy goes to encourage artificially high fishing effort, which is likely to result in the overexploitation of the nation's fishery resources'.⁹ The study provides a detailed national-level survey of the extent of fisheries subsidies, which serves to extend the normally very general (and often inaccurate) global surveys of fisheries subsidies.

In the context of the global effort for increased transparency on fisheries subsidies both at the WTO and from environmental NGOs, a major strength of Sharp and Sumaila's work is that they show the complexity of subsidy regimes through the case study of the United States. One of its important findings is that

The Roadmap may be used by some Members to re-open prior assumptions and result in deepened deadlock rather than progress in negotiations



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US government fisheries subsidies are estimated at over USD700 million per year

a lot of subsidies are paid out not only at the federal, but also at state and municipal levels; this level of detail (although methodologically very difficult to execute well) paints a new picture of fisheries subsidies. But at the same time it raises the problem that potential action to contain fisheries subsidies may lead to uneven regulation if similar data are not available across and within subsidising countries. This is particularly relevant given 'black-box' government interventions at multiple levels of government in various countries providing fisheries subsidies: For example, the interaction between provinces and national government in China or between regional, national and regional levels in the EU.

Of particular concern for PICs is that the authors of the study identify the US Multilateral Tuna Treaty as one of the major 'subsidies'; at least according to their definition, which is different from that under the current WTO Agreement on Subsidies and Countervailing Measures (ASCM). The 'subsidy value' factored in here was 'the amount of money the U.S. government paid each year for fishing access without receiving full refund from the industry of the amount paid on their behalf'.¹⁰ It thus claims that the US purse seine fleet active in PIC waters received a total 'subsidy' under the Treaty of USD 158.7 million over a nine year period (1996-2004). The fundamental flaw in this study's analysis of the US Treaty is that it does not account for the fact that, from its inception in 1988, the Treaty replaced all US Overseas Development Assistance (ODA) flows to PICs prior to the formation of the Treaty. Under this scheme, those PICs that do not have resource-rich EEZs and thus see little or no fishing activity from the US fleet still receive financial benefits under the treaty, whereas in the past they received non-fishing related ODA.¹¹

Therefore, even if the US Treaty were to be contested as a prohibited subsidy under the WTO ASCM – and it is far from sure that such a dispute would succeed, not least because of Sharp and Sumaila's particular definition of subsidy – core elements of payments have nothing to do with WCPO fisheries and thus have no impact on tuna resources. In other words, while Sharp and Sumaila say that only the 'subsidy' payment matters, political context and the reality of the fishing strategies of firms matters more.

The study's analysis of the US Treaty as a subsidy is fundamentally flawed



PREFERENTIAL AND FREE TRADE AGREEMENTS

Indications of US trade policy priorities under Obama: The Office of the United States Trade Representative (USTR) released its 2008 Annual Report in early March.¹² It outlines some indication of future direction in a section on 'The President's Trade Policy Agenda'. One area that was much touted in the lead-up to President Obama's election was the incorporation of labour and environmental standards in FTAs. On the latter, the Agenda suggests that changes by the US 'will make environmental dynamics more central to the direction of the world economy'. On labour issues, the document states that '[t]rade is more beneficial for the world, and fairer for everyone, if it respects the basic rights of workers'. It also makes clear that Obama will request a renewal of Presidential fast-track authority to negotiate trade agreements, but only 'after engaging in extensive consultation with Congress' so that fast-track authority will be constrained by parameters set by Congress. The Agenda also notes that the US will continue taking forward FTAs with Colombia and South Korea. Finally, the Agenda highlights the importance of US trade preference programmes to exports from poorer countries; it notes that these 'are coming due for legislative review' and that the US government 'will work with the Congress and public stakeholders on their renewal and reform'. It is not known whether the new US administration will undertake an extension of those preferential trade arrangements that impact the trade in tuna products, such as the Andean Trade Promotion and Drug Eradication Act (formerly called the Andean Trade Preference Act, ATPA).

TUNA MARKETS

New tuna processing facility in Lae, PNG: A USD25 million investment in a new tuna canning plant has been announced. The investment combines three firms: Frabelle (PNG) Ltd. – a subsidiary of the Philippine firm Frabelle Fishing Corporation, which already has an 180mt/per day canning plant in Lae; Thai Union Corporation which is a subsidiary of Thai Union Frozen Products PCL; and, another major Philippine firm, Century Canning Corporation. The new cannery is touted to eventually have a daily processing capacity of 350mt of whole tuna and to employ 6,000 local workers. The first phase of production is estimated to take 18 months, but the project encountered several problems with access to land which is owned under customary rights. These problems have apparently since been

The Obama administration is likely to renew US trade preference schemes



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resolved and initial work on building a road to the plot is reported to have started in February.¹³

