COMMISSION DECISION

of 25 March 2009

establishing a specific control and inspection programme related to the recovery of bluefin tuna in the eastern Atlantic and the Mediterranean

(notified under document number C(2009) 2032)

(2009/296/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy [1], and in particular Article 34c(1) thereof,

Whereas:

(1) The International Commission for the Conservation of the Atlantic Tunas (ICCAT) has adopted in 2006 a multi-annual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean (Recommendation 06-05), which entered into force on 13 June 2007. That Recovery Plan was transposed into European Community (EC) legislation on a temporary basis by way of Council Regulation (EC) No 643/2007 [2] and on a permanent basis by way of Council Regulation (EC) No 1559/2007 [3].

(2) The ICCAT Recommendation 08-05 adopted on 24 November 2008 amending Recommendation 06-05 to establish a multi-annual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean contains important modifications. Those modifications have been incorporated in the proposal for transposition into Community law of Recommendation 08-05, which has been transmitted by the Commission to the Council and Parliament.

(3) To ensure the success of the multi-annual recovery plan, it is necessary to establish a specific control and inspection programme involving Greece, Spain, France, Italy, Cyprus, Malta and Portugal, with the objective guaranteeing an appropriate level of implementation of the conservation and control measures applicable to fishing activities in relation to the recovery of the bluefin tuna stock.

(4) That specific control and inspection programme should be set up for the period from 15 March 2009 to 15 March 2011. The results obtained by the application of the specific control and inspection programme should be periodically evaluated in cooperation with the Member States concerned.

(5) In order to harmonise the control and inspection of the bluefin tuna fishery at Community level, it is appropriate to draw up common rules for the control and inspection activities to be carried out by the competent authorities of the Member States concerned, and that Member States adopt national control programmes in order to match such common rules. To that end, benchmarks for the intensity of control and inspection activities should be fixed, as well as control and inspection priorities and procedures.

(6) To ensure the follow-up of infringements in accordance with Article 25 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy [4], a framework should be set up under which all the authorities concerned may request mutual assistance and exchange relevant information in accordance with Articles 34a and 34b of Regulation (EEC) No 2847/93 and Article 28 of Regulation (EC) No 2371/2002.

(7) Joint inspection and surveillance activities should be carried out in accordance with joint deployment plans established by the Community Fisheries Control Agency (CFCA) set up by Council Regulation (EC) No 768/2005 [5].

(8) The measures provided for in this Decision have been established in concert with the Member States concerned.

(9) The measures provided for in this Decision are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

[1] OJ L 261, 20.10.1993, p. 1.
[2] OJ L 151, 13.6.2007, p. 1.
[3] OJ L 340, 22.12.2007, p. 8.
[4] OJ L 358, 31.12.2002, p. 59.
[5] OJ L 128, 21.5.2005, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

Subject-matter

This Decision establishes a specific control and inspection programme in order to ensure the harmonised implementation of the multi-annual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean adopted by ICCAT on 24 November 2008.

Article 2

Scope

1. The specific control and inspection programme related to the bluefin tuna in the eastern Atlantic and Mediterranean Sea shall cover:

(a) all fishing activities by fishing vessels, traps and farms;

(b) all catches, landings, transfers, transhipments and caging operations;

(c) all related activities of farms and enterprises engaged in caging, fattening, farming or processing of bluefin tuna and/or in trade of bluefin tuna products, including importation, exportation and re-exportation, transport and storage;

(d) the implementation of the annual fishing plans;

(e) the prohibition to use spotting aircraft and helicopters;

(f) the sport and recreational fisheries;

(g) the implementation of the ICCAT Scheme of Joint International Inspection;

(h) the monitoring and follow-up of joint fishing operations;

(i) the implementation of the measures on fishing and farming capacities;

(j) the implementation of the Member States' observer programme and the ICCAT regional observer programme;

(k) the implementation of the rules on recording of authorised catching vessels and other fishing vessels.

2. The specific control and inspection programme shall apply from 15 March 2009 to 15 March 2011.

Article 3

National control programmes

1. Greece, Spain, France, Italy, Cyprus, Malta and Portugal shall establish national control programmes, in accordance with the common rules set out in Annex I, as regards the activities listed in Article 2.

2. The Member States referred to in paragraph 1 shall submit to the Commission by 15 March 2009 and 2010 their national control programmes and the annual implementation schedules.

3. National control programmes shall contain all the data listed in Annex II. The annual implementation schedules shall include details as regards the human and material resources allocated and the zones where those resources are to be deployed.

