

BEYOND ILLEGAL
THE CURIOUS RELUCTANCE OF THE
EUROPEAN COMMISSION TO TACKLE THE
ELECTRIC FISHING FRAUD

SEPTEMBER 2020

SINCE 2017, BLOOM HAS BEEN CAMPAIGNING FOR A EUROPEAN-WIDE BAN ON ELECTRIC FISHING

This destructive and extremely efficient technique is chiefly used by Dutch industrial interests. Our coalition — composed of many small-scale coastal fishers & other non-profit organizations — obtained a major victory in 2019 with the total and definitive ban on this practice from 1 July 2021 onward,¹ following a short transition period implying a drastic reduction in the number of derogations until then.

This report provides elements never-released before, regarding the continued illegality of electric trawlers. In particular, we identify that:

- In contrast with official figures, there were more than 84 Dutch-flagged vessels equipped with electric trawls, and too many are still allowed to fish in the North Sea;
- New evidence shows that Germany has also granted one illegal licence, in breach of European laws;
- Dutch-flagged vessels keep engaging in other illegal activities, such as fishing in the Belgian 12nm coastal zone, which is prohibited by law.

Light years away from its role of Guardian of the Treaties, the European Commission is completely oblivious, at best; or willingly corrupting its own processes for the benefits of the few, at worst.

This could set a dangerous precedent.

¹ Regulation (UE) n° 2019/1241 entered into force on 14 August 2019.

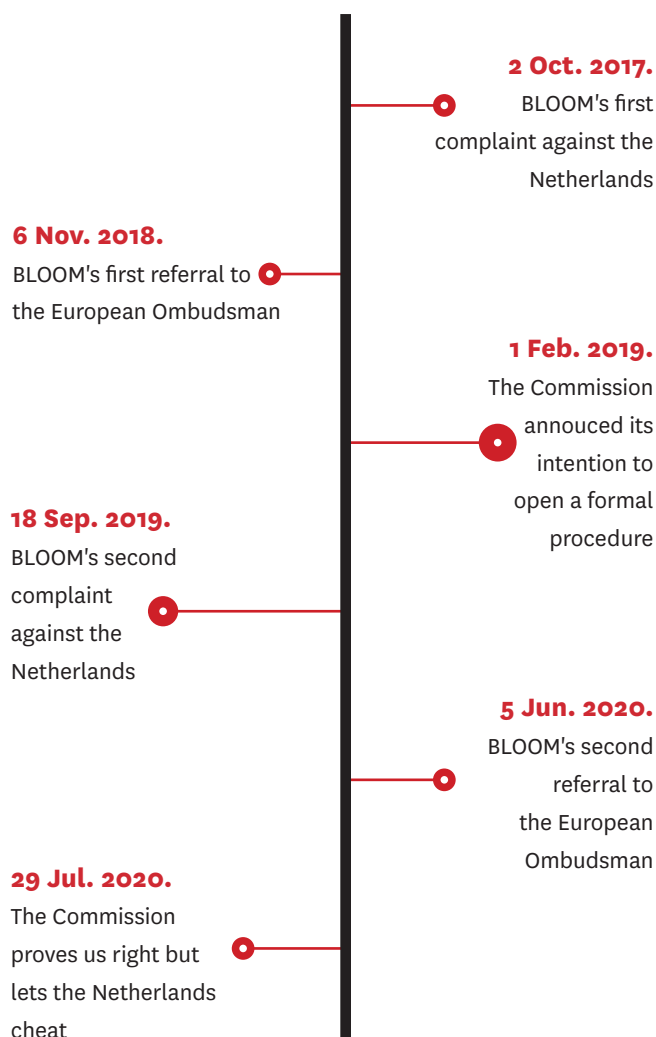
1. BRIEF HISTORY OF OUR CAMPAIGN

Our campaign has so far largely been based on one irrefutable element that we have been hammering for the past three years: the vast majority of Dutch vessels have always operated illegally, well beyond what the European legal framework ever provided for. Since 2007, the latter has indeed enabled each Member State to equip **a maximum of 5% of its beam trawls fleets with electricity**, but the Netherlands has consistently flouted this limit, officially equipping up to 84 vessels (or ca. 30% of their declared beam trawl fleet).² On 2 October 2017, BLOOM filed a first complaint against the Netherlands with the European Commission so that the illegal derogations were removed and that the law prevailed.³ Faced with the silence of the European Commission, we appealed to the European Ombudsman so that she could acknowledge the serious administrative failings of the European Commission.⁴ Under pressure, the Commission ruled in favour of BLOOM on 1 February 2019, announcing its intention to open "a formal infringement procedure against the Netherlands" for non-compliance with the European law.⁵