Japan's recession and its domestic market for sashimi tuna

The Japanese economy has plunged into its worst decline for 35 years, including a 10 percent decline in industrial output. The immediate causes of Japan's recession were a radical drop in exports and weak domestic consumption; although far more complex factors explain Japan's longer term economic stagnation since 1990. The Japanese minister for economic and fiscal policy stated that: 'This is the biggest economic crisis since the war'.¹⁴ With around 15 percent more people out of work by the end of the 2008 compared to 2007,¹⁵ it is no surprise that household spending dropped by 5.9 percent in February compared to the same month in 2008.¹⁶

While Japan is likely to remain the world's single largest national market for higher value seafood, total available disposable income for consumption of higher value fish and fish products is tightening. For example, the results of a February survey of Japanese consumers found that 35 percent placed financial issues as their top concern in their purchasing decision, which was a 7.4 percent increase compared to the results of the same survey in May 2008. The survey also found that consumer concerns on food safety had dropped by 9.6 percent over the same period.¹⁷ Nonetheless, a survey of household expenditures for January 2009 by the Ministry of Internal Affairs and Communications found that, despite a 5.9 decrease in monthly spending, the purchase of seafood increased by 2.7 percent. But for tuna the results were mixed, with a 4.2 percent increase in spending on lower priced shaved bonito compared to a 7 percent decrease on higher priced fresh tuna.¹⁸ Instead, there is a gradual increase in consumption of 'red meat' sashimi, rather than higher priced 'fatty' *toro* grade. This has made it difficult for distributors to sell their current stock of frozen sashimi-grade tuna, which was procured when fish price was high due to demand and previously very high gasoil prices.¹⁹ The apparent preference for lower cost seafood products was also noted in September 2008 data on comparative store sales for members of the Japan Supermarkets Association, where higher priced products 'struggled' because of 'affordability'.²⁰

The total value of Japan's seafood imports had *already* fallen by 4.4 percent between 2007 and 2008 to USD17.4 billion, the lowest value since 1990. More specifically, the volume of imported yellowfin tuna fell by 16.8 percent in 2008

**Frabelle,
Thai Union
and Century
Canning
join forces
to invest a
projected
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on seafood
increases**



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compared to 2007.²¹ The Fisheries Agency at Japan's Ministry of Agriculture, Forestry and Fisheries (MAFF) has predicted that there will be a reduction in production of sashimi grade tuna and thus an overall decline in supply for the first quarter of 2009.²² This prediction can be explained by a combination of three, partly contradictory, factors. First, a general decline in disposable incomes in Japan will probably continue to have a disproportionate downward effect on demand for sashimi-grade tuna because of its status as a luxury product. For example, Japanese fishers expressed concerns that they had to sell 'mid-quality fish' in November because of the lack of demand for higher value product.²³ Second, there will be a global decline in supply of sashimi-grade tuna because of: a) the tightening of tuna catch quotas (especially for bluefin); b) sustainability issues impacting fish stocks;²⁴ and, c) the lag-effect of the previous high fuel price on fishing activity (e.g. the temporary suspension of tuna long line fishing led by the Organisation for the Promotion of Responsible Tuna Fishing²⁵) combined with the more immediate effects of low market prices. Third, competition for supply from other sites of consumption which increasingly value fish as a healthy and or prestige food means that Japan-based buyers have to compete more on price, which may be more problematic given Japan's recession.²⁶

Impacts of economic downturn on Japanese seafood firms

The impact of recession on Japanese seafood multinational corporations appears to be mixed. There are two general problems facing these large firms. The first is the decline in exports. The volume and value of exports in 2008 was, respectively, 84.8 and 87.5 percent of that in 2007. The main reported causes are a drop in demand in import markets like China because of globally high fish prices for most of 2008, combined with the additional expense of an appreciating yen and the depreciation of other principal market currencies such as the Korean won. Of the tuna and tuna-like species, the report only mentions bonito, which apparently *increased* in export volume by 104 percent compared to 2007.²⁷ The second problem facing Japanese seafood multinationals is constraints on supply of fish to their processing facilities. The above *Fisheries Trade News* article touches on several of the key issues here; in response to these constraints, the chairman of the National Federation of Processed Fisheries Products Cooperatives stated that his members' strategy was to aim for a "secure, stable supply of raw material fish domestically and internationally" and to "aggressively run purchasing and

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distribution operation[s]””.²⁸

Other stated problems facing Japan-based processors included ensuring food safety and the availability of financing for firms experiencing serious difficulties. In regard to the latter however, the sector was targeted by a government safety net guarantee system, and thus should receive support.²⁹ The chair of the Japan Canners' Association emphasised that, despite the recession, quality should remain a focus in product lines, not least because Japanese consumers were focussed on “maintaining a healthy diet and improvements in food quality and assurance are growing stronger than we imagined””.³⁰

