



FINAL REPORT

ADMINISTRATIVE INQUIRY

ISSUES SURROUNDING THE IMPLEMENTATION OF THE PROVISIONS GOVERNING THE BLUEFIN TUNA FISHERY BY THE MALTESE AUTHORITIES

11th February 2011

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TABLE OF CONTENTS

List of Abbreviations	4
1.0 Introduction	5
1.1 Background Information	5
1.2 Planning	6
1.2.1 Introductory Meeting	6
1.2.2 Scope	6
1.2.3 Scope Limitation	6
1.2.4 Start-up Meeting	6
1.2.5 Methodology	7
1.2.6 Preliminary Interviews	7
1.3 Fieldwork	7
1.3.1 Preparation of Checklists	8
1.3.2 Tuna Farm Familiarisation Visit	9
1.3.3 Visit by DG MARE officials at IAID	9
1.3.4 Visit by Commission Inspectors at the Fisheries Control Directorate	9
1.3.5 External Expert on Bluefin Tuna and ICCAT matters	10
2.0 Results of the Inquiry – Team 1	11
2.1 Introduction	11
2.2 Tuna Farm Familiarisation Visit	11
2.3 Fisheries Control Directorate – Management Structure & Personnel	11
2.4 Analysis of Mission Reports	12
3.0 Results of the Inquiry: Systems Audit – Team 2	94
3.1 Introduction	94
3.1.1 Background	94
3.1.2 Audit scope and objective	94
3.1.3 Scope Limitation	94
3.1.4 Audit methodology	94
3.1.5 Audit period	95
3.2 Findings and Recommendations	96
3.2.1 General Assessment	96
3.2.2 Specific Findings and Recommendations	96
3.3 Conclusion and Opinion	100
4.0 Results of the Inquiry: Case Study – Team 2	104
4.1 Introduction	104
4.2 Risk Assessment	104
4.3 Scope Limitation	105

4.4 Background Information – AJD Tuna Limited	105
4.5 Case Study – AJD Tuna Ltd.	106
4.5.1 Step 1: Catching of Tuna	106
4.5.2 Step 2: Towing of Cage	107
4.5.3 Step 3: Caging of Tuna	107
4.5.4 Step 4: Harvesting of Tuna	107
4.6 On-site visit	108
4.7 BFT Transfer	109
4.8 The Scientific Team	110
4.9 Processing of BFT	111
4.10 Statistical Data	112
4.11 Case Study Conclusion	113
5.0 Conclusion	115
Annex 1 Teams 1 and 2 Original Working Programme	
Annex 2 Teams 1 and 2 Revised Working Programme	
Annex 3 Relevant Checklists	
Annex 4 Systems' write-up	

LIST OF ABBREVIATIONS

Bluefin Tuna.....	BFT
BFT's catch documents.....	BCD
Common Fisheries Policy.....	CFP
Curriculum Vitae.....	CV
Contracting Parties to the Convention.....	CPC
Director General.....	DG
Directorate-General for Maritime Affairs and Fisheries.....	DG Mare
European Commission.....	EC
European Union.....	EU
Fisheries Control Directorate.....	FCD
Fisheries Protection Officer.....	FPO
Internal Audit and Investigations.....	IAI
Internal Audit and Investigations Department.....	IAID
International Commission for the Conservation of Atlantic Tunas.....	ICCAT
Ministry for Resources and Rural Affairs.....	MRRA
Member States.....	MS
National Observer.....	NO
Office of the Prime Minister.....	OPM
Regional Observer.....	RO

1.0 INTRODUCTION

1.1 BACKGROUND INFORMATION

On 12th November 2010, a letter was sent by Maria Damanaki, Commissioner DG MARE to the Maltese Minister for Foreign Affairs referring to the issues surrounding the implementation of provisions governing the BFT fishery by the Maltese Authorities. By means of this letter, the Commission suggested that the Maltese Authorities should conduct an administrative inquiry in accordance with the provisions of article 102 (2) of Council Regulation (EC) 1224/2009. Furthermore, it was mentioned that the final report of this inquiry should become available not more than three months after the receipt of the said letter.

On 2nd December 2010, the Permanent Secretary, MRRA tasked the Internal Audit and Investigations Department (IAID) to conduct this administrative inquiry. This administrative inquiry is being conducted by the IAID in terms of Article 3 of the Internal Audit and Financial Investigations Act (Chapter 461 of the Laws of Malta). Article 3 states that the IAID shall have two separate and distinct functions: internal audits and investigations. This inquiry is led by the Director General, Internal Audit and Investigations (DG, IAI) and is being carried out by two teams. The inquiry is being carried out in accordance with international auditing standards.

On 10th January 2011, acting upon the advice of the Director General, Internal Audit and Investigations, the Permanent Secretary, MRRA requested an extension to the deadline for submission of the final report by one month. Based upon an assessment of the work carried out and work still to be carried out at that time, the Director General's professional judgement was that the inquiry could not be possibly finalised by the 12th February 2011. Hence Malta's request for an extension.

Since the 10th of January additional work according to plan has been undertaken. However, as assessed by DG IAI, the inquirers were not in a position to conclude all the work planned and requested by the Commission as part of this administrative inquiry. As per DG MARE's request dated 28th January 2011 (e-mail received from Xavier Vázquez), an interim report was sent to DG MARE on 3rd February 2011 highlighting the state of play and the working programme of the work to be carried out until 12th March 2011.

It was DG IAI's opinion that the estimation of work still to be carried out at the time of submitting the interim report, substantiated the decision taken on the 10th of January 2011 to advise MRRA to ask for a one month's extension.

Notwithstanding that, considering the state of play as fully reported in the Interim Report, Malta's request for an extension was according to the Maltese Authorities justified, the extension was not accepted. DG IAI came to this conclusion as the Commission never replied to the request for extension by the Maltese Authorities.

What follows is the final report prepared by the two inquiry teams. This information is being provided in accordance with Article 102 paragraph 3 of Council Regulation 1224/2009 for the sole purpose of reporting on the results of the requested inquiry,

and the use of this information for any other purpose should first be cleared with the Maltese Authorities.

1.2 PLANNING

1.2.1 *Introductory Meeting*

An introductory meeting between MRRA and IAID officials was held on Tuesday 14th December 2010.

During this meeting, the IAID inquiry team introduced themselves, explained how the inquiry will proceed and discussed the general scope. The inquiry team also solicited MRRA Management's thoughts and concerns.

1.2.2 *Scope*

The scope is based on the general scope highlighted in Annex 2 to the letter of the 12th November 2010 referred to above which specifies that the inquiry should consist of a thorough description, analysis and evaluation of the procedures in place in Malta to ensure that risks of non compliance with the BFT recovery programme and with CFP are tackled inter alia in the following activities:

- Overall control system and enforcement measures;
- BCD Programme;
- Caging operations;
- Fleet management/Operations at sea; and
- Procedures, follow-up and reporting of cases of non compliance detected.

1.2.3 *Scope Limitation*

With reference to the scope mentioned above, although the scope outline was retained, the extent of the work carried out by the inquiry team was restricted as a result of the fact that the extension considered necessary by the Maltese Authorities to fulfil the original scope of this inquiry was denied.

1.2.4 *Start-up Meeting*

As requested by the Commission, a start-up meeting between the Maltese Authorities and Commission officials was held in Brussels on 16th December 2010. During this meeting, the methodology and the expected deliverables were discussed.

On 17th December 2010, Mr Xavier Vázquez (DG MARE, Unit D2, Deputy Head of Unit) sent an e-mail to the Permanent Representation of Malta as a complement to the minutes of this bilateral meeting wherein he requested that:

- the team conducting the inquiry have someone assist them with Bluefin Tuna and ICCAT matters background;

- in addition to MRRA officials, the inquiry team carry out interviews with DG MARE staff (especially inspectors) and Maltese operators (especially from the farms); and
- a reference to international audit standards be made in the report.

1.2.5 Methodology

The methodology adopted by IAID takes into consideration:

- Issues discussed during the bilateral meeting; and
- Comments raised in the e-mail referred to above.

In particular, our methodology takes into consideration:

- The reasons why irregularities were detected by the Commission and not by the Maltese Authorities;
- The accountability of the BFT entering (caged, inputs) and leaving (harvested, outputs) the farms, as well as the verification of those quantities and the carry-over of BFT from one year to the next (considering, in particular, the price to keep and feed fish in cages for consecutive years);
- Training and professional skills of all officials involved in control and inspection matters, particularly of those that are engaged in verification and validation process; and
- Review of the Maltese National Control Program (as referred in the Commission decisions 2008/323/EC and 2009/296/EC) to determine whether this addresses the following critical points of control:
 - a. the procedures to assess the accurate biomass and number of fish transferred into fattening cages;
 - b. a sampling/tagging programme to estimate weight gain;
 - c. the procedures to assess the accurate biomass and number of fish harvested; and
 - d. the procedure to assess the accurate quantity of fish to be exported by product type (clearly indicating the conversion factors).

1.2.6 Preliminary interviews

Preliminary interviews were carried out with

- Director General (Agriculture and Fisheries Regulation);
 - Director (Fisheries Control);
 - Senior Fisheries Protection Officer; and
 - Scientific Officer from the Fisheries Control Directorate
- to gain an understanding of the environment and of key processes.

1.3 FIELDWORK

As already explained above, the administrative inquiry is being carried out by two teams.

Team 1 has analysed and followed up findings noted in Reports on 2009 and 2010 Missions carried out by officials from DG MARE in Malta. Team 1 also took note of issues, where applicable, which were not identified during these Missions, but were

identified during the course of this administrative inquiry. However, as the extension was not accepted by the Commission, Team 1, in line with the amended working programme

- did not analyse and follow up 2008 Mission Reports: considering the shortened time-frame, the IAID team deemed 2008 missions the least important as many of the findings were repeated in Missions carried out by DG MARE during 2009 and 2010; and
- did not review the Maltese National Control Programme: in line with the original working programme, team 1 was to start reviewing the Maltese National Control Programme during the week beginning 14th February 2011.

Testing was primarily carried out on-site, that is, at the offices of the Fisheries Control Directorate.