Since then, this vow has remained unheeded. Worse, the Netherlands has remained a rogue State, defying the new regulation that came into force on 14 August 2019: 22 of their beam trawlers are still equipped with electric trawls, i.e. 7-9 too many compared to the lawful 13-15 (i.e. 47-69 % of illegal derogations).⁶ We therefore filed a second complaint against the Netherlands with the European Commission on 18 September 2019.⁷ Once again facing the inaction of the Commission, we referred to the European Ombudsman for the second time on 5 June 2020,⁸ who announced opening an investigation against the European Commission on 14 July 2020.⁹ Yet again under pressure from the Ombudsman, the Commission acknowledged on 29 July 2020 that the Netherlands was indeed in breach of the European law.¹⁰ But by an incredible sleight of hand and a abusive interpretation of the regulation in force, the Commission decided to close our complaints and allow the Netherlands to keep its illegal exemptions, thus creating a dangerous precedent

regarding the interpretation of European regulations governing community fisheries management and further fuelling the citizens' trust crisis in their institutions.

The situation could be gruesome-enough that the story ends here. But the Netherlands have, in parallel, decided to attack the regulation prohibiting electric fishing before the Court of Justice of the European Union.¹¹ This situation is untenable, while small-scale coastal fishers from around the North Sea continue to bear the brunt of the disastrous consequences of this illegal venture.



² Estimate based on the EU fleet register, https://webgate.ec.europa.eu/fleet-europa/index_en.

³ See <https://bit.ly/3kIVNEB>.

⁴ See <https://bit.ly/3mmH3HL>.

⁵ See <https://bit.ly/33vr3dv>.

⁶ Estimate also based on the EU fleet register.

⁷ See <https://bit.ly/33spqgr>.

⁸ See <https://bit.ly/3mjE5TR>.

⁹ See <https://bit.ly/3miWwYT>.

¹⁰ See <https://bit.ly/32pWvKK>.

¹¹ See <https://bit.ly/3bWQ44P>.

2. THE PAN EUROPEAN FISH AUCTIONS (PEFA) PLATFORM

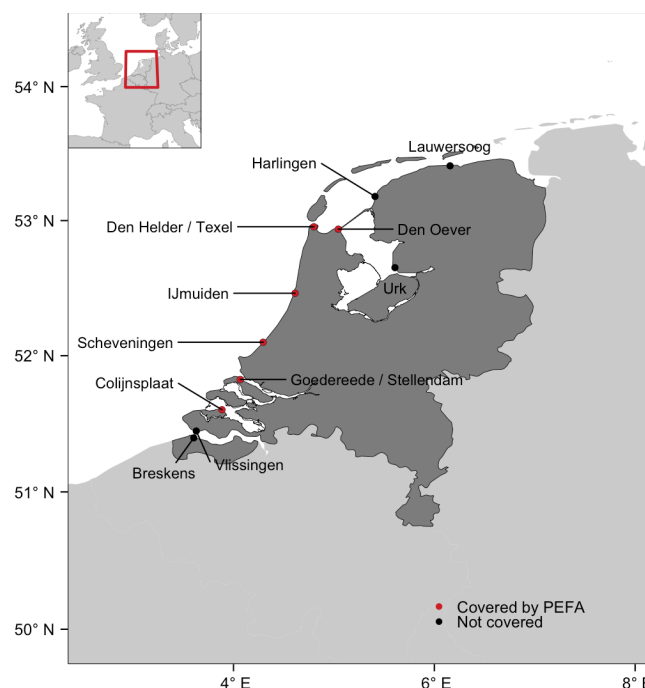
Created in 2008, the Pan European Fish Auctions (PEFA) platform allows buyers to monitor and purchase seafood from 15 fish auctions located in the Netherlands, Denmark, Sweden, and Italy. In 2017, PEFA processed 573,000 transactions, generating a revenue of EUR 320 million.¹²

We got access to the PEFA platform thanks to whistleblowers. These data form the core of the present report.

Data and processing scripts are available at: <https://www.bloomassociation.org/wp-content/uploads/2020/09/beyond-illegal-data-package.zip>.

