FFA TRADE AND INDUSTRY NEWS

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EDITORIAL NOTE, FFA DIRECTOR GENERAL JAMES MOVICK

Trade and industry intelligence key to Pacific fisheries management

FFA's Fisheries Trade and Industry Newsletter, TIN, has come a long way since it first began as a newsletter on market price information in 2001. Taking into account the interests and increasing demand from our readership, FFA-TIN underwent an expansion in 2007 to also include Trade News. Throughout my own career, I have been pleased to see the evolution of the newsletter as it has kept pace with the changes and trends in Pacific Fisheries. Now, I am pleased to see it has become a leading information resource for those who are in turn leading the way in Pacific Fisheries development, management, and industry research.

Timely analysis, new research and data, and leading commentary on trends and change is critical information for leaders in any field of development. FFA-TIN continues to provide up-to-date market information and insights into the critical link between trade intelligence and investment, development and management of fisheries. Thanks to support from the Japan Promotion Fund (JPF), FFA tendered the production of the newsletter in late 2013 and I am very pleased to welcome back Dr. Liam Campling and Dr. Elizabeth Havice as the Co-Editors of FFA-TIN for the next two years. Their efforts in previous years is largely the reason for FFA-TIN's high ratings by independent observers seeking credible and relevant resources in an information-rich world.

In addition, no newsletter is complete without input and feedback from its raison d'etre – its readers. We encourage feedback, comments, and ideas related to content and format. Your feedback and ownership will ensure FFA-TIN continues to play an important role in informing stakeholders and the public about the economic state of the industry.

PREFERENTIAL TRADE AGREEMENTS

EU Loins Quota for 2014 exhausted in ten days

On 1 January, the EU Single Duty Loins Quota opened for 2014. This quota permits 22,000mt of pre-cooked tuna loins to enter the EU duty free from third countries on a 'first-come, first-served' basis. Typically, the quota is fully utilised by the end of the first quarter, although in some years it is filled as early as January. This year, the quota was exhausted by 10 January,[2] just ten days after opening – likely, taken up mostly by Thai processors, who are otherwise subject to pay 24% duty on loins.

Since the introduction of the quota in 2004, the quota volume has increased with each revision to meet the growing demand of EU processors for loins. Given the annual quota of 22,000mt for 2013-2015 (which is 7,000 mt higher than the previous quota of 15,000mt at 6% duty) continues to be fully utilised in a fairly short period of time, it could be expected that the loins quota will continue post-2015 and be once again revised upwards.

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FISHERIES DEVELOPMENT

Update on South Pacific Albacore crisis

Domestic fleets participating in the South Pacific longline albacore fishery continue to struggle heavily, blaming fierce competition from the burgeoning subsidised Chinese longline fleet and depressed prices due to the over-supply situation for canning-grade albacore (also related to increased catches from the influx of Chinese vessels).

The impacts on the Fiji longline domestic fleet are dire – Fiji Fish has suspended its domestic albacore fishing operations, laid off 120 staff and closed five out of seven local retail outlets. Solander is operating its domestic fleet at below capacity and has also had to reduce its staff base by 80 people.[3] In addition to these direct impacts, contraction of businesses and associated job losses are expected in downstream industries that support Fiji's tuna industry and there are concerns that a reduction in by-catch available for sale in the local market may compromise Fiji's food security.

The Fiji government has responded to the crisis and will introduce an incentives package designed to remove some of the impediments for the domestic fleet and help to bring local operating conditions more in line with international practice, including: [4]

- A reduction in Fiji domestic longline albacore fishing licences from 70 to 60 for 2014 and 2015.
- Extension of the domestic licencing period for three years, with licence fees paid in instalments.
- An increase in the bunker fuel levy for foreign vessels from $0.02 to $0.06/litre.

This assistance from the Fiji government is welcomed by the local industry and while the measures are considered to be a step towards developing a more level playing field between domestic and foreign vessels, there are concerns that a reduction in local fishing licences will have little to no impact, unless limits on fishing effort/catch are introduced across the board for the entire South Pacific Albacore longline fishery.[5]

In response to calls from the American Samoan longline industry, where close to 20 vessels were recently put up for sale, the American Samoa government has pledged support. Governor Lolo Moliga has indicated that his administration will take actions within its financial capacity and legal purview to assist in improving the operating environment and viability of the Pago Pago-based fleet.[6]

While the Chinese longline fleet currently mostly only operates within the WCPO, fishing fleets targeting albacore for canning that operate outside the WCPO are also feeling competitive impacts. The majority of global albacore catch is used for canning – mostly for the US market. Around 65% of global albacore catch (255,324mt in 2012) is sourced from the Pacific Ocean (167,650mt in 2012), 75% of which is taken within the Western and Central Pacific Convention Area (126,577mt in 2012).[7] Hence, over-supply of albacore from the WCPO impacts canning-grade prices globally. The US West Coast

Fiji Government has introduced an incentives package in response to a contraction in its domestic albacore longline fleet

Albacore fishing fleets operating outside the WCPO are also feeling competitive impacts of the growing Chinese longline fleet albacore fishery has expressed difficulties competing in the global market, in part due to competition from the expanding Chinese fleet.[8] Taiwanese fleets operating in the WCPO, as well as the Indian and Atlantic Oceans are also feeling the impact. While Taiwanese vessels have a lower operating cost structure than Pacific domestic vessels and are more economically resilient, they are not subsidised to the level that Chinese vessels are and are also suffering from lower revenues due to reduced CPUE (in the WCPO) and depressed prices, as well as high fuel costs.[9]