Team 2 carried out a systems audit of the management and control systems in place in Malta with respect to BFT. Although testing was primarily carried out on-site, the systems audit included various interviews with officials involved in the process but not forming part of the Fisheries Control Directorate. Amongst others, such officials included officials from the Armed Forces of Malta. Given that the request for extension was not accepted, Team 2 carried out only 1 case study in a Maltese Tuna Farm and not two as originally planned and requested by the Commission. The case study included the description, analysis and evaluation of the procedures:

- used to ensure a daily follow-up of farming activities;
- Maltese Authorities have in place to ensure that risks of non-compliance with the BFT Recovery programme and with EU legislation are covered during the different activities; and
- followed by Maltese Authorities in case non-compliance is detected during the activities mentioned above, as well as of their follow-up and results.

In addition, teams 1 and 2 were involved in:

1.3.1 Preparation of Checklists

Checklists were prepared in respect of the relevant Council Regulations, Commission Decisions and ICCAT Recommendations as follows:

- Council Regulations & Commission Decisions:
 - COUNCIL REGULATION (EU) No 23/2010
 - COUNCIL REGULATION (EC) No 302/2009
 - COMMISSION DECISION 2009/296/EC
 - COUNCIL REGULATION (EC) No 1224/2009
 - COMMISSION DECISION 2008/323/EC
 - COMMISSION REGULATION (EC) No 26/2004
 - COUNCIL REGULATION (EC) No 1984/2003
 - COUNCIL REGULATION (EC) No 2371/2002
 - COUNCIL REGULATION (EC) No 1936/2001
 - COUNCIL REGULATION (EC) No 2847/1993
 - COUNCIL REGULATION (EC) No 2930/1986

- ICCAT Recommendations:
 - ICCAT RECOMMENDATION 06-07
 - ICCAT RECOMMENDATION 08-05
 - ICCAT RECOMMENDATION 08-12
 - ICCAT RECOMMENDATION 09-06
 - ICCAT RECOMMENDATION 09-11

Copies of these checklists are to be found in Annex 3 of this report.

1.3.2 Tuna Farm Familiarisation Visit

On 20th December 2010, a Tuna Farm Familiarisation visit was carried out at the tuna farm of the largest operator in Malta located at Saint Paul's Bay. Preliminary interviews were carried out with the

- Owner; and
- Project Manager

of the same farm to gain an understanding of farm operations. This visit was carried out by team 1 and one member from team 2.

1.3.3 Visit by DG MARE officials at IAID

As originally planned and agreed during the meeting held in Brussels in December 2010, in January 2011 Commission officials met the inquiry team in Malta to monitor and evaluate the progress of this administrative inquiry.

In fact, on 18th January 2011, full day meetings were held in Malta between the Deputy Head of Unit, Unit D2, DG MARE together with the Desk officer for Malta from the same Unit in respect of this administrative inquiry.

On 19th January 2011, a meeting was held at the office of the Permanent Secretary, MRRA. For this meeting, the Deputy Head of Unit was accompanied by Director General, Internal Audit and Investigations (IAI) and by members from both teams. Following this, another meeting was held between the same official from DG MARE and the inquiry team at IAID offices. All members of the inquiry team were then later in the day present, as observers, during a bilateral meeting held at the office of IAID, between the Deputy Head of Unit and officials from the Fisheries Control Directorate.

1.3.4 Visit by Commission Inspectors at the Fisheries Control Directorate

Commission Inspectors visited Malta between the 24th and 28th January 2011 to assess the application by Malta of the rules of the Common Fisheries Policy. During the introductory meeting held on the 14th December 2010 in Brussels, the Commission had tasked IAID officials to meet with DG MARE Inspectors in order to gain a better understanding of the situation and to capitalise on the Inspectors' expertise. Thus IAID auditors took the opportunity of DG MARE Inspectors' presence in Malta to carry out this task. The inquiry teams accompanied the Inspectors of the Commission throughout their 5 day visit. Moreover, both teams carried out interviews with these same Inspectors at IAID offices to expand their knowledge of the CFP in Malta.

1.3.5 External expert on Bluefin Tuna and ICCAT matters

After having contacted various foreign experts to determine whether they are willing and available to offer their services as tuna experts, IAID contracted Mr Michael Sissenwine who is the

- former Director of Scientific Programs and Chief Science Advisory of the US National Marine Fisheries Service; and
- Past President of the ICES and the recent Chair of the Advisory Committee that provides scientific advice to the European Commission in support of the Common Fisheries Policy.

He has experience with the Scientific and Statistical Committee of ICCAT. His expertise is in the assessment of fish populations, including BFT. Throughout his career, he worked closely with members of the fishing industry and fishery managers.

Mr Sissenwine's details were presented to DG MARE's officials during their 18th and 19th January visit in Malta. The expert is known to Commission officials and his curriculum vitae was later provided to DG MARE as requested by its officials. Mr Sissenwine arrived in Malta on the 6th of February 2011. Between the 7th and 9th of February, the inquiry team had the opportunity to discuss various issues both with regards to the BFT fisheries in general as well as the specific issues identified in the Mission Inspectors' Reports and in the Case Study we carried out.

2.0 RESULTS OF THE INQUIRY – TEAM 1

2.1 INTRODUCTION

Team 1 was responsible for analysing and giving an opinion on the findings identified by the European Commission DG MARE for the period 2008 to 2010. However, as mentioned in point 1.3 above, due to time constraints following the non-acceptance of the requested extension, this team has not analysed and followed up on 2008 mission findings.

Team 1 obtained information about the **management structure and the personnel at the Fisheries Control Directorate**. Before going into any of the mission findings, it was important to establish who is determining that the EU Council Regulations, Commission Decisions and ICCAT Recommendations are being adhered to.

2.2 TUNA FARM FAMILIARISATION VISIT

The Team visited the largest fish farm in Malta, AJD Tuna Limited. At the time of the visit the farm was harvesting BFT for a Japanese buyer on board the Tuna Princess, and delivering specific orders for six fresh fish to Japan and Dubai.

The Team observed all the stages performed during harvesting and the delivery of the pieces onto the Tuna Princess (including the processing of the BFT on the said vessel) and the delivery of the fresh BFT to the cold stores of AJD Tuna Ltd.

Following the visit to the farm, the Team discussed the observations with the Project Manager of the farm. Issues discussed included fattening (and corresponding weight gain) and BFT identification from caging to exporting. The Team also saw video recordings of transfer of BFT from towing vessels to cages at the farm.

2.3 FISHERIES CONTROL DIRECTORATE – MANAGEMENT STRUCTURE & PERSONNEL

The Team obtained an organigram of the Fisheries Control Directorate, showing the responsibilities of the management team, and also a copy of their curriculum vitae (CV) to establish their knowledge in this industry. Similarly, the Team also obtained a list of all the personnel and their respective CVs.

The Team also enquired about the training provided to the personnel in this Directorate, especially in view of the numerous Council Regulations, Commission Decisions and ICCAT Recommendations issued practically every year. We were given a list of all training carried out in years 2008 – 2010.

2.4 ANALYSIS OF MISSION REPORTS

Team 1 obtained a copy of the following Mission Reports:

2010:

- Mission Report MT - D2-2010-05-A [Mission 14-23/7/2010]
- Mission Report MT - D2-2010-04-A [Mission 16-25/6/2010]
- Mission Report MT - D2-2010-03-A [Mission 17-21/5/2010]
- Mission Report MT - D2-2010-02-A [Mission 08-12/3/2010]

2009:

- Mission Report MT - D2-2009-05-A [Mission 18-30/6/2009]
- Mission Report MT - D2-2009-04-A [Mission 12-22/5/2009]
- Mission Report MT - D2-2009-03-A [Mission 24-26/3/2009]
- Mission Report MT - 2009-01-A [Mission 26-30/1/2009]

2008:

- Mission Report MT - 2008 -07- A [Mission 21-26/7/2008]
- Mission Report MT - 2008 -06- A [Mission 17-27/6/2008]
- Mission Report MT - 2008 -05- A [Mission 13-18/6/2008]
- Mission Report MT - 2008 -04- A [Mission 14-22/5/2008]
- Mission Report MT - 2008 -03- A [Mission 15-24/4/2008]
- Mission Report MT - 2008 -02- A [Mission 31/3-4/4/2008]
- Mission Report MT - 2008 -01- A [Mission 10-14/3/2008]

For each of the 2009 and 2010 mission reports, the inquiry team prepared the following table:

<u>Mission Finding</u>	<u>Regulation</u>	<u>Inquiry Findings</u>	<u>Inquiry Remarks</u>

The team kept copies of all documentation provided. Documents analysed include:

- Bluefin Tuna catch documents (BCDs)
- Caging declarations
- Carry over declarations
- ICCAT record of vessels
- Logbook Sheets
- Operation Report Forms for Regional Observer
- Correspondence with DG MARE
- Packing lists
- Export Documents
- E-mail Correspondence with various parties
- Statistical Data collected by observers on board
- Inspection forms

- Transfer authorisations
- ICCAT transfer/transshipment declarations
- Statements made to Police Authorities
- Flag States' Authorisations
- VMS Monitoring reports

Issues which are of a technical nature were clarified with the expert referred to in Section 1.3.5 of this report.

The inquiry findings and inquiry remarks put forward by team 1 are depicted hereunder. The column "*Inquiry findings*" should be seen in the light of the "*Inquiry Remarks*".

The inquiry team would like to highlight that certain findings relate to inaccurate and/or incomplete documents that have originated in other Member States, or were produced by operators of other Member States or Third Parties.