Article 4

Cooperation between Member States

All Member States shall cooperate with the Member States referred to in Article 3(1) for the implementation of the specific control and inspection programme.

Article 5

Commission inspections

1. Inspections may be carried out by Commission inspectors without the assistance of inspectors of the Member States concerned, in accordance with Article 27 of Regulation (EC) No 2371/2002.

2. The competent authority of the Member State concerned shall provide the Commission inspectors with the assistance necessary to conduct the inspections provided for in paragraph 1.

3. The Commission inspectors shall verify their findings with the inspectors of the Member State concerned. To that end, they shall meet after each of their inspection visits with officials of the competent authority of the Member State concerned in order to brief them as to their findings.

Article 6

Joint inspection and surveillance activities

1. The Member States referred to in Article 3(1) shall undertake joint inspection and surveillance activities in accordance with the Joint Deployment Plan established by the Community Fisheries Control Agency on the basis of Article 12 of Regulation (EC) No 768/2005. The conduct of inspection shall be in accordance with the provisions of Recommendation 08-05, the ICCAT Scheme of Joint International Inspection and Annex I to this Decision.

2. For that purpose, the Member States concerned shall:

(a) ensure that inspectors from other Member States concerned are invited to participate in joint inspection and surveillance activities;

(b) establish joint operational procedures applicable to their surveillance crafts.

Article 7

Notification of surveillance and inspection activities

A Member State that intends to conduct surveillance and inspect fishing vessels in the waters under the jurisdiction of another Member State, in the framework of a Joint Deployment Plan established in accordance with Article 12 of Regulation (EC) No 768/2005, shall notify its intentions to the contact point of the coastal Member State concerned, referred to in Article 3 of Commission Regulation (EC) No 1042/2006 [1], and to the Community Fisheries Control Agency. The notification shall contain the following information:

(a) type, name and call sign of the inspection vessels and inspection aircraft on the basis of the list referred to in Article 28(4) of Regulation (EC) No 2371/2002;

(b) the areas, as referred to in Article 1, where the surveillance and inspection will be carried out;

(c) the duration of the surveillance and inspection activities.

Article 8

Infringements

1. Member States whose inspectors discover any infringement while carrying out an inspection of the activities listed in Article 2, shall inform the following States of the date of inspection and the details of the infringement:

(a) the relevant flag Member State and/or ICCAT Contracting Party, and, where appropriate;

(b) the Member State where the farming installation or the enterprise engaged in the processing and/or trade of bluefin tuna products is established.

2. When the Member State whose inspectors discovered the infringement does not take further action, the Member States informed under paragraph 1 shall take prompt action as appropriate to receive and consider the evidence of the infringement. They shall conduct any further investigation as necessary for the follow-up of the infringement.

3. Member States whose inspectors observe an activity or condition that may constitute a serious infringement, as defined in Recommendation 08-05, shall immediately notify the flag authorities of the fishing vessel, directly as well as through the ICCAT Secretariat and the Commission.

4. In case a serious infringement, as defined in Recommendation 08-05, is discovered onboard a Community fishing vessel, the flag Member State shall ensure that, following the inspection, the fishing vessel flying its flag ceases all fishing activities. The flag Member State shall require the fishing vessel to proceed immediately to a port designated by it and where an investigation shall be initiated. If the fishing vessel is not called to port, the flag Member State shall provide due justification in a timely manner to the Commission. The Commission shall forward that information to the ICCAT Executive Secretariat, who shall make it available to other Contracting Parties.

5. Member States shall cooperate to ensure that, if prosecution of an infringement is transferred to the Member State of registration in accordance with Article 31(4) of Regulation (EEC) No 2847/93, the security and continuity of any evidence of the infringement cited by its inspectors is guaranteed in each case.

Article 9

Information

1. The Member States referred to in Article 3(1) shall communicate to the Commission, by the end of every month, the following information concerning that month:

(a) the inspection and control activities carried out;

(b) all infringements, including for each infringement the identification of:

(i) the fishing vessel (name, flag and external identification code), the trap, the farm or the enterprise engaged in the processing and/or trade of bluefin tuna products concerned;

(ii) the date, time and location of the inspection; and

(iii) the nature of the infringement;

(c) the current state of play concerning the follow-up of infringements detected;

(d) any relevant coordination and cooperation actions between Member States.

[1] OJ L 187, 8.7.2006, p. 14.