Important note

In the Netherlands, six auctions out of eleven are covered by PEFA: Colijnsplaat, Den Helder/Texel, Den Oever, Ijmuiden, Goedereede/Stellendam, and Scheveningen. Therefore, the following auctions are not covered: Breskens, Harlingen, Lauwersoog, Urk, and Vlissingen (see map opposite).¹³ Most notably, the absence of Urk in the fish auctions covered by PEFA has an important impact on our report, given that it is the main fishing port in the Netherlands, with around 30% of the traded seafood is auctioned there.¹⁴ Urk is also known as the stronghold of electric fishing, where prominent



electric fishing organisations such as the Cooperatieve Visserij Organisatie (CVO; an association of Producers Organization),¹⁵ the Nederlandse Vissersbond,¹⁶ and the Cooperatie Kottervisserij Nederland U.A., also known as VisNed,¹⁷ are headquartered. As highlighted below, this means that the data presented here can only be seen as conservative, i.e. as a minimum baseline.

¹² PEFA (2018). Available at: <https://bit.ly/3bUJDZz>.

¹³ Those latter fish auctions are covered by the EFICE platform (<https://efice.com/#/core/home>; only on Chrome), which we could not get access to.

¹⁴ Delaney et al. (2010). See <https://bit.ly/2ZAAX5L>.

Note that Harlingen, another port not covered by PEFA, is where Urk-based vessels land most of their catch (same reference).

¹⁵ See <https://www.cvo-visserij.nl/contact/>.

¹⁶ See <https://www.vissersbond.nl/contact/>.

¹⁷ See <https://www.visned.nl/over-visned/contact>.

3. HOW MANY VESSELS ARE EQUIPPED WITH ELECTRICITY?

Due to the utter opacity of both the Dutch fishing sector & administration, this question had so far remained unanswered.

In 2018, the International Council for the Exploration of the Sea (ICES) published the first and only official time-series showing the evolution of the number of Dutch-flagged electric vessels,¹⁸ but without providing any details regarding vessel names, registration numbers etc. When asked to provide such details, they answered that they did not have the capacity to do so, and that formal demands should be addressed to Dutch authorities. Our demands to the Dutch Ministry of Economic Affairs, the research institute in charge of electric fishing (IMARES / Wageningen UR), and VisNed, were later turned down.¹⁹

At that time, the only other source that existed regarding the list of Dutch electric vessels was a list put together by CVO, produced for the assessment procedure of the 'Marine Stewardship Council' (MSC) seafood label (withdrawn from assessment in December 2016). As part of this assessment, a list of 84 Dutch vessels was provided, which we updated and complemented based on other dispersed sources.²⁰

The data contained in the PEFA platform shed new light on this question. The first result we derived from them is the time-series of total derogations granted over time, i.e. a time-series similar to that produced by ICES (see figure on next page). This graph shows that as early as July 2011, the legal threshold of 5% was attained and then surpassed to never be respected again, with 79 vessels identified over time. The proportion of illegal derogations (based on ICES data) has peaked around 500–600% of the legal threshold since September 2015. This graph also shows that the number of vessels that have landed catch in a PEFA-covered fish auction is very close, although slightly lower, to the figure provided by ICES. Based on this observation, we posit that the number of derogations granted by the Netherlands to operate electric trawlers has largely surpassed the official figure of 84 vessels, for the following reasons:

- A total of sixteen Dutch-flagged vessels are listed in the 2015 (and sometimes 2020) MSC lists but never appear in the PEFA data (see table below). These vessels likely land their catch in EFICE-covered fish auctions instead;
- The MDV1 IMMANUEL does not appear in the MSC lists nor in PEFA records, but this (highly subsidized) vessel likely operates electric trawls. It was indeed equipped with electric *otter* trawls, which — by the way — is explicitly prohibited.²¹

List of Dutch-flagged vessels that never appear in PEFA records but that are listed in MSC assessments.