MISSION REPORT MT-D2-2009-01-A (DATED 26-30/1/2009)			
Mission Findings	Regulation	Inquiry Findings	Inquiry Remarks
<p>DATA INCONSISTENCIES</p> <p>An analysis of total caging figures for 2008 and carry over quantities revealed certain inconsistencies with the data provided by the farm representatives and bring into question the reliability of the information.</p>	<p>ICCAT Rec. 09-11 P.6</p>	<p>Confirmed</p>	<p>According to the information found on site at FCD by the Mission Inspectors, of the 12,910 fish (622 tonnes) carried over from 2007 at AJD Tuna Farm Limited, and of the 10,138 fish (535 tonnes) caged in 2008, 13,673 fish (1,104 tonnes) was harvested. This would mean a theoretical balance of 9,375 fish (53 tonnes) carried over to 2009. However the farm declarations of BFT carried over into 2009 stated 7,337 fish (341 tonnes), a difference of 2,038 fish (288 tonnes). The Mission then stated that the differences based on the figures provided by AJD Tuna Limited differed from the figures provided by FCD by 348 fish (2,386 fish as per AJD, 2038 fish as per FCD). The inquiry team recalculated these figures from the BCDs at the FCD and arrived at a difference between the theoretical balance and the actual balance of fish of 2,005 fish. Therefore the figures arrived at by the Inquiry Team were close to the figures arrived at by the FCD.</p>

			<p>Taking all the farms visited by the Mission Inspectors into consideration, total discrepancy between pieces 'lost' calculated by the farms and that declared by the administration was of 1,292 fish (149 tonnes). Based on the numbers of fish carried over from the previous year, caging and harvesting of the same fish, a balance of fish should be found in the cages. However the caging declaration for fish carried over in the following year very often shows a lower figure (difference is equivalent to the 'lost fish'). The reason given by FCD is that the quantities on catching would have been overestimated and only after harvesting can one arrive at a better estimate of the fish in the cages.</p> <p>The inquiry team also checked the 2011 BFT carry overs as declared by AJD Tuna Limited. These declarations are not dated by AJD Tuna Limited, but they have the ICCAT observer's name and signature, dated 7/1/2011. Based on the data provided by FCD, the number of pieces still in the cages of AJD Tuna Limited to be carried over to 2011 would amount to 4,358. As per AJD Tuna Limited's declaration the amount is 3,255, a</p>
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			<p>difference of 1,103 pieces.</p> <p>To put everything into context, the Mission was carried out in January 2009; therefore the findings were made on 2008 fish, where the BFT farms were only obliged to record BFT by weight and not by pieces. As explained by one of the Scientific Officers, the farms used to overshoot the number of pieces to ensure that upon harvesting they avoid having undeclared fish. Therefore that is why the balance in cages after harvesting is always less than declared on caging. It is only when the BFT is harvested that you know precisely what fish you have in the cages. Furthermore the counting at caging was always a very rough estimate and no video recordings were used in 2008. However, having said that, now that the counting of pieces is obligatory, the FCD has to ensure that data is reconciled with farm data and any anomalies investigated immediately. No reconciliation was done by the Scientific Officer at FCD to clarify the difference of 1,103 pieces mentioned above.</p>
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<p>GROWTH FACTORS</p> <p>Ongoing factors noted in the Maltese fattening farms are between 25% and 55%. Attention is drawn to the fact that a maximum on-growing factor of 25% was accepted and enforced by the Maltese Administration in previous years.</p>	<p>ICCAT Rec. 08-05 P.96 Council Reg. 302/2009 Art.36</p>	<p>Not confirmed</p>	<p>The growth factors of AJD Tuna Limited for fish caught in 2007, 2008 and harvested in 2008 were recalculated, and the harvested fish had a growth factor of approximately 57% for fish caught in 2007 and 25% for fish caught in 2008.</p> <p>The 25% growth factor mentioned in the above Inquiry Finding was in line with the 25% factor enforced by the Maltese Administration. With regards the 57% fattening, this refers to the 2007 fish, which was fattened from June 2007 to December 2008 therefore one would accept a growth higher than 25%. Even the SCRS report shows that 57% growth is not unreasonable after one and a half years growth.</p>
<p>INFORMATION ON BCDs</p> <p>The information contained in the BCDs (inspected by the inspectors during their</p>	<p>ICCAT Rec. 09-11 P. 10 TO 12</p>	<p>Not confirmed</p>	<p>28 BCDs from the harvesting of AJD Tuna Limited fish in 2010 were chosen at random by the Inquiry Team, and all these BCDs had the signature of the ICCAT observer, and the details confirmed by the observer</p>

<p>mission in January 2009) for harvesting quantities has been validated by the relevant Administration/s without regard for the degree of accuracy applying, and/or without verification of the relevant consignments.</p>			<p>agreed with the details on the BCDs. Based on the sample tested, the harvesting information contained on the BCDs was correct and confirmed by the ICCAT observer.</p>
<p>FISHERIES CONTROL AND ENFORCEMENT</p> <p>Shortcomings and omissions in respect of fisheries control and enforcement of BFT operations in 2008 still exist (as on date of visit, that is January 2009).</p>	<p>Council Reg. 302/2009 Chapter V</p>	<p>Confirmed</p>	<p>This finding, taken in the context of this mission, is referring to 'lack of proper control and omissions regarding BFT operations still evident in the Administration data base'.</p> <p>The FCD needs to implement a less complex system of monitoring the data; however it also needs to reconcile its data with the data of the farm operators on a periodical basis. Furthermore this data should also be checked at random intervals by someone in top management, otherwise reports issued from this data will lack overall assurance.</p>

MISSION REPORT MT-D2-2009-02-A (DATED 24-26/3/2009)			
Mission Findings	Regulation	Inquiry Findings	Inquiry Remarks
<p>AZZURRA II</p> <p>Following analysis of photographs of the Azzurra II by fishing experts in DG MARE at the time of the mission, technically the vessel was unable to work as a purse seiner.</p>	<p>Council Reg. 302/2009 Art. 13</p>	<p>Not confirmed</p>	<p>The ICCAT record of vessels currently shows that this vessel is a tug vessel. This vessel was used by Malta Fish Farming Ltd. as a purse seiner in 2008 and had a quota of 50 tonnes. In 2009 it was not given a quota as it exceeded its 2008 quota by 25 tonnes. Documents given by the FCD state that this vessel was always and still is registered on the Vessel Register Database with 'main gear – purse lines (purse seines). The inquiry team also saw correspondence between the vessel owners and FCD where the owners have informed that in 2009 the vessel was registered as a tug vessel (as FCD refused to give the owners a quota based on the 25 tonnes excess mentioned above).</p> <p>Based on the above, it is difficult to reach a conclusion, as the records at the FCD document show that this is a purse seiner, whilst the DG MARE experts say it is not technically equipped to be a purse seiner.</p>

<p>BFT QUANTITIES Data relating to quantities of BFT of farming operations in 2008 differed from 5 to 6,984 pieces when compared with the previous mission.</p>	<p>ICCAT Rec. 09-11 P.6 & 7</p>	<p>Confirmed</p>	<p>The 6,984 pieces difference were found in the figures of AJD Tuna Limited, as in this mission 5,926 pieces were found as carry over from 2007 to 2008, compared with the 12,910 pieces found in the previous mission. The inquiry team could not establish from where the Mission Inspectors got the figure of 5,926 pieces as the information (including caging declaration stamped by FCD on 4/11/2008) showed a figure of 12,910 pieces. The inquiry team checked another difference, of 1,880 pieces with respect to Malta Fish Farming Ltd's caged fish in 2008. The first mission showed 5,255 pieces whilst this mission had a figure of 3,375 pieces. The FCD database showed that there were 3,375 pieces caged in 2008. Caging declarations stamped by FCD, dated 30/7/2008, show 4,255 pieces. Now we have 3 different figures for pieces caged in 2008: first mission 5,255 pieces, this mission 3,375 and caging declarations 4,255 pieces. The BCDs found by the inquiry team show</p>
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			<p>a total of 3,375 pieces, confirming the amount found by the Mission Inspectors.</p> <p>The above figures clearly show how important it is to ensure all data inputted is correct, reconciled and monitored. The difference between the 3,375 pieces and 4,255 pieces is 880 pieces. According to the FCD database this fish never came to Malta however it was written on the caging declaration endorsed by the FCD on 30/7/2008. The Inquiry Team was given an invoice from Malta Fish Farming Ltd to a company in Turkey for 320 pieces dated 30/6/2008 and copy of the ICCAT Transfer at Sea Declaration showing the transfer of these pieces onto a receiver vessel with the flag of Turkey (date shown of original transfer 15/6/2008). Furthermore the inquiry team did not find the invoice for 175,000 kg of BFT sold to Turkey in 2008 (as referred to by the Mission Inspectors).</p>
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<p>RECRUITMENT OF FISHERIES PROTECTION OFFICERS</p> <p>At the time of the mission no-one had information regarding the newly recruited officers.</p>	<p>Council Reg. 2371/2002 Art. 23/24</p>	<p>Confirmed</p>	<p>According to the draft Malta's National Control Programme for 2011, there are 9 Trainee Fisheries Protection Officers, whose date of employment was June 2009. The Senior Fisheries Protection Officer was appointed senior in 2009, after having worked (according to his CV) since 2005 as a Fisheries Protection Officer. No other FPOs were recruited since. The Inquiry Team was also given a training schedule of the training given to these FPOs in 2009 and 2010.</p> <p>The training schedule shows that the FCD gives importance to training. Training is both in-house and overseas. In fact an FPO will be assigned for training at the Community Fisheries Control Agency in Vigo, Spain in 2011. It was also mentioned by the Senior FPO that the landing officers will be trained to be able to function as FPOs.</p> <p>On 8th February 2011 a call was made by the Ministry for Resources and Rural Affairs (MRRRA) for 'Observers on Board' in order to see to the implementation of the</p>
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			<p>Bluefin Tuna Recovery Plan Measures: Council Regulation 302/2009. On the same date a call was also made for 'Landing Observers' in order to see to the implementation of the Bluefin Tuna Recovery Plan Measures: Council Regulation 302/2009 and the Technical Measures for the Mediterranean: Council Regulation 1967/2006.</p>
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MISSION REPORT MT-D2-2009-03-A (DATED 15-21/4/2009)			
Mission Findings	Regulation	Inquiry Findings	Inquiry Remarks
<p>AZZURRA II</p> <p>This fishing vessel has been re-equipped to enable it to operate as a purse seiner.</p>	<p>Council Reg. 302/2009 Art. 13</p>	<p>Not confirmed</p>	<p>The ICCAT record of vessels currently shows that this vessel is a tug vessel. This vessel was used by Malta Fish Farming Ltd. as a purse seiner in 2008 and had a quota of 50 tonnes. In 2009 it was not given a quota as it exceeded its 2008 quota by 25 tonnes. Documents given by the FCD state that this vessel was always and still is registered on the Vessel Register Database with 'main gear – purse lines (purse seines). The inquiry team also saw correspondence between the vessel owners and FCD where the owners have informed that in 2009 the vessel was registered as a tug vessel (as FCD refused to give the owners a quota based on the 25 tonnes excess mentioned above).</p> <p>Based on the above, it is difficult to reach a conclusion, as the records at the FCD document that this has always been registered as a purse seiner, whilst the DG MARE experts say it has been technically re-equipped to enable</p>

