

FFA FISHERIES TRADE NEWS

Volume 3: Issue 10 & 11 October & November 2010

By Amanda Hamilton, Liam Campling, Elizabeth Havice and Manleen Dugal¹

FISHERIES SUBSIDIES

New fisheries subsidies proposals by Korea and Australia at the WTO²

On 4-5 October 2010, the WTO Negotiating Group on Rules for Fisheries Subsidies met once again to continue deliberations, this time under the direction of a new chair, Ambassador Dennis Francis (Trinidad and Tobago), who replaced the former Chair Ambassador Guillermo Valles Galmes (Uruguay) in July. Stimulating discussions were held on new ideas and technical concepts for disciplines on fisheries subsidies, emerging from two novel submissions by Korea and Australia. Delegations were also very keen to inform the new chair of their negotiating positions on the Draft Chair's Text (drafted by the former chair in December 2007).

Korea's proposal: A key aspect of Korea's proposal (TN/RL/GEN/168)³ is to provide for differentiated treatment in the proposed fisheries disciplines for non-recurring and recurring subsidies. Non recurring subsidies, in the fisheries context, would typically refer to subsidies provided for fixed capital assets (i.e. vessel construction, maintenance and repair). Recurring subsidies, on the other hand, would typically include subsidies for operating costs, port infrastructure and price and income support. Korea proposes to outrightly prohibit all non-recurring subsidies, including subsidies for IUU fishing and the onward transfers of access rights. In contrast, it proposes to treat recurring subsidies as actionable subsidies, by subjecting them to fisheries 'adverse effects test', which would involve a science based assessment to evaluate the impact of alleged subsidies on fish stocks. The proposed treatment is based on the economic logic used in the WTO Agreement on Subsidies and Countervailing Measures (SCM) that non-recurring or one-time subsidies, subsidies the benefits of which are felt beyond the period in which the subsidy is provided, will have a greater long-term impact on competition in world markets vis-à-vis recurring subsidies. By doing so, Korea's proposal attempts to ensure that new disciplines on fisheries subsidies remain consistent with the basic principles and jurisprudence of the SCM Agreement.

Friends of Fish, especially, New Zealand, Australia and the United States considered Korea's proposal to be a step backwards in fulfilling the WTO mandate for prohibiting subsidies that



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**Trinidad
& Tobago
now holds
the Chair's
position for
the WTO
Negotiating
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contribute to overcapacity and overfishing. Pacific Island Country representatives present at the meeting questioned whether onward transfers of access rights would fall under the category of an outright prohibition as proposed by Korea. In their expressed opinion, fishing that occurs under fisheries access agreements are often based on strict management conditions for access and adherence with the coastal states' national or regional legislation for management of resources. Therefore, a case-by-case (i.e. fleet-by-fleet analysis) would be required to assess the impact on over-capacity and over-fishing instead of a blanket prohibition.

Australia's proposal: Australia's proposal (TN/RL/GEN 167)⁴ calls for the addition of a new category of prohibited fishery for destructive fishing practices on vulnerable marine ecosystems and habits, including bottom trawling and large-scale drift-nets, for both territorial waters and the high seas. Norway reminded members that important work takes place in the UN on the issue of destructive fishing practices and international consensus regarding a ban on such practices has so far eluded the international community. They, along with a few other Friends of Fish, however, expressed interest in exploring whether there could be a consensus to ban all subsidies to such gear types or fishing practices at the WTO.

Australia's proposal also called for textual clarifications on General Exceptions (Article II), to ensure that any risk of overcapacity or over-fishing is minimised in association with subsidies that are permissible because they are deemed to be beneficial to fish stocks (i.e. income support for fishworkers to exit the industry, subsidies for vessel decommissioning and capacity reduction). For example, Australia suggests separating decommissioning and capacity reduction into two separate exemptions and including more targeted conditions to ensure that any vessel subject to a subsidy for decommissioning is permanently removed from the industry to avoid the vessel simply shifting to another region.

