

Senate of the Republic
The President

Rome, 20 October 2010
Ref. No 347/UC

Dear Sir,

Please find in attachment the text of the resolution approved by the Italian Senate's European Union Policies Committee following its examination of the amended proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture (COM (2010) 393 final).

This resolution contains comments on the compliance of this act with the principles of subsidiarity and proportionality.

Best regards,

A handwritten signature in black ink, consisting of a stylized 'J' and 'B' followed by a horizontal line.

Encl.: 1

Mr José Manuel Barroso,
President of the European Commission
1049 BRUSSELS

SENATE OF THE REPUBLIC

----- XVI SESSION -----

**Doc. XVIII-Ris
No 18**

RESOLUTION OF THE 14TH STANDING COMMITTEE

(European Union Policies)

(Drafted by SANTINI)

Approved at the sitting of 13 October 2010

ON THE

**AMENDED PROPOSAL FOR A REGULATION OF THE
EUROPEAN PARLIAMENT AND OF THE COUNCIL
AMENDING REGULATION (EC) NO 708/2007 CONCERNING
USE OF ALIEN AND LOCALLY ABSENT SPECIES IN
AQUACULTURE (COM(2010) 393 FINAL)**

Within the meaning of Article 144(1),(5) and (6) of the Regulation

Submitted to the Presidency on 15 October 2010

Having examined document COM (2010) 393 final, the Committee

considering that it amends Regulation (EC) No 708/2007 of the Council of 11 June 2007 establishing a framework for the use of alien and locally absent species in aquaculture, in order to cut red tape while continuing to guarantee sufficient environmental protection;

recalling that Regulation (EC) No 708/2007 establishing a framework for the use of alien and locally absent species in aquaculture, is intended to reduce to a minimum the possible impact of these and any associated non-target species on aquatic habitats and in this manner contribute to the sustainable development of the sector;

considering, in particular, that the draft Regulation is limited to introducing technical amendments to the definition of "closed aquaculture facilities", so as to be able to exempt them when introducing and translocating species for use in such facilities from the obligation to request an authorisation within the meaning of Chapter III of Regulation (EC) No 708/ 2007;

considering, furthermore, that with regard to the initial proposal dating from October 2009, the proposal for a Regulation has also been amended to take into account the entry into force of the Lisbon Treaty that provides for the ordinary co-decision procedure instead of the European Parliament consultation procedure and the delegation of legislative powers to the European Commission instead of the comitology procedure, within the meaning of Article 290 of the Treaty on the Functioning of the European Union (TFEU);

considering that the aforementioned delegation of legislative powers, being unlimited in time, is directly at odds with the provisions of Article 290 of the TFEU, according to which "the objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts", as incidentally the 14th Committee of the Senate has pointed out on several occasions with regard to other legislative proposals;

bearing in mind that the European Commission replied to the previous comments made by the 14th Committee of the Senate by repeating what it had already stated in communication COM(2009) 673 with regard to the implementation of Article 290 of the TFEU, namely that "the Commission believes it is preferable not to increase the institutions' workload by introducing a binding system of short-term delegations" and that "delegations of power should in principle, therefore, be of indefinite duration", thus confirming the discrepancy with the wording of Article 290 of the TFEU;

within the area of its remit, comments favourably on the proposal, highlighting the following points:

as regards the principle of subsidiarity, the proposal appears to be in conformity in that, bearing in mind the transnational nature of aquatic environments and of the aquaculture sector, protecting these natural environments and maximizing the potential of this economic sector could not be effectively achieved solely at Member State level;

furthermore, the proposal seems to conform with the principle of proportionality in that it is limited to legislating to protect the aquatic environment while maintaining the competencies of the national authorities;

the legal basis appears to be correct as Article 43(2) of the TFEU, that provides that the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the common organisation of agricultural markets and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy;

in this regard, we wish to express our approval of the proposal to reduce red tape with regard to the use of alien and locally absent species in aquaculture so as to maximise the potential of this economic sector while continuing to guarantee sufficient environmental protection;

as regards Article 2(5) of the proposal for a Regulation conferring legislative powers upon the European Commission for an unlimited period of time, we repeat what has already been pointed out with regard to other draft legislation, namely that the above-mentioned lack of temporal limit does not comply with the provisions of Article 290 of the TFEU, and also specify that the lack of temporal limit with regard to this delegation of legislative powers prevents national parliaments from being able to exercise control, at a specific end date, on the work of the European Commission, or to decide upon the expediency of renewing the principles and criteria for this delegation, or indeed the delegation of powers itself.