<p>CAGE NUMBERS Cages were not assigned a specific number for identification purposes.</p>	<p>ICCAT Rec. 06-07 P.2 (a)</p>	<p>Not confirmed</p>	<p>it to operate as a purse seiner.</p> <p>According to the mission reports, the cages were assigned a specific number but these were not sufficient for identification purposes because they were not uniquely numbered in each farm. In fact, on 27th July 2010, the Fisheries Control Directorate requested farms to change markings (cage numbers). One of the FPOs provided the inquiry team with photos of the new cage numbers adopted at two farms as per the instructions of the Fisheries Control Directorate. Although an e-mail from the same FPO indicated that a sea inspection found correct markings at another farm, the inquiry team did not receive photographs to confirm that cages are in actual fact uniquely numbered. The FPO also explained that the other farm changed the cage numbers. However, although the number given was unique, it was not in the same format as that requested by the Fisheries</p>
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<p>BFT QUANTITIES AND GROWTH</p> <p>The FCD did not know if the carry over figures included the growth factor. Furthermore BFT quantities (apart from the harvesting figures) were estimated, and differences existed between pieces and weight figures received from FCD and the farms.</p>			<p>Control Directorate. The inquiry team has not yet received photographs in respect of this farm. No action was taken vis-à-vis the farm that currently does not have BFT.</p>
<p>The FCD did not know if the carry over figures included the growth factor. Furthermore BFT quantities (apart from the harvesting figures) were estimated, and differences existed between pieces and weight figures received from FCD and the farms.</p>	<p>ICCAT Rec. 09-11 P.6 & 7 ICCAT Rec. 06-07 P.12 ICCAT Rec. 08-05 P.96 Council Reg. 302/2009 Art. 6</p>	<p>Confirmed</p>	<p>The inquiry team checked the highest differences between farm and FCD numbers that is 2,000 kg carried over to 2008 and 8,021 kg harvested in 2008 by Malta Fish Farming Ltd. The statistical documents issued when the 2007 fish was harvested show 2,000 kg less than what was reported by the same farm (as reported by the Mission Inspectors) when carrying over to 2008. In fact a caging declaration, dated 3/7/2007, is showing 100 tonnes, not 102 tonnes.</p> <p>With respect to the 8,021 kg harvested in 2008, the team recalculated the statistical documents and found errors in the Scientific Officer's database amounting to 6.5 tonnes. These were inputting errors in the database.</p> <p>The inquiry team also checked why the same farm is declaring (on 19/1/2009) a carry over of 1070 pieces,</p>

when according to the harvesting of the same fish there was no fish left (of these 1,070 pieces there were 650 in Cage A, 70 pieces, in Cage C, being used in a Seldorf project whilst 350 fish in Cage B are being used on an FMAP Experiment).

The team found declarations issued in December 2008 by the same farm stating that the amount of fish declared on the BCDs should have been higher. The same reason was given where the average weight on harvesting was lower because the number of fish on harvesting was higher than originally estimated on the BCDs. These declarations showed a total balance of fish of 820 pieces; however the caging declarations dated 19/1/2009 mentioned above state 1070.

With regards to the growth factor, it seems that the SOs are not always sure if the weights on the farms' caging declarations include growth or not. It is true, as the FCD mentioned in their reply to the mission report, that one cannot estimate the growth before harvesting; however it was also true that the SOs were not always

<p>LANDING PLACES The exact locations of the landing places were not specified.</p>			<p>clear when asked if the particular fish in a declaration was being stated with its growth factor or not by the farm. The SO would know this if the SO inputting the data in the database reconciles and monitors the changes in weight and numbers in the cages. There is a problem with the recording, reconciling and monitoring of data with the farms. Also there is the problem of receiving declarations from farms which are subject to change and the FCD seems unable to take action because of the 'estimation on catching' problem.</p>
	<p>Council Reg. 302/2009 Art. 17</p>	<p>Not confirmed</p>	<p>The inquiry team checked a landing report and this showed the landing place as being Valletta. The FCD reply stated that Valletta is a place and the Council Regulation 302/2009 Article 17 does state 'place' for a designated port. According to the IAID</p>

			appointed expert as long as the Authorities are able to carry out their control duties in all the ports within the required time-frame, then designating places such as Valletta is reasonable.
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MISSION REPORT MT-D2-2009-04-A (DATED 12-22/5/2009)			
Mission Findings	Regulation	Inquiry Findings	Inquiry Remarks
<p>FISHERIES PROTECTION OFFICERS</p> <p>The new FPOs were still to be recruited.</p>	<p>Council Reg. 2371/2002 Art. 23/24</p>	<p>Confirmed</p>	<p>According to the draft Malta's National Control Programme for 2011, there are 9 Trainee Fisheries Protection Officers, whose date of employment was June 2009. The Senior Fisheries Protection Officer was appointed senior in 2009, after having worked (according to his CV) since 2005 as a Fisheries Protection Officer. No other FPOs were recruited since. The Inquiry Team was also given a training schedule of the training given to these FPOs in 2009 and 2010. The training schedule shows that the FCD gives importance to training. Training is both in-house and overseas. In fact an FPO will be assigned for training at the Community Fisheries Control Agency in Vigo, Spain in 2011. It was also mentioned by the Senior FPO that the landing officers will be trained to be able to function as FPOs, and three new landing officers are to be recruited in 2011.</p>

<p>CAGE NUMBERS Cages were not assigned a specific number for identification purposes.</p>	<p>ICCAT Rec. 06-07 P. 2</p>	<p>Not confirmed</p>	<p>According to the mission inspectors, the cages were assigned a specific number but these were not sufficient for identification purposes because they were not uniquely numbered in each farm. In fact, on 27th July 2010, the Fisheries Control Directorate requested farms to change markings (cage numbers). One of the FPOs provided the inquiry team with photos of the new cage numbers adopted at two farms as per the instructions of the Fisheries Control Directorate. Although an e-mail from the same FPO indicated that a sea inspection found correct markings at another farm, the inquiry team has not yet received photographs to confirm that cages are in actual fact uniquely numbered. The FPO also explained that the other farm changed the cage numbers. However, although the number given was unique, it was not in the same format as that requested by the Fisheries</p>
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				Control Directorate. The inquiry team did not receive photographs in respect of this farm. No action was taken vis-à-vis the farm that currently does not have BFT.
LANDING OFFICERS Landing officers do not make inspections but carry out controls despite the fact that they are empowered as FPOs.		Council Reg. 2371/2002 Art. 23/24	Confirmed	It seems that the landing officers were not trained to make inspections; they were simply doing some of the work of the FPOs prior to the FPOs engagement with Fisheries Control Directorate. Since June 2009 the FCD has engaged FPOs.
PRIOR NOTIFICATIONS OF ARRIVALS Masters of fishing vessels are to send a 4 hour notification of arrival before entering Maltese ports; however some masters only gave a 30 minute prior notification.		Council Reg. 302/2009 Art. 21 (1) ICCAT Rec. 08-05 P.67	Confirmed	It seems that in Malta the 4 hours prior notification is not necessary as distances are very short. This was confirmed by the FCD.
LOGBOOKS		Council Reg. 302/2009 Annex II	Not confirmed	The inquiry team selected a sample of 31 logbook sheets. Of these, the inquiry team noted only 3 instances

<p>Masters of fishing vessels do not readily comply with requirements to complete logbooks.</p>	<p>Council Reg. 2847/93 Art. 6 (1)</p>		<p>where only the number of fish was recorded in the logbook sheet by the masters of fishing boats landing BFT. The weight of tuna caught was recorded in the other 28 instances.</p>

MISSION REPORT MT-D2-2009-05-A (DATED 18-18/6/2009)			
Mission Findings	Regulation	Inquiry Findings	Inquiry Remarks
<p>BFT LICENSED VESSELS</p> <p>During 2009 there have been 2 infringement procedures made in Malta for the BFT licensed vessels Rania (Cyprus) and Viva Maria MFA 28 (Malta).</p>	<p>Council Reg. 302/2009 Art. 14 ICCAT Rec. 08-05 P. 54</p>	<p>Not confirmed</p>	<p>The FCD's reply stated that the second vessel was the Anna Maria (Cyprus) not the Viva Maria (Malta), and these were trawlers not BFT catching vessels. The ICCAT list of vessels gives two vessels with the name Rania, and the one with a radio signal is licensed as a BFT catcher in 2010. This ICCAT list does not show an Anna Maria (Cyprus) in 2010, and the Viva Maria (Malta) on the list is not a BFT catching vessel. The Director General (Agriculture and Fisheries Regulation) commented that both Rania and Anna Maria was pointed out by the Commission services as breaching Regulation 2847/1993, 2807/93 and 2371/2002. He also stated that according to a communication received on 20/7/2009 from the Cyprus Competent Authority both vessels were licensed to fish as bottom trawlers and prosecuted for sending in their logbooks late.</p>

<p>LANDING LOCATIONS</p> <p>The permitted landing and transshipping times and designated landing locations had not been specified in those ports designated for BFT in accordance with Article 17 (302/2009).</p>	<p>Council Reg. 302/2009 Art. 17</p>	<p>Not confirmed</p>	<p>The inquiry team checked a landing report and this showed the landing place as being Valletta. The FCD reply stated that Valletta is a place and the Council Regulation 302/2009 Article 17 does state 'place' for a designated port. According to the IAID appointed expert as long as the Authorities are able to carry out their control duties in all the ports within the required time-frame, then designating places such as Valletta is reasonable.</p> <p>With regards to the permitted times, landings and transshipments can take place at any time.</p>
<p>ICCAT BCDS</p> <p>The ICCAT BCD scheme was not fully implemented during the time of the</p>	<p>Council Reg. 302/2009 Art. 34 (1) ICCAT Rec. 08-12 P.3</p>	<p>Not confirmed</p>	<p>The two instances in the report refer to FR-00162-2009 and FR-00090-2009 mentioned in the annex to the report; the French Authorities confirmed the caging of</p>

<p>mission. In two instances the flag State France had not authorised the caging of fish in the Maltese farm.</p>			<p>the fish relating to transfer authorisation (documentation seen by the Inquiry Team).</p>
<p>ICCAT OBSERVER SCHEME The ICCAT observer scheme was not enforced.</p>	<p>ICCAT Rec. 08-05 P.89-90 Council Reg. 302/2009 Art. 31</p>	<p>Confirmed</p>	<p>The reply of the FCD states that the RO programme was on hold pending the 2009 plenary due to excessive costs. The inquiry team found an e-mail from the FCD to farm operators referring to April 2010 stating that the ICCAT RO Programme commenced on the 15/4/2010. The Director General (Agriculture and Fisheries Regulation) commented that Malta was not the only State or Contracting Party not to implement the RO programme in 2009. Only Turkey paid the funds to ICCAT for the 2009 programme and then used Turkish observers instead of the international observers supplied by the contracting company.</p>