The Australian proposal also sets out some additional views on other areas of the Chairs text where the concepts could be clarified or improved including notifications, surveillance and peer review.

During the same week, various plurilateral discussions were also held on the proposed prohibition clause, general exemptions for artisanal & small-scale fisheries and on the proposal by Brazil, India, China & Mexico (TN/RL/GEN/163).⁵

Korea has proposed differential treatment for recurring and non-recurring fisheries subsidies; with outright prohibition of the latter

Australia proposed that subsidies for destructive fishing practices (including bottom trawling and large-scale drift nets) should be included under the prohibition



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The Negotiating Group on Rules is scheduled to meet again in December 2010.

FISHERIES TRADE AND DEVELOPMENT

MSC assesses skipjack and yellowfin for sustainability, advocacy groups ISSF and Pew object

In April 2010, the Parties to the Nauru Agreement (PNA)⁶ entered the Western and Central Pacific purse seine skipjack fishery into Marine Stewardship Council (MSC) full assessment. While the fishery targets skipjack using artificial and naturally occurring FAD sets (i.e. logs), vessels also target free-swimming schools. Given the high level of juvenile bigeye by-catch associated with artificial FAD sets (and also arguably, log sets), the unit of certification is limited to catch on free-swimming schools and log sets. If successful, the certification will cover over 500,000mt of tuna catch annually.⁷

The industry-led advocacy group, the International Sustainable Seafood Foundation (ISSF), has publicly opposed the skipjack MSC certification and raised a series of objections and concerns over the certification, including:⁸

- WCPFC does not have established limit reference points or harvest control rules for tuna species.
- MSC's threshold for main and minor by-catch species is defined by per cent of total catch, a measure that does not consider by-catch species of small, overfished or otherwise vulnerable species.
- Natural log sets are not assessed as part of 'habitat indicators', even though they act as pelagic habitats and play an ecological role.
- The PNA fishery under assessment is defined only as the part of a trip where log sets and unassociated sets are made, despite the fact that vessels will also likely make FAD sets during the same trip, which means that the certification ignores segments of a fishing trip (and hence, fishery) that could be 'unsustainable'.
- Despite highly migratory stocks being managed by regional, sub-regional and national bodies, only the PNA management framework (sub-regional) will be assessed; WCPFC will only be covered to the extent that it supports PNA management.

***The ISSF
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skipjack***



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Moody Marine, the MSC accredited certifying body undertaking the full assessment, is tasked with responding to ISSF's concerns as part of the assessment process. ISSF's criticisms reveal that as MSC certification grows and is applied to a wide array of fisheries, the assessment criteria will need to be adapted to reflect the specific production conditions and complexity of the fisheries under evaluation. However, ISSF's objection to MSC certification has left some fearing that ISSF gives industry a forum to present itself as sustainable while opposing third party independent certification schemes that industry cannot control, but that may present challenges and costs to the industry.⁹

Likewise, Pew Environment Group has criticized a proposal for MSC certification of a yellowfin surface longline fishery in the waters off of northeast Florida, citing high levels of bycatch of threatened and endangered sea turtles and iconic bluefin tuna, white marlin and sailfish.¹⁰ MSC responded with a public statement indicating that it is too early to know if any aspect of the fishery is not compliant with MSC standards. The MSC highlighted that all fisheries in certification are assessed against MSC standards and that even problematic fisheries have reduced their environmental impacts by making improvements (such as gear modifications) to come into compliance with MSC requirements.¹¹

FISHERIES MANAGEMENT

Pacific Island Countries prepare for the Seventh Regular Session of WCPFC

In preparation for the upcoming Seventh Regular Session of the WCPFC, FFA members recently held their annual Management Options Consultation (MOC) at FFA's Headquarter in the Solomon Islands. MOC follows after the annual meetings of the WCPFC's Scientific Committee (SC) and Technical and Compliance Committee (TCC) to enable FFA members to take into account recommendations made from these meetings when developing fisheries management and compliance-related proposals and negotiating positions to take to WCPFC.

