Commission Regulation (EC) No 710/2009 of 5 August 2009 amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007, as regards laying down detailed rules on organic aquaculture animal and seaweed production

COMMISSION REGULATION (EC) No 710/2009

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91[(1)], and in particular Articles 11, 13(3), 15(2), 16(1) and (3)(a) and (c), 17(2), 18(5), the second subparagraph of Article 19(3), Articles 22(1), 28(6) and 38(a), (b), (c), and Article 40 thereof,

Whereas:

(1) Regulation (EC) No 834/2007 and in particular Title III thereof lays down basic requirements with regard to aquaculture animal and seaweed production. Detailed rules for the implementation of these requirements should be laid down by amending Commission Regulation (EC) No 889/2008[(2)], which lays down detailed rules for the implementation of Regulation (EC) No 834/2007.

(2) The Communication from the Commission to the Council and the European Parliament on a strategy for the sustainable development of European aquaculture[(3)] sets out a vision for the development of this sector over a ten year period to give a stable industry in rural and coastal areas providing alternatives to the fishing industry in terms of products and employment. The Communication pointed to the potential for organic aquaculture production and the requirement for norms and criteria to be developed.

(3) To ensure common understanding the definitions as laid down in Article 2 of Regulation (EC) No 889/2008 should be supplemented and corrected in order to avoid ambiguities and to guarantee the uniform application of the organic aquaculture animal and seaweed production rules.

(4) The aquatic growing area for organic seaweed and aquaculture animals is of utmost importance for growing both safe and high quality products with minimal impact on the aquatic environment. Community legislation on quality of waters and contaminants in food, including Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy[(4)], Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of

marine environmental policy (Marine Strategy Framework Directive)[5], Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs[6], and Regulations (EC) No 852/2004[7], (EC) No 853/2004[8] and (EC) No 854/2004[9] of the European Parliament and of the Council provide for environmental objectives for water and ensures high food quality. It is therefore appropriate to draw up a sustainable management plan for seaweed and aquaculture production specifying measures, such as waste reduction.

(5) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment[10], Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora[11] and Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds[12] should ensure proper interaction with the environment while taking into account the impact of these activities on the environmental objectives for water set out in application of Directives 2000/60/EC and 2008/56/EC. Provisions should be made for drawing up an environmental assessment covering best adaptation to the surrounding environment and mitigation of possible negative effects. There should be consideration that such assessments should ensure that organic production of seaweed and aquaculture animals which is a relative new activity in comparison with organic agriculture is not only environmentally acceptable, but relative to other options, most in accord with broad public interests and both environmentally suitable and sustainable.

(6) The specific soluble medium of water requires organic and non-organic aquaculture production units to be adequately separated; appropriate separation measures should be laid down. Given the variability of situations regarding both freshwater and marine environments throughout the Community it is preferable that adequate separation distances are set at Member States level, as Member States are best equipped to deal with separation given the heterogeneous nature of such aquatic environments.

(7) The cultivation of seaweed can have a beneficial effect in some respects such as nutrient removal and can facilitate polyculture. Care needs to be taken not to over-harvest wild seaweed beds to permit their regeneration and to ensure that production does not cause a significant impact on the state of the aquatic environment.

(8) Member States faces increasing shortages in the supply of organic protein crops. At the same time the imports of organic protein feed have been insufficient to meet requirements. The total cultivation area of organic protein crops is not large enough to meet the need for organic protein; therefore protein feed derived from parcels in their first year of conversion should be allowed to be fed under certain conditions.

(9) Given the early stage of organic aquaculture animal production organic broodstock is not available in sufficient quantities. Provision should be made for the introduction of non-organic broodstock and juveniles under certain conditions.

(10) Organic aquaculture animal production should ensure that species-specific needs of animals are met. In this regard husbandry practices, management systems and containment systems should satisfy the welfare needs of animals. Provisions on the appropriate construction of cages and net pens at sea as well as for rearing systems on land should be made. To minimise pests and parasites and for the reason of high animal

welfare and health, maximum stocking densities should be laid down. Taking account of the broad variation of species with particular needs, specific provisions should be laid down.

(11) Recent technical development has led to increasing use of closed recirculation systems for aquaculture production, such systems depend on external input and high energy but permit reduction of waste discharges and prevention of escapes. Due to the principle that organic production should be as close as possible to nature the use of such systems should not be allowed for organic production until further knowledge is available. Exceptional use should be possible only for the specific production situation of hatcheries and nurseries.

(12) The overall principles for organic production, as provided for in Article 4 and 5 of Regulation (EC) No 834/2007, shall be based on an appropriate design and management of biological processes, based on ecological systems using natural resources which are internal to the system by methods that, in particular practice aquaculture complying with the principle of sustainable exploitation of fisheries. They provide also for the principle that the biodiversity of natural aquatic ecosystems has to be maintained in aquaculture production. These principles are otherwise based on risk assessment, and the use of precautionary and preventive measures, when appropriate. To this end, it should be clarified that artificial induction of the reproduction of aquaculture animals through hormones and hormones derivatives is incompatible with the concept of organic production and consumer perception of organic aquaculture products and that such substances should therefore not be used in organic aquaculture.