<p>PERSONAL SAFETY EQUIPMENT OF INSPECTORS</p> <p>The national inspectors were not equipped with suitable personal safety equipment.</p>		Confirmed	<p>The Director at the FCD said that the inspectors have the necessary equipment. The inquiry team commented that these were not wearing them during the teams' BFT familiarisation visit carried out in December 2010. The Director replied that she is aware that they do not wear them, but they have been provided with this equipment – the use of this equipment is not monitored and enforced.</p>
<p>QUOTA AND THE FISHING SEASON</p> <p>Twelve Maltese vessels continued fishing for BFT after the season was closed on 12 June 2009. They had not taken up their individual quotas by that date.</p>	<p>ICCAT Rec. 08-05 P.4-24, P 72</p>	Not confirmed	<p>The reply of FCD stated that the 12/6/2009 closure was a precautionary and provisional date, pending the tallying of the quota. Thereafter a smaller number of vessels were permitted to fish on until a 100% take up was recorded.</p> <p>The comments from the FCD seem fair, as the individual quotas of the vessels (also as stated by the mission inspectors) were not reached and it was important for the FCD to take stock of the quota</p>

<p>TRANSFER AUTHORISATIONS</p> <p>The amount of fish on the transfer authorisation FR-00090-2009 did not match with the amount of fish entered in other documents. Although the French authorities had authorised caging of 450 pieces and 500 pieces of BFT, the Maltese authorities still authorised caging of the 1,700 and 590 pieces of BFT. BCDs were not validated at the time of the visit by EC inspector visit and when the fish was caged. French authorities reported accordingly 1,700 pieces and 500 pieces of fish to EC: possibly part of the same catch was caged in another Member State or Contracting Party. Maltese Authorities should have been authorised to cage the same amount of fish, which was authorised</p>	<p>Council Reg. 302/2009 Art. 22</p>	<p>Confirmed</p>	<p>situation before the end of the season.</p>
<p>The reply of FCD stated that the estimates authorised by the flag State are rough estimates made from the deck of the vessel; when the fish is transferred from the purse seine to the towing cage, the operation is video-recorded in the water and the numbers verified and agreed upon between the fishermen, observer and farm personnel (hence a more accurate estimate). The inquiry team checked the documentation referring to this catch, and confirmed that:</p> <ul style="list-style-type: none"> • Flag State authorisation [FR-00090-2009] on catching was for 450 pieces (15,000kg) • Flag State authorisation [Decision No. 2009/1289] on caging was for 1,700 pieces (81,000kg) for the same catch AND • Flag State authorisation [FR-00162-2009] on catching was for 500 pieces (50,000kg) • Flag State authorisation [Decision No. 2009/1382] on caging was for 590 pieces 			

<p>by flag Member State.</p>		<p>(75,000kg) for the same catch.</p> <p>The Senior FPO told the team that differences may arise because of catches after the authorisation was received. The fax from the flag State (France) seems to have been received at 09.29 (5/6/2009) [details not clear on fax]. If this information is correct, it is possible that more fish was caught later on that day. If this is the case, the authorisation should be sought at the end of the catch.</p> <p>The caging authorisation from the flag State refers to the catching authorisation authorising the caging. The team did not see any correspondence where the FCD queried the difference of 1,250 pieces quoted above, and therefore accepted the flag State's decision as all the information on all the documents relating to this catch were agreeing. The 1,700 fish were confirmed by the Observers who also endorsed the catch document.</p>
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MISSION REPORT MT-D2-2010-02-A (DATED 8-12/3/2010)

Mission Findings	Regulation	Inquiry Findings	Inquiry Remarks
<p>FATTENING RATES A table summarising caging and harvesting operations was provided by the farm representative. Although there was still fish in some cages, the alleged fattening rate obtained in some cages of this farm seems to be too high.</p>	<p>ICCAT Rec. 06-07 P.12 ICCAT Rec. 08-05 P.96 Council Reg. 302/2009 Art. 6</p>	<p>Not confirmed</p>	<p>The team recalculated the BCDs of JFO 028/09 for pieces in cage 1 and reconfirmed the Mission Inspector's findings that the fattening rate was 92%. For BFT caged in June at an average weight of 32kg, expected increase as per the Standing Committee on Research and Statistics (SCRS) Report for biennial period 2008-2009 (Part II [2009] Vol. 2) is around 75% in December and 85% in February. The pieces in this case were caged in June 2009 and harvested in December 2009 (1098 pieces) and February 2010 (212 pieces); therefore maximum fattening should be around 80%. However, it is difficult to say if fattening is too high when there is a mixture of fish. Fish at an average rate of 32kg could also be fish with a start weight from 17 kg to 42 kg, and at an average weight of 32 kg the fish was probably on the small size with higher fattening rates. The Scientific Officer at the Fisheries Control Directorate also pointed out that if 40% of the pieces</p>

<p>CAGING VS. HARVESTING FIGURES BCDs ES-09-000054 and ES-09-000004 (for BFT caged on 5/6/2009) corresponding to all the fish in cage 7 were validated for a total of 2,432 pieces harvested when the total caged number is 2,280 (152 pieces more than in cage).</p>	<p>Council Reg. 302/2009 Art. 27</p>	<p>Confirmed</p>	<p>were still in the cage during inspection, the 60% harvested would have represented the heavier fish which would have a higher average weight on harvesting.</p> <p>The team recalculated the number of pieces from the BCDs and found that pieces were 114 (not 152) more than declared on caging.</p> <p>The Scientific Officer said that the farms were given a 5% leeway because of the difficulty in estimating quantities on catching. However no regulation stipulates that 5% leeway is allowed.</p> <p>Putting everything into perspective, these pieces were caged in June 2009. In November 2008, at the Marrakesh ICCAT meeting, ICCAT recommended that number of pieces (together with weight) should be considered when catching BFT (this was confirmed by the LAID appointed expert). Therefore 2009 was the first year that number of pieces, together with weight, became an ICCAT Recommendation. Therefore it may be expected that the estimates of number of pieces will be different from the amounts harvested. After all there is no precise method whereby pieces caught can be</p>
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<p>FATTENING FACTORS</p> <p>The fattening rates accepted to validate the harvesting section of the BCDs are in some cases unrealistic (example 280% in 1.5 years for the fish transferred to MareBlu from New Eurofish (NEF) and more than 50% in most of the cases for six months period).</p>	<p>ICCAT Rec. 06-07 P.12 ICCAT Rec. 08-05 P.96 Council Reg. 302/2009 Art. 6</p>	<p>Not confirmed</p>	<p>precisely counted.</p> <p>The team recalculated the BCDs. Caging in NEF was found at 32kg (not 30.2kg). Harvesting at NEF and caging at MareBlu was found the same at 71 kg. Increase from original 32 kg to final 85 kg is 170% fattening (not 280%).</p> <p>The team's recalculations show that the fattening problem originated from the Italian farm. In that farm the pieces were fattened by 125% after 1 year and 3 months of fattening. In the Maltese farm it was fattened by 20% from October 2009 to January 2010.</p>
<p>MISSING BCDs</p> <p>BCDs referring to cages 5 and 6 of the MareBlu farm were missing.</p>	<p>ICCAT Rec. 09-11 P.3</p>	<p>Not confirmed</p>	<p>The team found and took copies of these BCDs.</p>
<p>DIFFERENT DESTINATION FARM</p> <p>Fish caught in 5 operations made by JFO ICCAT 28/09 was caged in the MareBlu farm but the communicated destination farm was the Croatian farm Kali tuna d.o.o.</p>	<p>Council Reg. 302/2009 Art. 19 (e)</p>	<p>Not confirmed</p>	<p>The FCD reply was that the Croatian farm and MareBlu are both owned by Ricardo Fuentes Group in Cartagena, Spain and the destination farm depends on the marketing strategy of the owners.</p> <p>The team obtained a copy of the ICCAT Record of Joint Fishing Operation Information 028/09 and this shows</p>

<p>INCIDENT AT TA' MATTEW FISH FARM (20/12/2009)</p> <p>The farm manager declared that all the cages were empty; they had four farming cages of 65m numbered 1, 2, 3, 4; all of them had been destroyed in a storm on 20/12/2009, cages number 3 and 4 were the only ones containing fish at that moment, 262 tonnes caged by the Algerian purse seiner Neptune VI and about 10 tonnes carryover from the previous campaign; all the fish had been lost. The Commission Inspectors asked how it was possible that all the cages of this farm had been</p>		<p>Council Reg. 302/2009 Art. 22(2), (5), Art. 24 (4) ICCAT Rec. 08-05 P. 83</p>	<p>Not confirmed</p>	<p>the Croatian farm Drvenik (not Kali) and MareBlu farm as fattening and farm destinations.</p> <p>The above-mentioned record shows that the BFT could have been caged in the MareBlu farm in Xorb l-Ghagin or the Croatian farm, therefore the fact that the BFT was caged in MareBlu farm was in line with the JFO ICCAT requirement.</p>
<p>The farm manager declared that all the cages were empty; they had four farming cages of 65m numbered 1, 2, 3, 4; all of them had been destroyed in a storm on 20/12/2009, cages number 3 and 4 were the only ones containing fish at that moment, 262 tonnes caged by the Algerian purse seiner Neptune VI and about 10 tonnes carryover from the previous campaign; all the fish had been lost. The Commission Inspectors asked how it was possible that all the cages of this farm had been</p>		<p>Not confirmed</p>	<p>The Inquiry Team recalculated the BCDs of the catches relating to the pieces which should have been in the cages at the time of the storm. From the data provided by the SO it was not easy to establish the weight of the pieces which would have been in the cages prior to the storm. The figure arrived at was of 490 tonnes (in cages 1, 2, 3, 4) however this is only an approximate figure.</p> <p>The team also went through all the documentation and correspondence referring to this issue. The main issue was the fact that 262 tonnes in Cage 4 were never authorised by the Algerian authorities and it could not be caged without the necessary documentation. The BFT was provisionally caged because the issue was taking too long, but eventually the Commission ordered its</p>	

