COMMISSION IMPLEMENTING DECISION

of 19 December 2011

on a Union financial contribution for 2011 to cover expenditure incurred by Germany, Spain, Italy, Cyprus, Malta, the Netherlands and Portugal for the purpose of combating organisms harmful to plants or plant products

(notified under document C(2011) 9243)

(Only the Dutch, German, Greek, Italian, Maltese, Portuguese and Spanish texts are authentic)

(2011/868/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community [1], and in particular Article 23(5) thereof,

Whereas:

(1) Pursuant to Article 22 of Directive 2000/29/EC, Member States may receive a 'plant health control' financial contribution from the Union to cover expenditure relating directly to the necessary measures which have been taken or are planned to be taken for the purpose of combating harmful organisms introduced from third countries or from other areas in the Union, in order to eradicate or, if that is not possible, to contain them.

(2) Germany introduced two requests for financial contribution. The first one was introduced on 20 December 2010 and relates to measures taken in 2009 and 2010 to control *Anoplophora glabripennis* in Nordrhein-Westfalen. The outbreak of that harmful organism was detected there in 2009.

(3) The second request of Germany was introduced on 15 April 2011 and relates to measures taken in 2010 to eradicate or contain *Diabrotica virgifera* in Baden-Württemberg. The outbreaks of that harmful organism were detected in different districts of that State (Breisgau-Hochschwarzwald, Emmendingen, Freiburg city, Konstanz, Loerrach, Ortenaukreis and Ravensburg) in different years, i.e. 2008, 2009 and 2010. The measures taken in 2008 and 2009 have also been the subject to co-financing in 2009 and 2010.

(4) Italy introduced three requests for financial contribution on 29 April 2011. The first request relates to measures taken in 2011 in Lombardia, province of Brescia, commune of Gussago, to control *Anoplophora chinensis*. The outbreak of that harmful organism was detected in 2008. The measures taken in 2008, 2009 and 2010 have also been the subject of co-financing in 2009 and 2010.

(5) The second request of Italy relates to the measures taken in 2011 in Veneto, province of Treviso, commune of Cornuda, to control *Anoplophora glabripennis*. The outbreak of that harmful organism was detected in 2009. The measures taken in 2009 and 2010 have also been the subject of co-financing in 2010.

(6) The third request of Italy relates to measures taken in 2010 in Emilia-Romagna, provinces of Bologna, Ferrara, Ravenna and Forlì-Cesena, to control *Pseudomonas syringae* pv. *actinidiae*. The outbreak of that harmful organism was confirmed in 2010.

(7) Moreover, Italy introduced a fourth request for financial contribution on 20 April 2011. That request relates to measures taken in 2011 in Lazio, commune of Rome, to control *Anoplophora chinensis*. The outbreak of that harmful organism was detected in 2008. Measures taken in 2008, 2009 and 2010 have also been the subject of co-financing in 2009 and 2010.

(8) Cyprus introduced a request for financial contribution on 29 April 2011 relating to measures taken or planned for 2011 to control *Rhynchophorus ferrugineus*. The outbreaks of that harmful organism were detected in 2009, 2010 and 2011. Measures taken in 2010 have also been the subject of co-financing in 2010.

(9) Malta introduced a request for financial contribution on 29 April 2011 relating to measures taken in 2010 and 2011 to control *Rhynchophorus ferrugineus*. The outbreaks of that harmful organism were detected in 2008, 2009 and 2010. Measures taken in 2008 and 2009 have also been the subject of co-financing in 2009.

(10) The Netherlands introduced three requests for financial contribution on 13 December 2010. The first request relates to measures taken in 2009 and 2010 in the area of Boskoop to control *Anoplophora chinensis*. The appearance of that harmful organism was detected in December 2009.

(11) The second request of the Netherlands relates to measures taken in 2009 to control Potato Spindle Tuber Viroid (PSTVd). The suspected appearance of that harmful organism was detected in 2009.

[1] OJ L 169, 10.7.2000, p. 1.

(12) The third request of the Netherlands relates to measures taken in 2009 to control *Tuta absoluta*. The outbreak of that harmful organism was detected in 2009.

(13) Moreover, the Netherlands introduced additionally a fourth and a fifth request for financial contribution on 13 December 2010. The fourth request relates to measures taken in 2009 and 2010 in the area of Westland to control *Anoplophora chinensis*. The outbreak of that harmful organism was detected in 2007. Measures taken in 2008 have also been the subject of co-financing in 2009.

(14) The fifth request of the Netherlands relates to measures taken in 2009 to control *Clavibacter michiganensis* spp. *michiganensis*. The outbreak of that harmful organism was detected in 2007. Measures taken in 2007 have also been the subject of co-financing in 2009. No co-financing was requested for the measures in 2008.