During SC (held in Tonga from 10-19 August), a review of WCPO fisheries in 2009 indicated that the provisional total tuna catch estimate for the WCPFC Convention Area was 2.46 million mt; the highest annual catch ever recorded and 70,000 mt higher than the previous record in 2006 (2.39 million mt). Following suit, the purse seine fishery recorded its sixth consecutive record

Criticisms of the MSC full assessment for the PNA purse seine skipjack fishery demonstrate that assessment criteria will have to be adapted to reflect the specific production conditions of the fishery in question



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catch of 1.89 million mt. SPC fisheries scientists indicated that existing measures for the management and conservation of bigeye stock are not effective enough to reduce fishing mortality by the recommended level of at least 30 per cent on 2004 fishing levels, with additional measures required. A preliminary analysis of the effectiveness of the 2009 FAD closure implemented under WCPFC CMM 2008-01 indicated that the reduction in bigeye catch was not as high as expected and, as such, the measure was somewhat ineffective in 2009.¹²

At TCC (held in Pohnpei from 30 September – 5 October), PNA and the Cook Islands announced their intention to propose additional high seas areas closures to WCPFC (discussed further below). Reviews of the regional observer program and WCPFC IUU list were also undertaken and discussions held on the development of a catch documentation scheme.¹³

After deliberations during MOC, the Forum Fisheries Committee endorsed the following FFA member positions to be taken to WCPFC in December:¹⁴

- *Illegal fishing* – propose for amendments to conservation and management measures (CMMs) to ensure prosecutions and penalties for illegal vessels are to the satisfaction of the state where the vessel committed the offences.
- *South Pacific albacore* – propose amendments to CMM 2005-02 on South Pacific albacore, requiring members to explicitly report against the fishing limits prescribed by the measure.
- *Northern striped marlin* – propose a measure to reduce northern striped market catches
- *Whale Sharks* – proposal to ban purse seine vessels from making net sets on whale sharks, under and around which tuna aggregate.
- *Special requirements* – suggestions for discussions on the special requirements of small island developing States during the WCPFC7 session, including increased commercialisation, enhancing the capacity for SIDS to conserve and manage fisheries and broader consideration of the importance of rights-based management as a tool to facilitate SIDS aspirations in tuna fisheries.

Options for future management of bigeye (including further limitations on use of FADs by purse seiners and measures for the longline fishery) are still being considered by FFA members, along with options for a catch documentation scheme to verify catch and provide enhanced traceability.

The highest annual tuna catch on record for the WCPFC-Convention Area was recorded in 2009 at 2.46 million mt

FFA members will deliver proposals to WCPFC on illegal fishing, South Pacific albacore, Northern striped marlin and whale sharks; positions are still being considered on bigeye and a catch documentation scheme



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PNA announce closure of additional high seas areas

The Parties to the Nauru Agreement (PNA) made an announcement to WCPFC members in early October during the sixth session of the WCPFC Technical and Compliance Committee (TCC) of their intention of close additional high seas areas within the Western and Central Pacific ocean to all purse seine fishing vessels licenced to fish in PNA EEZs. This closure covers high seas areas between 10°N-20°S and 150°W-170°E and follows the closure of two high seas pocket areas located to the north of PNG which came into effect on 1 January, 2010.

