

Pre-closure letter for a multiple complaint on an alleged breach by the Netherlands of EU rules on pulse fishing - CHAP (2020)02862

In 2020 the European Commission received a large number of complaints concerning an alleged breach by the Netherlands of EU rules on pulse fishing. These complaints were registered under the reference CHAP(2020)02862.

According to the complainants, the Netherlands would have failed to fulfil their obligations under Regulation (EU) 2019/1241, in particular those concerning the use of electric pulse trawls provided for in Annex V, part D and Article 25 (1) (f) of that Regulation.

Specifically, the number of authorisations issued by the Netherlands for the use of electric pulse trawl would in complainants' view exceed the limit of 5 % of the beam trawler fleet permitted by Annex V, Part D of Regulation (EU) 2019/1241, as in their view the 5 % limit applies to the number of vessels equipped with beam trawl and in case of the Dutch beam trawler fleet would correspond to 15 vessels while the Dutch authorities have issued 22 authorisations.

According to the information available to the Commission, the concerned Member State has put in place a system ensuring that at a given time no more than 15 authorised vessels are operating with pulse, including in particular the requirement of 100% monitoring of ERS information (fishing gear has to be recorded in the logbook) and setting this additional requirement in the corresponding fishing authorisations in order that the 5% limit is respected at all times. The concerned vessels carry only one type of gear on board and the boarding and off boarding of pulse gear by the concerned vessels needs to be notified each time to the national authorities. A document providing proof of the authorisation to carry out pulse fishing is carried on board of the vessels and is drafted in English to allow for verification by other Member States' inspection authorities.

This system is in place since August 2020. Detailed reports of the controls carried out on its implementation were provided by the concerned Member State at the end of December 2020, showing that control and monitoring measures are in place to ensure full compliance with the requirements set out in Regulation (EU) 2019/1241 and with the specific conditions set out in the individual fishing authorisations. These control and monitoring measures ensure that the system is fully implemented and in particular that at a given time no more than 15 beam trawlers using pulse are allowed to operate.

In the opinion of the Commission, this system allows full compliance with the 5% limit provided for in Annex V, part D of Regulation (EU) 2019/1241.

According to the complainants, the Commission services interpretation of the relevant EU rules is incorrect because, had it been correct, these rules would have been drafted in such a way as to specifically indicate that the 5 % limit applies to a maximum of the beam trawler fleet using pulse at the same time.

The Commission services recall that the rule in question provides that "no more than 5% of the beam trawler fleet per Member State use the electric pulse trawl" (point 2(a) of Annex V, part D). The wording of the provision expressly refers to the use of electric pulse trawl. Moreover, from the reading of recitals (11) and (12) of Regulation 2019/1241, it can be inferred that the aim of this provision is to limit the use of what legislators have considered to be "destructive fishing gear or methods", thereby ensuring the protection of marine biological resources. Consequently, the aim of the provision is to limit the effect of the use of pulse gear on the marine biological resources, regardless of how many vessels are equipped with this gear. Vessels equipped with pulse but not

authorised to use it have no impact on the marine biological resources. What matters indeed is that no more than 5% of the beam trawler vessels are allowed to use pulse at a given time.

For the reasons given above, the Commission considers that its interpretation of these provisions not only does not contradict the wording of the Regulation, but is in line with the intention of the legislators.

Consequently, in the light of the measures adopted by the Netherlands and of the evidence provided showing that those measures are actually being fully implemented, the Commission has concluded that there are no grounds for pursuing this case further and that this case should be closed.

However, if the complainants have any new information suggesting that the Netherlands has committed an infringement of Union law not covered by the above assessment and that might warrant further examination of the complaint, they are invited to submit this new information to the European Commission within four weeks from the publication of this notice. If no new information is received within four weeks, or if the new information received does not lead to a different conclusion, the Commission may close the case.