<p>destroyed while MareBlu Farm's installations did not suffer any damage. Farm manager claimed that that farm was in a more northerly location and currents came from there, and MareBlu some years ago did loose one cage when the other farm didn't.</p>		<p>release from the cages on the 21 and 22/12/2009 as no documentation was forthcoming. The FCD replied that no action could be taken before the end of the year, as the farm operator was given 31/12/2009 as an official deadline from the FCD, after which he would have to release the fish. However the Commission were still invited to come to Malta. The Commission Inspector was on his way to Malta on the 20/12/2009, but got stuck in Milan because of stormy conditions and eventually went back to Brussels after hearing of the storm incident in Malta. On the 20/12/2009 Ta' Matthew informed the FCD that a storm destroyed its farm. The Police took a statement from the farm owner and the Director of the FCD.</p> <p>The team had a meeting with the farm owner of Ta' Matthew and his insurance broker together at the Ta' Matthew offices in Marsaxlokk to discuss the details of the incident. The owner explained the incident, stating that there were times when other farms were destroyed</p>
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			<p>by storms and his wasn't and the insurance broker showed the team pictures of the broken cages and some dead BFT. The owner also stated that he would have contested the release of fish at all costs because it was not his fault that the Algerians failed to authorise the necessary documentation. The weather conditions were discussed. According to the local Met Office the weather was not very severe; however the insurance broker pointed out that the main problem was the strong undercurrents which destroyed the farms. These undercurrents had been building up for 6 days and were very strong (3 knots). The insurance broker then gave us the weight of BFT lost, 318 tonnes. The team then insisted to have the amount of the claim paid by the insurers. Eventually the insurance broker, following the approval of the owner agreed to give the team the amount paid. The sum received by the farm amounted to Euro 3.9M; 95% of this was paid within 6 months, and the remaining 5% in December 2010</p>
HARVESTING INFORMATION ON	ICCAT Rec. 09-11 P.3	Not confirmed	The Inquiry Team went though all the BCDs involved in

<p>BCDs</p> <p>The harvesting sections of BCDs corresponding to 4 Libyan vessels were not filled in November or December 2009.</p>	<p>ICCAT Rec. 09-11 Part II</p>		<p>harvesting of fish in November and December 2009 and found that the pieces referring to these BCDs were not harvested.</p> <p>The BCDs show that this fish was not harvested in November and December 2009. In fact, (as confirmed by Scientific Officer), this fish was lost in the storm which destroyed all the cages in Ta' Matthew fish farm on 20th December 2009.</p>
<p>CAGING VS. HARVESTING FIGURES</p> <p>According to the Maltese authorities the carry over of Fish and Fish Ltd to 2009 amounted to 3,486 fish, however 3,687 pieces were already harvested and more fish was to be carried forward.</p>	<p>ICCAT Rec. 09-11 Part II Council Reg. 302/2009 Art. 28. ICCAT Rec. 09-11 P.6 & 7</p>	<p>Confirmed</p>	<p>The Inquiry Team found the caging declaration showing 3,486 pieces from 2008 carried over to 2009 and another declaration showing 129 pieces from 2008 carried over to 2010, notwithstanding that 3,687 pieces were harvested in 2009.</p> <p>As already mentioned above the FCD were giving a 5% leeway to farms because it was not obligatory on the farms to measure BFT by number of pieces (only by weight).</p>
<p>ANALYSIS OF FIGURES FROM BCDs</p> <p>Analysis of BCDs and caging declarations show that the number of pieces from the</p>	<p>ICCAT Rec. 09-11 Part II ICCAT Rec. 09-11 P.6 & 7</p>	<p>Confirmed</p>	<p>The Inquiry Team recalculated the amounts from the caging declarations held by the FCD but was unable to arrive at the figures quoted by the Mission Inspectors.</p>

<p>2009 catches at the time of the current mission was not 2,000 but 1,691; therefore there were pieces of fish not covered by the BCD documents.</p>			<p>The problem is that the information and the database used by the SO is not being reconciled with the information at the fish farms.</p>
<p>CAGING OF MOROCCAN FISH Fish from a Moroccan vessel was caged in the same fish of the JFO 017/09 violating ICCAT 08-12.</p>	<p>Council Reg. 302/2009 Art. 27 (2) ICCAT Rec. 06-07 P.2</p>	<p>Not confirmed</p>	<p>The Inquiry Team found a caging declaration of cage A showing the fish on its own; checked BCD LY-09-000100 (part of JFO 017/09) and this shows that caging was in Cage A on 25/6/2009. However this fish was transferred to cage E on 28/6/2009 (as per caging declaration). The Moroccan fish was caged in cage A on 30/6/2009 whilst the JFO 017/09 was in cage E.</p>
<p>THE ICCAT AUTHORISATION OF TOWING VESSELS The ICCAT authorisation of some Tunisian Towing vessels had expired on 31/12/2009.</p>	<p>Council Reg. 302/2009 Art. 14 ICCAT Rec. 08-05 P. 54</p>	<p>Not confirmed</p>	<p>The Inquiry Team found no correspondence to evaluate whether the Maltese Authorities received confirmation as to whether these vessels were authorised. In a letter dated 21/6/2010 addressed to DG MARE the Maltese Authorities confirmed that the said vessels were authorised for the fishing period and were on the ICCAT</p>

			<p>Website, however they received no confirmation from the Tunisian authorities.</p> <p>Past information is not available on the ICCAT website therefore the team is unable to confirm this with the approved list of vessels.</p> <p>At this stage the Inquiry Team was unable to find any evidence that the vessels were not authorised to operate in the said period.</p>
<p>DOCUMENTATION REGARDING TRANSFER OF FISH</p> <p>The Maltese Authorities were unable to provide the Commission inspectors with any document concerning the transfer of fish from Malta Mariculture to AJD Tuna Limited installations (a caging declaration</p>	<p>Council Reg. 302/2009 Art. 22, 24 ICCAT Rec. 06-07 P.2</p>	<p>Not confirmed</p>	<p>The Inquiry Team found documentation regarding the transfer of this fish. The team was also given caging declarations for the same period (total pieces in cage [cage 5] are more than the said amount transferred as there were other pieces in the cage).</p>

<p>should have been produced).</p>			
<p>MIXING OF FISH According to the information recorded in the BCDs, fish from different JFO involving vessels of different MS and CPCs have been mixed up in the cages.</p>	<p>ICCAT Rec. 09-06 ICCAT Rec. 08-05 Council Reg. 302/2009</p>	<p>Not confirmed</p>	<p>The SO told the Inquiry Team that the JFOs all belonged to EU states (that is the same CPC) and therefore could be caged together. The team found the BCDs and confirmed that the vessels belonged to EU states. The Director General (Agriculture and Fisheries Regulation) commented that JFOs are covered in Recommendations 09-06 and 08-05 and the separation of fish in these recommendations is by CPC and not member states that form part of the same CPC. JFOs between different CPCs are not permitted with article 20 of Rec. 10-04 that will enter into force in June 2011. It is Council Regulation 302/2009 that extended the separation of the fish also by Member States of the same CPC and this entered into force in April 2009.</p>
<p>CAGES WITH 2007 FISH Keeping 2007 fish in cages and harvesting 'newer' fish is a suspicious practice that avoids any monitoring of the actual quantity caged. The biomass density</p>	<p>ICCAT Rec. 09-11 P.6 & P.7</p>	<p>Not confirmed</p>	<p>The reply given by the FCD indicates that the problem of this 2007 fish was mainly dependant on the buyer's request for fish caged in later years. The Commission deems this fish to be suspicious because, in its view, it does not make sense for a farm to keep on feeding the</p>

<p>allegedly kept in some cages is contrary to common practice. The Maltese authorities should explain the methodology used to verify the origin and validate the carryover BCDs.</p>			<p>fish for so many years. The inquiry team found the BCDs referring to the 2007 catches and recalculated the amounts harvested. This fish was all harvested by 2010 and no fish was carried over in 2011. Note that the data from our recalculations shows a balance of 282 pieces. However as mentioned previously, quantities of fish caged in 2007 were based on rough estimates and figures were inaccurate. From the documents received the team could not conclude that there was anything improper..</p>
<p>EQUIPMENT ON A PURSE SEINER The purse seiner Sajomelita was not equipped as a purse seiner.</p>	<p>Council Reg. 302/2009 Annex I ICCAT Rec. 08-05 P.18</p>	<p>Not confirmed</p>	<p>This vessel was registered on the ICCAT record of vessels as a BFT Purse Seiner for the period 19/5/2008 to 18/5/2013. The fact that it is registered with ICCAT shows that it was authorised to fish as a purse seiner.</p>
<p>GROWTH RATES French BCDS of 2009 showed that there was an increase of 60.60% increase in weight from caging to harvesting weight. This is not admissible for a 6 month period.</p>	<p>ICCAT Rec. 06-07 P.12 ICCAT Rec. 08-05 P.96 Council Reg. 302/2009 Art. 6</p>	<p>Not confirmed</p>	<p>The fattening rates were checked against a report cited by the Standing Committee on Research and Statistics (SCRS) report already mentioned above to evaluate why the Commission deems a 60.6% increase to be inadmissible. As per the SCRS Report fattening percentages for pieces between 29 and 42 kg for a 6 month period may be</p>

				between 72% and 78% so 60.6% quoted in report is reasonable.
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MISSION REPORT MT-D2-2010-03-A (17 – 21 MAY 2010)

Mission Findings	Regulation	Inquiry Findings	Inquiry Remarks
<p>REGIONAL OBSERVER PROGRAMME</p> <p>The Maltese authorities suspended harvesting as from 15th April 2010 due to the absence of a Regional Observer. Harvesting resumed on 16th May 2010.</p>	<p>Article 31 of Council Regulation (EC) 302/2009</p>	<p>Confirmed</p>	<p>On the 16th April 2010, the Director General (Agriculture and Fisheries Regulation) informed operators that the Regional Observer Programme has started from 15th April 2010 and that he will not be in a position to sign certificates for exports without the Regional Observer.</p> <p>However, documents reviewed by the inquiry team revealed that two operators carried out harvesting on 15th April 2010. One of these operators carried out harvesting</p>

