

FFA FISHERIES TRADE NEWS

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Editorial Note: Combining Tuna Market News with FFA Fisheries Trade Briefing

For a number of years, FFA published price information for key global tuna markets in a monthly newsletter – 'Tuna Market News'. Over the past year, FFA has also been producing this monthly brief on fisheries trade-related issues. Given the linkages between the two publications – FFA has decided to streamline these into a single publication *FFA Fisheries Trade News*, effective January 2009 with this issue.

In this issue (and future editions) this monthly brief will include commentary on trade-related developments of relevance to the Western and Central Pacific tuna fisheries, plus graphs presenting price trends in major global tuna markets.

FISHERIES SUBSIDIES

Chair of the Rules Group prepares 'Roadmap for Discussions'

The Negotiating Group on Rules at the WTO will re-commence discussions in February. Debates on proposed disciplines on fisheries subsidies will be guided by a new 'Roadmap' document prepared by the Chair of the Group.² Rather than offering a comprehensive revised text, a 'Roadmap' is provided because: a) unlike other discussions at the Doha Round, there is no pre-existing agreement to build-upon for specific disciplines on fisheries subsidies; and, b) points of disagreement between WTO Members, in the word's of the Chair, 'go to the very concepts and structure of the rules'.

The Roadmap identifies several sets of political and technical questions that are to be discussed by Members. The purpose is to reach a sufficient degree of convergence so that the Chair is in a position to prepare a revised draft text, which will then, of course, itself be debated. The overall objective of this exercise is to reach consensus on how the Ministerial mandate at Hong Kong in 2005 will be implemented. To recall, the Ministerial mandate is to 'strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing' and, as a central component of these negotiations, to incorporate 'appropriate and effective special and differential [S&D] treatment for developing and least-



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New text launched laying out a 'Roadmap' for discussions on fisheries subsidies disciplines



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developed Members'.³ In debates on fisheries subsidies at the WTO in 2007 and 2008 (see summaries in several prior issues of this *Briefing*), the Pacific island countries fully supported this mandate, but their main concern was the extent and workability of S&D treatment.

The sets of questions in the Roadmap are very complex and demand detailed evidence-based analysis by Members, including PICs. The following simply summarises the main thrust and key elements of the Roadmap:

- Members need to list specific subsidies that would be prohibited and explain why they contribute to over capacity and over-fishing.
- On the flip side, if a Member wishes for a specific subsidy to not be prohibited, it will have to explain why it does not contribute to overcapacity and over-fishing, including how allowing a specific subsidy will not cause problems through interchangeability (i.e. shifting resources from one subsidy mechanism to another).
- In terms of providing maximum S&D treatment to artisanal/ small-scale fisheries in developing countries, there is a need to effectively define these types of fisheries.
- If broad S&D exceptions are provided to non-LDC developing states – as many such Members have requested – the big question is how to ensure that such subsidies would not contribute to overcapacity or overfishing.
- Linked to the last point, if there are conditionalities on S&D treatment – which is highly likely – should these be based on the meeting of fisheries management criteria or other mechanisms?
- Moving to the general nature of the disciplines, what criteria and associated evidence would be required for Members to take action against an illegally subsidising Member?
- If fisheries management criteria are to serve as conditionalities for exceptions (i.e. non-prohibited subsidies and S&D treatment), how will these criteria be assessed, monitored and enforced?
- In the interests of transparency, what mechanisms can be used to ensure that Members notify their subsidy programmes? And when should notifications be made: before or after providing the subsidy?
- If a dispute arises, how would the WTO relate to and draw upon scientific and other technical expertise related to fisheries issues?
- Finally, given the (likely) complexity of the conditionalities

**Roadmap
demands
evidence-
based analysis
by Members
in support of
their positions**



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for applying fisheries subsidies under eventual disciplines, what mechanisms can be introduced to help implementation in developing Members and what length of transition period would they want relative to developed Members?