External marking	Vessel name	CFR	MSC 2015 ^a	MSC 2020 ^b	Comment
ARM18	JORIS SENIOR	NLD199201721	✓	-	-
HA31	INNOVATIE	NLD192900389	✓	-	-
HD70	HANNY	NLD198000991	✓	-	GO-37 (VERTROUWEN) in MSC list
ST24	MARIA JOSEFINA	NLD198900701	✓	-	TX-25 (EVERDINA) in MSC list
UK2	ADRIAANTJE	NLD199001075	✓	✓	-
UK34	KOBUS JR	NLD199201673	✓	-	-
UK158	WILLEM JACOB	NLD199101730	✓	✓	-
UK166	LIMANDA	NLD195700691	✓	-	ZK-40 (MORGENSTER) in MSC list
UK168	KEES KORF	NLD196300615	✓	-	UK-23 (PIETER SENIOR) in MSC list
UK176	VERWACHTING	NLD197500866	✓	-	-
UK368	PETRONELLA	BEL032071985	✓	-	ZK-65 (HERCULES) in MSC list
VLI25	CINDY	NLD198800017	✓	-	-
WL39	MONTE SR.	NLD199001109	✓	-	TX-65 (BONA FIDE) in MSC list
WR40	ANNA CAROLA	NLD201302074	✓	-	-
WR109	BAUKJE ELISABETH	NLD200002598	✓	-	-
YE3	ZEEPAARD	NLD197800598	✓	-	ZK-1 (ZEEPAARD) in MSC list
MDV1	IMMANUEL	NLD201513651	-	-	-

^a Assessment of the 'CVO pulse sole & plaice' fishery. See <https://bit.ly/2GUzSFP>.

^b Assessment of the Joint demersal fisheries in the North Sea and adjacent waters'. See <https://bit.ly/3bZoFfM>.

¹⁸ ICES (2018). See <https://bit.ly/2FACuS1>.

¹⁹ See our requests at: <https://bit.ly/2ZDcgAu>.

²⁰ Le Manach et al. (2019). See <https://bit.ly/3hrvEpF>.

Our list of vessels is available at: <https://bit.ly/3kegbY4>.

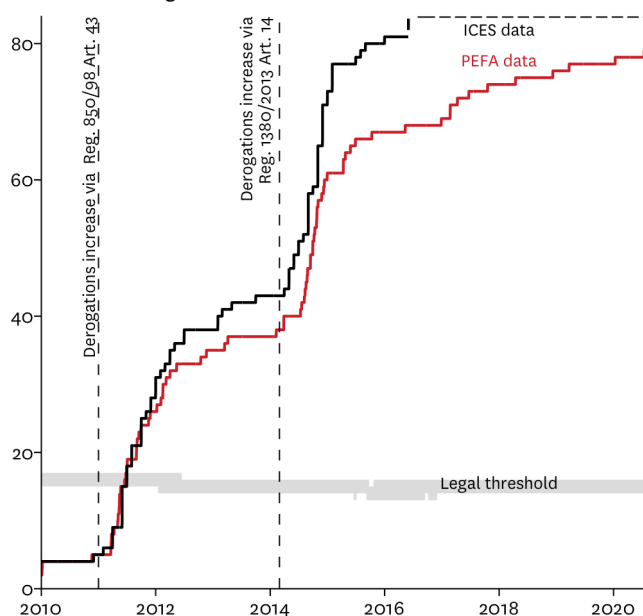
²¹ Ibid.

Therefore, it is clear that the official figure of 84 vessels has been largely surpassed and likely nears a hundred. That does not mean that 84 to a hundred vessels have been fishing with electricity all together, all year round:

- Several vessels have exited the Dutch fleet:
 - SL3 MARTHA LENA (NLD198000393) has reflagged to the UK as E33 WILLIAM OF LADRAM in November 2015 and no longer lands in PEFA-covered ports;
 - OD50 BRAMME'IE (NLD199001094) reflagged to Suriname in May 2016 and is no longer active in European waters;
 - ARM14 GRIETJE GEERTRUIDA (NLD198800269) was scrapped in January 2019.
- It appears that a few vessels regularly switch back to regular beam trawling, likely to catch other species in different areas. For the 79 electric trawlers identified in PEFA, we provide the full time-series (sometimes patchy) showing periods of activity with electric or regular beam trawls in Annex 1.

At any rate, we calculated that the number of Dutch-flagged vessels operating electric trawls in parallel on a monthly-basis reached almost 60 by 2019, solely based on PEFA data (see below). Their number operating every month is still beyond the legal threshold, and 27 vessels have still been involved in electric fishing since the beginning of 2020. However, it is of utmost importance to note that time-series are incomplete for many vessels, meaning that they land in ports not covered by PEFA, such as Harlingen and Urk. This is likely to be the case for most Urk-based vessels, e.g. UK172 SURSUM CORDA, UK19 MARJA NETTY, UK227 ORANJE NASSAU etc. (see Annex 1), and as a result, our estimate should only be seen as conservative.

