



Brussels, 31 March 2022

Mr. Virginijus Sinkevičius
Commissioner for Environment, Oceans and Fisheries
European Commission

Subject: Request for an administrative inquiry into fisheries catch data in the Netherlands

Dear Commissioner Sinkevičius,

We are writing to ask the European Commission to instruct the Netherlands to open an administrative inquiry into its pelagic fishery, in accordance with Article 102.2 of the EU Fisheries Control Regulation 1224/2009¹.

The effectiveness of the Common Fisheries Policy (“the CFP”) depends on the willingness and ability of Member States to ensure strict and reliable accounting of fish catches. This is why DG MARE’s inspection services have for years been carrying out specific audits of Member States’ catch registration systems, to ensure the completeness and reliability of the catch data declared by operators. This is essential for monitoring quota uptake and for reporting quantities landed to the European Commission. In the absence of a reliable catch registration system with effective controls of the weighing of fish upon landing, fraud – including illegal fishing and misreporting – is inevitable.

As such fraud sometimes involves thousands of tonnes of fish, it undermines the objective of achieving the maximum sustainable yield as well as the CFP’s principles of good governance. It also strikes at the credibility of the Commission’s Green Deal and of our global leadership in the fight against illegal, unreported and unregulated (IUU) fishing.

Persistent, serious and systemic deficiencies in the Dutch fisheries control system

Our organisations recently welcomed the Commission’s decision to deliver a reasoned opinion to the Netherlands about serious breaches of the EU Fisheries Control Regulation. The fact that the Commission has brought other infringements against the Netherlands for cetacean bycatch and the landing obligation² demonstrates that the problems related to control and enforcement in the Netherlands are systemic and very serious.

¹ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy; OJ L 343, 22.12.2009.

² [https://ec.europa.eu/commission/presscorner/detail/en/inf_22_601\(europa.eu\)](https://ec.europa.eu/commission/presscorner/detail/en/inf_22_601(europa.eu))

Articles by Dutch investigative journalists in early 2021³ exposed glaring failures in the country's fisheries control system, highlighting in particular the bewildering fact that only two inspectors are in charge of controlling the Dutch pelagic fleet's vast landings.

As we are deeply concerned by the fact that such large quantities of fish are not being weighed and controlled properly, ClientEarth and the Low Impact Fishers of Europe ("the LIFE platform", which brings together small-scale fishers) lodged an administrative request for enforcement ("*handhavingsverzoek*") with the Dutch Fisheries Control Agency ("the NVWA") in June 2021⁴, asking them to reinforce their controls on relevant operators in Dutch ports.

Following meetings with the Dutch lawyers who represent us in this matter, the NVWA refused to provide us with the information necessary to measure any changes. As of today, and in the absence of evidence to the contrary, we consider that the situation remains unchanged. This is deeply worrying, and the Commission's intention to continue its infringement procedure against the Netherlands confirms our concerns.

We urgently call on the Commission to request an administrative inquiry in the Netherlands

Based on all the information in our possession, pelagic freezer trawlers routinely land in Dutch ports and the figures used to complete landing declarations and sales notes have been based on unverified estimates provided by the operators. This presents a glaring risk of systematic overfishing and potentially massive underreporting of many thousands of tonnes of pelagic catches over decades by vessels that land and sell their catches in the Netherlands, from where some of the landings are likely exported to other EU Member States.

Furthermore, in terms of accounting for catches, including quantities discarded, it is normally incumbent on Member States to evaluate last haul reports and compare the data in them with logbook entries, to account for undocumented fishing mortality. Controls at sea need to be coordinated with controls on land. Logbook entries and last haul reports may differ by a factor of 30 to 50. This needs to be controlled. In this era of modern law enforcement technologies, to which all citizens are routinely subjected, it is unacceptable that Union fishing vessels' fishing activities at sea are exempt from effective CCTV electronic control tools. Such measures would ensure enforcement and accountability for the discard ban, cetacean bycatch and many other forms of illegal fishing behaviour.