Fisheries Trade News will continue to report on discussions on fisheries subsidies disciplines as they unravel.

PREFERENTIAL AND FREE TRADE AGREEMENTS

Fiji and PNG agree to global sourcing rules of origin in Interim Economic Partnership Agreement

Negotiations to finalise the Interim EPA were ongoing since the Agreement was initialled in November 2007. The pressure of maintaining duty free market access for processed fish products was one of the main negative incentives for initialling the Agreement, while 'global sourcing' rules of origin (RoO) for canned tuna and tuna loins was a major positive incentive. (Global sourcing allows fish processors to access EU trade preferences using a wider range of potential supply of fish.) However, both sides continued to negotiate these RoO in technical discussions in 2008: the EU attempted to water the rules down through the suggestion of legal caveats and other limitations, while Fiji and PNG were pushing to maintain and finesse what was agreed in November 2007.

The final terms of the global sourcing RoO for fish products can be summarised as follows:⁴

1. 'Global sourcing' can be used *only* if sufficient supplies of 'originating' fish are not available (i.e. fish that is from vessels flagged, registered and 50 percent owned by parties to the Agreement). The PIC in question must report to the European Commission on: a) why these supplies are insufficient; b) how global sourcing will 'stimulate the development of the fisheries sector in that State'; c) the species and quantity of finished product to be exported under the rule; and, d) what measures were taken to comply with the mandate of the WCPFC. The combination of these elements will make it difficult for other EPA regions to push for the same RoO.
2. Global sourcing RoO only applies to products falling under codes 1604 and 1605 of the Harmonised System of Tariff Classification (HS), which includes canned tuna and pre-cooked tuna loins. Fish 'fillets' and similar products under HS codes 0304 and 0305 are not included.

The EU attempted to water down global sourcing rules of origin in 2008 discussions



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3. The products must be processed in on-land facilities (i.e. not in factory ships or third countries) and have been landed in a port of that country.
4. The PIC must report on the implementation of global sourcing to the European Communities within three years. This will include an assessment of the developmental and environmental effects of the application of the rule. If these are found wanting, the rule can be amended.
5. The processors must still meet all EU sanitary and phytosanitary measures, which among other things, limits supply to only those vessels that are registered by the EU and inspected by the relevant competent authority; thereby, limiting the 'global' reach of sourcing potential.

In short, Fiji and PNG managed to successfully negotiate very few negative changes to the text agreed by the Parties in November 2007. The main additional conditionality is a deepened emphasis on environmental sustainability, including the reference to compliance with the WCPFC mandate.

Update on PACP Comprehensive EPA negotiations

Discussions for a *comprehensive* EPA are ongoing, and it looks as though several other PICs are interested in taking part *if* certain elements of the Agreement are sufficiently beneficial and other aspects are not overly onerous. In terms of fisheries issues, one of the potential benefits is the securing of global sourcing RoO for fish products other than canned tuna and tuna loins (falling under HS codes 1604 and 1605), which will include frozen and fresh chilled fillets, steaks, loins *not* used for eventual canning, types of smoked products, etc. (falling under HS codes 0304 and 0305).

However, three highly controversial elements remain as key areas of concern for several PICs:

1. MFN (Most favoured nation) clause in EPAs means that Pacific ACP signatories of EPAs must offer the same treatment to the EU as they do to other countries in any other future agreements that the Pacific ACP signatories enter. This reduces the flexibility of PICs in negotiations for potential free trade agreements (FTAs) with other countries;
2. The EU push to 'significantly restrict the use of' export taxes through the EPA process will, in effect, mean that PICs would no longer have the right to use this tax mechanism to encourage domestic investment in the processing of natural resources taken from their territories (such as fish);

A combination of conditions will make it difficult for other EPA regions to push for the same rules of origin

Onerous EU demands threaten the conclusion of the comprehensive EPA



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3. The EU is moving against policies that provide other forms of protection for infant industry. This means that PIC policy space for the development of targeted industries – such as in the fisheries sector – for government support will be reduced.

