

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2009/0153(COD) Procedure completed
Aquaculture: use of alien and locally absent species Amending Regulation (EC) No 708/2007	<a href="#">2006/0056(CNS)</a>
Subject 3.15.02 Aquaculture 3.70.01 Protection of natural resources: fauna, flora, nature, wildlife, countryside; biodiversity	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>PECH</b> Fisheries		
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>ENVI</b> Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
Council of the European Union	Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
	<b>JURI</b> <a href="#">Legal Affairs</a>		23/03/2010
	Council configuration	PPE <a href="#">LECHNER Kurt</a>	
European Commission	Commission DG	Meeting	Date
	<a href="#">Maritime Affairs and Fisheries</a>	<a href="#">3070</a>	21/02/2011
		Commissioner	
		DAMANAKI Maria	

Key events			
15/10/2009	Initial legislative proposal published	<a href="#">COM(2009)0541</a>	Summary
12/11/2009	Committee referral announced in Parliament, 1st reading		
02/12/2009	Additional information		Summary
02/06/2010	Vote in committee, 1st reading		Summary
07/06/2010	Committee report tabled for plenary, 1st reading	<a href="#">A7-0184/2010</a>	
19/07/2010	Legislative proposal published	<a href="#">COM(2010)0393</a>	Summary
22/11/2010	Debate in Parliament		
23/11/2010	Results of vote in Parliament		
23/11/2010	Decision by Parliament, 1st reading	<a href="#">T7-0423/2010</a>	Summary
21/02/2011	Act adopted by Council after Parliament's 1st reading		
09/03/2011	Final act signed		

09/03/2011	End of procedure in Parliament		
04/04/2011	Final act published in Official Journal		

### Technical information

Procedure reference	2009/0153(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 708/2007 <a href="#">2006/0056(CNS)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 349-p1sub1-as1; Treaty on the Functioning of the EU TFEU 043-p2
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	PECH/7/01339

### Documentation gateway

Document attached to the procedure		<a href="#">SEC(2009)1347</a>	15/10/2009	EC	Summary
Initial legislative proposal		<a href="#">COM(2009)0541</a>	15/10/2009	EC	Summary
Economic and Social Committee: opinion, report		<a href="#">CES0453/2010</a>	17/03/2010	ESC	
Committee draft report		<a href="#">PE439.126</a>	13/04/2010	EP	
Specific opinion	JURI	<a href="#">PE441.054</a>	28/04/2010	EP	
Amendments tabled in committee		<a href="#">PE441.148</a>	10/05/2010	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A7-0184/2010</a>	07/06/2010	EP	
Legislative proposal		<a href="#">COM(2010)0393</a>	19/07/2010	EC	Summary
Economic and Social Committee: opinion, report		<a href="#">CES1374/2010</a>	21/10/2010	ESC	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T7-0423/2010</a>	23/11/2010	EP	Summary
Commission response to text adopted in plenary		SP(2011)610	26/01/2011	EC	
Draft final act		<a href="#">00061/2010/LEX</a>	09/03/2011	CSL	

### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

### Final act

[Regulation 2011/304](#)  
[OJ L 088 04.04.2011, p. 0001](#) Summary

## Aquaculture: use of alien and locally absent species

---

The Commission presents this staff working document concerning the proposal to amend Regulation (EC) No 708/2007 on the use of alien and locally absent species in aquaculture.

As already mentioned in the explanatory memorandum of the Commission's initial proposal, a formal Impact Assessment on this issue has not been carried out for the following reasons:

- lack of specific data on the number of facilities or on production in "closed aquaculture facilities" in the EU, therefore the Commission services cannot provide an estimate of the number of companies that may benefit from this proposal at present;
- the proposed amendment of Regulation 708/2007 does not represent any specific risk that needs to be highlighted.

A specific Impact Assessment addressing this limited modification of the Regulation would not therefore provide any added value as it represents just an executive decision on a technical issue with marginal consequences. It would not be proportionate to invest additional effort and time in carrying out a formal Impact Assessment.

## Aquaculture: use of alien and locally absent species

---

**PURPOSE:** to introduce amendments to Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture.

**PROPOSED ACT:** Council Regulation.

**BACKGROUND:** the introduction of species beyond their natural range is expanding rapidly as a result of increased transport, trade, travel and tourism. Invasions by non-indigenous species are widely recognised as one of the main causes of global biodiversity loss. They can have adverse environmental, economic and social impacts. Alien species can act as vectors for novel diseases, alter ecosystems, compete with native species, etc.

[Council Regulation \(EC\) No 708/2007](#) establishes a framework governing aquaculture practices in relation to alien and locally absent species to assess and minimise the possible impact of those species and of associated non-target species on aquatic habitats. It provides that introductions and translocations for use in closed aquaculture facilities may at a future date be exempted from the permit requirement of Chapter III of that Regulation, based on new scientific information and advice

Under the Sixth Framework Programme a concerted action was funded with the title "Environmental impacts of alien species in aquaculture" (the IMPASSE project). Its overall goal was to develop guidelines for environmentally sound practices for introductions and translocations in aquaculture.