Currently, alternative market opportunities for albacore are limited, albeit growing. Besides the US canned market for albacore, there are limited opportunities for shelf-stable albacore products. Markets exist in Spain and France for canned, glass-jarred and raw pack albacore, especially during the summer months, but demand is largely met by local fleets and processors.[10] While bigeye and yellowfin are typically used for higher-value sashimi, albacore is becoming increasingly attractive as a lower-value sashimi (particularly, 'poor man's' toro/belly) in Japan, and reportedly accounts for two-thirds of tuna sales through supermarkets.[11] Imports of fresh albacore into Japan remain low (155mt in 2013), but frozen imports have increased markedly over the past 4-5 years. In 2009, 8,487mt of frozen albacore was imported; in 2013, 22,135mt (almost triple the volume from five years before).[12] However, in reality, not much frozen albacore from the Pacific Islands ends up Japan, as Japan prices are typically lower than cannery albacore prices for whole round frozen albacore. To date, Japanese demand for fresh albacore is seasonal (March-September) and limited, given the low fat content. Like Japan, albacore is also becoming gradually more accepted in the US sashimi and value-added products markets (i.e. fillets, steaks, saku blocks), but from a much lower demand base.[13] Fresh albacore to the US (West Coast) is likely one of the only viable markets for South Pacific Albacore. Limited opportunities exist for fresh and frozen value-added frozen albacore products into European markets (Spain, France, UK) to complement seasonal domestic catches in the off-season – perhaps up to 1,000mt annually.[14]

The US canning market remains the dominant market for albacore

Western Indian Ocean: piracy declines, fishing capacity returns

The incidence of piracy in the Western Indian Ocean (WIO) is now considerably reduced. In 2013 there were only 15 reports of piracy attacks on all boats in waters near Somalia compared to 237 in 2011. In addition to actions on land by local civil society and government in Somalia, this drop can be explained by the presence of various naval forces patrolling the region (i.e. China, India, EU, US) and the growing presence of security on boats; for example, French marines on French purse seiners and private military security on the Spanish fleet.[15] The costs to the EU fleet of trying to mitigate piracy have been high. For example, in 2010, French seiners were compelled to fish in pairs of boats which improved security, but limited the effectiveness of operations. In addition, owners are responsible for the costs of commercial flights for French marines to the port of boarding (normally Seychelles) and the costs of accommodation when in-port resting. The Spanish fleet also bears security personnel costs, although reportedly the Basque Country government has partially subsidised this.[16]

Piracy seems to have had positive unintended consequences for tuna stocks. The 2013 IOTC Scientific Committee report stated that there is no overfishing of bigeye, skipjack nor yellowfin tuna and that the stocks are not overfished. To put this into context, reference points of yellowfin were exceeded in 2003-2006 due to increased catchability. In response, in 2009 the IOTC Scientific Committee stated that 'stock size is close to or has possibly entered an overfished state'.[17] Piracy attacks displaced longline and purse seine fishing catch/effort to other areas of the Indian Ocean and to other oceans.[18] For example, the activity of the French fleet in the WIO dropped by almost 50% between 2008 and 2012, with several boats relocating to Abidjan, Ivory Coast.[19] Reduced tuna fishing activity had a negative effect on coastal states, contributing to a drop in licence revenue and local income from the provision of goods and services to the purse seine fleet in both Madagascar and Seychelles.

Western Indian Ocean piracy appears to have helped tuna stocks recover

In parallel with the decline in piracy and in response to higher canning-grade tuna prices since early 2011, European firms have been building new boats. New purse seiners are on order by Albacora (two new boats are due in the WIO by July), Atunsa (one due in July), Echebastar (one due in February and two due in 2015), and Inpesca (one due in February).[20] Several older boats in the Spanish WIO purse seine fleet have been sold. Some were transferred to interests in the Pacific Ocean, while Echebastar sold others to South Korean firms, including Dongwon Industries (see story below), and remain active in the WIO.

For the French fleet, only two firms are significant in the WIO. Compagnie Francaise du Thon Oceanique (CFTO) recorded a profit of €1.2 million in 2012 after a loss of €6.9m in 2011 and several bad years due largely to the impact of piracy, resulting in it selling two older seiners. It ordered two new seiners in 2013 which are being built in Spain.[21] CFTO's older, smaller seiners are based in West Africa as these are more appropriate to calmer conditions there (i.e. compared to the WIO monsoon and generally worse weather). Further, smaller boats can be profitable there because they catch, on average, a greater proportion of yellowfin compared to the WIO where more skipjack is caught making bigger boats and larger volumes more important. The other French player is the Reunion-based Sapmer, owned by the same interests as Bourbon, one of the world's main oil and gas supply boat firms. Sapmer traditionally operated longliners from Reunion and now has seven purse seiners in the WIO and will have 10 by 2015. This will make Sapmer one of the biggest players in the Indian Ocean. As reported in FFA Fisheries Trade News in January-February 2013, Sapmer is simultaneously engaged in expansion in the WCPO.[22]

French and Spanish firms are renewing their purse seine fleets in the Indian Ocean

In summary, while these developments bode well for coastal states in the region both in terms of licence revenue and the provision of goods and services, the re-opening of the WIO with the decline in piracy will expand the global supply of tuna and may contribute to declining price. Moreover, with rapidly growing capacity in the region, it means that fisheries managers must remain vigilant despite recent recovery of stocks.

FISHERIES MANAGEMENT

EU-Pacific relations over VDS remain tense

The status of the European fleet in relation to the PNA's Vessel Day Scheme remains a topic of debate as the EU vessels licenced under Fisheries Partnership Agreements (FPAs) have not formally come under the general terms and conditions of the scheme. Some PNA country members, as well as industry actors, are calling for FPAs to be enrolled into the VDS to promote consistency in the powerful scheme.