2. An infringement shall continue to be listed on each subsequent report until the action is concluded under the laws of the Member State concerned. Each subsequent report shall:

(a) indicate the current status of the case (e.g. case pending, under appeal, still under investigation); and

(b) describe in specific terms any penalties imposed (e.g. level of fines, value of forfeited fish and/or gear, written warning given).

3. If an infringement is detected by a Community inspector onboard a vessel flying the flag of another Member State, the flag Member State authorities shall inform without delay that Community inspector about the follow-up given to the infringement.

4. Reports shall include an explanation if no action has been taken.

Article 10

Evaluation

The Commission shall convene once a year, in early September, a meeting of the Committee for Fisheries and Aquaculture to evaluate the compliance with and the results of the specific control and inspection programme with a view to prepare the report the Community is required to provide to the ICCAT Secretariat on 15 October each year.

Article 11

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 25 March 2009.

For the Commission

Joe BORG

Member of the Commission

ANNEX I

COMMON RULES FOR NATIONAL CONTROL PROGRAMMES, AS REFERRED TO IN ARTICLE 3(1)

Objectives

1. The general objective of the national control programmes shall be the verification of compliance with applicable legislation concerning:

(a) full monitoring of caging operations taking place in the Community waters;

(b) full monitoring of transfer operations;

(c) full monitoring of joint fishing operations;

(d) quantitative restrictions on catches and any specific conditions associated therewith, including the monitoring of quota uptake;

(e) annual fishing plans;

(f) all documents required by the legislation applicable to bluefin tuna, in particular verifying the reliability of the information recorded;

(g) specific technical measures and conditions for fishing for bluefin tuna as provided in Recommendation 08-05, specifically the application of minimum size rules and associated conditions.

2. The specific objective of the national control programmes shall be to achieve the harmonised implementation of the full provisions of the bluefin tuna recovery plan, established by Recommendation 08-05.

Strategy

The national control programme shall concentrate on control and inspection of fishing and all related activities by any fishing vessel, trap, farm and enterprise engaged in the processing and/or trade of bluefin tuna products.

Inspections of transport and marketing of bluefin tuna shall be used as a complementary cross-checking mechanism to test the efficiency of the control and inspection.

1.1. *Priorities*

Different gear categories shall be subject to different levels of prioritisation, according to the annual fishing plan. For that reason, each Member State shall set specific priorities.

1.2. *Target benchmarks*

By 15 March each year, Member States shall set up their inspection schedules taking into account the following inspection benchmark:

Place of inspection	Benchmark
Caging activities (including harvest)	Any transfer operation into a farm must have been authorised by the flag Member State of the catching vessel. Each caging operation and harvesting process shall be inspected. All caging operations must be video recorded.
Inspection at sea	Flexible benchmark, to be set after a detailed analysis of the fishing activity in each area. Benchmarks at sea shall refer to the number of patrol days at sea in the bluefin tuna recovery specific area and shall refer as well to the number of days of patrol identifying the fishing season and the type of fishing activity targeted.

Place of inspection	Benchmark
Transfer operation	All transfer operations must have been authorised previously by the flag States on the basis of a prior notification. A transfer declaration must be sent after any transfer operation. All transfer operations must be video recorded.
Transhipments	All fishing vessels entering a designated port for the purpose of transhipment operations involving bluefin tuna shall be controlled. Random checks shall be made in non-designated ports. All processing vessels shall be inspected on arrival before the transhipment operations start, as well as before departure after the transhipment operations.
Joint fishing operation	All joint fishing operations must have been authorised previously by the flag States. Member States shall then establish and maintain a record of all joint fishing operations authorised by them.
Aerial surveillance	Flexible benchmark, to be set after a detailed analysis of the fishing activity conducted in each area and taking into consideration the available resources at the Member States' disposal.
Landings	All vessels entering a designated port for the purpose of landing bluefin tuna shall be inspected. Random checks shall be made in non-designated ports.
Marketing	Flexible benchmark, to be set after a detailed analysis of the marketing activity conducted.
Sport and recreational fisheries	Flexible benchmark, to be set after a detailed analysis of the sport and recreational fisheries activities conducted.