For the EU, these are systemic issues that reflect its wider external political and economic interests, including in the negotiation of FTAs with other countries (e.g. ASEAN, South Korea, etc.). But for many PICs, these issues represent serious potential constraints on domestic sovereignty, including in economic policy making, and are serious barriers to the completion of negotiations.⁵ To this end, Pacific trade ministers have declared their objective of negotiating the comprehensive EPA as a unified region.⁶

A source of objective support for the Pacific position has come from the member of the European Parliament responsible for reporting on the Fiji and PNG EPA negotiations, Glyn Ford. He has gone on record to say that he will recommend MEPs vote 'no' on the Pacific Interim EPA. Ford's specific concerns are the ban on export taxes, the need for infant industry protection, the skewed emphasis of provisions on intellectual property rights, and support for the Pacific demand for labour mobility (i.e. 'Mode 4').⁷

Aside from these issues, PIC technical negotiators report that PICs are looking forward to an early resumption of the technical-level negotiations in 2009. The assumption is that the formal conclusion of negotiations will be at the end of the year, allowing that PICs and the EU to focus on EPA implementation and a deepening of the relationship.

'Cotonou compromise' tuna tariff quota not renewed

A 12 percent duty tariff quota of 25,000mt of canned tuna and 4,000mt of tuna loins was provided to Indonesia, the Philippines and Thailand by the EU in 2003; a significant reduction from the MFN tariff of 24 percent on these products. This quota was in return for these Southeast Asian countries agreeing to a waiver of WTO non-compatible ACP-EU trade relations under the Cotonou Agreement in 2001. Hereon, the 'Cotonou compromise' tuna tariff quota.⁸

Importantly for PIC exporters, this quota was reportedly filled within days (i.e. product was warehoused prior to the opening of the quota and pushed through customs on the day it commenced). This indicates the very high level of competitiveness of these sites of production in Southeast Asia,

**European
Parliament
member highly
critical of
Pacific Interim
EPA**

**EU canned
tuna tariff
quota at 12%
duty used to
be filled within
days**



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as buyers in the EU would prefer to buy their product at 12 percent duty rather than ACP and GSP+ product at duty-free! The quota also benefited exporters. For example, Philippine canned tuna processors reportedly gained an additional USD2.4 million per year because of the quota.⁹

There has been some confusion around the future of the Cotonou compromise quota. It should have ended in December 2007 with the initialling of Interim EPAs and the associated end of non-WTO compatible ACP-EU trade. But given that many of these Agreements were not signed by the end of 2008 and that some EPA regions were still to reach agreement, the purpose of the quota – to compensate Southeast Asian tuna exporters – continued to have relevance.

This confusion has been cleared up by the European Commission's head of delegation to the Philippines, Alistair MacDonald. He stated that the Cotonou compromise quota ended in June 2008 and that it would not be renewed. Perhaps as an indication that canned tuna is a key issue in EU-ASEAN discussions for a free trade agreement, MacDonald went on to maintain that improving Philippine access to EU markets would come in the context of an FTA.¹⁰ (See the June and November-December 2008 issues of this *Briefing* for reports on an ASEAN-EU FTA.) However, Thailand in particular continues to be very vocal in its opposition to the EU tuna tariff regime, and Thai representatives continue to demand that EU tuna tariffs are liberalised. In addition, Philippine industry requested that the Cotonou compromise quota be extended and the volume expanded.¹¹ The way that these aggressive stances on market access will manifest themselves in ASEAN-EU FTA negotiations is open to speculation, but one thing is certain: the debate will continue to rage.