In recent years, the EU has had bilateral FPAs with Kiribati and Solomon Islands that have allowed access to those countries' EEZs for a limited number of purse seine and long line vessels. Latin American vessels which are owned by EU companies have also had private sector access arrangements with Kiribati; while both EU and Latin American vessels have had private sector access agreements with Nauru and Tuvalu.

In March 2013, the EU brokered an FPA for four purse seine vessels and six longline vessels to fish in Kiribati's waters. Through the Agreement, the EU provides an annual payment of €1.325 million in exchange for a reference tonnage of 15,000mt, rather than a number of fishing days. Of this sum, roughly €350,000 is allocated to support Kiribati's fisheries policy activities and there is a clause for additional fees if the reference tonnage is exceeded. In addition to these government payments, each purse seine pays a €35/mt fee (for a total of approximately €525,000 based on the reference tonnage) and a 'special contribution for fishing authorization' of €300,000 per vessel.[23] In total, the value of the agreement is worth over €3 million. In a Commission Memo, the EU has emphasized that, "Kiribati, as a sovereign state, recognizes that this new Protocol, including the reference tonnage approach, is in line with its national priorities and policies in fisheries matters". The Memo indicates that the EU supports the reference tonnage approach because it allows for strict monitoring of activities and account of payments; while not opposed to the VDS, the EU questions its scientific foundations, transparency and ability to achieve WCPFC conservation objectives.[24]

Maintaining a formal presence in the Pacific is a key objective of the EU

The PNA office has warned that the Kiribati-EU FPA fell outside of the VDS, and highlighted that it might undercut the value of the fish compared to the value that could be generated under the VDS.[25] In 2011, EU vessels fished approximately 340-350 days in Kiribati's waters and 330 days on the high seas.[26] All four of the EU vessels have registered with FFA as being over 80m; as such, under the VDS each would be charged for 1.5 days of effort for each day. At current prices this number of in-zone days would be worth roughly US$ 3 million (following the 2013 minimum benchmark of US$9,000/ day for vessels over 80m). Commission calculations – based on the number of days needed to catch the reference tonnage – estimate the value of a fishing day under the new Protocol as US$ 7,800.[27] This would have been slightly above the amount due under the earlier benchmark price of $5,000 per day.

It is notable that under the VDS, the EU vessels would have been prohibited from fishing in the high seas when the agreement was negotiated; under such conditions the EU would be required to eliminate this practice, or to shift that effort into an EEZ where Kiribati or another country could charge for fishing. More recently the PNA have agreed to open the eastern high seas to purse seine fishing.

The EU, while a member of the WCPFC, has a relatively limited fishing presence in the region compared to other industrial fleets such as Japan, Korea, Taiwan and the US. Maintaining a formal presence in the Pacific is a key objective of the new Protocol. According to the Commission memo: 'As [the FPA with Kiribati] is currently the only successfully renegotiated EU Protocol under FPAs in the Pacific region, it is crucial for the EU to have it operational. Not having the Protocol could endanger both the presence of the EU in the Pacific region and undermine the EU role in the Western and Central Pacific Fisheries Commission (WCPFC), where the EU is currently being marginalized'.[28]

This debate follows news that Kiribati significantly exceeded its Party Allowable Effort in 2012 by selling many more fishing days than it had been allocated. In 2013 all eight PNA countries signed an agreement to abide by fishing limits and agreed to contribute to work towards imposing and enforcing the hard limit on total fishing days.[29] FFA legal staff are currently assisting Kiribati with the drafting of regulations to fully incorporate the VDS into national legislation. Despite issues with internal allocations between parties, the Total Allowable Effort under the scheme has never been exceeded, From a fisheries management and conservation perspective, this is a key issue.

EU FPA with Kiribati is not fully consistent with the terms of the VDS

In contrast, the Solomon Islands refused to renew a bilateral agreement with the EU. In a letter to the Forum Secretariat on 27 September 2013, Solomon Islands Permanent Secretary for Fisheries and Marine Resources explained that the decision was based on the Solomon Islands' solidarity with PNA arrangements and the EU's refusal to accept PNA initiatives including the VDS and high seas closures.[30] It is reported that Nauru has also declined to renew arrangements with OPAGAC, citing the refusal of the industry association to agree to be bound by national laws that implement measures agreed within the PNA. Annick Villarosa of the EU Delegation in the Pacific indicated that, 'as the EU is not a party to the PNA, the PNA rules are not applicable to the EU unless they form a part of legal obligations.'[31]

The VDS has formed the basis of the legal framework for the purse seine fishery through binding measures agreed by the Western and Central Pacific Fisheries Commission (which EU is a member of) since as early as 2005. In the most recent WCPFC meeting in December, a new Conservation and Management Measure 2013-01 was agreed, including the text that 'CCMs shall support the ongoing development and strengthening of the PNA VDS including implementation and compliance with the requirements of the VDS as appropriate'. However, DG Mare has continued to question the technical basis for the scheme and allege a lack of transparency – including in the context of the Economic Partnership Agreement discussions.

This ongoing debate highlights the continued need for strengthening coherence and consistency associated with the VDS. The PNA countries themselves have identified the need for improvements to the VDS and to this end, FFA, at the request of the PNA, will manage a study of institutional design to strengthen the VDS, which will start in March.