Inspection tasks

1.3. *General inspection tasks*

An inspection report shall be drawn up for each control and inspection, in the format appended to this Annex. Inspectors shall in any case verify and note in their report the following information:

(a) the details of the identity of the responsible persons, as well as those of the vessel, farm personnel etc. involved in the activities inspected;

(b) the authorisations, licences and special fishing permits;

(c) relevant vessel documentation such as the logbooks, transfer and transhipment declarations, T2Ms, ICCAT bluefin tuna catch documents, re-export certificates and other documentation examined for the purpose of the control and inspection;

(d) detailed observation of the sizes of bluefin tuna caught, trapped, transferred, transhipped, landed, transported, farmed, processed or traded in the context of compliance with the provisions of the recovery plan;

(e) the by-catch percentage of bluefin tuna retained on-board vessels not fishing actively for bluefin tuna.

The information referred to all relevant findings from the inspection done at sea, by aerial surveillance, in ports, traps, farms or in any other enterprise concerned shall be noted in the inspection reports.

Those findings shall be compared with the information made available to the inspectors by other competent authorities, including Vessel Monitoring System (VMS) information and lists of authorised vessels, observers' reports and video records.

1.4. *Inspection tasks for aerial surveillance*

Inspectors shall report on surveillance data for cross-checking purposes, and in particular verify sightings of fishing vessels against VMS and authorised lists.

Inspectors shall sight and report on IUU fishing activities, and on the use of spotting aircraft or helicopters.

Particular attention shall be devoted to closure areas, fishing season's periods and to the activities of fleets for which derogations apply.

1.5. *Inspection tasks at sea*

Where dead fish are taken on-board the catching vessel or are present aboard a processing or a transport vessel, inspectors shall always verify the quantities of fish retained on-board and compare them with the quantities recorded in the relevant documentation on-board.

Where live fish are being transferred from catching vessels to caging vessel/transport tugs or from caging vessel/transport tugs into farming installations, inspectors should seek to identify the means used by the parties involved to estimate the quantities of live bluefin tuna transferred. Where video footage is available, inspectors should gain access to, and verify the quantities transferred, as observed by the video footage.

Inspectors shall systematically verify:

(a) that the fishing vessels are authorised to operate (markings, identity, licence, special permits, authorisation, and ICCAT list);

(b) that the relevant information is present on-board and duly completed and reported (logbooks, ICCAT bluefin tuna catch documents, ICCAT transfer declaration and transhipment declaration);

(c) that the fishing vessels are equipped with an operational Vessel Monitoring System (VMS);

(d) that the fishing vessels are not operating inside close areas and are respecting the closure of fishing seasons;

(e) the respect of quotas and by-catch limitations;

(f) the size composition of catches of bluefin tuna on-board;

(g) the physical quantities of bluefin tuna on-board, and their presentation;

(h) the fishing gear on-board;

(i) the presence of an observer where it is relevant.

Inspectors shall sight and report on IUU fishing activities, and on the use of spotting aircraft or helicopters.

1.6. *Inspection tasks at transfer operations*

Inspectors shall systematically verify:

(a) that the master of the catching vessel has sent a prior notification, countersigned by the ICCAT regional observer on-board, to its flag State authorities;

(b) that the master of the catching vessel has received a prior authorisation from its flag State authorities;

(c) that the masters of catching vessels have completed and transmitted to their flag State authorities the ICCAT transfer declaration as attached (Annex 3) to Recommendation 08-05;

(d) that the transfer declaration has been verified by the ICCAT regional observer on-board the catching vessel and transmitted to the master of the tug vessel;

(e) that the master of the tug vessel has ensured a monitoring of all the transfer activities by video camera in the water.

1.7. *Inspection tasks at joint fishing operations*

Inspectors shall systematically verify:

(a) that the relevant information concerning the joint fishing operation is duly reported in the fishing logbook;

(b) that a joint fishing operation authorisation has been delivered to the fishing vessels by their flag States' authorities using the model of Annex 6 of Recommendation 08-05;

(c) the presence of an observer during the joint fishing operation.

1.8. *Inspection tasks at landing*

Inspectors shall systematically verify:

(a) that the fishing vessels are authorised to operate (markings, identity, licence, special permits, authorisation, and ICCAT list);

(b) that the pre-notification of arrival for landing was sent and contained the correct information concerning the catch on-board;

(c) that the fishing vessels are equipped with an operational Vessel Monitoring System (VMS);

(d) for fishing vessels, that the relevant information is present on-board and duly completed and reported (logbooks, bluefin tuna catch document, re-export certificate, ICCAT transfer declaration and transhipment declaration);

(e) the physical quantities of bluefin tuna on-board, and presentation;

(f) the size composition of catches of bluefin tuna on-board (by-catch and minimum size rules);

(g) the fishing gear on-board;

(h) in the case of landing of processed products, the use of the ICCAT conversion factors to calculate the equivalent round weight of the processed bluefin tuna;

(i) that the bluefin tuna offered for retail sale to the final consumer, from fishing vessels in the eastern Atlantic, is correctly marked or labelled;

(j) that the bluefin tuna landed by the bait boats in the eastern Atlantic is correctly tail tagged.

