

## LEGAL FRAMEWORK for ALBANIAN AQUACULTURE LAW

### Commentary

A table is given below which outlines what should be the basic legislation for fisheries in Albania and in relation to absorption of the fisheries acquis. It is stressed that the table is given in outline form only. This document forms the basis for a discussion document

Aquaculture law has to be directed towards being ecologically sustainable and commercially sustainable, and to the public benefit. Foremost, it is important to set policy orientations. To this end, effective aquaculture legislation, or any reform of existing legislation, should:

- recognize, define and assess the activity (the practice, the facility and the product) and the various actors/players involved;
- integrate environmental and social values into the planning and decision-making process for allocation of land, water and other natural resources for aquaculture purposes;
- recognize the legitimacy of regulatory instruments like codes of practice and codes of conduct that reinforce responsible aquaculture practices such as the FAO Code of Conduct for Responsible Fisheries;
- include effective monitoring, implementation and enforcement mechanisms, (economic, administrative and penal) to ensure compliance with the regulatory instruments, including codes of conduct and best management practices; and
- develop and regularly implement performance criteria and indicators that will assess whether the objectives of responsible aquaculture have been achieved by the government and by stakeholders.<sup>1</sup>

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
<b>PART I: GENERAL PROVISIONS</b>			
<b>1. Scope of act</b>	Purpose of legislation	Covers marine and freshwaters	ALB/Art. 1 ALB/Art. 2
<b>2. Establish area of jurisdiction</b>	Make clear baseline capable of being used for prosecuting offences in territorial sea	Define baselines as low water mark or as established by minister	UNCLOS ALB/Art.3 a)
	Definition of boundaries	Cite legal authority	UNCLOS ratification

<sup>1</sup> Van Houtte, A. 2001. Establishing legal, institutional and regulatory framework for aquaculture development and management. In R.P. Subasinghe, P. Bueno, M.J. Phillips, C. Hough, S.E. McGladdery & J.R. Arthur, eds. Aquaculture in the Third Millennium. Technical Proceedings of the Conference on Aquaculture in the Third Millennium, Bangkok, Thailand, 20-25 February 2000. pp. 103-120. NACA, Bangkok and FAO, Rome.

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
	Definition of boundaries Coverage outside EEZ Consistency with EU legislative terms.	Include: offshore, coastal and transitional waters	Dir. 60 of 2000
		Allow for Parliament to declare any of the above by proclamation	
	Additional definitions provided in attached list of EU legal definitions	Marine Zone	ALB/Art. 3 a)
	What legislation covers	Persons applicable to etc	
		Recognize, define and assess the activity (the practice, the facility and the product) and the various actors/players	
	Consistency with EU legislative terms.	Marine Zone	
		Additional definitions provided in attached list of EU legal definitions	
		Biodiversity	Biodiversity Action Plan for Fisheries (COM(2001)162 Vol IV),
		'Fishery Development Area' equivalent to 'Fishery Area'	R1198 of 2006 (European Fisheries Fund)
		Aquaculture	R.1198 of 2006. Art. 3 (d)
	Coastal waters	D60 of 2000. Art 2. 7	
	'Transitional waters' viz.	D 60 of 2000. Art 2.6 (Water Directive)	
	Residues NB may be covered under veterinary regulations	D96/23 Dec97/747 .	
	HACCP	R852 of 2004	

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
		Open / Closed aquaculture	SEC(2006) 421
		Alien species	SEC(2006) 421
		Quarantine/quarantine facility	SEC(2006) 421
		Polyploid organism	SEC(2006) 421
		Introduction	SEC(2006) 421
		Pilot release	SEC(2006) 421
<b>PART II: PLANNING AND ZONING</b>			
<b>Aquaculture to be subject to zoning</b>	Identify areas where aquaculture can be sustainably developed	Enable aquaculture zoning plan	D60 of 2000 R1198 of 2006
		Enable aquaculture development plan	
	integrate environmental and social values into the planning and decision-making process for allocation of land, water and other natural resources for aquaculture	Create a consultation process as part of planning	
		Require Environmental scoping	
		Require consultation with neighbouring states	
<b>Structure planning</b>	Access to funding mechanisms	Link to Fisheries Act and National Fisheries Structure Plan	ALB/Art.8 ALB/Art.9 R1198 of 2006
<b>Development</b>	Create incentives (financial, educational and others) for responsible aquaculture	improving existing farming systems	
		developing and implementing best management practices through self-regulation	
		-supporting implementation of effective environmental controls to maintain and improve requirements for aquaculture, and	
		-supporting maintenance and restoration of the environment.	
<b>Use of public lands and</b>	Public land use open to all	Require access to such lands and bodies	ALB/Art.27