New rules to increase US longline bigeye catch limits

The US National Oceanic and Atmospheric Administration (NOAA) is calling for public comments on proposed rules concerning the pelagic fisheries in the US Pacific Territories – American Samoa, Guam and the Northern Mariana Islands. NOAA's National Marine Fisheries Service (NMFS) is proposing to establish a fisheries management framework that specifies catch limits within the Pacific Territories, which is reportedly consistent with WCPFC conservation and management measures. The proposed management framework will also include accountability measures for adhering to limits set to ensure sustainability.[32]

The most recent WCPFC conservation and management measure for tropical tuna stocks (CMM 2013-01) adopted in December 2013, establishes annual flag-based longline bigeye catch limits for members from 2014-2017. However, domestic fleets from Small Island Developing States and Participating Territories are exempted from bigeye catch limits (para. 7).[33] Regardless, the proposed rules will establish bigeye longline catch limits for American Samoa, Guam and the Northern Marianas of 2,000mt each. The proposed rules suggest this is in line with CMM 2013-01, whereby members that harvested less than 2,000mt in 2004 are limited to catching no more than 2,000mt annually from 2014-2017.[34] Historical catches in the US Pacific Territories have been well below 2,000mt.

The proposed rules will also authorise the US Participating Territories to enter into specified fishing agreements with US longline fishing vessels, including vessels based in another US Territory or Hawaii. Up to 1,000mt of each territory's 2,000mt bigeye catch limit could be allocated annually to US longline vessels, with catches attributed to the applicable territory.[35] Under WCPFC conservation and management measures, US longliners have been limited to annual bigeye catches of 3,763mt since 2009 (CMM 2008-01, CMM 2011-01 and CMM 2012-01). Under the latest tropical tunas measure (CMM 2013-01), the US bigeye longline catch will be maintained at 3,763mt in 2014 and reduce to 3,554mt in 2015 and 2016 and to 3,345mt in 2017. The proposed rules potentially provide the US longline fleet with additional catches of up to 3,000mt once the US limit has been reached.

Rules proposed by NMFS on fishing agreements with the US Participating Territories will likely be met with some opposition, particularly from environmental NGOs, for undermining limits agreed by WCPFC members under CMM 2013-01, and in turn, failing to address the serious issue of bigeye overfishing. In negotiations for CMM 2013-01, the US strongly defended the interests of its longline fleet, particularly its Hawaii-based fleet, and has been reluctant to accept recommended cuts in bigeye catch in line with scientific advice

Longline bigeye catch limits may be set for the US Pacific Territories at 2,000mt annually

US longline vessels may be allocated up to 3,000 mt of bigeye catch annually from American Samoa, Guam and the Northern Marianas (i.e. 30% reduction in fishing mortality on 2004 levels). By 2017, the US fleet allocation under WCPFC will have reduced by a total of 20% on 2004 levels (while all other major fleets will have taken 30-40% reductions). The new rules on fishing agreements may be criticised for negating the impact of reductions borne by the US fleet and others. Scepticism will likely be raised about fisheries development benefits accruing to the Territories from the fishing agreements beyond catch attribution, when bigeye catches are likely to be taken in the high seas and landed outside the Territories.[36]

European Parliament study on FAD use in global tuna fisheries

Fish aggregating devices (FADs) are used by industrial and artisanal fishing vessels to enhance catch per unit of effort across the global oceans. Man-made industrial-scale FADs are anchored or drifting objects designed to attract fish and are used extensively in tuna purse seine fisheries. Growing public concern on the impacts of FAD use – especially on juvenile yellowfin and bigeye tuna and other non-targeted marine life – triggered the European Parliament to commission a global study looking into their environment effects.[37]

Study places high priority on creating a global FAD monitoring system

The 60% global increase in tropical tuna catch by purse seiners since the early 1990s reflects an 82% increase in catch on FADs. While the use of FADs makes purse seine fishing on skipjack about twice as effective in terms of catch per unit of effort, for yellowfin it is about the same compared to fishing on free schools, but larger, more valuable yellowfin are caught for free schools. The study found 'no strong evidence' that FAD use in itself leads to overfishing. However, it emphasises that the associated catch of juvenile bigeye and yellowfin can reduce maximum sustainable yields with impacts on the condition of these stock. Such impacts come to bear on other fisheries such as tuna longlining, which extract mature fish, also reducing spawning biomass. The study concludes that further increase of 'fishing pressure on bigeye and yellowfin stocks by further increase in FAD fishing without compensatory reductions in other fisheries should be avoided'.

The study recommends the creation of a global monitoring system for FAD deployment and use, coordinated through the tRFMOs. FAD management plans have been agreed at ICCAT, IATTC and IOTC, providing a basis in data collection for a global monitoring system, but the report claims that such a system is lacking in the Western and Central Pacific 'where the highest usage of FADs for tuna fishing occurs'. The study recommends as a 'high priority' for the WCPFC to establish a global system 'to fully evaluate impacts of FAD fishing on tunas, by-catch species, and the environment'. However, this recommendation appears to miss two important issues of policy development at the WCPFC, parts of which are actually discussed in the study: (1) the existence of national FAD management plans and (2) FAD fishing bans. First, the WCPFC has required FAD management plans for the high seas from conservation and management measures (CMMs) since 1 July 2009 (under WCPFC CMM 2008-01). This requirement has been carried over in various revisions of the tropical tunas measure and is contained in the latest measure (CMM 2013-01, para. 37). The major issue is compliance – at least for FAD fishing on the high seas. The requirement for FAD management plans within EEZs depends on requirements under national law. Therefore, it is reasonable to state that this requirement is not consistent across the whole WCPO region. Second, the WCPFC is leading the drive among tRFMOs in introducing limits on FAD fishing (e.g. CMM 2013-01): in 2013 and 2014 there is a four month FAD closure; in 2015 and 2016 a five month closure (subject to the disproportionate conservation burden on SIDS being addressed); and in 2017 a total prohibition of FAD sets in the high seas (if alternate measures are not agreed prior to 2017).[38]