PNA's rationale for closure of additional high seas areas is three-fold. Firstly, the WCPFC Scientific Committee has advised that additional management measures are necessary for bigeye conservation and expressed concern that bigeye mortality will increase if purse seine effort from the two already closed high seas pockets areas is transferred to high seas areas in the east. PNA members believe that extending the high seas fishing ban will reduce the impact that other measures (i.e. extension of FAD closures, overall purse seine fishing limits) would otherwise have on fishing activity within PNA EEZs. Secondly, PNA feels that given the level of control on high seas fishing in the WCPFC region lags behind control within PNA EEZs that banning purse seine fishing on the high seas will help to increase compliance.¹⁵ Economic considerations have also likely influenced PNA's decision, where closure of additional high seas areas will increase demand, and in turn, the value of fisheries access to PNA EEZs.

The PNA countries will propose to WCPFC in December that a compatible conservation and management measure be adopted and applied to all fleets operating in the WCPO purse seine fishery. Unless this PNA measure is adopted at the WCPFC-level, the ban will not extend to vessels that are not currently licenced to fish in PNA waters, nor is it likely to apply to the US purse seine fleet due to inconsistencies with the terms of the US Multilateral Treaty.¹⁶

Following in PNA's footsteps, the Cook Islands also announced its intention to table a proposal to WCPFC for the establishment of a management area for the eastern high seas pocket area on the border of the Cook Islands, French Polynesian and Kiribati EEZs. This will require all vessels to report entry and exit into the area and VMS reporting via WCPFC to neighboring countries.¹⁷

Additional high seas areas in the eastern WCPO will be closed to all purse seine fishing vessels licenced to fish in PNA EEZs, with a compatible measure sought at WCPFC

A key aspect of US Treaty negotiations revolves around application of the Vessel Day Scheme

Cook Islands has proposed the establishment of a management for an adjacent eastern high seas pocket



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New IATTC Members Canada and European Union plan to table new conservation measures

The Inter-American Tropical Tuna Commission (IATTC) has seen membership grow since ratifying its new Convention in August 2010. Canada, which defected from the IATTC in 1984 and rejoined as an observer in 2001, has recently rejoined as a full member, emphasising the importance of effective Pacific albacore tuna management. The fishery brings approximately US\$30 million to Canada each year.¹⁸ Since the stock migrates between international waters and the EEZs of Canada and the United States, Canada's IATTC membership will enable the country to influence management decisions in a way that protects the interests of its coastal communities and the Canadian fishing industry as a whole. In addition to Pacific albacore management, the Canadian government indicates that it will emphasise United Nations Port State Measures as an efficient and cost effective tool to prevent IUU catch from entering the market.¹⁹

Also joining the IATTC as a full member is the European Commission which was formerly a cooperating non-party. With its new membership status, the EU plans to emphasise the fight against IUU activities and, like Canada, will urge IATTC to adopt United Nations Port State Measures. The EU also plans to table measure to freeze long-line vessel fleet capacity and propose measures to limit seabird bycatch.²⁰

Atlantic and Southern bluefin tuna face new regulations

Following the failed attempt to ban Atlantic bluefin tuna trade through the Convention on International Trade in Endangered Species (CITES),²¹ heated debate continues over how to ensure the longevity of species and the valuable fishing industry that it supports. In October 2010, Spain hosted the International Commission for the Conservation of Atlantic Tunas (ICCAT) scientific committee meeting in which scientists indicated that maintaining total allowable catch (TAC) at 14,900 mt (the 2010 TAC) from 2011 through 2013 would allow stocks to continue to increase and recover by 2022 with at least 60 per cent probability. However, scientists warned that unreliable data plague assessments and limit the efficacy of scientific advice.

Environmental non-governmental organisations WWF and Pew Environment Group criticised the recommendation. WWF and Greenpeace called for a quota under 6,600 mt per year, arguing

***New IATTC
Members
Canada and
the European
Union plan to
push for IUU
controls and
adoption of
the United
Nation's Port
State Measures***



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that data gaps require managers to use more caution. Pew charged the scientific committee with failing to recommend catch limits based on sound science and called for ICCAT countries to halt all bluefin tuna fishing and protect spawning grounds.²² The European Commission announced that it may go beyond the recommendations and voluntarily slash its fishing quota for 2011 to ensure the long-term sustainability of the fish.²³