TUNA MARKETS

The economic downturn and the rise of frozen fish and private-labels

The deepening of the global economic downturn continues to impact food consumption patterns in principal markets. Indications of several potential trends have emerged in some principal markets for PIC exporters. The retail of private-label (or supermarket-own brand) products has grown in Europe and the US. One report estimates that private label products retail at 20-40 percent less than equivalent branded items, which hold an obvious attraction for those segments of society most hard-hit by actual or impending recession. Supermarkets are

**EU official
tells Southeast
Asian countries
to push for
improved
market access
for tuna
products
through FTA**



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consequently investing more in their own-brands. While it is likely that several big brands of canned tuna will be negatively impacted by this trend, given that canned tuna is generally a low-cost source of protein it may prove 'recession proof'.¹²

In a similar apparent attempt to reduce household expenditure on groceries – but within a different market segment – UK consumers are buying more frozen fish. Frozen food has reportedly experience two and a half years of accelerating growth. Sales of 'convenient' frozen ready meals have also grown in comparison to the chilled equivalent, no doubt because the difference in price can be as much as forty percent lower.¹³ At the same time, discounts on other forms of protein such as chicken, beef and pork mean that fish processors – and eventually fishers – have to follow suit. Several supermarkets in the US have launched 'two-for-one' deals for a wide range of seafood products, including fish fillets and canned tuna.¹⁴ While in the UK, even the more 'up-market' supermarkets are offering discounts on chilled fish products. In addition, the largest brand of fish products in the UK – Youngs – launched a new range called 'Credit Crunch Special Offers'. This included offers of products at under £1 (around USD1.40).¹⁵ The implication for PIC exporters of these tendencies is that buyers will be exerting a squeeze on prices paid for fish and fish products. The downward impact on price for all species of whole tuna – bar albacore – since the third quarter of 2008 is clear from the following figures.

***EU and US
supermarkets
are turning
their attention
to their own-
label-brands***

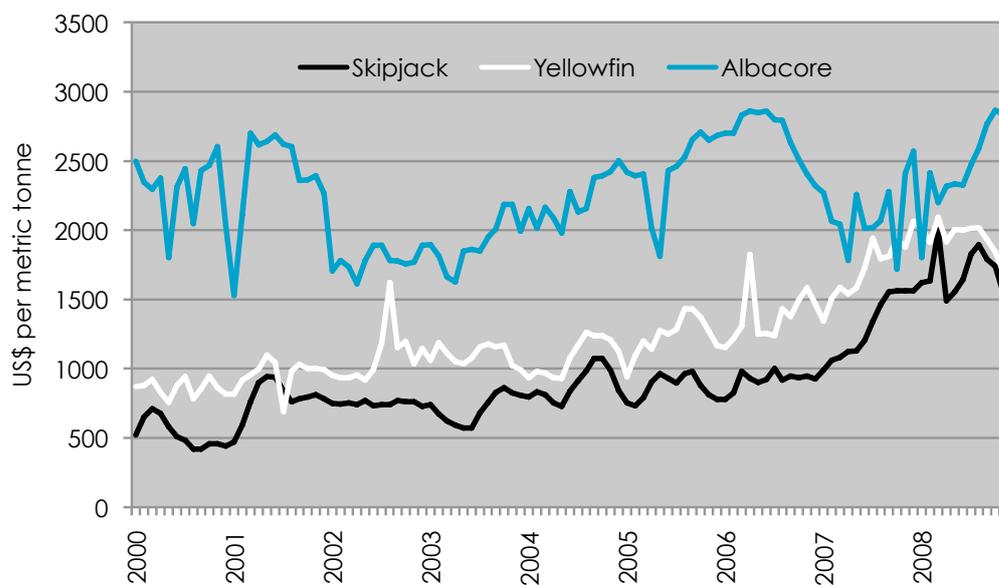
***UK consumers
eat more
frozen fish
while those
in the US
are offered
'two-for-one'
discounts
on seafood
products***