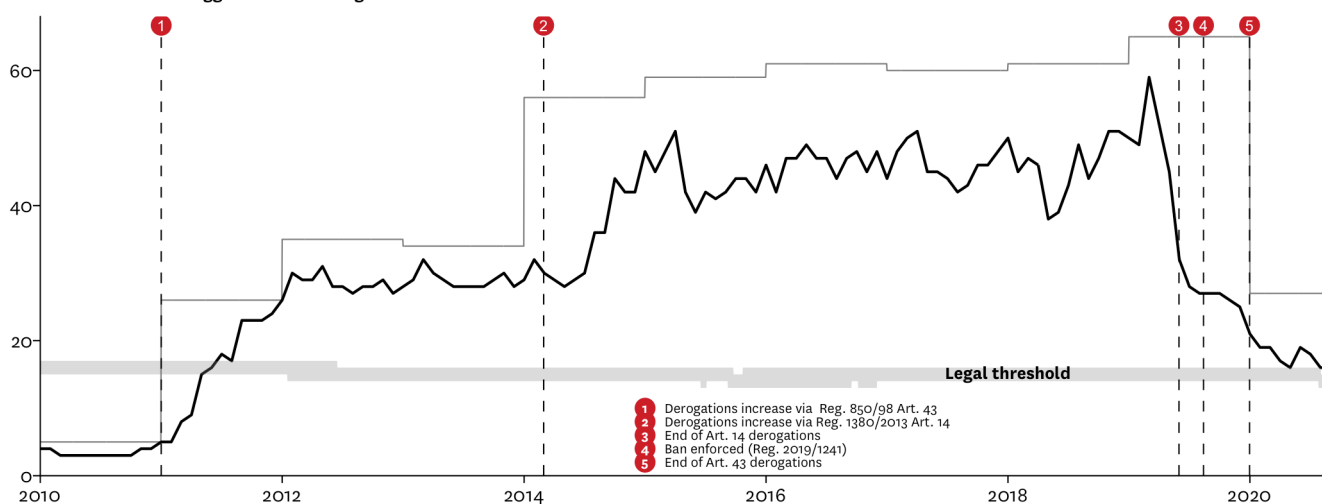
Number of derogations allocated over time



The figure below clearly demonstrates that BLOOM's campaign against electric fishing has been fruitful, as evidenced by the steep decrease in derogations since 2019. However, it is clear that the Netherlands are still in breach of the European law. The fact that the European Commission turns a blind eye to these malversations is extremely worrisome, and their latest stunt not to address the remaining illegal derogations, hiding behind an erroneous interpretation of Regulation (EU) 2019/1241 could set a dangerous precedent and absolve future illegal applications of the European law. This must stop!

Besides this severe case of continuous illegal fishing by the Netherlands, access to PEFA data also allowed us to identify another odd case: that of Germany.

Number of Dutch-flagged electric fishing vessels



4. THE GERMAN CASE

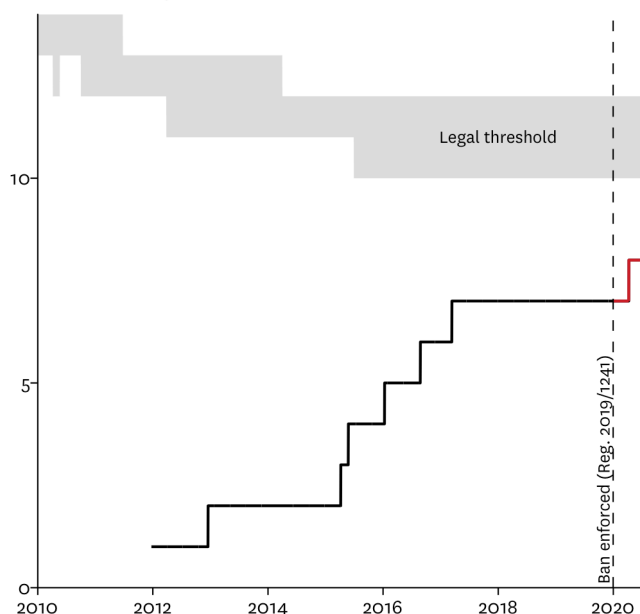
“New licences shall not be granted to any vessel during this period [of transition ending 30 June 2021]”.