Concern over Atlantic bluefin populations remains and were further intensified when an estimated 4.9 million barrels of oil spewed from the shattered Deepwater Horizon oil rig in the Gulf of Mexico – one of the Atlantic bluefin tuna's breeding grounds. Surface oil is suspected to have heavily impacted juvenile stocks of Atlantic bluefin.²⁴ Compounding this issues are persistent concerns over bluefin populations which has led governments in the Western Atlantic to consider proposals to list the species 'endangered' and apply associated controls on industry. First, scientists from the Committee on the Status of Endangered Wildlife in Canada are reviewing the status of the western Atlantic stock and plan to make a recommendation to the federal departments of Environment and Fisheries and Oceans.²⁵ Likewise, the United States government is reviewing a petition and lawsuit to protect Atlantic bluefin under the Endangered Species Act which could limit or eliminate fishing. The National Oceanic and Atmospheric Administration (NOAA) has already ruled that the endangered species action may be warranted and ordered a stock status review. The agency will make a final ruling in spring 2011.

Contrary to these concerns, for the first time in at least five years, American fishers are on target to catch the country's entire 900 mt bluefin quota; evidence, the fishing industry suggests, that the stock is recovering.²⁶

Southern bluefin, the stock found throughout the southern hemisphere of the Pacific, is also facing new regulations. The Commission for the Conservation of Southern Bluefin Tuna (CCSBT), which met in October, suggested that the new total allowable catch (which would be effective for 2012) for the fish will be lower than the 2011 limit of 9,449mt. The TAC decline is aimed at helping the spawning stock of the SBT to rebound to 20 percent of the original stock. Current spawning biomass remains approximately five per cent or less of unfished levels.²⁷

The ICCAT scientific committee recommended freezing bluefin catch limits at 2010 levels through 2013; the EU suggests it will slash catch to protect the stock

Southern bluefin quotas are likely to be slashed in 2012

On the heels of the Gulf of Mexico oil spill, Canada and US governments are reviewing calls for endangered species protection for Atlantic bluefin



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TUNA MARKETS

Tri Marine deal finalised to purchase Chicken of the Sea's former cannery in American Samoa

On 5 October 2010, Tri Marine signed an agreement to transfer ownership (for an undisclosed value) of Chicken of the Sea International's (COSI) former tuna processing facility in American Samoa, to be operated under the name of Samoa Tuna Processors Inc. At the same time, COSI's land lease with the American Samoan Government was terminated and a new lease was signed with Tri Marine.²⁸

Tri Marine reportedly plans to demolish the current structure and re-design the plant, with construction expected to commence next year. The new cannery could potentially provide up to 1,000 jobs over a two year period.²⁹ Full details concerning Tri Marine's plans for the processing facility are yet to be disclosed, however, Tri Marine's CEO has indicated that the intention is to produce very high quality tuna for the US market. A recent media report also mentioned that Tri Marine is considering 'going green' by establishing an environmentally-friendly processing plant.³⁰

In an effort to increase global competitiveness of tuna processing operations in American Samoa, Tri Marine has lodged a tax exemption application with the American Samoan Government. A public hearing for Tri Marine's application was scheduled with the Tax Exemption Board for early November, after which American Samoa's Governor is set to make a ruling based on the Board's recommendation. Details concerning the outcome of the public hearing are yet to be released.