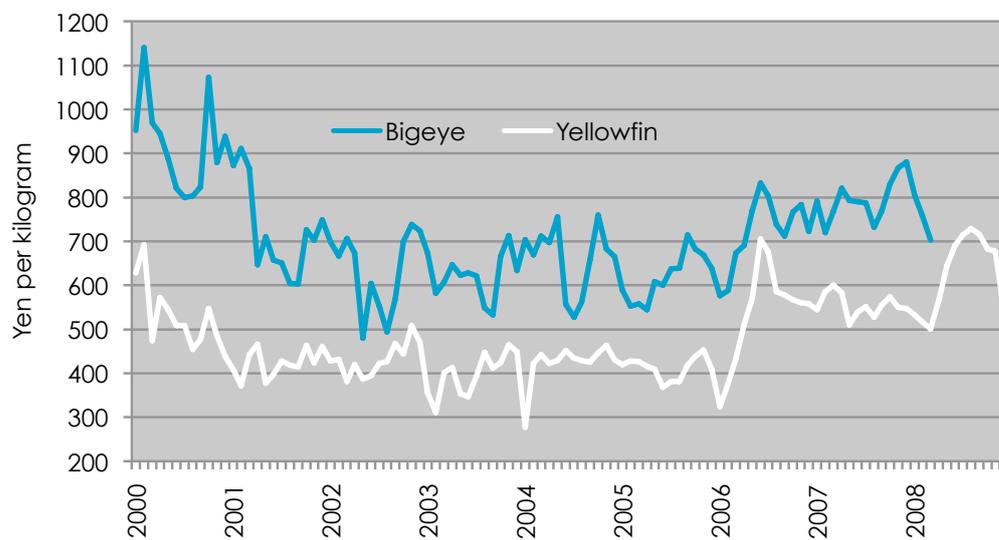
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TUNA PRICE TRENDS

Canning-grade prices: Bangkok (SKJ & YFT) and Pago Pago (ALB)¹⁶



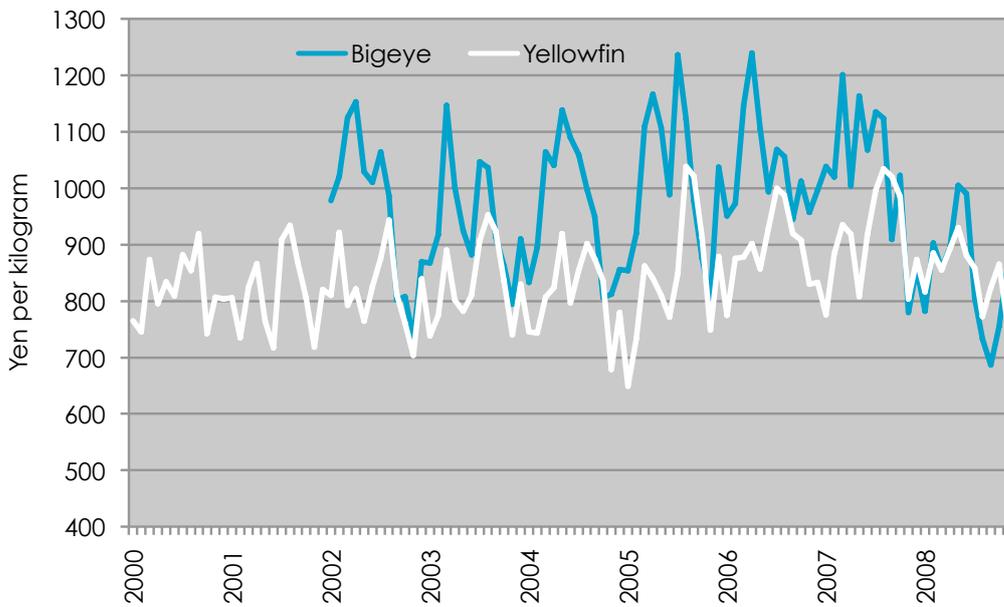
Japan frozen sashimi prices (ex-vessel, Japanese ports)¹⁷