Annex V part D of Regulation 2019/1241, setting up the specific provisions under which electric pulse trawl shall be allowed.²²

Although still under the 5% threshold according to PEFA records, Germany has also become an illegal fishing State by equipping a new vessel in April 2020 — in blatant and irrefutable breach of the European law (see opposite).²³ This is particularly worrisome given that Germany assumes the Presidency of the Council of the European Union since July 2020 and is expected to behave in an exemplary fashion. Unfortunately, Germany clearly is not at its first attempt of collusion between industrial interests and political decision-makers, as it was recently revealed by the NGO *Corporate Europe Observatory* in a biting report,²⁴ highlighting the colossal weight of Dutch fishing giant Parlevliet van der Plas, among others, in the German fishing industry.

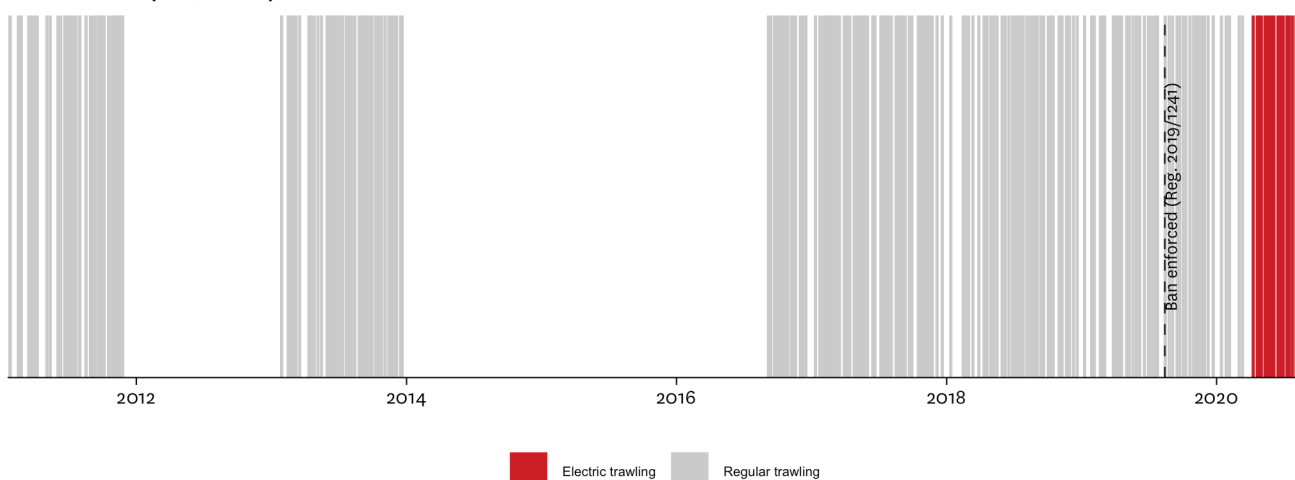
This newly-equipped vessel, BRA2 BUTENDIEK, is no exception to this rule, given that it too is owned by Dutch interests,²⁵ just like the other electric trawlers under German flag identified in PEFA records: BRA5 PIETER, BRA7 JADE, NG1 JURIE VAN DEN BERG, NG12

Number of derogations allocated over time



PRINS MAURITS, SC25 EVERT SNOEK, SC31 DR. MAARTEN LUTHER, and ST27 JACOB GRIETJE (see fishing patterns in Annex 2).

BRA2 BUTENDIEK (DEU401210101)



²² Regulation (UE) n° 2019/1241.

²³ See public announcement at: <https://bit.ly/32rxkaA>. Confirmed by the PEFA data provided above.

²⁴ See <https://corporateeurope.org/en/Taintedlove>.

²⁵ This strategy of investing in foreign vessels was also used by Dutch companies in the United Kingdom to exceed even further the regulatory limit on the number of electric trawlers, already blatantly violated, which

was supposed to be imposed on them. See fishing patterns for UK-flagged vessels identified in PEFA records in Annex 2.

Based on the above, BLOOM has filed a complaint against Germany with the European Commission on 20 July 2020.²⁶ Similarly to its strategy with the Dutch case, the European Commission has ignored our complaint so far and thus appears to believe that an EU-flagged vessel cannot be accused of illegal fishing.

