COMMISSION DECISION

of 20 November 1998

on the Community's financial contribution to a programme for the control of organisms harmful to plants and plant products in Madeira for 1998

(notified under document number C(1998) 3561)

(Only the Portuguese text is authentic)

(98/690/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Azores and Madeira [1], as last amended by Commission Regulation (EC) No 2348/96 [2], and in particular Article 33(3) thereof,

Whereas Commission Decision 93/522/EEC [3], as amended by Decision 96/633/EC [4], defines what measures are eligible for Community financing as regards programmes for the control of organisms harmful to plants and plant products in the French overseas departments, the Azores and Madeira;

Whereas specific agricultural production conditions in Madeira call for particular attention, and action must be taken or reinforced as regards crop production, in particular the phytosanitary aspects for this region;

Whereas the action to be taken or reinforced on the phytosanitary side is particularly costly;

Whereas the programme of action is to be presented to the Commission by the relevant Portuguese authorities; whereas this programme specifies the objectives to be achieved, the measures to be carried out, their duration and their cost so that the Community may contribute to financing them;

Whereas the Community's financial contribution may cover up to 75 % of eligible expenditure, protective measures for bananas excluded;

Whereas the plant protection operations in Madeira provided for in the operational programme and the Community initiative REGIS II for the period 1994 to 1999 and financed from the Structural Funds cannot be the same as those contained in this programme;

Whereas the operations provided for in the European Community framework programme for research and technological development cannot be the same as those contained in this programme;

Whereas the measures foreseen in the environmental programme approved for the Region of Madeira in the framework of Council Regulation (EEC) No 2078/92 [5], as amended by Regulation (EC) No 2772/95 [6], cannot be the same as those contained in this programme;

Whereas the technical information provided by Portugal has enabled the Standing Committee on Plant Health to analyse the situation accurately and comprehensively;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

The Community's financial contribution to the official programme for the control of organisms harmful to plants and plant products on the Island of Madeira presented for 1998 by the relevant Portuguese authorities is hereby approved.

Article 2

The official programme is made up of two sub-programmes:

1. a sub-programme for the autocidal control of the fruit fly (*Ceratitis capitata* Wied);

2. a sub-programme for the control of the white citrus fly (*Aleurothrixus floccosus* Maskell).

[1] OJ L 173, 27. 6. 1992, p. 1.
[2] OJ L 320, 11. 12. 1996, p. 1.
[3] OJ L 251, 8. 10. 1993, p. 35.
[4] OJ L 283, 5. 11. 1996, p. 58.
[5] OJ L 215, 30. 7. 1992, p. 85.
[6] OJ L 288, 1. 12. 1995, p. 35.

Article 3

The maximum Community financial contribution to the programme in 1998 shall be ECU 500 000 for expenditure related to eligible measures as defined by Decision 93/522/EEC out of a total expenditure of ECU 666 667 (VAT excluded).

The schedule of programme costs and their financing is set out as Annex I to this Decision. In the case where the total eligible expenditure for 1998 presented by Portugal would be less than the forecast amount of ECU 666 667, the Community's contribution would be reduced in proportion.

The Community reimbursement will be made in accordance with the provisions of the first paragraph of this Article and the financial rate of the ecu on 1 April 1998, i.e. ECU 1 = PTE 203,243.

Article 4

A first instalment of ECU 250 000 shall be paid to Portugal immediately after the official notification of the present Decision.

Article 5

The Community assistance shall relate to the eligible measures associated with the operations covered by the programme set up in Portugal by provisions for which the necessary financial resources have been committed between 1 December 1997 and 31 December 1998. The final date for payments in connection with the operations shall be 31 March 1999, and non-compliance without justification of delay shall entail loss of entitlement to Community financing.

In the case where a request for extension of the final date for payment is necessary, the reponsible official authorities have to introduce this request before the final date and present the justification concerning this request.

Article 6

Specific provisions relating to the financing of the programme, provisions on compliance with Community policies and the information to be provided to the Commission by Portugal are set out in Annex II.

Article 7

Any public contracts in connection with investments covered by this Decision shall be subject to Community law.

Article 8

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 20 November 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

FINANCIAL TABLE FOR 1998

(in ECU)(1)

	Eligible expenditure 1998		
	EC	Madeira	Total
Ceratitis capitata	471 328	157 109	628 437
Aleurothrixus floccosus	28 672	9 558	38 230
Total	500 000	166 667	666 667

(1) ECU 1 = PTE 203,243 (1 April 1998).

ANNEX II

I. PROVISIONS ON THE IMPLEMENTATION OF THE PROGRAMME

A. Provisions on the financial implementation

1. The Commission's intention is to establish real cooperation with the authorities responsible for the implementation of the programme. In line with the programme these authorities are those indicated below.