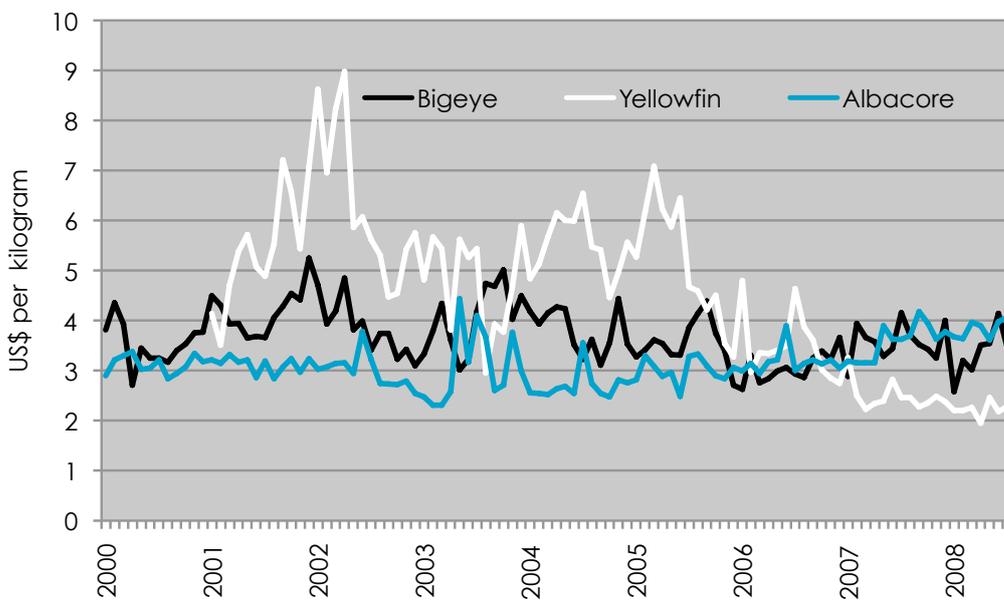


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Japan fresh sashimi prices (origin Oceania)¹⁸



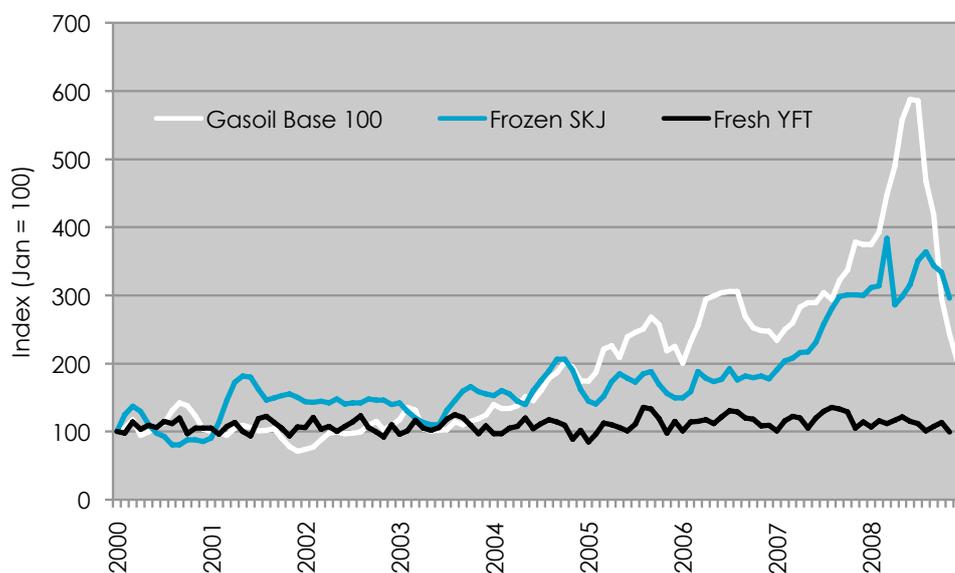
US fresh sashimi prices (origin Oceania)¹⁹