<b>ACTION</b>	<b>PURPOSE</b>	<b>DETAIL</b>	<b>LEGISLATION REFERENCE</b>	
<b>water bodies</b>		through bidding process		
	Aquaculture contract	Contract duration	ALB/Art.29	
<b>Monitor plan performance</b>	develop performance criteria to assess whether the objectives of responsible aquaculture have been achieved by the government and by stakeholders	Establish monitoring mechanisms through consultation		
<b>PART III: LICENSING</b>				
<b>No unlicensed aquaculture</b>	Treats aquaculture as part of coastal development which has an impact on environment	Issue of permit subject to conditions	D60 of 2000 D44 of 2006	
<b>Issue permits</b>	All aquaculture is subject to licensing	Conditions	ALB/Art.19 ALB/Art.27 ALB/Art.28	
		Change in structure, production level, equipment & maintenance practice requires approval	ALB/Art.30	
	Environmental Impact	Circumstances where EIA required		D60 of 2000 D44 of 2006
			Duty to inform neighbours	
			Duty to inform neighbouring states	D337 of 1985
	Permit control	Register of permits		ALB/Art. 32.
Transferability of ownership subject to control				
<b>PART IV: BIO-DIVERSITY &amp; CONTROL OF ALIEN SPECIES</b>				
<b>Control of alien species</b>	Control of imported fish and broodstock <i>Fish importers need to show they have safe &amp; disease controllable facilities</i>	No import of any fish without pre-approval	R2372 of 2002 SEC(2006) 421 ALB/Art.26	
		Fish importers to be licensed		
		No person may import unless licensed		

<b>ACTION</b>	<b>PURPOSE</b>	<b>DETAIL</b>	<b>LEGISLATION REFERENCE</b>
		Imported broodstock and gametes subject to control	
		Quarantine procedures	
<b>Genetic control</b>	Genetic modification (GMO)	GMO to include natural breeding	R1829 of 2003
		No genetically modified fish to be imported without approval	
		Genetic modification of fish subject to monitored control plan (incl polyploid organisms)	
		Importation of genetic material subject to approval	
	Test release of new species	Any 'pilot release' is subject to approval	SEC(2006) 421
<b>Fish movements</b>	Movement of fish	Movement of live fish intended for sale to be subject to approval/inspection	D88 of 2006 D492 of 1991 D493 of 1991 R1224 of 2009
		Movement of live fish not intended for sale to be subject to approval/inspection	
<b>PART V: FARM SAFETY AND GOOD PRACTICE</b>			
<b>Farm security</b>	Ownership of product	Ownership of live fish	
		Declared ownership around farm/cage	
	Security	Duty to ensure security	
		Prevention and reporting of escapes	
		Introduction and handling of aquatic organisms	D58 of 1998
<b>Good practice</b>	Enable trade body to self regulate	Give good practice schemes legal standing Minister	
		Failure to comply with good practice scheme may lead to loss of licence	
<b>Safety</b>	Safety	Siting of farms nb combine	
		Minister may require HACCP plans	R852 of 2004
		Residue monitoring requirements Sampling plans	D23 of 1996 Dec 97/747

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
		Prohibited activities, attached as schedule to Act.	
	Traceability	Minister will require evidence of a tracing scheme	R1224 of 2009 R853 of 2004
		Minister may require identification of animals	
		No product to be sold or moved which is unlabelled	R1224 of 2009
	Fish disease control / support	Preventive disease control for aquaculture areas	D88 of 2006 D53 of 2008
		Aquaculture enforcement notices	
		<ul style="list-style-type: none"> <li>• Declare closed areas and movement control</li> <li>• Disease reporting requirements</li> </ul>	D88 of 2006 D53 of 2008
	Water quality	Environmental Impact Assessment	D60 of 2000
		Water quality monitoring	D60 of 2000
<b>Data recording</b>	Statistics	Companies maintain log book, report Allow scientific personnel, inspectors on farm	ALB/Art.25 R788 of 1996
<b>PART VI: ADMINISTRATION AND CONTROL</b>			
<b>Establish control body</b>	Competent Authority to manage and control aquaculture	Ministry (see ALB/3 (g))	R1198 of 2006 R1224 of 2009
		Budget	ALB/Art.9
		Scientific research Training	ALB/Art.10-11 ALB/Art.33
		Responsible for licensing	R1224 of 2009 ALB/Art.32
		Responsible for enforcement of aquaculture control rules	R1224 of 2009 ALB/Art.32, 34
		Responsible for environmental monitoring and enforcement in territorial and offshore waters	R1224 of 2009
		Competent Authority for Environment Liability	D35 of 2004
		Responsible for collection and transmission of	R1639 of 2001