(15) Portugal introduced three requests for financial contribution on 30 April 2011 relating to measures taken to control *Bursaphelenchus xylophilus*. The first request relates to measures taken in 2011 concerning continental Portugal, with the exception of the originally infested zone of Setubal of 1999, to control the outbreaks detected in 2008. The measures taken in 2008, 2009 and 2010 have also been the subject of co-financing in 2009 and 2010.

(16) The two other requests of Portugal concern exclusively measures of heat treatment of wood or wood packaging material in the area of Setubal, in 2010 and 2011.

(17) Spain introduced three requests for financial contribution. The first one was introduced on 15 April 2011 and relates to measures taken in 2011 in Extremadura to control *Bursaphelenchus xylophilus*. The outbreak of that harmful organism was detected in 2008. The measures taken in 2008, 2009 and 2010 have also been the subject of co-financing in 2009 and 2010.

(18) The second request of Spain was introduced on 28 April 2011. It relates to measures taken in 2011 and planned for 2011 in Galicia to control *Bursaphelenchus xylophilus*. The outbreak of that harmful organism was detected in 2010.

(19) The third request of Spain was introduced on 27 April 2011. It relates to measures taken in 2010 and 2011, and also planned for 2011, in Catalonia to control *Pomacea insularum*. The outbreak of that harmful organism was detected in 2010.

(20) Germany, Spain, Italy, Cyprus, Malta, The Netherlands and Portugal have each established a programme of actions to eradicate or contain the above harmful organisms introduced in their territories. These programmes specify the objectives to be achieved, the measures carried out, their duration and their cost.

(21) All the above measures consist of a variety of plant health measures, including destruction of contaminated trees or crops, application of plant protection products, sanitation techniques, inspections and testings carried out officially or upon official request to monitor the presence or extent of contamination by the respective harmful organisms, and replacement of destroyed plants, within the meaning of Article 23(2)(a), (b) and (c) of Directive 2000/29/EC.

(22) Germany, Spain, Italy, Cyprus, Malta, The Netherlands and Portugal have applied for the allocation of a Union financial contribution to these programmes in accordance with the requirements laid down in Article 23 of Directive 2000/29/EC, in particular paragraph 1 and 4 thereof, and in accordance with Commission Regulation (EC) No 1040/2002 of 14 June 2002 establishing detailed rules for the implementation of the provisions relating to the allocation of a financial contribution from the Community for plant-health control and repealing Regulation (EC) No 2051/97 [1].

(23) The technical information provided by Germany, Spain, Italy, Cyprus, Malta, The Netherlands and Portugal has enabled the Commission to analyse the situation accurately and comprehensively. The Commission has concluded that the conditions for the granting of a Union financial contribution, as laid down in particular in Article 23 of Directive 2000/29/EC, have been met. Accordingly, it is appropriate to provide a Union financial contribution to cover the expenditure on those programmes.

(24) In accordance with the second subparagraph of Article 23(5) of Directive 2000/29/EC, the Union financial contribution may cover up to 50 % of eligible expenditure for measures that have been taken within a period of not more than 2 years after the date of detection of the appearance or that are planned for that period. However, in accordance with the third subparagraph of that Article, that period may be extended if it has been established that the objective of the measures will be achieved within a reasonable additional period, in which case the rate of the Union financial contribution shall be digressive over the years concerned. Having regard to the conclusions of the Working Group on evaluation of the respective requests, it is appropriate to extend the two-year period for the programmes concerned, while reducing the rate of the Union financial contributions for these measures to 45 % of eligible expenditure for the third year and to 40 % for the fourth year of these programmes.

(25) The Union financial contribution up to 50 % of eligible expenditure should therefore apply to Germany, Nordrhein-Westfalen, *Anoplophora glabripennis* (2009, 2010), Germany, Baden-Württemberg, *Diabrotica virgifera*, rural districts of Breisgau-Hochschwarzwald and Freiburg city (2010), rural districts of Emmendingen, Lörrach, and Konstanz (2009), Italy, Emilia-Romagna, *Pseudomonas syringae* pv. *actinidiae* provinces of Bologna, Ferrara,

[1] OJ L 157, 15.6.2002, p. 38.

Ravenna and Forlì-Cesena (2010), Cyprus, *Rhynchophorus ferrugineus* (2011), The Netherlands, *Anoplophora chinensis*, Boskoop area (2009, 2010), The Netherlands, PSTVd (2009), The Netherlands, *Tuta absoluta* (2009), The Netherlands, *Anoplophora chinensis*, Westland (2009), Portugal, *Bursaphelenchus xylophilus*, Setubal area (2010, 2011), Spain, Galicia, *Bursaphelenchus xylophilus* (2010, 2011) and to Spain, Catalonia, *Pomacea insularum* (2010, 2011).