Some lawmakers have raised concerns that Tri Marine may end up receiving a 'better deal' in American Samoa than the existing canning operator, Starkist. However, Governor Tulafono has given his reassurance that the Government is also working closely with Starkist, but there are some issues to be resolved.³¹

Both Tri Marine and Starkist will benefit from President Barak Obama signing a bill on September 30, which delays the implementation of the federally mandated minimum wage rate increase to US \$7.25 per hour in American Samoa in 2011 and 2012. On September 30, the minimum wage in American Samoa was scheduled to increase by \$0.50 to \$5.26 per hour.³²

The sale of Chicken of the Sea's cannery in American Samoa to Tri Marine is now finalised; the new plant will operate as Samoa Tuna Processors Inc

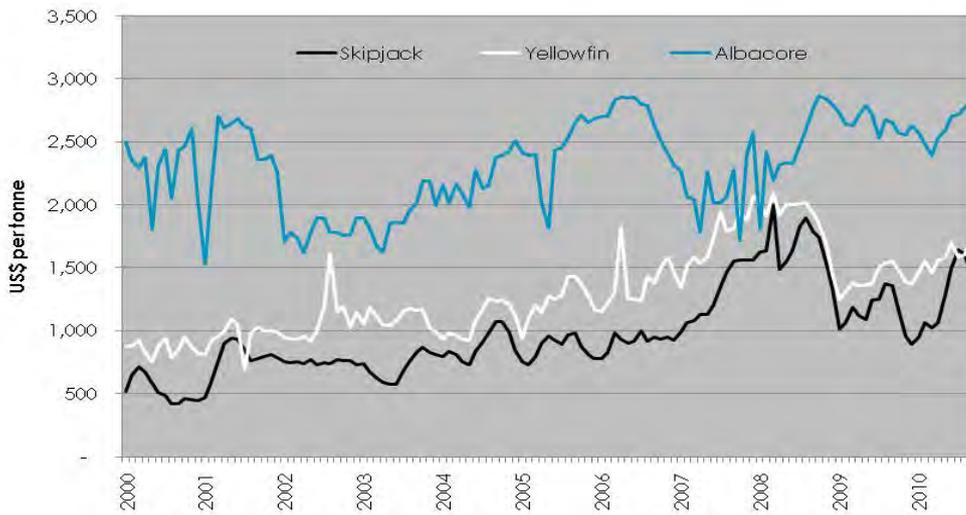
Tri Marine is seeking a tax exemption from the American Samoa Government

US President Obama has delayed the federally mandated minimum wage rate increase in American Samoa for the next two years