Despite the shortage of raw materials, the president of Kyokuyo – a major Japanese firm³¹ – indicated that seafood prices will continue on their downward trajectory in 2009. He put this down to the economic contraction in Japan and principal markets, combined with a series of food safety scandals in Asia. As a result he claimed that 2009 “is expected to be a year of safety and lower prices”” and that Kyokuyo will focus on consolidation.³² Nonetheless, Kyokuyo's strategy of consolidating its profitability through value-added processing (emphasised in 2007³³) appeared to pay off as reflected in its financial results for its seafood business for the second quarter of 2008. Operating profits were reported to have hit ¥1.045 billion; whereas during the same quarter of 2007 it registered a loss of ¥45 million.³⁴ One of the major sources of profit is reported to emanate from the firm's overseas tuna purse seine business. However, the extent to which profitability can be maintained into 2009 is open to question.³⁵

On the flip side, Nippon Suisan announced a net loss of ¥2 billion by the end of its second quarter (starting April-September 2008).³⁶ This was followed by an announcement that it had lost ¥6.6 billion (USD72 million) by the end of its third financial quarter (ending 31 December 2008).³⁷ An internal company response this February was to undertake organisational restructuring. However, at the same time, Nippon Suisan has announced that it will provide assistance to the Osaka-based wholesale firm Daisui because of its being left holding USD9.7 million in unrecoverable debt.³⁸ It should be noted that Daisui is a main buyer of Nippon Suisan's marine products, and Nippon Suisan is the main shareholder in Daisui.³⁹ Nonetheless, the fact that Nippon Suisan is sufficiently confident to make such an intervention in such difficult times may indicate that its management are relatively optimistic.

Maruha Nichiro's plans for expansion abroad so as to mitigate the decline in domestic demand have been blocked by the

A decline in exports and domestic demand, an appreciating yen and limitations on supply have all negatively impacted Japanese seafood multinationals

Kyokuyo will likely focus on corporate consolidation in 2009

Nippon Suisan suffers from profit loss



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***Maruha
Nichiro's plans
for overseas
expansion
shelved***

current world economic crisis.⁴⁰ Overseas expansion through market penetration and mergers & acquisitions had been a major strategy announced by Maruha Nichiro at the end of 2007. In fact the firm's president noted then that it "won't be able to enjoy [a] considerable amount of benefits" without success overseas.⁴¹ This may raise concerns on when gains will be realised from the merger between Maruha and Nichiro in 2007,⁴² although the president stated in January 2009 that the current "adversities ... will give us a chance to grow".⁴³ In summary, the varied fortunes of the three seafood multinationals summarised here demonstrates the uneven impacts of the economic downturn in Japan; impacts that, in part, depend upon the corporate structure, business model and response of firms.

Coming in the next issue (March/April 2009, Vol. 2: Issue 3 & 4)

- Exporting tuna to China
- Trends and dynamics in tuna processing in Southeast Asia



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² The following draws upon meeting minutes and other inputs provided by Manleen Dugal, Technical Advisor, Permanent Representation of the Pacific Islands Delegation to the WTO.

³ The text of the Roadmap is available here: TN/RL/W/236, 'New Draft Consolidated Chair Texts of the AD and SCM Agreements', 18 December 2008. Available at: <http://www.wto.org>

⁴ For details on the 2007 text and PIC interventions in subsequent debates at the WTO see *FFA Fisheries Trade Briefing January 2008 to July/August 2008*. Available at: http://www.ffa.int/trade_news

⁵ Statement Delivered by Permanent Mission of Barbados on behalf of the SVEs at the Rules Negotiating Group Meeting on Fisheries Subsidies, 2 February 2008.

⁶ Statement Delivered by Tonga on behalf of the Africa, Caribbean and Pacific (ACP) group at the Rules Negotiating Group Meeting on Fisheries Subsidies, 2 February 2008.

⁷ TN/RL/W/236, 18 December 2008. Available at: <http://www.wto.org>

⁸ Rene E. Sharp and U. Rashid Sumaila, 2009. 'Quantification of U.S. Marine Fisheries Subsidies', *North American Journal of Fisheries Management*, 29:18–32.

⁹ Sharp and Sumaila 2009: 30

¹⁰ Sharp and Sumaila 2009: 22

¹¹ Elizabeth Havice, 2007. 'The State of Play of Access Agreements with Distant Water Fishing Partners: Implications and Options for Pacific Island Countries', *FFA Briefing Paper*, Honiara: FFA.

