

2019/4002	Plainte	PAYS-BAS	Service responsable : MARE/E/04
<b>Services associés : SGEN/X/00; SJUR/X/00</b>			
Failure to comply with Union law on the use of electric fishing			

Etat du dossier au 14/01/2019	Jr.Rs.:	Eq.Jr.:	Res. Int.:	Res. Ext.:
I. FACTS The Commission received a complaint (CHAP(2017)03012) regarding the circumstances under which the Dutch authorities have authorised Dutch registered vessels to use electric pulse fishing methods. In particular, the complainant questioned the manner in which these vessels were authorised in relation to Articles 31a and 43(1) of Regulation 850/1998 for the conservation of fisheries resources through technical measures (Technical Measures Regulation) and Article 14 of Regulation 1380/2013 on the Common Fisheries Policy (Basic Regulation).				Ref. Ares(2019)193136 - 14/01/2019

Bases juridiques : Règlement:31998R0850	Financement communautaire : N
Stade : Règlements, traités, décisions	
Procédures en relation : dossier père -> ; dossiers fils -> null	

Fait Incriminé :
Failure to comply with the EU requirements on the use of electric fishing by the Netherlands.

II. CORRESPONDENCE WITH THE MEMBER STATE
The facts mentioned above triggered the opening of the EU Pilot case N° EUP(2018)9298. On 6 April 2018, the Commission requested the Netherlands to provide detailed information on the non-compliance issues alleged by the complainant, as well as on the measures they intended to take to solve them. On 22 June 2018, the Netherlands provided the requested information and indicated that they do not share the Commission's reading of Article 31a of the Technical Measures Regulation. By letter of 10 August 2018, the Commission specified its reading of the concerned EU provisions and requested further extensive and concrete data from the Netherlands. In their reply of 12 November 2018, the Dutch authorities provided the data requested and reaffirmed their understanding of Article 31a. Moreover, they indicated that they also do not share the Commission's reading of Article 43 of the Technical Measures Regulation.

III. LEGAL ANALYSIS
The information provided by the Dutch authorities through the EU Pilot procedure and gathered by the Commission in the course of its investigations shows that the Netherlands failed to fulfil their obligations under Articles 31a(2)(a) and 43 of the Technical Measures Regulation, since they are not respecting the 5% threshold for the use of electric pulse trawl (Article 31a(2)(a)), nor are they complying with the rule permitting the use of this fishing method only when the fishing operations are conducted solely for the purpose of scientific research (Article 43). Regarding the calculation of the 5% threshold for the use of electric pulse trawl, the Commission considers that the Dutch concept of beam trawler fleet, the application of the 5% threshold, the monitoring and adjustment of the number of pulse-fishing authorisations, and the actual number of pulse-fishing authorisations granted are not in line with Article 31a(2)(a). Regarding Article 43, the Commission found that the interpretation of this Article by the Dutch authorities led to a large number of pulse-fishing authorisations granted for fishing operations that were not conducted solely for the purpose of scientific investigations, contrary to the express requirements set out in that Article.
IV. CONCLUSION AND PROPOSAL
In these circumstances, it is proposed to address a letter of formal notice to the Netherlands.

Mise en demeure 258 (ex226) :	Mise en demeure 260 (ex228) :
Décision :	Décision :
Envoi :	Envoi :
Réponse :	Réponse :
Mise en demeure complémentaire 258 (ex226) :	Mise en demeure complémentaire 260 (ex228) :
Décision :	Décision :
Envoi :	Envoi :
Réponse :	Réponse :
Avis motivé 258 (ex226) :	Avis motivé ex228 :
Décision :	Décision :
Envoi :	Envoi :
Réponse :	Réponse :
Avis motivé complémentaire 258 (ex226) :	Saisine 260 (ex228) :
Décision :	Décision :
Envoi :	Dépot décision :
Réponse :	Réf.Aff. :
	D.Arrêt :
Saisine 258 (ex226) :	
Décision :	
Dépot décision :	
Réf.Aff. :	
D.Arrêt :	

Origine plainte (2 dern.):	Correspondance avec l'état membre (2 dern. évén.):
13/04/2018:Plainte communication:2017-511435	11/01/2019:EM - Envoi lettre:2019-520577
02/10/2017:Plainte - Réception:2017-511362	11/01/2019:EM - Envoi lettre:2019-52057

Historique des décisions (6 dernières décisions) :
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Etat des consultations :	Prop. du service responsable :	14/01/2019:Mise en demeure 258(ex226)::
MD258(ex226)	Prop. des chefs de cabinet :	
MDC258(ex226)	Prop. décision de la Commission :	
AM258(ex226)	Position du service juridique :	
AMC258(ex226)		
MD260(ex228)		
MDC260(ex228)		