The study also makes two major recommendations on the improvement of data on industrial tuna fisheries in terms of operations and by-catch. RFMOs should collaborate to establish a unified system of unique vessel identification (UVI) numbers that would allow individual vessels to be tracked across time and geographical space. This parallels calls elsewhere for all industrial fishing vessels to have mandatory unique IMO numbers to aid the fight against IUU fishing. The International Seafood Sustainability Foundation has been pushing hard for UVI's on tuna boats of sufficient size to be subject to RFMO registry requirements and since 1 August 2011 its members have committed to not purchase fish from boats without an IMO UVI.[39] It is also worth noting that WCPFC CMM 2013-04 calls for global UVIs (IMO or Lloyd's Register numbers) for large-scale vessels over 100 GT by 1 January 2016.[40] Further work is being undertaken at the WCFPC to determine a system for UVIs for smaller vessels that are not eligible for IMO numbers. This system will be invaluable to organisations like FFA and the PNA Secretariat to analyse business strategies in the industry and allow more targeted regulation of bad corporate players. On by-catch, the study recommends 100% observer coverage globally on vessels to redress current weaknesses in the collection of data. This would feed into the development and verification of by-catch mitigation strategies and provide a scientific basis for the extension of best practices such as shark and turtle friendly non-entangling FADs.

A unified system across tRFMOs of unique vessel identification numbers would enhance understanding of FAD use and wider business strategies

TUNA INDUSTRY

Legal scrutiny of Korean tuna giant Dongwon raises questions for US Treaty and ISSF

The fishing arm of Korean giant Dongwon Industries is under scrutiny around multiple issues. Most recently, law firm Moore & Company has filed a Complaint under the US False Claims Act, arguing that the firm has 1) defrauded the US government by illegally obtaining US Treaty licenses and 2) violated the US Code Act to Prevent Pollution from Ships by illegally discharging oil and dumping waste. The False Claims Act permits private parties to file on behalf of the US government; in this case, the US government has declined to intervene in the allegations.[41] The following overview is summarised from the Complaint, which was filed in the US District court in the state of Delaware.[42]

On the first issue, the Complaint claims that Dongwon fraudulently obtained two US fishing licenses for tuna purse seine vessels Majestic Blue and Pacific Breeze, formerly registered as Costa Marfil and Eastern Kim. A defendant in the case, Jaewoong Kim – a former executive at Dongwon and brother of Dongwon's chairman – allegedly approached his daughters, who are US citizens, in 2008 to become owners of the vessels. The Complaint argues that the daughters became owners in name only in order to obtain US Treaty licenses for Dongwon, which can only be granted to vessels owned by US citizens. The complaint alleges that Dongwon always retained full ownership of the vessels, defrauding the government each time the licenses were renewed.[43] As evidence, the Complaint outlines the purchasing details of the transactions. On 4 April 2008, Majestic Blue LLC agreed to pay US$4.4 million over ten years to purchase the vessel, but the agreement did not hold the primaries of the LLC – the Kim sisters – responsible for paying or securing debt for the vessel. The Majestic Blue Fisheries founders contributed approximately US$50 each to the LLC. On 23 April 2008, Dongwon executed bills of sale selling the Majestic Blue and the Pacific Breeze each to their eponymous LLC for US$10. The Kim sisters are the sole owners and shareholders of both LLCs.

The Complaint argues, 'This purported "ownership" of the LLCs by the Kim Sisters was a sham perpetrated by Dongwon and its US national confederates, the Kim Sisters, to defraud the United States government into issuing FFA fishing licenses reserved for US flagged vessels to be used instead for the benefit of a Korean company that was barred from obtaining the licenses in its own right.'[44] In deposition, one of the Kim sisters testified that she had never received any return from either LLC and that she and her sister rely on their father, who is not a US citizen, to handle the business of the LLCs. In the Complaint, the Plaintiff details multiple ways in which they argue that Dongwon retained full control over the vessels, including by managing: crew manning agreements, maintenance, supply, insurance service agreements and tuna supply agreements. The Plaintiff seeks damages and civil penalties.

A second set of complaints in the filing accuses the Defendants of fraudulent concealment and intentional failure to report oil discharge and dumping at sea in order to conceal, avoid, or decrease the civil fines, allegations that if proven constitute a violation of the Act to Prevent Pollution from Ships. If found guilty, the Defendants would be subject to damages and civil penalties.

This case demonstrates the role of foreign firms in the recent rebuilding of the US fleet through the use of US Treaty licenses. To secure the US Treaty licenses, the US government pays development assistance in association with the industry payment. The claims in the filing argue that the current licensing arrangement is wrongfully benefiting foreign, rather than domestic, fishing interests. Currently, the US Treaty is in effect through January 2015. The US fleet is guaranteed 8,000 fishing days under the VDS and 300 fishing days in non-PNA waters in exchange for US$63 million. Of this, the US government contribution is US$21 million per year.[45]

Dongwon is accused of defrauding the US government through vessels ownership arrangements

The complaint raises questions about foreign versus domestic benefit from the US Treaty

Trouble for Dongwon's fishing operations and public reputation extends beyond the US courtroom. Environmental NGO Greenpeace has widely publicised charges that Dongwon vessels Premier and Solevant faced for using a fake fishing license in Liberian waters and then forging government documents to evade charges.[46] In April 2013, Dongwon Industries agreed to a settlement, paying US$1–2 million to respond to the charges.[47] As a result of this case, some IOTC members have refused to permit the vessels entry into their ports. IOTC members have agreed that vessels on the RFMO's official record must have no history of IUU fishing activities.[48] Greenpeace has seized on the new claims of illegal dumping as evidence that Dongwon is in need of reform and has urged African governments to increase oversight over the firm.[49]