1.9. *Inspection tasks during transhipment*

Inspectors shall systematically verify:

(a) that the fishing vessels are authorised to operate (markings, identity, licence, special permits, authorisation, and ICCAT list);

(b) that the pre-notification of arrival in port was sent and contained the correct information concerning the transhipment;

(c) that catching vessels wishing to tranship have received prior authorisation from their flag State;

(d) that the quantities pre-notified to be transhipped are verified;

(e) that the relevant documentation is present on-board and duly completed, including the transhipment declaration, the relevant T2Ms and ICCAT bluefin tuna catch document and re-export certificate;

(f) in the case of processed products, the use of the ICCAT conversion factors to calculate the equivalent round weight of the processed bluefin tuna.

1.10. *Inspection tasks on farm installations*

Inspectors shall systematically verify:

(a) that the relevant documentation is present and duly completed and reported (bluefin tuna catch document and re-export certificate, transfer declaration, harvesting declaration, transhipment declaration);

(b) that the transfer operation has been previously authorised by the catching vessel flag State authorities;

(c) that an observer was present during all transfer and harvesting of bluefin tuna, and has validated the caging declarations;

(d) that all the transfer activities from cages to the farm have been monitored by video camera in the water, unless the cages are directly fixed to the mooring system.

1.11. *Inspection tasks concerning transports and marketing*

Inspectors shall systematically verify:

(a) as regards transport, in particular the relevant accompanying documents and check them against the physical quantities transported;

(b) as regards marketing, that the relevant documentation is present and duly completed, including the relevant bluefin tuna catch document and re-export certificate.

Report of Inspection

1. Inspector

1.1. Name .....

1.2. Nationality .....

1.3. Inspector Identity Card number/type (ICCAT) .....

2. Inspection type

☐ Vessel at sea ☐ At landing

☐ Transhipment ☐ Aerial surveillance

☐ Farm: transfer in/harvest ☐ Transport ashore

☐ Trap ☐ Marketing

3. Ship carrying the inspector (where appropriate)

3.1. Name and Registration .....

3.2. Flag .....

4. Vessel/Farm/Trap inspected

4.1. Name and Registration .....

4.2. Flag/Member State .....

4.3. Captain/Farm Manager (Name) .....

4.4. Owner/Company (Name and address) .....

4.5. ICCAT Record number .....

5. Position

5.1. As determined by the inspector: Lat. Long.

5.2. Determined by the captain of the fishing vessel: Lat. Long.

5.3. Time (GMT) when position was recorded:

6. Date .....

7. Time

7.1. On arrival .....

7.2. Of departure .....

8. Fishing gear on-board

Purse seine ☐

Pole & Line (Bait boat) ☐

Longline ☐

Trolling lines ☐

Other (specify) ☐

9. Species observed on-board

10. Statement of photographs taken with description of subjects

11. List of documents inspected and comments

12. Results of the inspection of the fish on-board

Species				
Total Catch (kg)				
Product Type				
Sample Inspected				
% Under Min Size				

13. Inspector's comments

14. Observer's comments

ANNEX II

CONTENTS OF NATIONAL CONTROL PROGRAMMES AS REFERRED TO IN ARTICLE 3

National control programmes shall, *inter alia*, specify:

Means of control

— *Human means*

The numbers of shore-based and seagoing inspectors and the periods and zones where these are available to be deployed.

— *Technical means*

The numbers of patrol vessels and aircraft, and the periods and zones where these are available to be deployed.

— *Financial means*

The budgetary allocation for deployment of human resources, patrol vessels and aircraft.

Designation of ports

The list of the designated ports and designated times required under Recommendation 08-05.

Annual fishing plans

The details of any system in place for allocation of quotas, monitoring and control of the fishing plan.

Inspection protocols

Detailed Protocols for all inspection activities.

Guidelines

Explanatory guidelines for inspectors, producers' organisations and fishermen.

Communication protocols

Protocols for communication with the competent authorities designated by other Member States as being responsible for the specific control and inspection programme for bluefin tuna.