<p>even on the 16th April 2010. This was done in the presence of a National Observer.</p>			
<p>HARVESTING OPERATIONS</p>			
<p>The last harvesting operation of AJD Tuna Farm was on 22nd April 2010, despite the suspension of harvesting by the Maltese authorities on 15th April 2010 due to the absence of an RO.</p>	<p>Not Confirmed</p>	<p>Article 31 of Council Regulation (EC) 302/2009 ICCAT Recommendation 08/05</p>	<p>The inquiry team obtained the Data Collection Report by Observers and the Statistical Data Collected by Observers of the 14th April 2010. The inquiry team also obtained the packing list and the ICCAT Bluefin Tuna Statistical document in respect of two sales. Upon discussing this issue with the Project Manager of AJD Tuna, it was established that fish caught on 14th April was exported on 22nd April because of the ash cloud from the Icelandic volcano which has caused havoc with flights.</p> <p>Upon enquiring on the difference between the weight quoted on the observers' reports and that quoted on the</p>

			<p>packing list and ICCAT document, the same Project Manager explained that the difference results because the former documents represent weight at harvest, while the other represents dressed weight (that is, gilled, gutted, part of head off, fins off) <i>Source:</i> http://www.iccat.int/Documents/SCRS/Manual/Appendices/Appendix%20V%20Product%20conversion%20fac-tors.pdf). He claimed that usually there is a difference of approximately 20% - 22% between the weight at harvest and the dressed weight. However, testing carried out on the documents relating to this particular case revealed that the difference was of 17%. According to the IAID appointed expert, the difference between these two figures could vary for different fish.</p>
<p>ARMED FORCES OF MALTA</p> <p>The Armed Forces of Malta does not have investigative powers. If infringement is</p>		<p>Not Confirmed</p>	<p>The Armed Forces of Malta personnel are all FPOs by virtue of Chapter 425 Article 4 (5c) of the Laws of Malta,</p>

<p>detected in the course of inspection at sea, the case together with evidences collected is handed over to the Fisheries Department for follow-up. FPOs are not present on board during non-targeted patrols.</p>			<p>the Fisheries Conservation and Management Act. As a result, they enjoy the powers of FPOs indicated in Part VIII Articles 19 – 25 of the same Act. These powers give investigative powers to the Armed Forces of Malta.</p>
<p>RECREATIONAL FISHERIES</p> <p>BFT quota is not allocated to the recreational fishery.</p>	<p>Article 4(15) of Council Regulation (EC) No 302/2009</p>	<p>Confirmed</p>	<p>Although article 4(15) of Council Regulation (EC) No 302/2009 requires that each Member State shall allocate a specific quota for the purpose of recreational fisheries, the inquiry team confirmed that no quota was allocated to recreational fisheries during 2010. However, a quota for recreational fisheries was allocated for 2011.</p>

<p>VMS DEVICES</p> <p>VMS devices of Madonna tal-Karmnu and Giovanni Padre were not functioning during the fishing activities. Positions of those two vessels were not received. Therefore, there is no proof about manual filing of the positions during crosschecked fishing days.</p>	<p>Article 22 and 25 of Council Regulation (EC) 302/2009</p>	<p>Confirmed</p>	<p>A VMS report dated 27th May 2010 and drawn up by the Fisheries Protection Officer in charge of the VMS confirmed that the VMS devices of Madonna tal-Karmnu and Giovanni Padre had technical failures during the days referred to in Annex II to the Mission Report.</p>
<p>EC inspectors did not receive positions of the vessels Madre Teresa, Michele Rosaria and Giuseppe Paolo.</p>		<p>Not confirmed</p>	<p>The inquiry team is not in a position to determine what was provided to EC inspectors. However, the report mentioned above indicated that the VMS of the other three vessels (Madre Teresa, Michele Rosaria and Giuseppe Paolo) was working properly.</p>

MISSION REPORT MT-D2-2010-04-A (16 – 25 JUNE 2010)

Mission Findings	Regulation	Inquiry Findings	Inquiry Remarks
<p>TRANSHIPMENT</p> <p><i>Designated port</i></p> <p>The BFT transhipment operation took place during the period from 17 to 18 June 2010 between three carrier vessels in Malta, Port of Valletta, which is a designated port for landings and transhipments of BFT. However, this port was not listed on the ICCAT Record of</p>	<p>ICCAT Recommendation 08-05</p> <p>Article 17 of Council Regulation (EC) 302/2009</p>	<p>Confirmed</p>	<p>The Scientific Officer explained that information regarding designated ports is submitted to the Commission via e-mail, who in turn forward information to ICCAT. On 24th February 2010, an e-mail was sent by Maltese Authorities to DG-MARE providing information on the updated list of designated ports for 2010. However, this e-mail contained only information on ports in which landing of Bluefin Tuna is authorised. No information was provided on ports</p>

<p>Ports, as authorised for transshipments taking place from 28 February 2010.</p> <p><i>Transfer declarations</i></p> <p>Transfer declarations signed by Moroccan authorities were without the document numbers or the numbers were the same for the transfer declarations containing different information.</p> <p><i>Transhipped quantities</i></p> <p>During the transhipment the number of transhipping vessels had changed. "Princesa Guasimara" did not tranship any quantities. In the end, it was a receiving vessel only.</p>			<p>authorised for transhipment.</p> <p>This shortcoming is attributable to Moroccan Authorities. The Fisheries Control Directorate should do their utmost to ensure that documentation is in line with the requirements of the relevant regulations.</p> <p>Based on the documents provided by the Fisheries Control Directorate, the inquiry team agrees with the Mission Report that Princesa Guasimara did not tranship any quantities. It was only a receiving vessel. The inquiry team also confirmed the discrepancies between the</p>
	<p>Article 22 of Council Regulation (EC) 302/2009</p>	<p>Confirmed</p>	
	<p>Article 23 of Council Regulation (EC) 302/2009</p>	<p>Confirmed</p>	

<p>“Astraea 102” transhipped to “Princesa Guasimara” 275292 kg PW and to “Paloma Reefer” 7400 kg PW which was respectively 1 and 5294 kg PW less than she was authorised.</p> <p>“Paloma Reefer” transhipped to “Princesa Guasimara” 168529 kg PW which was 7099 kg PW more than she was authorised.</p> <p><i>Transhipment date</i></p>			<p>amounts that vessels were authorised to tranship and the amounts actually transhipped. It is worth noting that none of the fish was Maltese.</p>
<p>The actual transhipment took place at dates later than it was authorised due to non-reporting of VMS positions while en-route to Malta.</p>	<p>Article 23 of Council Regulation (EC) 302/2009</p>	<p>Confirmed</p>	<p>The inquiry team obtained a copy of authorisations issued by Panamian Authorities and of ICCAT Transfer Declarations and confirmed that the actual transhipment took place at dates later than it was authorised.</p>

<p><i>Record of Transhipment to Flag State</i></p> <p>EC inspectors did not find any recorded proof that the Port State, i.e. Malta, sent a record of transhipment to the Flag State of the transhipping vessel, i.e. Panama, within 48 hours after the transhipment had ended.</p>	<p>Article 23(5b) of Council Regulation (EC) 302/2009</p>	<p>Confirmed</p>	<p>On 23rd June 2010, Malta sent transhipment declarations and Flag State authorisations to the Commission for onwards transmission to ICCAT and to the flag states. This was already past the deadline of 48 hours set by Council Regulation (EC) No 302/2009. On 25th June 2010, Malta was asked by the Commission to confirm whether any communication and/or record of the transhipment was forwarded to Panama. The inquiry team was informed that Malta was "of the understanding that the EU will forward all related documents to the Third Countries." Declarations were eventually sent to Panama on 25th June 2010 18.40 hrs.</p>

<p>CAGINGS</p> <p><i>Date of validation of BCDs</i></p> <p>There were few cases when the date of validation of BCD was preceding the date of transfer from the catching vessel to the towing vessel. BCDs of the French catching vessels were validated by the Flag State authorities after the transfer from the catching vessel took place.</p>	<p>Article 34(1) of Council Regulation (EC) 302/2009</p>	<p>Confirmed</p>	<p>This is attributable to French Authorities. The Fisheries Control Directorate should do their utmost to ensure that documentation is in line with the requirements of the relevant regulations.</p>
<p><i>Caging reports to Flag States</i></p> <p>EC inspectors did not find any recorded proofs that the Farm State, i.e. Malta, submitted caging reports to the Flag State</p>	<p>Article 24(1) of Council Regulation</p>	<p>Confirmed</p>	<p>Although the inquiry team obtained copies of e-mails indicating that the caging reports were submitted to the Commission and, except for two reports, even to Flag</p>

<p>of the catching vessels.</p>	<p>(EC) 302/2009</p>		<p>States, it was noted that such reports were not submitted in time. Reports were submitted to flag states in September 2010, approximately two months after these were submitted to the Commission. It is worth noting that no evidence was provided by the Fisheries Control Directorate that the catch reports in respect of MLT/AJD-02-2010 and MLT/AJD-03-2010 were ever submitted to the French authorities (the Flag State).</p>
<p><i>Authorisation to transfer between towing vessels</i></p> <p>Cage with BFT destined for Ta .Matthew Fish Farms Ltd for caging on 17 June 2010 was transferred from Ta Matthew II to Ta</p>	<p>Article 24 of Council Regulation (EC) 302/2009</p>	<p>Confirmed</p>	<p>The inquiry team was provided with a copy of a letter dated 9th June 2010 from Ta' Matthew Fish Farms Ltd to the Scientific Officer at the Veterinary Regulation Fish Conservation and Control. This letter states that they needed to send Ta Matthew Vessel to replace Ta Matthew II that was towing a cage with fish because Ta Matthew II had</p>

<p>Matthew. However, transfer authorisation on board indicated that the cage was transferred from Ta Mattew to Ta Mattew II.</p>			<p>a problem in the rudder.</p> <p>The mission finding that a wrong transfer authorisation was issued was confirmed by the inquiry team. In fact, the team was provided with a copy of the erroneous Transfer Authorisation Form dated 9th June 2010. Although this was endorsed, there was no indication as to whom this signature relates to. However, the word "cancelled" was noted on two copies of this same Authorisation Form. Nonetheless, there was no indication of the cancellation date and by whom it was being cancelled. A copy of a correct Transfer Authorisation form, stamped and dated 9th June 2010, was also provided to the inquiry team.</p>