Further, Dongwon is a member of the International Seafood Sustainability Foundation, which emphasises combating IUU fishing as a key area of action. ISSF indicated that it will make a resolution on the status of the Korean vessel Premier following an investigation of the IUU allegations. If identified as engaged in IUU fishing, ISSF member companies would have to refrain from purchasing fish from that vessel. This decision, which ISSF has delayed in the interest of developing a policy and process on IUU decisions, will be closely watched as an indication of how ISSF's Compliance Committee will address any future cases of IUU fishing.[50]

Dongwon's IUU fishing allegations are forcing ISSF to develop procedures for enforcing its stance on IUU stance

Thai Union has tough year in 2013, but expected to bounce back

Thai Union, the largest canned tuna firm in the world, was hit hard by a combination of factors in 2013 which resulted in a 50% drop in net profit in the first nine months compared to 2012. Problems include high tuna and shrimp raw material prices and declining canned tuna consumption in principal markets. Thailand's seafood sector has also been tainted by documented evidence of serious labour abuses, including human trafficking, exploitation and human rights abuses.[51]

Canned tuna is around 50% of Thai Union's revenue and the firm had to absorb raw material price heights of over US$2,200/mt in May 2013 for frozen skipjack (see Tuna Price Trends below).[52] Meanwhile, shrimp, which makes up 23% of Thai Union's revenue, was hit hard by the spread of early mortality syndrome (EMS) disease in shrimp farms across Asia, which pushed up farmed shrimp prices globally.[53] Canning-grade tuna prices have since steadily declined, providing some relief for the firm's financial situation. While bad news for the profitability of specialised fishing firms and capture of rent by coastal states, raw material price declines are good news for Thai Union which has very limited backward integration into industrial tuna fishing.

High tuna and shrimp raw material prices hit Thai Union profitability in 2013

The US and the EU are Thai Union's biggest markets, at around 40% and 30% of the firm's canned tuna sales respectively. Thus per capita decline in consumption in the US in 2012 (albeit with some positive signs of growth, see story below) and the maturing of demand in EU markets, are serious challenges. Moreover, Thailand may be downgraded to Tier-3 from the Tier-2 'watch list' in the US State

Department's 'Trafficking in Persons' report in 2014. Tier-3 details 'Countries whose governments do not fully comply with the minimum standards [to stop human trafficking] and are not making significant efforts to do so'.[54] Despite Thai Union's efforts to counter ethical concerns around its business model by signing up to the binding principles of the UN Global Compact, adopting the International Labour Organisation's 'Good Labour Practices', and opening itself to third-party audit, if the country is downgraded all exporters in Thailand will face difficulties selling product to the US.[55]

Labour abuses in Thailand seafood sector may hit Thai Union in US market

Looking forward, some predict a profit of US$155.5 million in 2014 and Thai Union itself has set a target of 10% growth for its canned tuna business. This rosy outlook is explained by a combination of raw material price declines and the depreciation of the baht following recent political turmoil and subsequent central bank interest rates cuts in Thailand.[56] Because of its heavy focus on export markets, it is estimated that Thai Union increases net profit by 4.7% on the depreciation of one baht to the US dollar.

Around 26% of Thai Union's income comes from its branded business – Chicken of the Sea, John West, Petit Navire, Mareblu, and Pamentier – which will benefit directly from the drop in raw material prices.[57] Thai Union hopes to build these brands with a tripling of marketing expenditure, including a rebrand of Chicken of the Sea on its 100th anniversary, new value-added products such as 'steam pots' in the UK (an instant lunch pack), and deepened penetration of regions such as the Middle East and North Africa.[58]

Thai Baht depreciation benefits exports and Thai Union rated 'AA' in heavily oversubscribed debt issue

An indication of the strength of Thai Union's position is an 'AA' rating by TRIS Rating (Thailand) Limited upon the issue of US$ 250 million in debentures. These loan bonds will mature after three, five, seven and ten years (at interest), and allow Thai Union to refinance and restructure its short- and long-term debts. Applications to the issue were reportedly oversubscribed by 4.5 times, which indicates considerable investor confidence in the firm's future fortunes.[59]

TUNA MARKETS

Fluctuating skipjack prices shape US canned tuna market

2012 per capita canned tuna consumption in the US was the lowest on record

The US National Marine Fisheries Service recently released 2012 seafood production and consumption data.[60] The report reveals that per capita canned tuna consumption has steadily declined since the mid-1980s. At 2.4 pounds/person/year, 2012 proved to be the lowest figure on record, and down from 2.6 pounds/person/year in 2011. By contrast, in the 1990s, average consumption was 3.4 pounds/person/year. In 2012, the skipjack price index jumped by 112%, which analysts suggest contributed to the drop in consumption. In the US, most canned tuna is sold in promotions, and recent high prices led retailers to reduce the frequency of canned tuna promotions.[61]

Related, canned tuna imports to the US dropped 18% from 2011 to 2012.[62] However, the FAO reports that imports strengthened in 2013, aided in particular by a softening of skipjack prices. During the first half of the year, imports of canned and pouched tuna grew by 12.2% in volume and 17.8% in value, compared with the first half of 2012. In particular, light meat in brine was up 21.1% and high value tuna in pouches were up 7.8%. Over 80% of the canned tuna imported to the US comes from ASEAN countries. Imports of canned tuna in 2012 were dominated by Thailand, which supplied 52%, followed by the Philippines (13%), Vietnam (12%) and Ecuador (9%).