The recently submitted final report on the IMPASSE project has delivered an operational definition of 'closed aquaculture facilities' for which the degree of risk associated with alien species could be reduced considerably, possibly to an acceptable level, if the potential for escape of target and non-target organisms is addressed during transportation and by well-defined protocols at the receiving facility. This means that introductions and translocations for use in such facilities could be exempted from the permit requirement under certain conditions.

The aim is to remove the red tape associated with the permit procedure for those closed aquaculture facilities which can be considered as bio-secure and would be interested in farming "alien or locally absent" aquatic species.

**IMPACT ASSESSMENT:** the results of the IMPASSE project regarding closed aquaculture facilities were presented within the Management Committee for Fisheries and Aquaculture and a large number of Member States were in favour of improving the current definition in order to allow the said exemption. Therefore, the present proposal amending Council Regulation 708/2007 was prepared. Its aim is to remove the red tape associated with the permit procedure for those 'closed aquaculture facilities' which can be considered as biosecure. The proposed modification does not represent a major or substantial change to the Regulation. A specific Impact Assessment addressing this limited modification of the Regulation would not therefore provide any added value as it represents just an executive decision on a technical issue with marginal consequences. It would not be proportionate to invest additional effort and time in carrying out a formal Impact Assessment.

**CONTENT:** this proposal falls within the ambit of the Common Fisheries Policy, which is the exclusive competence of the Community. It provides that, according to Council Regulation 708/2007, introductions and translocations for use in 'close aquaculture facilities' may at a future date be exempted from the permit requirement of Chapter III of the Regulation, based on new scientific information and advice.

The proposed action aims to exempt biosecure 'closed aquaculture facilities' from the permit requirement of Chapter III of the Regulation. Taking into account the scientific advice, the proposal includes modification of the current definition of 'closed aquaculture facility', adding the appropriate characteristics to guarantee that such facilities do not allow the escape of target and non-target organisms to the wild environment.

In addition, a new provision regarding the transport of alien and locally absent species to 'closed aquaculture facilities' is included. Consequently, the Member States shall set up a list of closed aquaculture facilities. This list shall be published and regularly updated on a website which has been created under Commission Regulation (EC) No 535/2008. Some articles and Annex I are amended accordingly to reflect the new provisions.

**BUDGETARY IMPLICATIONS:** the proposal has no implications for the Community budget.

## Aquaculture: use of alien and locally absent species

---

The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European

Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Regulation amending Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture, the entry into force of the Lisbon Treaty had the following impacts:

- the old legal basis - Treaty/EC/Art. 37, 299(2) ? became Art 43(2), Art 349 (1) of the TFEU. Please note that the numbering of the old legal basis corresponds to the consolidated version of the Treaty that was applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal;
- the proposal, which had previously fallen under the old consultation procedure (CNS), was classified as an ordinary legislative procedure (COD).

## Aquaculture: use of alien and locally absent species

---

The Committee on Fisheries adopted the report drawn up by João FERREIRA (GUE/NGL, PT) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 708/2007 concerning the use of alien and locally absent species in aquaculture.

It recommended that the European Parliament's position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) should amend the Commission proposal as follows:

Legal basis: in line with the opinion delivered by the Committee on Legal Affairs pursuant to Rule 37 of the EP's Rules of Procedure, Members consider the appropriate legal basis to be Article 43(2) of the Treaty on the Functioning of the European Union (TFEU) only. It is also necessary to delete all references to Article 299(2) of the EC Treaty (or the corresponding article of the TFEU, that is to say, Article 349).

Closed aquaculture facilities: to avoid possible ambiguities when the regulation is implemented, Members state that it should be made clear that closed aquaculture facilities will be treated as such if, and only if, they are situated on land. An amendment stipulates that a closed aquaculture facility should prevent losses of reared specimens or biological material, including pathogens, due to factors such as flooding ? for which reason the facility must be situated at a safe distance from open waters ? and predators (e.g. birds) and, in a reasonable way, prevents losses due to theft and vandalism, while ensuring appropriate disposal of dead organisms.

List of closed aquaculture facilities: the Commission proposal does not require the list to be published on a set date. However, Members state that it would be advisable, not to say essential, to specify a deadline. They propose that this list be published on the website set up in accordance with Article 4(2) of Commission Regulation (EC) No 535/2008 within six months of the date of entry into force of this Regulation.

Exotic and non-target species: the amended text stipulates that the competent authorities in the Member States shall be responsible for monitoring and supervising so as to ensure that closed aquaculture facilities comply with the requirements laid down in the Regulation, and also for ensuring that transport from or to those facilities takes place in conditions that are such as to prevent the escape of exotic or non-target species.