(26) The Union financial contribution up to 45 % of eligible expenditure should therefore apply to the following programmes: Italy, Veneto, *Anoplophora glabripennis* (2011), Malta, *Rhynchophorus ferrugineus* (2010), The Netherlands, *Clavibacter michiganesis* ssp. *michiganensis* (2009), as the measures concerned have already been the subject of a Union financial contribution under Commission Decisions 2009/996/EU [1] (Malta, The Netherlands) or 2010/772/EU [2] (Italy) for the first 2 years of their implementation. This also applies to the programme of The Netherlands, *Anoplophora chinensis*, Westland (2010), where measures for 2009 (year 2 of the programme) are co-financed in the present Decision.

(27) The same level of contribution should apply to the third year (2010) of the programme presented by Germany in Baden-Württemberg for *Diabrotica virgifera* in the rural district of Ravensburg, which measures have been the subject of a Union financial contribution under Decision 2009/996/EU and Decision 2010/772/EU.

(28) Moreover, a Union contribution up to 40 % should apply to the fourth year of the following programmes: Spain, Extremadura, *Bursaphelenchus xylophilus* (2011), Italy, Lombardia, *Anoplophora chinensis* (2011), Italy, Lazio, *Anoplophora chinensis* (2011), Malta, *Rhynchophorus ferrugineus* (2011), Portugal, *Bursaphelenchus xylophilus* (2011), continental Portugal with the exception of the originally infested zone of Setubal of 1999, as the measures have been the subject of a Union financial contribution under Decision 2009/996/EU (Spain, Italy, Portugal) and 2010/772/EU (Spain, Italy, Portugal) for the first 3 years of their implementation.

(29) The same level of contribution should apply to the fourth year (2010) of the programme presented by Germany in Baden-Württemberg for *Diabrotica virgifera* in the rural district of Ortenaukreis, which measures have been the subject of a Union financial contribution under Commission Decision 2009/147/EC [3], Decision 2009/996/EU and Decision 2010/772/EU.

(30) In accordance with the conclusions of the audit mission in Portugal from 29 March 2011 to 11 April 2011 of the Food and Veterinary Office of the Commission, only 25 % of the number of coniferous host trees infested by pinewood nematode, or showing any symptoms of poor health, had been felled and destroyed at the date of 1 April 2011. This failure of the Portuguese authorities is not in compliance with the provisions of point 2(a)(iii) of the Annex to Commission Decision 2006/133/EC [4]. In this view, the level of eligible expenditure in the request relating to measures in continental Portugal, with exception of the originally infested zone of Setubal, should be reduced as regards the cost of felling coniferous trees, and therefore only 25 % of this category of expenditure should be deemed eligible.

(31) In accordance with Article 3(2)(a) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy [5], plant-health measures are financed from the European Agricultural Guarantee Fund. For the purpose of financial control of these measures, Articles 9, 36 and 37 of the above Regulation should apply.

(32) In accordance with Article 75 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities [6] and Article 90(1) of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities [7], the commitment of expenditure from the Union budget shall be preceded by a financing decision adopted by the institution to which powers have been delegated, setting out the essential elements of the action involving the expenditure.

(33) The present decision constitutes a financing decision for the expenditure provided in the co-financing requests presented by Member States.

(34) The measures provided in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

On the basis of the dossiers submitted by the Member States and analysed by the Commission, the allocation of a Union financial contribution for 2011 to cover expenditure incurred by Germany, Spain, Italy, Cyprus, Malta, The Netherlands and Portugal relating to necessary measures as specified in Article 23(2)(a), (b) and (c) of Directive 2000/29/EC and taken for the purpose of combating the organisms concerned by the eradication or containment programmes listed in the Annex, is hereby approved.

Article 2

The total amount of the Union financial contribution referred to in Article 1 is EUR 15 006 869,89. The maximum amounts of the Union financial contribution for each of the programmes shall be as indicated in the Annex.

[1] OJ L 339, 22.12.2009, p. 49.
[2] OJ L 330, 15.12.2010, p. 9.
[3] OJ L 49, 20.2.2009, p. 43.
[4] OJ L 52, 23.2.2006, p. 34.
[5] OJ L 209, 11.8.2005, p. 1.
[6] OJ L 248, 16.9.2002, p. 1.
[7] OJ L 357, 31.12.2002, p. 1.