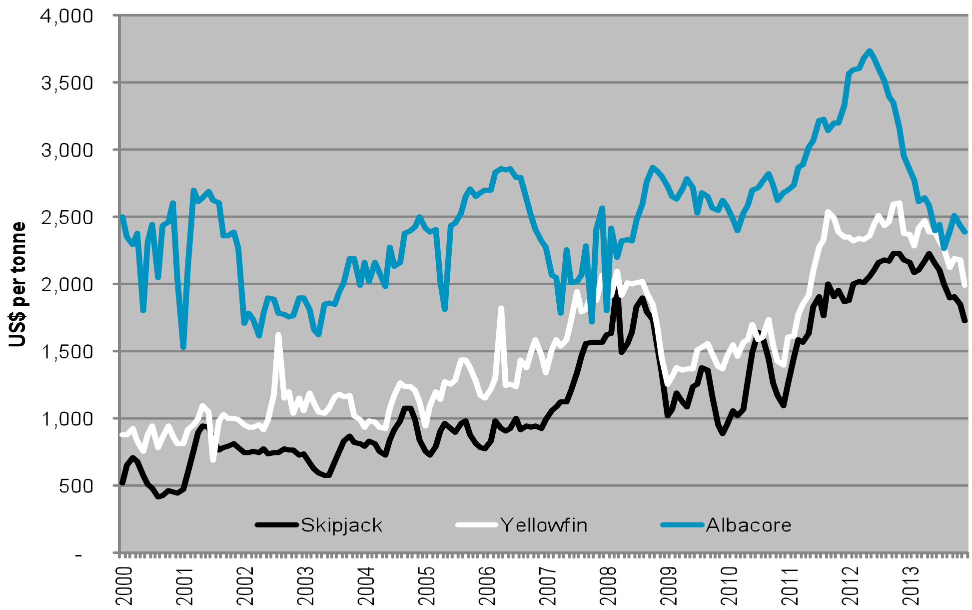
In 2012, the packing of tuna within the USA was 175,000mt, valued at US$886 million; an increase of 952mt compared with 2011. Notably, given the collapsing albacore market, 41% of US pack was whitemeat in 2012, with the remainder contributing to lightmeat pack (e.g. skipjack, yellowfin). Looking ahead, US pack is scheduled to grow with the opening of Tri Marine's processing facility in American Samoa. Tri Marine has announced that the fresh and frozen segment of the business is scheduled to open in March 2014, and the canning segment in September.[63]

Suppliers are generally optimistic about the US market for 2014. In January 2014, Thailand shipped almost 54,000mt to the US, up 27% from January 2013. Thai Union expects Chicken of the Sea to experience revenue growth of 8% and volume growth of 2%. StarKist and Bumble Bee have introduced new marketing campaigns. StarKist has launched a new 'Made in America' light meat line that is prepared and packaged in the firm's American Samoa plant. Bumble Bee released an ebook of fitness and healthy living and eating tips.[64]

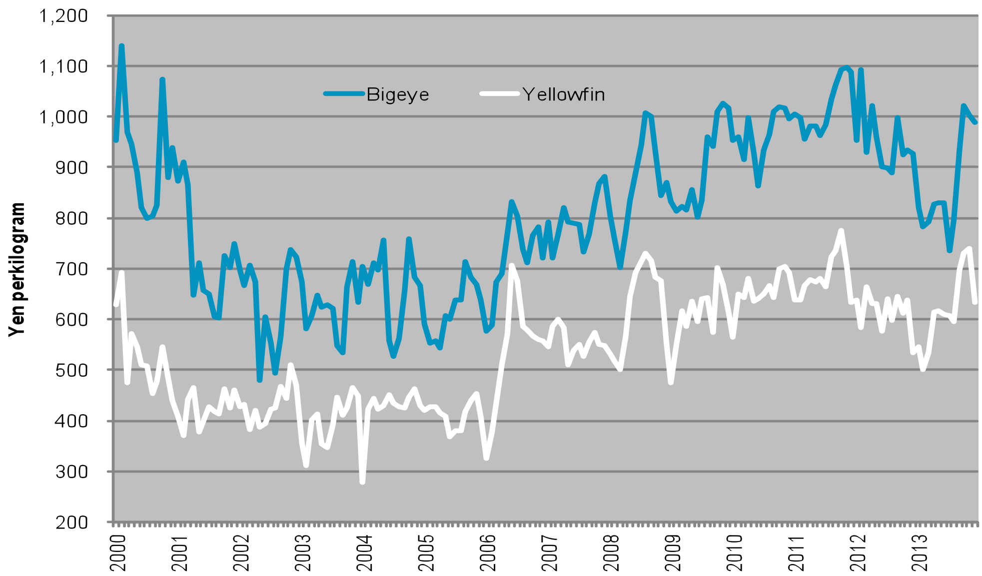
Softening skipjack prices are predicted to reverse downward trends in the US canned tuna market

TUNA PRICE TRENDS[65]

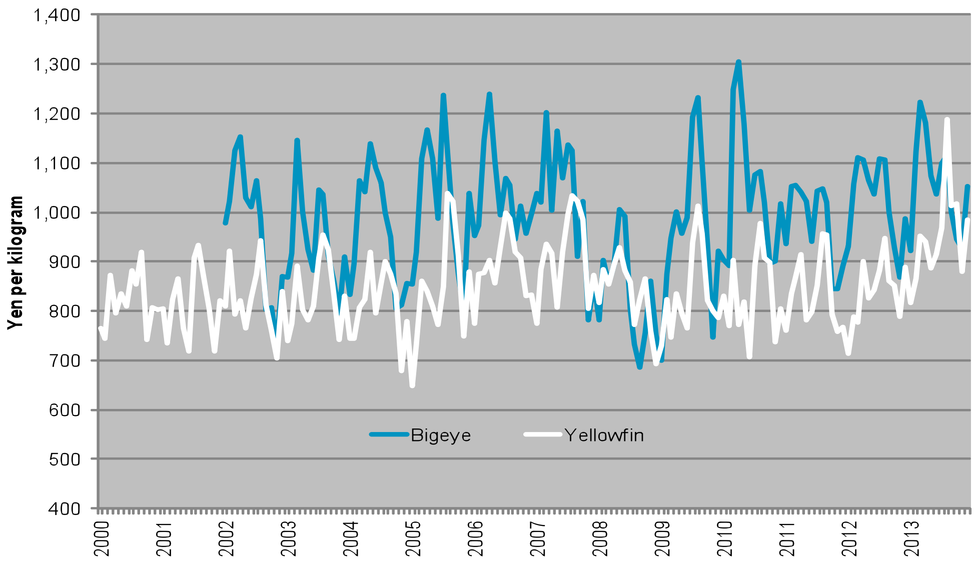
Bangkok canning-grade prices to December 2013[66]