Members also underline that the facilitation of the process of introduction of exotic species needs to be complemented by the necessary measures for supervising the facilities on the part of the competent Member State authorities, the aim being to ensure effective compliance with all technical requirements put forward by the specialists (especially in the context of the IMPASSE project).

Comitology: Council Regulation (EC) No 708/2007 contains various ?comitology? provisions that are now incompatible with the Treaty on the Functioning of the European Union (TFEU). Therefore, Members have tabled a set of amendments to bring the basic act into line with the new Treaty, and in particular Article 290 thereof (delegated acts).

Entry into force: this Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

## Aquaculture: use of alien and locally absent species

---

The Commission presents an amended proposal on amending Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture.

After the entry into force of the Lisbon Treaty on 1 December 2009, the proposal has moved to the ordinary legislative procedure. The legal basis is now Article 43(2) of the Treaty on the Functioning of the European Union.

It is also appropriate to align the "comitology" provisions in issue to the novel provisions of Article 290 of the Treaty on the Functioning of the European Union pertaining to delegated powers and of Article 291 of the Treaty on the Functioning of the European Union pertaining to implementing powers. This will make Council Regulation No 708/2007 fully consistent with the new decision-making set-up under the new Treaty. It is thus necessary to amend the Commission's initial proposal accordingly.

Lastly, it is proposed to amend the Commission's initial proposal in order to incorporate certain specifications of definitions (i.e. "closed aquaculture facility"), clarifications of certain provisions (i.e. situation of facilities at a safe distance from open waters) and a number of drafting improvements.

The amended proposal has no implications for the EU budget.

## Aquaculture: use of alien and locally absent species

---

The European Parliament adopted by 638 votes to 16, with 11 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 708/2007 concerning the use of alien and locally absent species in aquaculture.

Parliament adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise reached between the European Parliament and the Council. They amend the Commission's proposal as follows:

**Legal basis:** the appropriate legal basis is Article 43(2) of the Treaty on the Functioning of the European Union (TFEU) only.

**Delegated acts:** the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union in order to adapt Annexes I, II and III to technical and scientific progress, to amend Annex IV in order to add species to that Annex and to adopt specifications of the conditions necessary for adding species to Annex IV.

The measures necessary for the implementation of this Regulation should be adopted by the Commission by means of implementing acts in accordance with Article 291 of the Treaty on the Functioning of the European Union. According to that Article, rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of its implementing powers shall be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, Council Decision 1999/468/EC of 28 June 1999 (comitology) laying down the procedures for the exercise of implementing powers conferred on the Commission continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.

## Aquaculture: use of alien and locally absent species

---

**PURPOSE:** to introduce technical amendments to Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture.

**LEGISLATIVE ACT:** Regulation (EU) No 304/2011 of the European Parliament and of the Council of 9 March 2011 amending Council Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture.

**CONTENT:** the Council adopted at first reading a regulation amending regulation (EC) No 708/2007 concerning the use of alien and locally absent species in aquaculture.

Council Regulation (EC) No 708/2007 establishes a framework governing aquaculture practices in relation to alien and locally absent species to assess and minimise the possible impact of those species and of associated non-target species on aquatic habitats. It provides that introductions and translocations for use in closed aquaculture facilities may at a future date be exempted from the permit requirement of Chapter III of that Regulation, based on new scientific information and advice.

The Community-funded concerted action, entitled "Environmental impacts of alien species in aquaculture" (IMPASSE), has delivered a new operational definition of "closed aquaculture facilities". For facilities according to that definition, the degree of risk associated with alien and locally absent species can be reduced to an acceptable level if the potential for escape of the organisms to be farmed and of non-target organisms is addressed during transportation and if well-defined protocols are applied at the receiving facility. Introductions and translocations for use in closed aquaculture facilities should only be exempted from the permit requirement if those conditions are met.

The new Regulation amends the definition of "closed aquaculture facility" in Regulation (EC) No 708/2007 by adding specific features intended to ensure the biosecurity of those facilities.

Member States should draw up a list of closed aquaculture facilities located in their territory. For reasons of transparency, that list should be published and regularly updated on a website set up in accordance with Commission Regulation (EC) No 535/2008.

Certain other adaptations are needed to Regulation (EC) No 708/2007, in particular, to remove the references to "closed aquaculture facilities" in the definition of "routine movement" and from Annex I.

**ENTRY INTO FORCE:** 24/04/2011.

**DELEGATED ACTS:** the Commission should be empowered to adopt delegated acts involving technical and scientific progress. The power to adopt the delegated acts shall be conferred on the Commission for a period of 5 years from 24 April 2011. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it. The European Parliament or the Council may object to a delegated act within a period of 2 months from the date of notification (that period shall be extended by 2 months).

If either the European Parliament or the Council objects to the delegated act, it shall not enter into force.