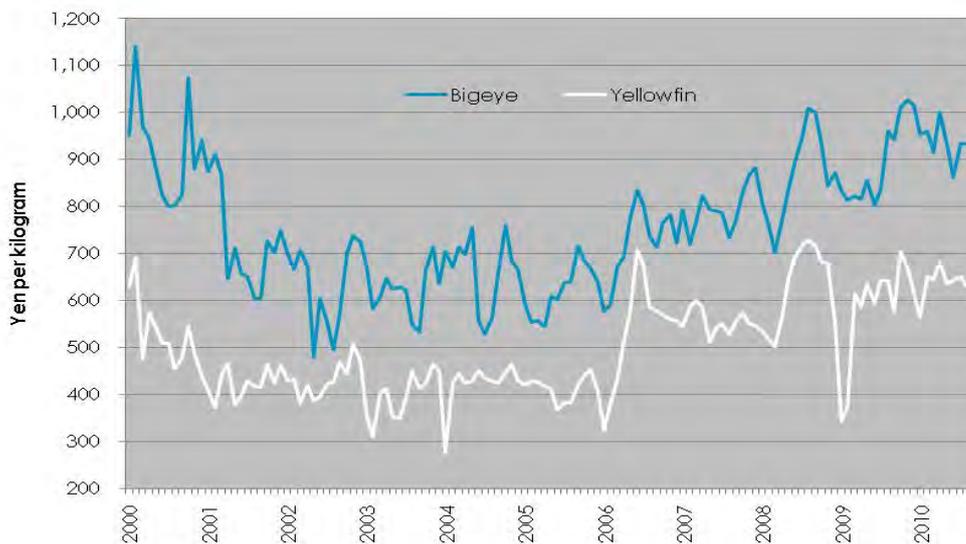


TUNA PRICE TRENDS³³

Bangkok canning-grade prices to September 2010³⁴

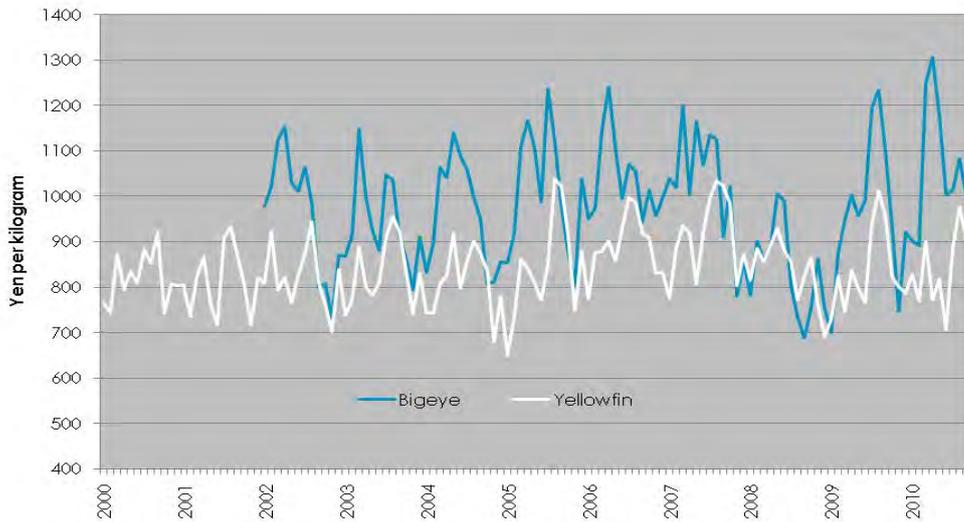


Japan frozen sashimi prices (ex-vessel, Japanese ports) to September 2010³⁵

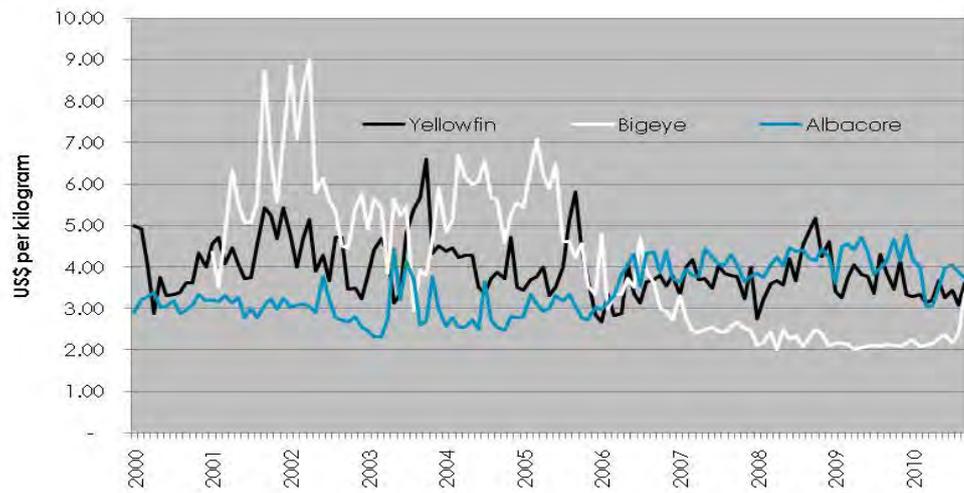




Japan fresh sashimi prices (origin Oceania) to September 2010³⁶



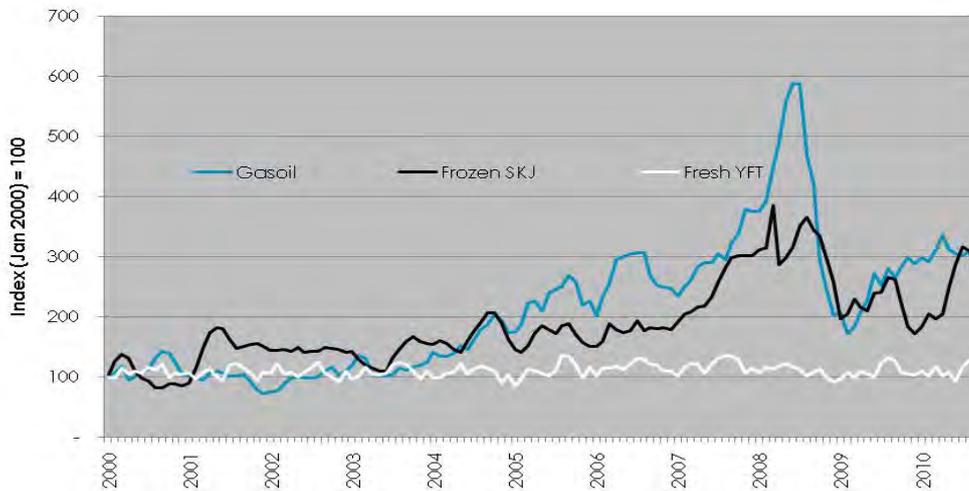
US imported fresh sashimi prices to September 2009³⁷





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Gasoil, canning-grade frozen skipjack (SKJ) and fresh sashimi yellowfin (YFT) price index to September 2010³⁸



Coming in the next issue (December 2010, Vol. 3: Issue 12)

- Update on EU-EPA negotiations
- Future of Pacific tuna fisheries



¹ Prepared for the FFA Fisheries Development Division by Liam Campling, Consultant Fisheries Trade Analyst, FFA, Elizabeth Havice, Post-doctoral scholar, Center for Latin American Studies, University of California-Berkeley, and Amanda Hamilton, independent consultant. Desktop publishing by Antony Price. The authors would like to thank Hugh Walton for his input on an earlier draft of this briefing. The contents of this briefing (including all analysis and opinions) are the responsibility of the authors and do not necessarily reflect the positions or thinking of the FFA Secretariat or its Members.

² This article has been written by Ms. Manleen Dugal, Technical Advisor (Trade Policy), Pacific Islands Forum Secretariat Office in Geneva.

