

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 1 April 2008

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(2008) 1202)

(2008/323/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) Council Regulation (EC) No 1559/2007 ⁽²⁾ establishes a multi-annual recovery plan for bluefin tuna in the Eastern Atlantic and the Mediterranean as recommended by the International Commission for the Conservation of the Atlantic Tunas (ICCAT).

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

(3) That specific control and inspection programme should be set up for the period from 1 April to 31 December 2008. The results obtained by the application of the specific control and inspection programme should be periodically evaluated in cooperation with the Member States concerned.

(4) 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.

(5) 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 ⁽³⁾, 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.

⁽¹⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1098/2007 (OJ L 248, 22.9.2007, p. 1).

⁽²⁾ OJ L 340, 22.12.2007, p. 8.

⁽³⁾ OJ L 358, 31.12.2002, p. 59. Regulation as amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).

- (6) Joint inspection and surveillance activities should be carried out in accordance with joint deployment plans established by the Community Fisheries Control Agency set up by Council Regulation (EC) No 768/2005 ⁽¹⁾.
- (7) The measures provided for in this Decision have been established in concert with the Member States concerned.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

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 set up by Regulation (EC) No 1559/2007 for bluefin tuna in the Eastern Atlantic and the Mediterranean.

Article 2

Scope

1. The specific control and inspection programme shall cover:
- (a) all fishing activities by vessels and traps catching bluefin tuna in the Eastern Atlantic and the Mediterranean;
- (b) all landings, transfers and transshipments of bluefin tuna caught in the Eastern Atlantic and the Mediterranean;
- (c) all related activities of farms and enterprises engaged in caging 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 referred to in Article 4 of Regulation (EC) No 1559/2007;
- (e) the prohibition to use spotting aircrafts and helicopters established in Article 6 of Regulation (EC) No 1559/2007;
- (f) the sport and recreational fisheries as referred to in Articles 10 and 11 of Regulation (EC) No 1559/2007;

- (g) the implementation of the ICCAT Scheme of Joint International Inspection as referred to in Article 24 of Regulation (EC) No 1559/2007.

2. The specific control and inspection programme shall apply from 1 April to 31 December 2008.

Article 3

National control programmes

1. France, Portugal, Spain, Italy, Malta, Cyprus, Greece 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 1 April 2008 their national control programme and the annual implementation schedule.

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 Council 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.

⁽¹⁾ OJ L 128, 21.5.2005, p. 1.

*Article 6***Joint inspection and surveillance activities**

1. The Member States referred to in Article 3(1) shall undertake joint inspection and surveillance activities.
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.
3. Commission inspectors may participate in joint inspection and surveillance activities.

*Article 7***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 are established.
2. Where 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 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 8***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.
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. Reports shall include an explanation if no action has been taken.

*Article 9***Evaluation**

The Commission shall convene every two months a meeting of the Committee for Fisheries and Aquaculture to evaluate the compliance with and results of the specific control and inspection programme.

*Article 10***Addresses**

This Decision is addressed to the Member States.

Done at Brussels, 1 April 2008.

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) quantitative restrictions on catches and any specific conditions associated therewith, including the monitoring of quota uptake;
 - (b) annual fishing plans referred to in Council Regulation (EC) No 1559/2007;
 - (c) all documents required by the legislation applicable to bluefin tuna, in particular verifying the reliability of the information recorded;
 - (d) specific technical measures and conditions for fishing for bluefin tuna as provided for in Council Regulation (EC) No 1559/2007, 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 Regulation (EC) No 1559/2007.

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 1 April 2008, Member States shall set up their inspection schedules taking into account the following inspection and control benchmark:

Place of inspection	Benchmark
Inspection at sea	Flexible benchmark, to be set after a detailed analysis of the fishing activity in each area. Benchmarks at sea shall refer the number of patrol days at sea in the bluefin tuna recovery zone, with possibly a separate benchmark for days patrolling specific areas.
Landings	All vessels entering a designated port for the purpose of landing bluefin tuna shall be controlled. Random checks shall be done in non designated ports.
Transshipments	All receiving and catching vessels entering a designated port for the purpose of transshipment operations involving bluefin tuna shall be controlled. Random checks shall be done in non designated ports.
Caging activities (including harvest)	Each caging operation and harvesting process shall be controlled.
Marketing	Control of 10 % of the quantities of bluefin tuna products offered for sale.
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 State's disposal.
Sport and Recreational Fisheries	Control of 20 % of the national allocated quota.