Article 3

The Union financial contribution as set out in the Annex shall be paid on the following conditions:

(a) evidence of the measures taken has been submitted by the Member State concerned in accordance with the provisions laid down in Regulation (EC) No 1040/2002;

(b) a request for payment has been submitted by the Member State concerned to the Commission, in accordance with Article 5 of Regulation (EC) No 1040/2002.

The payment of the financial contribution is without prejudice to the verifications by the Commission under Article 23(8) the second paragraph, Article 23(10) and Article 24 of Directive 2000/29/EC.

Article 4

This Decision is addressed to the Federal Republic of Germany, the Kingdom of Spain, the Italian Republic, the Republic of Cyprus, the Republic of Malta, the Kingdom of the Netherlands and the Portuguese Republic.

Done at Brussels, 19 December 2011.

For the Commission
John DALLI
Member of the Commission

ANNEX

ERADICATION/CONTAINMENT PROGRAMMES

Section I

Programmes whose Union financial contribution corresponds to 50 % of eligible expenditure

(in EUR)

Member State	Harmful organisms combated	Affected plants or plant products	Year	a	Eligible expenditure	Maximum Union contribution per programme
Germany, Nordrhein-Westfalen	*Anoplophora glabripennis*	Various tree species	2009 and 2010	1 and 2	194 369,65	97 184,82
Germany, Baden-Württemberg, rural district of Breisgau-Hochschwarzwald and Freiburg city (year 1 of the measures) Emmendingen, Lörrach, Konstanz (year 2 of the measures)	*Diabrotica virgifera*	*Zea mays*	2009 or 2010	1or 2	84 846,51	42 423,25
Spain, Galicia	*Bursaphelenchus xylophilus*	Coniferous trees	2010 and 2011	1 and 2	6 178 612	3 089 306
Spain, Catalonia	*Pomacea insularum*	*Oryza sativa*	2010 and 2011	1 and 2	2 218 507	1 109 253,50
Italy, Emilia-Romagna (Provinces of Bologna, Ferrara, Ravenna and Forlì-Cesena)	*Pseudomonas syringae* pv. *actinidiae*	*Actinidia sinensis*	2010	1	89 100	44 550
Cyprus	*Rhynchophorus ferrugineus*	*Palmaceae*	2011	2	134 750	67 375
The Netherlands, Boskoop area	*Anoplophora chinensis*	Various tree species	2009 and 2010	1 and 2	2 160 037	1 080 018,50
The Netherlands	*PSTVd*	*Petunia* sp.	2009	1	102 269	51 134,50
The Netherlands	*Tuta absoluta*	*Solanum lycopersicum*	2009	1	170 778	85 389
The Netherlands, Westland area	*Anoplophora chinensis*	Various tree species	2009	2	285 671	142 835,50
Portugal, Setubal area, heat treatment	*Bursaphelenchus xylophilus*	Wood and wood packaging material	2010 and 2011	1 and 2	3 791 500	1 895 750

Section II

Programmes whose Union financial contribution rates differ, in application of the principle of degressivity

(in EUR)

Member State	Harmful organisms combated	Affected plants	Year	a	Eligible expenditure	Rate (%)	Maximum Union contribution
Germany, Baden-Württemberg, rural district of Ravensburg	*Diabrotica virgifera*	*Zea mays*	2010	3	9 480,99	45	4 266,44
Germany, Baden-Württemberg, rural district of Ortenaukreis	*Diabrotica virgifera*	*Zea mays*	2010	4	46 118,53	40	18 447,41
Spain, Extremadura	*Bursaphelenchus xylophilus*	Coniferous trees	2011	4	419 941	40	167 976,40
Italy, Veneto (Cornuda area)	*Anoplophora glabripennis*	Various tree species	2011	3	287 500	45	129 375
Italy, Lombardia (Gussago area)	*Anoplophora chinensis*	Various tree species	2011	4	280 150	40	112 060
Italy, Lazio (Roma area)	*Anoplophora chinensis*	Various tree species	2011	4	410 694	40	164 277,60
Malta	*Rhynchophorus ferrugineus*	*Palmaceae*	2010	3	606 347	45	272 856,29
			2011	4	865 834	40	346 333,76
The Netherlands	*Clavibacter michiganesis* spp. *michiganensis*	*Solanum lycopersicum*	2009	3	40 866	45	18 389,70
The Netherlands, Westland area	*Anoplophora chinensis*	Various tree species	2010	3	212 152	45	95 468,40
Portugal, Continental Portugal, area outside the area of Setubal	*Bursaphelenchus xylophilus*	Coniferous trees	2011	4	14 930 497,02	40	5 972 198,81

Total Union contribution (EUR) 15 006 869,89

Legend:

a = Year of implementation of the eradication programme.