³ Korea's proposal (TN/RL/GEN/168) is available at: http://www.wtocommerce.org.tw/SmartKMS/do/www/readDoc?document_id=109806&action=content

⁴ Australia's proposal (TN/RL/GEN/167) is available at: http://www.wtocommerce.org.tw/SmartKMS/do/www/readDoc?document_id=109629&action=content

⁵ Government officials interested in a detailed account of the plurilateral deliberations on fisheries subsidies at the WTO can contact Ms. Manleen Dugal at Pacific Islands Forum Office, Geneva or Mr. Hugh Walton at FFA.

⁶ The Parties to the Nauru Agreement are: Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands and Tuvalu.

⁷ 'Over 500,000mt of skipjack tuna entered into MSC full assessment', Marine Stewardship Council Press Release, 27 April 2010. Available at: <http://www.msc.org>

⁸ Susan Jackson, Letter to MSC regarding the PNA Western & Central Pacific skipjack tuna free school and log set purse seine fisheries certification, On behalf of the International Seafood Sustainability Foundation, 23 August 2010. Available at: <http://www.iss-foundation.org>

⁹ Natalia Freitas 2010, 'MSC certification PNA skipjack possible threat to ISSF members', Atuna, 21 September. Available at: <http://www.atuna.com>

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¹⁶ Natalia Freitas (2010) 'PNA high seas closure may not effect U.S. tuna fleet', Atuna, 25 October, 2010.

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¹⁸ 'Canada and the Inter-American Tropical Tuna Commission', Fisheries and Oceans Canada, 7 May 2010. Available at: <http://www.dfo-mpo.gc.ca>



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