However, beyond the clear breach in the number of derogations granted over time, electric trawlers have always engaged in illegal activities. During our campaign, we indeed highlighted that a number of fraudulent incidents had been reported aboard electric ‘pulse’ trawlers over time, for example the use of nets with mesh below the legal size,²⁷ large amounts of undersized fish (but gutted and prepared to be marketed),²⁸ or illegal fishing in zones with seasonal closures.²⁹ It is not just ecosystems that

are put under strain by electric fishing: the situation has become explosive between European professionals, and between fishers and the authorities. Following the discovery of an infraction, three inspectors were even dragged through the water in the nets of an electric trawler³⁰ (the crew members were accused of attempted murder).³¹

Our analysis of PEFA records sheds new light on these illegal practices. Combined with data from Vessel Finder³² and Global Fishing Watch,³³ we have indeed identified that at least one of the remaining Dutch-flagged vessels — TH10 DIRKJE — was regularly engaging in electric trawling within the Belgian 12 nautical-mile coastal zone, although this is explicitly prohibited by law.³⁴

5. A ROGUE VESSEL — TH10 DIRKJE

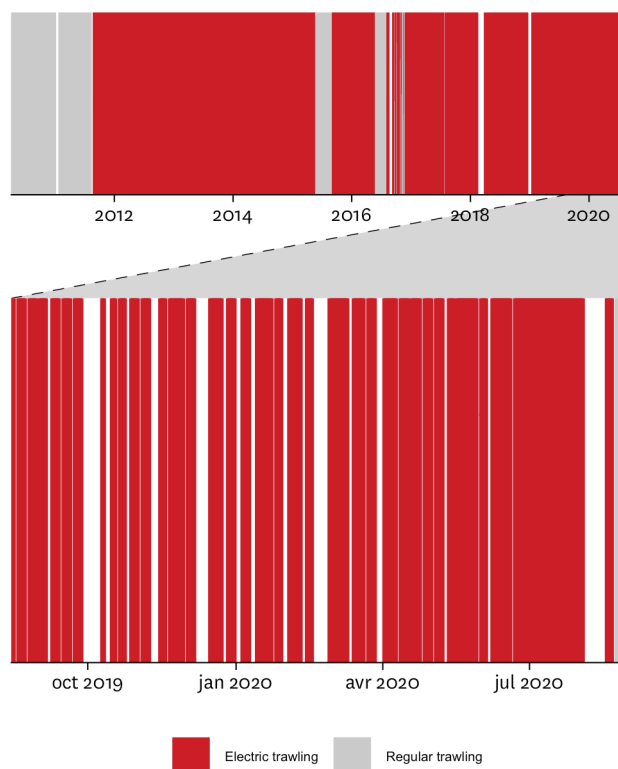
As soon as Regulation (2019/1241) entered into force on 14 August 2019, the Belgian government activated one of its clauses and prohibited the use of electric trawls within the country’s 12 nautical miles.³⁵ This decision was welcomed by many Belgian fishers, who had been witnessing a drastic drop in their catches for years, in strong correlation with the presence of around ten electric trawlers regularly active in Belgian territorial waters. Unfortunately, this ban is not enforced, as demonstrated here.

Over the past months, BLOOM was alerted by Belgian fishers that Dutch vessel TH10 DIRKJE was regularly fishing within the Belgian 12 nautical miles, which we confirmed by monitoring its trajectory via the Global Fishing Watch and Vessel Finder platforms, and comparing them to PEFA data. Our investigation shows that this vessel has exclusively used electric trawls since Regulation (EU) 2019/1241 entered into force, except for a brief period between 24–26 August 2020 (see opposite), while clearly fishing in the Belgian territorial waters (see screenshot on next page; see additional details in Annex 3). Therefore, TH10 DIRKJE utterly ignores the law, in line with the entire Dutch electric fleet with regards to the European framework regulating electric fishing.

Along with the release of the present report, we sent a fully referenced letter to the Belgian Ministry in charge of fishery to

demand that Dutch vessels be closely monitored in Belgian waters, and that TH10 DIRKJE be prosecuted for continuous illegal fishing.

TH10 DIRKJE (NLD199001065)



²⁶ See <https://bit.ly/3kh42By> (in French).

²⁷ See <https://bit.ly/2FlWAgl>.

²⁸ See <https://bit.ly/3bYr4dE>.