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Gasoil, canning-grade SKJ and sashimi YFT price index²⁰



Coming in the next issue (February 2009, Vol. 2: Issue 2)

- Trends and dynamics in tuna processing in Southeast Asia
- Impact of economic downturn on Japanese seafood firms



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² TN/RL/W/236, 'New Draft Consolidated Chair Texts of the AD and SCM Agreements', 18 December 2008. Available at: <http://www.wto.org>

³ WT/MIN(05)/DEC, 22 December 2005. 6th Ministerial Conference, Hong Kong, Doha Work Programme, Ministerial Declaration: Annex D: Rules, Adopted on 18 December 2005. Available at: <http://tinyurl.com/9bx7to>

⁴ See Article 6 of Protocol II concerning the definition of the concept of 'originating products' and methods of administrative cooperation, of the PACP-EU Interim EPA.

⁵ 'Pacific Governments want amendments to EPA', *National Broadcasting Corporation of Papua New Guinea*, 27 November 2008. Available at:

⁶ Samisoni Pareti, 'PNG goes with the region Trade minister Abal gives assurance', *Islands Business*, 10 November 2008. Available at: <http://www.islandsbusiness.com>

⁷ 'European Parliamentarian says Pacific EPAs must be changed', *PACNEWS*, 27 November 2008. Available at: <http://www.bilaterals.org>; Note that Glyn's remarks were supported by the Pacific Network Against Globalisation (PANG), see 'EU must sweeten Pacific trade deals', *TVNZ*, 24 November 2008. Available at: <http://www.tvnz.co.nz>

⁸ For an overview of this issue, see Liam Campling 'Direct and Indirect Preference Erosion and the Competitiveness of the ACP Tuna Processing Sector', in Veniana Qalo (2008) (eds.) *Bilateralism and Development: Emerging Trade Patterns*, London: Cameron May. PDF available from the author on request.

⁹ 'Increasing tuna quota in Europe to be negotiated under free trade pact', *MindaNews*, 22 December 2008. Available at: <http://www.mindanews.com>; Steve Robinson, 'EU: Reduced tariff for Asian tuna won't be renewed', *Intrafish Media*, 19 December 2008. Available at: <http://www.intrafish.no>

¹⁰ 'Europe rejects extension of tariff on canned tuna', *Sun Star* (General Santos), 30 December 2008. Available at: <http://www.sunstar.com.ph>; *MindaNews*, 22 December 2008; *Intrafish Media*, 19 December 2008.

¹¹ *Sun Star* (General Santos), 30 December 2008; *Intrafish Media*, 19 December 2008.



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¹² 'Ban economy spurs higher private-label sales', *IntraFish Media*, 22 January 2009. Available at: <http://www.intrafish.no>

¹³ 'Retail reality: Frozen foods benefiting from recession', *IntraFish Media*, 9 January 2009. Available at: <http://www.intrafish.no>

¹⁴ Ben DiPietro, 'Supermarkets try two-for-one deals to lure seafood consumers', *IntraFish Media*, 22 January 2009. Available at: <http://www.intrafish.no>

¹⁵ 'Young's slashes prices in credit crunch move', *Fishupdate.com*, 12 January, 2009.

¹⁶ Customs Department, Thailand. <http://www.customs.go.th/Statistic/StatisticIndex.jsp>

¹⁷ Note that the time series for bigeye tuna was discontinued in March 2008. FFA database.

¹⁸ Japan Customs. http://www.customs.go.jp/toukei/info/index_e.htm

¹⁹ US National Marine Fisheries Service. <http://www.st.nmfs.gov/st1/trade/index.html>

²⁰ US Energy Information Administration. http://tonto.eia.doe.gov/dnav/pet/pet_pri_spt_s1_m.htm