Commitment and payments

2. Portugal guarantees that, for all action co-financed by the Community, all public and private bodies involved in its management and implementation shall keep accounts in standard form of all transactions in order to facilitate monitoring of expenditure by the Community and the national authorities responsible for surveillance.

3. The initial budgetary commitment shall be based on an indicative financial plan; this commitment shall be made for one year.

4. The commitment will be made when the decision approving assistance is adopted by the Standing Committee on Plant Health under procedure 16a(a) of Council Directive 77/93/EEC [1], as last amended by Commission Directive 98/2/EC [2].

5. The first instalment of ECU 250 000 shall be paid to Portugal immediately after the official notification of the present Decision.

6. The balance of the amount committed of ECU 250 000 is paid on presentation to the Commission the final activity report and the detailed total expenditure incurred and after it has been approved by the Commission.

Authorities responsible for the implementation of the programme

— Central administration:

Direcção-Geral de Protecção das Culturas
Quinta do Marquês
P-2780 Oeiras

— Local administration:

Região Autónoma da Madeira
Secretaria Regional da Agricultura, Florestas e Pescas
Direcção Regional da Agricultura
Av. Arriaga, 21 A
Edifício Golden Gate, 4º piso
P-9000 Funchal

7. The actual expenditure incurred shall be notified to the Community broken down by type of action or subprogramme in a way demonstrating the link between the indicative financial plan and expenditure actually incurred. If Portugal keeps suitable computerised accounts this will be acceptable.

8. All payments of aid granted by the Community under this Decision shall be made to the authority designated by Portugal, which will also be responsible for repayment to the Community of any excess amount.

9. All commitments and payments shall be made in ecu.

Financial schedules for Community support frameworks and amounts of Community aid shall be expressed in ecu at the rate fixed by this Decision. Payment shall be made to the following account:

Banco de Fomento Exterior
Nº de conta 70/30/005156/0
NIB 000900700.00.0005156002
Titular: Governo da Região Autónoma da Madeira
Endereço: Av. de Zarco
P-9000 Funchal

[1] OJ L 26, 31. 1. 1977, p. 20.
[2] OJ L 15, 21. 1. 1998, p. 34.

Financial control

10. Inspections may be carried out by the Commission or the Court of Auditors should it so request. Portugal and the Commission shall immediately exchange all relevant information in regard to the outcome of an inspection.

11. For three years following the last payment relating to the assistance the authority responsible for implementation shall keep available to the Commission all documentary evidence of expenditure incurred.

12. When it submits applications for payment Portugal shall make available to the Commission all official reports relating to supervision of the measures in question.

Reduction, suspension and withdrawal of aid

13. Portugal and the recipients of aid shall declare that Community funds are used for the intended purposes. If implementation of a measure appears to require only part of the financial assistance allotted the Commission shall immediately recover the amount due. In cases of dispute the Commission shall examine the case within the partnership framework, asking Portugal or the other authorities designated by Portugal for implementation of the measure to submit their comments within two months.

14. The Commission may reduce or suspend aid for a measure if the examination confirms the existence of an irregularity, in particular of a substantial modification affecting the nature or conditions of implementation of the measure for which approval by the Commission has not been sought.

Recovery of undue payments

15. All sums unduly paid must be reimbursed to the Community by the designated authority indicated in point 8. Interest may be levied on sums not reimbursed. If for any reason the designated authority indicated in point 8 does not reimburse the Community, Portugal shall pay the amount to the Commission.

Prevention and detection of irregularities

16. The partners shall observe a code of conduct drawn up by Portugal in order to ensure that any irregularity in the provision of the assistance programme is detected. Portugal shall ensure that:

— suitable action is taken in this area,

— any amount unduly paid as a result of an irregularity is recovered,

— action is taken to prevent irregularities.

B. **Monitoring and assessment**

I. *Monitoring Committee*

1. Establishment

Independent of the financing of this action, a monitoring committee for the programme shall be set up by Portugal and the Commission. It shall regularly review implementation of the programme and, in appropriate cases, propose any adjustments required.

2. The Committee shall establish its own internal procedures within one month of the notification of the present decision to Portugal.