(13) Feed for aquaculture animals should meet the nutritional needs and is also required to meet the health requirement that feed coming from a species is not fed to the same species as laid down in Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies[(13)]. It is therefore appropriate to lay down specific provisions for carnivorous and non-carnivorous aquaculture animals.

(14) The raw materials for feeding organic carnivorous fish and crustaceans should preferably be derived from sustainable exploitation of fisheries as referred to in Article 5(o) of Regulation (EC) No 834/2007 and defined in Article 3(e) of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy[(14)] or organic feed derived from organic aquaculture sources. Given the early stage of organic aquaculture and sustainable fisheries shortages of organic feed or feed from sustainable fisheries may occur, provisions should be made for the use of non-organic feed and be based on Regulation (EC) No 1774/2002 of the European Parliament and of the Council[(15)], which sets the health rules for material of fish origin which may be used in aquaculture and provides for a ban on the feeding of certain materials derived from farmed fish to farmed fish of the same species.

(15) For the purpose of organic aquaculture animal and seaweed production, the use of certain non-organic feed materials, feed additives and processing aids is allowed under

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 710/2009. (See end of Document for details)*

well-defined conditions. New materials in question should be authorised according to Article 16(1) of Regulation (EC) No 834/2007. Based on the recommendation of an ad-hoc expert group[16] on 'Fish feed and cleaning materials in organic aquaculture' which concluded that such substances already listed in Annex V and Annex VI to Regulation (EC) No 889/2008 and authorised for organic livestock production should be allowed also for organic aquaculture and concluding that certain substances are essential for particular fish species, such substances should be added to Annex VI to that Regulation.

(16) The cultivation of filter feeding bivalve molluscs can have a beneficial effect on coastal water quality via the removal of nutrients and their use can also facilitate polyculture. Specific rules for molluscs should be laid down by taking into account that supplementary feeding is not required and that the environmental impact could be consequently lower than other branches of aquaculture in this respect.

(17) Animal health management should be primarily based on the prevention of disease. The measures provided for in this Regulation should be without prejudice to Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals[17] in case of veterinary treatment. Certain substances for cleaning, antifouling treatment and disinfection of production equipment and facilities should be allowed under defined conditions. In the presence of live animals the use of disinfection substances requires particular care and measures to ensure that the application is not harmful. Such substances should be authorised according to Article 16(1) of Regulation (EC) No 834/2007. Based on the recommendation of an ad-hoc expert group such substances should be listed in the Annex.

(18) Specific rules for veterinary treatment should be laid down ranking the different types of treatments and limiting the frequency of use in the case of allopathic treatments.

(19) Precaution should be taken during the handling and transport of live fish so as to meet their physiological needs.

(20) The conversion to the organic production method requires the adaptation of all means to the organic method for a given period. Depending on the previous production systems specific conversion periods should be laid down.

(21) It appeared that certain Annexes of Regulation (EC) No 889/2007 contain mistakes; Provisions to correct these mistakes should be taken.

(22) Provisions for specific control requirements which take account of the specificities of aquaculture should be laid down.

(23) To facilitate the conversion of holdings already producing organically under national or private standards to the new Community rules certain transitional measures should be laid down.

(24) Organic aquaculture is a relatively new field of organic production compared to organic agriculture, where long experience exists at the farm level. Given consumers' growing interest in organic aquaculture products further growth in the conversion of aquaculture units to organic production is likely. This will soon lead to increased

experience and technical knowledge. Moreover, planned research is expected to result in new knowledge in particular on containment systems, the need of non-organic feed ingredients, or stocking densities for certain species. New knowledge and technical development, which would lead to an improvement in organic aquaculture, should be reflected in the production rules. Therefore provision should be made to review the present legislation with a view to modifying it where appropriate.

(25) Regulation (EC) No 889/2008 should therefore be amended accordingly.

(26) The measures provided for in this Regulation are in accordance with the opinion of the regulatory Committee on organic production,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 889/2008 is amended as follows:

1. In Article 1, paragraph 2 is replaced by the following:

2. This Regulation shall not apply to:
   a livestock species other than those referred to in Article 7; and
   b to aquaculture animals other than those referred to in Article 25a.

However, Title II, Title III and Title IV shall apply *mutatis mutandis* to such products until detailed production rules for those products are laid down on the basis of Regulation (EC) No 834/2007.

2. Article 2 is amended as follows:

(a) point (f) is replaced by the following:

(f) "production unit" means all assets to be used for a production sector such as production premises, land parcels, pasturages, open air areas, livestock buildings, fish ponds, containment systems for seaweed or aquaculture animals, shore or seabed concessions, the premises for the storage of crops, crop products, seaweed products, animal products, raw materials and any other input relevant for this specific production sector;

(b) after point (i) the following points are added:

(j) "closed recirculation aquaculture facility" means a facility where aquaculture takes place within an enclosed environment on land or on a vessel involving the recirculation of water, and depending on permanent external energy input to stabilize the environment for the aquaculture animals;

(k) "energy from renewable sources" means renewable non-fossil energy sources: wind, solar, geothermal, wave, tidal, hydropower, landfill gas, sewage treatment plant gas and biogases;

(l) "hatchery" means a place of breeding, hatching and rearing through the early life stages of aquaculture animals, finfish and shellfish in particular;