Inspection tasks

1.3. General inspection tasks

An inspection report shall be drawn up for each control and inspection, with the information 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 transshipment declarations, T2Ms, ICCAT Statistical and Catch documents, 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.

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.

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 aircrafts or helicopters.

Particular attention shall be devoted to closure areas, and to the activities of fleets for which derogations apply.

1.5. Inspection tasks at sea

Where dead fish are taken onboard 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 transport tugs or from 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:

- that the fishing vessels are authorised to operate (register of authorised fishing vessels, closed fishing seasons, transshipment at sea),
- that the fishing vessels are equipped with an operational Vessel Monitoring System (VMS),
- for catching vessels, that the relevant information is duly reported in the logbook,
- for the fishing vessels participating in the transfer, transport and processing of the bluefin tuna, that the relevant documentation is on board is present and duly completed,
- in case of joint fishing operations, the presence of an observer during the fishing operation,
- the physical quantities of bluefin tuna on board, and their presentation,
- the size composition of catches of bluefin tuna on board (by-catch and minimum size rules),
- the fishing gear on board.

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

1.6. *Inspection tasks at landing*

Inspectors shall systematically verify:

- that the fishing vessels are authorised to operate (register of authorised fishing vessels, closed fishing seasons),
- that the pre-notification of arrival for landing was sent and contained the correct information concerning the catch on board,
- that the fishing vessels are equipped with an operational vessel monitoring system (VMS),
- for catching vessels, that the relevant information is duly reported in the logbook,
- for the fishing vessels participating in the transport and processing of the bluefin tuna, that the relevant documentation is on board is present and duly completed, including the relevant T2Ms and ICCAT Statistical and Catch documents,
- the physical quantities of bluefin tuna on board, and presentation,
- the size composition of catches of bluefin tuna on board (by-catch and minimum size rules),
- the fishing gear on board,
- 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,
- that the bluefin tuna offered for retail sale to the final consumer, from fishing vessels in the Eastern Atlantic, is correctly marked or labelled,
- that the bluefin tuna landed by the bait boats in the Eastern Atlantic is correctly tail tagged.

1.7. *Inspection tasks during transhipment*

Inspectors shall systematically verify:

- that the fishing vessels are authorised to operate (registers of authorised fishing vessels),
- for transshipments in port, that the pre-notification of arrival in port was sent and contained the correct information concerning the transhipment,
- that catching vessels wishing to tranship have received prior authorisation from their flag State,
- that the quantities pre-notified to be transhipped are verified,
- that the relevant documentation is on board is present and duly completed, including the transhipment declaration, the relevant T2Ms and ICCAT Statistical and Catch documents,
- in the case of processed products, the use of the ICCAT conversion factors to calculate the equivalent round weight of the processed bluefin tuna,
- for transshipments at sea, the presence of an observer during the transhipment operation.

1.8. *Inspection tasks on farm installations*

Inspectors shall systematically verify:

- that the relevant documentation is present and duly completed (caging and harvest declarations),
- that an observer is present during all transfer and harvesting of bluefin tuna, and has validated the caging declarations.

1.9. *Inspection tasks concerning transports and marketing*

Inspectors shall systematically verify:

- as regards transport, in particular the relevant accompanying documents and check them against the physical quantities transported,
- as regards marketing, that the relevant documentation is present and duly completed, including the relevant T2Ms and ICCAT Statistical and Catch documents.

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

☐ Transshipment ☐ 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 and 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 minimum size				

13. Inspector's comments

14. Observer's comments

ANNEX II

Contents of national control programmes as referred to in Article 3(2)

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 required under Council Regulation (EC) No 1559/2007, and any subsequent legislation related to the Recovery Plan.

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.