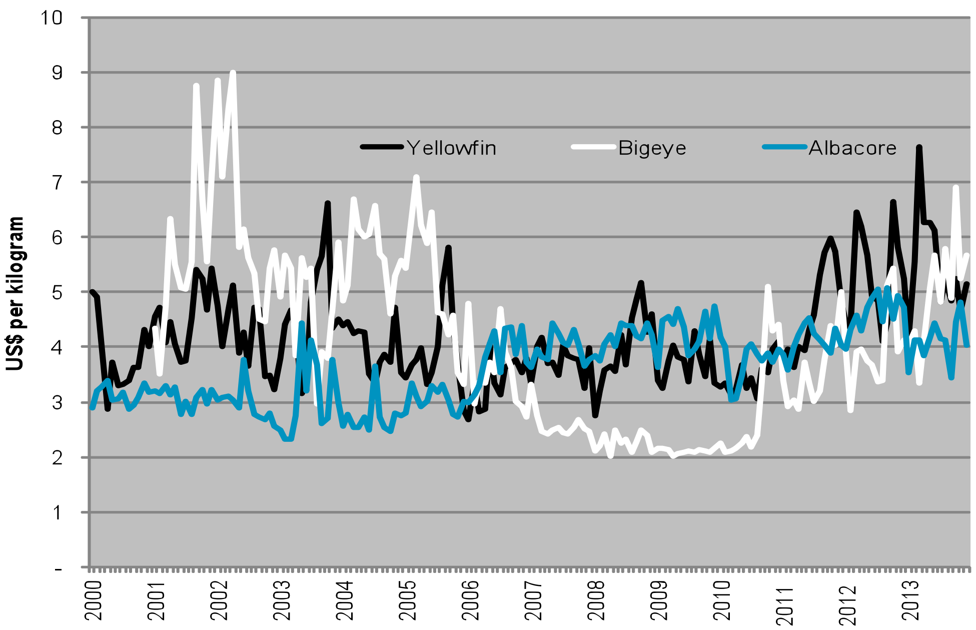
Japan frozen sashimi prices (ex-vessel, Japanese ports) to December 2013[67]



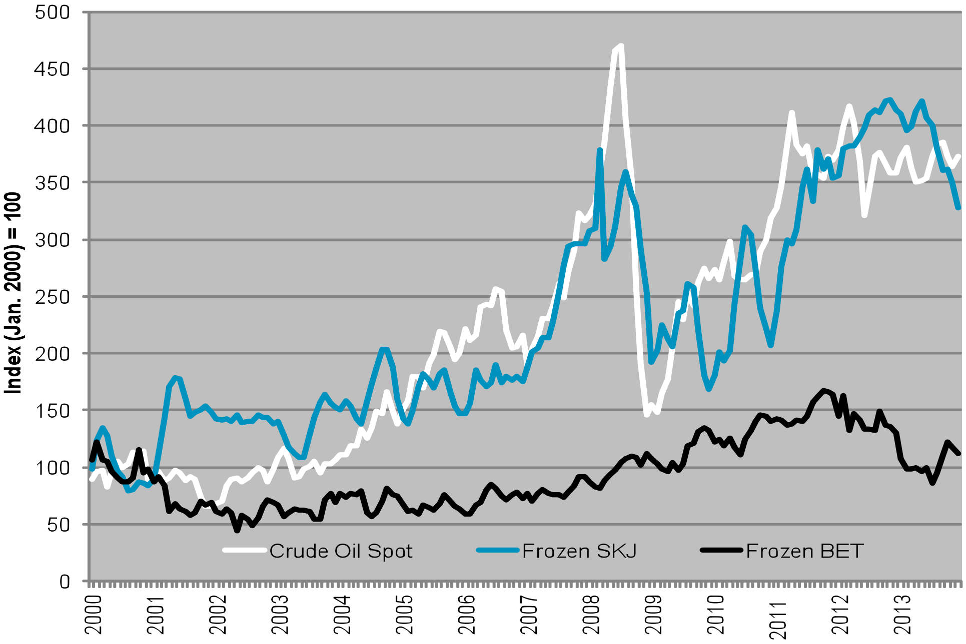
Japan fresh sashimi prices (origin Oceania) to December 2013[68]



US imported fresh sashimi prices to December 2013[69]



Crude oil, canning-grade frozen skipjack (SKJ) and frozen bigeye (BET) price index to December 2013[70]



1 Prepared for the FFA Fisheries Development Division by Dr Liam Campling, School of Business and Management, Queen Mary, University of London and Dr Elizabeth Havice, University of North Carolina at Chapel Hill, both Consultant Fisheries Trade and Market Intelligence Analysts, Fisheries Development Division, FFA. Desktop publishing by Antony Price. The authors would like to thank Mike Batty, Mike McCoy and Wez Norris for their 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.

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