# Commission Regulation (EC) No 1252/2008 of 12 December 2008 derogating from Regulation (EC) No 1251/2008 and suspending imports into the Community from Malaysia of consignments of certain aquaculture animals (Text with EEA relevance)

## COMMISSION REGULATION (EC) No 1252/2008

## of 12 December 2008

## derogating from Regulation (EC) No 1251/2008 and suspending imports into the Community from Malaysia of consignments of certain aquaculture animals

## (Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard 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[(1)], and in particular Article 25(a),

Whereas:

(1) Directive 2006/88/EC lays down the animal health requirements to be applied for the placing on the market and the import and the transit through the Community of aquaculture animals and products thereof. That Directive provides that Member States are to ensure that aquaculture animals and products thereof are introduced into the Community only from third countries or parts thereof that appear on a list drawn up in accordance with its provisions.

(2) Commission Decision 2003/858/EC of 21 November 2003 laying down the animal health conditions and certification requirements for imports of live fish, their eggs and gametes intended for farming, and live fish of aquaculture origin and products thereof intended for human consumption[(2)] lists the territories from which imports into the Community of certain species of live fish, their eggs and gametes are authorised.

(3) Commission Decision 2006/656/EC of 20 September 2006 laying down the animal health conditions and certification requirements for imports of fish for ornamental purpose[(3)] lists the territories from which imports into the Community of certain ornamental fish are authorised.

(4) The results of a Community inspection visit to Malaysia have revealed serious shortcomings throughout the production chain of aquaculture animals and ornamental fish. Those shortcomings are likely to lead to the spread of disease, thus presenting a serious threat to animal health in the Community.

(5) As a consequence of those shortcomings, Commission Decision 2008/641/EC derogating from Decisions 2003/858/EC and 2006/656/EC and suspending imports into the Community from Malaysia of consignments of certain live fish and of certain aquaculture products[(4)], suspended imports from Malaysia of live fish belonging to the

*Cyprinidae* family, their eggs and gametes intended for farming, of live fish belonging to the *Cyprinidae* family, their eggs and gametes for restocking of put and take fisheries, as well as of certain ornamental fish belonging to that family.

(6) Commission Regulation (EC) No 1251/2008 of 12 December 2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species[(5)] repeals Decisions 2003/858/EC and 2006/656/EC, with effect from 1 January 2009.

(7) Annex III to that Regulation establishes a list of third countries, territories, zones or compartments from which imports are permitted of aquaculture animals intended for farming, put and take fisheries and open ornamental facilities, and ornamental fish susceptible to one or more of the diseases listed in Part II of Annex IV to Directive 2006/88/EC and intended for closed ornamental facilities.

(8) Malaysia is included on that list as a third country from which imports into the Community are permitted for fish of the *Cyprinidae* family and for the fish species susceptible to epizootic ulcerative syndrome according to Part II of Annex IV to Directive 2006/88/EC intended for closed ornamental facilities. Regulation (EC) No 1251/2008 is to apply as from 1 January 2009.

(9) The circumstances which have led to the adoption of Decision 2008/641/EC still continue to exist. It is therefore appropriate to derogate by this Regulation from the corresponding provisions regarding Malaysia laid down in Annex III to Regulation (EC) No 1251/2008. In the interest of clarity and coherence of Community legislation, Decision 2008/641/EC should be repealed and replaced by this Regulation.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

*Article 1*

By way of derogation from Articles 10(1) and 11(1) of Regulation (EC) No 1251/2008, Member States shall suspend imports into their territory from Malaysia of the following consignments of fish belonging to the *Cyprinidae* family, their eggs and gametes:

(a) consignments of live fish of aquaculture origin intended for farming, put and take fisheries and open ornamental facilities; and

(b) in the case of consignments of ornamental fish intended for closed ornamental facilities, only the species *Carassius auratus, Ctenopharyngodon idellus, Cyprinus carpio, Hypophthalmichthys molitrix, Aristichthys nobilis, Carassius carassius and Tinca tinca of the Cyprinidae* family.

*Article 2*

All expenditure incurred in the application of this Regulation shall be charged to the consignee or his agent.