¹² USTR (2009), *2009 Trade Policy Agenda and 2008 Annual Report of the President of the United States on the Trade Agreements Program*, Washington DC: USTR. Available at: <http://www.ustr.gov>

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help build Papua New Guinea tuna plant', *IntraFish Media*, 9 February 2009. Available at: <http://www.intrafish.no>

¹⁴ As quoted by Mure Dickie, 'Japan growth plunges to a 35-year low', *Financial Times*, 16 February 2009. Available at: <http://www.ft.com>

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¹⁷ 'Survey: Price most important for Japan's consumers', *IntraFish Media*, 24 February 2009. Available at: <http://www.intrafish.no>

¹⁸ 'January Household Expenditure: Marine Foods Increase 2.7%', *The Suisan Times*, 4 March 2009. Available at: <http://www.suisantimes.co.jp/english/log/>

¹⁹ *Suisan Keizai Shinbun* [Fishery Economics News], 4 March 2009 (Japan).

²⁰ 'Japan Supermarkets Association: September Sales Go Negative, Seafood Suffers As Well', *The Suisan Times*, 30 October 2008. Available at: <http://www.suisantimes.co.jp/english/log/>

²¹ 'Japan's seafood imports hit 18-year low', *IntraFish Media*, 2 February 2009. Available at: <http://www.intrafish.no>

²² 'Tuna for sashimi supply declines', *IntraFish Media*, 25 February 2009. Available at: <http://www.intrafish.no>

²³ 'Japan's fishermen feel pain from economic crisis' *AFP*, 20 November 2008. Available at: <http://news.google.com>

²⁴ For example, recent FAO data showed that catches of yellowfin in 2006 had dropped by 13 percent to 1.1 million metric tons compared to 2005. 'World catch falls by 2.2 million tons', *IntraFish Media*, 23 December 2008. Available at: <http://www.intrafish.no>

²⁵ 'The Agreement on Conservation of Tuna Resources (27 June 2008, Tokyo)' between Japan Tuna Fisheries Cooperative Association, Taiwan Deep Sea Boat Owners and Exporters Association, Korea Overseas Fisheries Association (Tuna Longline Fisheries Committee) and China Fisheries Association (Distant Water Fisheries Branch) is detailed in *OPRT Newsletter International*, August 2008, No.20. Available at: <http://www.oprt.or.jp/eng>. See also: 'Tuna Japan Suspends Tuna Fishing Operations For All Vessels', *Atuna*, 4 September 2009. Available at: <http://www.atuna.com>

²⁶ David Pilling, 'Japan faces up to the prospect of "peak fish"', *Financial Times*, 29 January 2009. Available at: <http://www.ft.com>; See also the



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³⁰ 'Canning association warns quality must remain priority', *IntraFish Media*, 6 January 2009. Available at: <http://www.intrafish.no>

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³³ 'Kyokuyo emphasizes profit over scale expansion', *The Suisan Times*, 20 December 2007. Available at: <http://www.suisantimes.co.jp/english/log/>

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³⁶ 'Nippon Suisan Reports Net Loss of ¥2 Billion in Q2', *The Suisan Times*, 13 November 2008. Available at: <http://www.suisantimes.co.jp/english/log/>; See also, 'Nippon Suisan: First-half results "embarrassing"', *IntraFish Media*, 17 December 2008. Available at: <http://www.intrafish.no>

³⁷ 'Nippon Suisan Posts Significant Net Profit Loss of ¥6.6 B. for Third Quarter', *The Suisan Times*, 6 February 2009. Available at: <http://www.suisantimes.co.jp/english/log/>; See also, 'Nippon Suisan posts loss despite seafood gains', *IntraFish Media*, 6 February 2009. Available at: <http://www.intrafish.no>

³⁸ 'Japanese giant could lose \$10 million in unrecoverable debt', *IntraFish Media*, 16 December 2008. Available at: <http://www.intrafish.no>

³⁹ Nippon Suisan press release, 5 February 2009. 'Commencement of talks towards the capital tie-up and business alliance consisting of Nippon Suisan Kaisha, Ltd. providing management assistance to Daisui Co.,Ltd.'. Available at: <http://www.nissui.co.jp/english/>

⁴⁰ 'Economy blocks Maruha Nichiro expansion abroad', *IntraFish Media*, 10



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⁴¹ 'Maruha Nichiro executives see future global markets', *The Suisan Times*, 18 December 2007. Available at: <http://www.suisantimes.co.jp/english/log/>

⁴² Fairly detailed information on Maruha Nichiro is available here: <http://www.maruha-nichiro.co.jp/english/>

⁴³ 'Economy blocks Maruha Nichiro expansion abroad', *IntraFish Media*, 10 January 2009. Available at: <http://www.intrafish.no>