3. Competence of Monitoring Committee

The Committee:

— shall have as its general responsibility the satisfactory progress of the programme towards attainment of the objectives set. Its competence shall embrace the programme measures within the limits of the Community aid granted. It shall keep watch on respect for the regulatory provisions, including those on eligibility of operations and projects,

— shall, on the basis of information on the selection of projects already approved and implemented, reach an opinion on application of the selection criteria set out in the programme,

— shall propose any action required to accelerate implementation of the programme in the light of the information furnished periodically by the interim monitoring and assessment indicators,

— may, in agreement with the Commission representative(s), adjust the financing plans within a limit of 15 % of the Community contribution to a subprogramme or measure for the entire period, or 20 % for any year, provided that the total amount scheduled in the programme is not exceeded. Care must be taken to see that the main objectives of the programme are not thereby compromised,

— shall give its opinion on the adjustments proposed to the Commission,

— shall issue an opinion on technical assistance projects scheduled in the operational programme,

— shall give its opinion on draft final reports,

— shall report regularly to the Standing Committee on Plant Health on the progress of the programme and expenditure incurred, at least twice during the relevant period.

II. *Monitoring and assessment of the programme during the implementation period (continuous monitoring and assessment)*

1. The national agency responsible for implementation shall also be responsible for continuous monitoring and assessment of the programme.

2. Continuous monitoring means an information system on the state of progress of the programme. Continuous monitoring will cover the measures contained in the programme. It involves reference to the financial and physical indicators structured so as to permit assessment of the correspondence between expenditure on each measure and predefined physical indicators showing the degree of realisation.

3. Continuous assessment of the programme will involve analysis of the quantitative results of implementation on the basis of operational, legal and procedural considerations. The purpose is to guarantee correspondence between measures and programme objectives.

Implementation report and scrutiny of the programme

4. Portugal shall notify to the Commission, within one month of adoption of the programme, the name of the authority responsible for compilation and presentation of the final implementation report.

The final report shall contain a concise evaluation of the entire programme (degree of achievement of physical and qualitative objectives and of progress accomplished) and an assessment of the immediate phytosanitary and economic impact.

The final report on the present programme will be presented by the competent authority to the Commission before 31 March 1999 and shall thereafter be presented to the Standing Committee on Plant Health as soon as possible after this date.

5. The Commission may jointly with Portugal call in an independent assessor who shall, on the basis of the continuous monitoring, carry out the continuous assessment defined at point 3. He may submit proposals for adjustment of the subprogrammes and/or measures, modification of the selection criteria for projects, etc., in the light of difficulties encountered in the course of implementation. On the basis of monitoring of management he shall issue an opinion on the administrative measures to be taken. To guarantee the assessor's impartiality the Commission will not pay the entire cost of employing him.

C. **Information and publicity**

In the framework of this programme, the agency appointed as responsible for the programme shall ensure that it is adequately publicised.

It shall in particular take action to:

— make potential recipients and professional organisations aware of the possibilities offered under the programme measures,

— make the general public aware of the Community's role in the programme.

Portugal and the agency responsible for implementation shall consult the Commission on initiatives envisaged in this area, possibly through the Monitoring Committee. They shall regularly notify the Commission of information and publicity measures adopted, either by a final report or through the Monitoring Committee.

The national legal provisions on confidentiality of information shall be complied with.

II. COMPLIANCE WITH COMMUNITY POLICIES

Community policies applying in this field must be complied with.

The programme shall be implemented in accordance with the provisions on coordination of and compliance with Community policies. The following information must be supplied by Portugal.

1. **Award of public contracts**

The 'public contracts' [1] questionnaire must be completed for:

— public contracts above the ceilings set by the 'supplies' and 'works' Directives that are awarded by contract-awarding authorities as defined in these Directives and are not covered by the exemptions specified therein,

— public contracts below these ceilings where they constitute components of a single piece of work or of uniform supplies of a value above the ceiling. By 'a single piece of work' is meant a product of building or civil engineering works intended in itself to fulfil an economic or technical function.

The ceilings in force are the ones at the date of the notification of this Decision.

2. **Protection of the environment**

(a) *General information*

— description of the main environmental features and problems of the region concerned, giving a description of the important conservation areas (sensitive zones),

— a comprehensive description of the major beneficial and harmful effects that the programme, given the investments planned, is likely to have on the environment,

— a description of the action planned to prevent, reduce or offset any serious harmful effects on the environment,

— a report on consultations with the responsible environmental authorities (opinion of the Ministry of the Environment or its equivalent) and, if there were any such consultations, with the public concerned.

(b) *Description of planned activities*

For programme measures liable to have a significantly harmful effect on the environment:

— the procedures which will be applied for assessing individual projects during implementation of the programme,

— the mechanisms planned for monitoring environmental impact during implementation, assessing results and eliminating, reducing or offsetting harmful effects.

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[1] Notice C(88) 2510 to the Member States, on monitoring of compliance with procurement rules in the case of projects and programmes financed by the Structural Funds and financial instruments (OJ C 22, 28. 1. 1989, p. 3).