<p>LANDINGS</p> <p><i>Designated port</i></p> <p>Marsaxlokk port was not listed on the ICCAT Record of Ports, as authorised for landings taking place from 28th February 2010.</p>	<p>Article 17 of Council Regulation (EC) No 302/2009</p>	<p>Not confirmed</p>	<p>Article 17 (2) of Council Regulation (EC) No 302/2009 requires Member States to transmit to the Commission, by no longer than 15th February each year a list of designated ports. The Commission shall send this information to the ICCAT Secretariat before 1st March each year. On 24th February 2010, an e-mail sent by the Maltese Authorities to DG-MARE, indicated that Marsaxlokk is one of the ports authorised for landing of Bluefin Tuna.</p> <p>The inquiry team acknowledges that the information was not submitted to the Commission on time.</p>
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<p><i>By-catch rules</i></p> <p>"Shalom" (MFA289) and "Kristu Re I" (MFA89) had their individual quota which was already exhausted. Each vessel landed one piece of BFT which was caught as a by-catch during the targeted swordfish fishery. Landed tuna exceeded the 5% limit of the total catch on-board. FPOs allowed landing the BFT because Maltese contingency quota was not fully utilised. The catches of BFT of both vessels were counted against this quota.</p>	<p>Article 11(1) of Council Regulation (EC) No 302/2009</p>	<p>Confirmed</p>	
<p><i>Fishing licence on board</i></p> <p>"Kristu Re I" had a fishing licence on board, but it had expired on 31 December 2009. There was no valid licence on</p>		<p>Not confirmed</p>	<p>The inquiry team could not determine whether valid licence was on board at time of inspection by Commission Inspectors. The inquiry team obtained a copy of the</p>

board.			<p>receipt for the payment of the Licence for 2010 in respect of "Kristu Re I" (MFA 0089) dated 13 January 2010. This confirmed that the licence was paid on time, that is by 28th January. However, an inspection report dated 23/8/2010 drawn up by two FPOs confirmed that "When inspected the vessel had the fishing licence of 2009 on board instead of 2010." The same report also states that "after we verified that the fishing license was renewed for 2010 from vessel registration office, we verified that the renewed licence is effectively on board".</p>
<p>ENGINE POWER OF FISHING BOATS</p> <p>The verification of information contained in the snapshot transmitted by Malta in June 2010 revealed the general tendency of fishing boats' auxiliary engine power to be relatively high (in some cases double) in</p>	<p>Commission Regulation (EC) No 26/2004</p>	<p>Confirmed</p>	<p>The inquiry team noted an e-mail from Maltese Authorities to the European Commission (Ms Valerie Laine) dated 3rd December 2010, referring to Chapter VII of the draft implementing rules of the control regulation. Through this e-mail the Commission was informed that Malta has</p>

<p>comparison to the main engine power.</p> <p>Maltese authorities have wrongly recorded and transmitted to the Commission the “power of main engine” of fishing vessels. Engine power used for the propulsion is also recorded and transmitted under the heading “power of auxiliary engine” which is in contradiction to the requirement established in Annex I of Commission Regulation (EC) No 26/2004 referring to Article 5 of Council Regulation (EEC) No 2930/86.</p> <p>Subsequently the “power of auxiliary engine” is also falsely recorded and transmitted.</p> <p>As until 5 July 2010 Maltese authorities did not take necessary measures to correct the errors and transmit information to the</p>		<p>concerns with regard to the engine power which is currently registered on the Fleet Register on the NET (FRONT). The e-mail explains that this problem has been addressed to the Commission since April 2004 during discussions prior to the entry into force of Commission Regulation (EC) 26/2004 which entered into force on 1 September 2004. The e-mail continues that according to the established database of the Commission (FRONT), auxiliary engine power (from a second engine) cannot be higher than the main engine power. However, in the case of Malta, several fishing vessels are equipped with a third engine and, therefore, auxiliary engine power is often higher than the main engine power. As a result of this situation fleet snapshot analysis generates an error report for every fishing vessel whose auxiliary engine power is higher. The e-mail also explains that this situation is also leading to the apparent non-compliance with Council Regulation (EC) 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea.</p>
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Commission within the 10 working days limit.

The Maltese Authorities continues that the main problem with regard to engine power reported arises because many of the Maltese fishing vessels have 3 engines with a main engine in the centre. These engines are used both for propulsions and for electricity generation and refrigeration. The power of the two auxiliary engines are added up and reported together in the one field currently available for the power of auxiliary engine in the snapshot. Thus, in many cases the power of the auxiliary engine is shown as higher than that of the main engine.

In the same e-mail, the Maltese Authorities explained that they are ready to discuss solutions to the multiple engine issue. The e-mail continues that this will mean that there is a different interpretation to the main engine from that used when reporting the Maltese fleet for inclusion in the Maltese fishing fleet and, therefore, this agreement must include the re-opening of the ceiling levels for engine power.

			<p>On 2nd February 2011, the inquiry team was informed that the Commission had not yet replied to the e-mail of 3rd December 2010.</p> <p>The inquiry team considers that Maltese Authorities and the Commission shall discuss in detail the issues mentioned in the e-mail of the 3rd December 2010 referred to above.</p>
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MISSION REPORT MT-D2-2010-05-A (14 – 23 JULY 2010)

Mission Findings	Regulation	Inquiry Findings	Inquiry Remarks
<p>TRANSHIPMENT</p> <p><i>Record of transhipment not sent to flag state authorities within 48 hours</i></p> <p>Maltese authorities did not send the record of transhipment to the flag state authorities within 48 hours after the transhipment had ended. This was done 144 hours after the transhipment had ended.</p>	<p>Article 23(5b) of Council Regulation (EC) No 302/2009</p>	<p>Confirmed</p>	<p>Transhipment took place between the 17th and 19th June 2010. On 23rd June Malta sent transhipment declarations and Flag State authorisations to the Commission for onward transmission to ICCAT and to the flag states. This was already past the deadline of 48 hours. On 25th June Malta was asked by the Commission to confirm whether any communication and/or record of the transhipment has been forwarded to Panama. A draft mail of the Maltese</p>

<p><i>No inspection of vessels involved in transshipment before departure</i></p> <p>Vessels in above transshipment were not inspected before departure. However, FPOs were constantly present during the transshipment operations and drafted a report for the director of Fisheries Control Department.</p>			<p>Scientific Officer indicated that they "were of the understanding that the EU will forward all related documents to the Third Countries." However, as already indicated in the remarks to the June 2010 Mission Report, article 23(5b) of Council Regulation (EC) No 302/2009 requires Member States to send record of transshipment to the Flag State within 48 hours after the transshipment has ended. Declarations were eventually sent to Panama on 25th June 2010 at 18.40 hours, that is 144 hours after the transshipment has ended as indicated in the Mission Report.</p> <p>Confirmed</p> <p>As per Mission finding, FPOs were constantly present during operations.</p>
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CATCH REPORTS				
<i>Malta not submitting catch reports</i>				
In the period 14/5/2010 - 10/6/2010 and after 14/7/2010, Malta was not submitting Catch Reports to the Commission containing BFT quantities caught by Maltese vessels.	Article 20(3) of Council Regulation (EC) No 302/2009	Partly Confirmed	An e-mail providing information on BFT catches made until 6 th June 2010 was sent to the Commission on 10 th June 2010. An e-mail sent to the Commission on 14 th July 2010 covered the period until 4 th July 2010. The BFT season ended on 30 th June 2010.	

<p>VMS</p> <p><i>Transmission of VMS Messages</i></p> <p>Tug Berendina transmitted VMS messages in a wrong format (missing "From" field). Tug Ta Matthew II transmitted only few VMS messages. Tug Budafell's transmissions were irregular and contained a lot of gaps until June 2010.</p>	<p>Article 25 of Council Regulation (EC) No 302/2009</p>	<p>Not confirmed for Berendina</p> <p>Not confirmed for Ta Matthew II</p> <p>Confirmed for Budafell</p>	<p>The FPO in charge of VMS provided the team with documents generated from the VMS indicating the signals that arrive at the Fisheries Control Directorate.</p> <p>One of these documents indicated that there were 538 transmissions from Berendina noted in the same document as "good" during May and June 2010.</p> <p>Based on a similar document for Ta Matthew II, IAID noted that there were 456 "good" transmissions during May and June 2010.</p> <p>A similar document for Budafell confirmed that transmissions from this vessel contained a lot of gaps. In fact, upon analysing the transmissions for May and June, IAID noted that there were transmissions only on 1st, 30th and 31st May 2010 and 1st, 4th, 9th and 30th June 2010.</p>
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<p>CAGINGS</p> <p><i>Log book sheets</i></p> <p><i>Log book sheets not signed by ICCAT observers</i></p> <p>Two French and nine Libyan log book sheets were not signed by ICCAT observers.</p>	<p>Point 8 of second paragraph of Annex II to Council Regulation (EC) No 302/2009</p>	<p>Confirmed</p>	<p>The inquiry team obtained a copy of the log book sheets and confirmed that these were not signed by ICCAT observers.</p>

<p><i>Log book sheet not coherent with the sheet numbers of previous and subsequent trips</i></p> <p>Log book sheet LY-0458 of Khandeel II was more coherent with the log book sheets of Khaleej Eltahadi.</p>		<p>Could not confirm</p>	<p>The Scientific Officer did not manage to find a copy of log book sheet LY-0458 of Khandeel II. However, the inquiry team noted log book sheet LY-0548 (and not LY-0458) of Khandeel II with the same departure date as that indicated in the mission report for LY-0458. This is more coherent with the logbook sheets of the vessel in question, that is Khandeel II.</p> <p>The inquiry team could not confirm or otherwise the mission finding given that no copy of the log book sheet was found by the Fisheries Control Directorate. Considering that a log book sheet with same details but slightly different number from that quoted in the Mission Report (LY-0548 instead of LY-0458) was found, the inquiry team notes that there could have been an error in the number quoted in the Mission Report.</p>
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<p><i>Inconsistencies between catch dates and transfer dates</i></p>	<p>Four Libyan vessels corrected catch dates in log book sheets from 4/5/10 to 4/6/10, while date of transfer remained recorded as 4/5/10.</p>	<p>Article 24(5) and article 34(1) of Council Regulation (EC) No 302/2009 ICCAT Recommendation 08-12</p>	<p>Confirmed</p>	<p>The inquiry team obtained a copy of the log book sheets and confirmed that the catch date was changed while date of transfer remained recorded as 4/5/10.</p>
<p><i>Time of catch of vessels participating in a Joint Fisheries Operation does not always match</i></p>	<p>The time of catch did not always match with the log book sheets of each fishing</p>	<p>Article 24(5)</p>	<p>Confirmed</p>	<p>The inquiry team obtained a copy of the log book sheets and confirmed that the time of catch did not always match</p>