²⁹ See <https://bit.ly/2E2Sjro>.

³⁰ See <https://bit.ly/3ixTGgq>.

³¹ See <https://bit.ly/2FvK33g>.

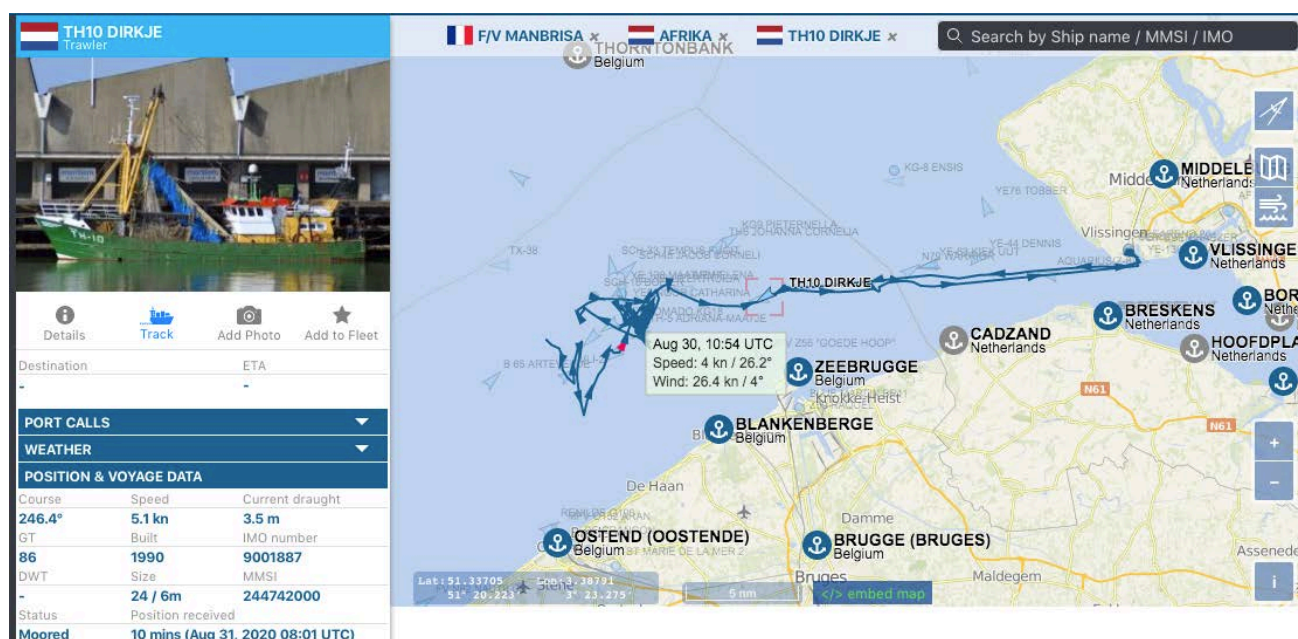
³² <https://www.vesselfinder.com/>.

³³ <https://globalfishingwatch.org/>.

³⁴ Arrêté ministériel portant interdiction à la pêche pulsatoire dans les eaux territoriales belges de la zone

des douze miles. Numac: 2019013793. See <https://bit.ly/3mj2Nnp>.

³⁵ *Ibid.*



5. CONCLUSIONS

For the past 10 years, the Dutch fishing industry has trampled on European laws, with the blessing of both the Dutch authorities and the European Commission, in order to increase its number of electric trawlers.

It was only in 2017, when BLOOM initiated its EU-wide campaign — along with other NGOs and small-scale fishers' representatives — that a series of scandals were uncovered, resulting in a full and definitive ban on this technique.

But scandals are still being uncovered, as evidenced in this report, and the European Commission continues to support the Dutch electric lobby in an utterly incomprehensible way.

In a nutshell, the electric fishing case embodies the worst of what institutions can produce: governments, administrations, and

institutional officials at the service of the most destructive fishing practices; at the service of corrupt industrial lobbies.

But well-functioning, uncorrupt institutions are paramount to safeguarding democracy and the citizens' trust in the European Union.

The time has come to prosecute the Netherlands.

The time has come to end the Netherlands' impunity; a State who made the choice to protect a destructive fishing industry by condemning small-scale fishers.

The time has come to walk the talk and act in accordance with speeches, commitments, and legal obligations.