<b>ACTION</b>	<b>PURPOSE</b>	<b>DETAIL</b>	<b>LEGISLATION REFERENCE</b>
		statistical data to Minister and any other organisation that he directs	R1967 of 2006 R1543 of 2000 R1921 of 2006
		Maintain register of infringements	R1224 of 2009
		Other functions	ALB/Art.32
	Establish inspectorate	Powers of fisheries inspectors	ALB/Art.37 ALB/Art.38
		Powers of inspectors capable of transference to other officials (e.g. veterinarians)	
<b>PART VII: ORGANISATION OF MARKET</b>			
<b>Consultation</b>	Representative bodies	Central Consultative committee (CCC) Local consultative committee Scientific committee	R1198 of 2006 ALB/Art.s 4-7
<b>Access to support funds</b>	Support area designation	Declaration of 'Fishery Development Area' to be linked to any action is overall fishery sector	R1198 of 2006
<b>Market organisation</b>	Common organisation of market for fish/fish products	Minister shall take into account views of any producer organisation or inter-branch organisation established in law	R104 of 2000 R1198 of 2006
	Aquaculture organisation	Minister to assist any aquaculture organisation	
<b>PART VIII: JUDICIAL MATTERS</b>			
<b>Presumptions</b>		Presumptions as to validity of statements	
<b>Liability</b>	Corporate liability	Owners also responsible	ALB/ Art.
	Operator liability	Include all persons	
		Liability for loss of things in custody	
		Liability for environmental/physical damage	ALB/Art. 41
<b>Protect officers</b>	Exempt officers from liability	Protect from civil/criminal liability	
<b>Evidence</b>	Evidence by certificate	Certification for competence	
		Documentary evidence	
		Certificates for water quality reports etc	

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
		Certificate as to occurrence of disease	
		Certificate for cause of death (post-mortem)	
		Photographic evidence	
<b>Forfeiture</b>	Forfeiture orders by court	Destruction of evidence	
		Treatment of things detained	
		Disposal of seizures and forfeiture orders	
		Removal from custody	
<b>Penal mechanisms</b>	Licence cancellation	Cancellation of licence resulting from conviction	ALB/Art. 40
	Administrative penalties	Commission and appeals	ALB/Art. 43-44
<b>Offences</b>	Offences	Offences	ALB/Art.24
<b>Penalties</b>	Penalties	Penalties	R1447 of 1999 ALB/Art. 39
		Category 1. Summary fines	
		Category 2: level established by Act, raised automatically every 3 years by published rate of inflation. New rate officially notified.	
		Category 3: level established by Act raised automatically every 3 years by published rate of inflation. New rate officially notified.	
		Category 4: level established by Act, raised automatically every 3 years by published rate of inflation. New rate officially notified.	

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
			R853 of 2004
		Fish exporting	R 178 of 2002 R104 of 2000 R2369 of 2002
		Fisheries planning	R2371 of 2002
		Fisheries sector support	R1198 of 2002 R861 of 2006
<b>Aquaculture</b>	Control disease and movement	Aquaculture disease prevention measures	D88 of 2006 R1224 of 2009
		Labelling	
		Dangerous substances and additives	
		Care and handling of animals	
		Environmental impact of aquaculture farms	
		Zoning requirements	
		Materials and structures use in aquaculture	
		Registration and marking of equipment	
		Import of animals intended for aquaculture or stocking in the wild or as pets/hobby	
		Certification and control of genetic material	
		Control of genetically modified organisms	
		Disposal of genetically modified or alien species	
	List of schedules to be covered by regulation	Schedule 1: Aquaculture, prohibited activities	
		Schedule 2: Prohibited species	R 1967 of 2006
		Schedule 3: Prohibited substances	D23 of 1996
		Schedule 4: Notifiable diseases	D88 of 2006 D53 of 2008
<b>PART X: TEMPORARY AND FINAL PROVISIONS</b>			
<b>Transitional measures</b>			

R – EU Council Regulation) as R2371 of 2002

D - EU Directive as D60 of 2000

Dec – Decision of EU Council

UNCLOS – United Nations Convention of the Law of the Sea, 1982

EFF – European Fisheries Fund

CFP – Common Fisheries Policy

ALB/Art1. – Albania Fisheries and Aquaculture Law, 1995 (as amended) [Article No.]