The recent event of the massive allegedly illegal discarding of Blue Whiting involving the Lithuanian trawler FV Margiris, under Dutch beneficiary interest, detected thanks to the work of an international organisation and widely reported in the international press, is a further demonstration of the crucial and urgent need to control these vessels more intensively at sea and upon landing.

We urgently call on the Commission to instruct the Netherlands to act on the irregularities described above by conducting an administrative inquiry in accordance with Article 102.2 of the Control Regulation, in order to determine the actual quantities landed by Dutch-owned pelagic freezer trawlers in the Netherlands and elsewhere since 2010. This is the only way to remedy the situation, while also shedding full light on the extent of the fraud which has presumably been taking place over several years. The Commission does not have the resources to do this itself, nor do civil society organisations

³ <https://www.groene.nl/artikel/twee-inspecteurs-voor-de-totale-zee> and see also <https://www.groene.nl/artikel/ze-zijn-hard-op-weg-de-zee-leeg-te-plunderen>

⁴ <https://www.clientearth.org/latest/press-office/press/legal-challenge-in-the-netherlands-to-close-open-door-for-illegal-fishing/>

like ours. Only the Dutch authorities have the capacity and the mandate – and, we maintain, the obligation – to get to the bottom of this.

As a precedent, the Commission triggered a similar inquiry in Ireland following irregularities detected by the Commission in relation to the weighing and registration of landings of small pelagic catches.

We believe such an inquiry is necessary for a level playing field among fishers and to ensure the equal treatment of Member States. It is also essential to curb the continued overfishing of our pelagic stocks and to make potential quota payback and the necessary deductions from future fishing opportunities to redress previous overfishing. Such an administrative inquiry should also investigate the actual quantities landed and sold by Dutch owned vessels operating and landing in third countries. The fishing opportunities available to Union fishing vessels operating in third-country waters under the provisions of sustainable fishing partnership agreements, for example, are funded by European taxpayers who are entitled to greater transparency concerning European Union operators in the context of the international fight against IUU fishing.

There is an imperative need for fair treatment of all Member States and fishers in Europe to achieve a “culture of compliance”

This request is all the more necessary given the ongoing revision of the Control Regulation.

It will not be possible to make progress on a regulation that calls for the uniform application of the rules when some Member States spectacularly fail to put in place an effective control system despite the adoption of the regulation 13 years ago. Moreover, creating a level playing field will not be possible if small-scale fishers are subject to strict controls in EU waters, whilst some Member States are still failing to properly control larger fishing vessels owned by influential operators.

This administrative inquiry would send a positive message to all Member States seriously engaged in the fight against IUU fishing. It would also ensure the equal treatment of Member States such as Spain or Ireland, which are facing long-standing quota paybacks for small pelagic species. It would likewise demonstrate to the international community the European Commission's strong commitment to eradicating IUU fishing practices endemic within the Union and the Commission's determination to give effect to the principles set out in the Biodiversity and Farm to Fork strategies.

To create a level playing field for all fishers, especially if catch reporting requirements will be expanded to the entire fleet, these need to be implemented equally across the sector. This means improving control to ensure that the fleet that is most destructive to ecosystems is monitored and controlled as it should be. Triggering an administrative inquiry in the Netherlands will send the message that the same rules apply with the same force across the entire European fleet.

Small-scale fishing is a sector which provides 50% of the jobs at sea. Numerous accounts from the small-scale fishers who are supporting this letter demonstrate that the unequal treatment described above is wreaking havoc on a shared resource, on fair competition and on many jobs in the European fishing sector – the same jobs held by people who love this profession, who keep their heritage alive, and who first come to mind when we think about the fishing sector.

In this modern age of transparency and accountability, we can no longer allow any Member State to compromise the reputation and credibility of the European Union and its rules – in the eyes of our fishers, but also in the eyes of European citizens and our external partners.



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