COMMISSION IMPLEMENTING DECISION

of 14 December 2012

on a Union financial contribution pursuant to Council Directive 2000/29/EC for 2012 to cover expenditure incurred by Germany, Spain, France, Italy, Cyprus, the Netherlands and Portugal for the purpose of combating organisms harmful to plants or plant products

(notified under document C(2012) 9280)

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

(2012/789/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 four requests for financial contribution. The first one was introduced on 19 December 2011 and relates to measures taken in 2011 to eradicate or contain *Diabrotica virgifera* in Nordrhein-Westfalen. The outbreak of that harmful organism was detected there in 2010.

(3) The second one was introduced on 25 April 2012 and relates to measures taken from August 2010 until August 2011 to control *Anoplophora glabripennis* in Nordrhein-Westfalien. The outbreak of that harmful organism was detected there in 2009.

(4) The third request of Germany was introduced on 27 April 2012 and relates to measures taken in 2011 to eradicate or contain *Diabrotica virgifera* in Baden-Württemberg. The outbreaks of that harmful organism were detected in different rural or city districts of that State (Breisgau-Hochschwarzwald, Emmendingen, Freiburg city, Konstanz, Lörrach, Ortenaukreis and Rastatt — city district of Baden-Baden) in different years, i.e. 2008, 2009, 2010 and 2011. The measures taken in 2008, 2009, 2010 and 2011 have also been the subject to co-financing in 2009, 2010 and 2011.

(5) The fourth request of Germany was introduced on 27 April 2012 and relates to measures taken in 2011 to eradicate or contain *Diabrotica virgifera* in Hessen. The outbreak of that harmful organism was detected there in 2011.

(6) Spain introduced four requests for financial contribution. The first one was introduced on 20 April 2012 and relates to measures taken or planned for 2012 in Extremadura to control *Bursaphelenchus xylophilus*. The outbreak of that harmful organism was detected in 2008 in the Sierra de Dios Padres. The measures taken in November – December 2008, and in 2009, 2010 and 2011 have also been the subject of co-financing in 2009, 2010 and 2011. A follow-up request for measures from January 2012 until October 2012, i.e. to cover the maximum duration of four years, has been accepted.

(7) The second request of Spain was introduced on 23 April 2012. It relates to measures taken or planned for 2012 in Galicia to control *Bursaphelenchus xylophilus*. The outbreak of that harmful organism was detected in 2010 in the area of As Neves.

(8) The third request of Spain was introduced on 25 April 2012. It relates to measures taken or planned for 2012 in Catalonia to control *Pomacea insularum*. The outbreak of that harmful organism was detected in 2010.

(9) The fourth request of Spain was introduced on 27 April 2012. It relates to measures taken or planned for 2012 in Extremadura to control *Bursaphelenchus xylophilus*. The outbreak of that harmful organism was detected in 2012 in the area of Valverde del Fresno.

(10) France introduced two requests for financial contribution. The first one was introduced on 30 December 2011 and relates to measures taken or planned from September 2011 until September 2012 to control *Rhynchophorus ferrugineus*. The initial outbreaks of that harmful organism were detected in 2009. Measures taken from September 2009 until September 2011 have also been the subject of co-financing in 2010.

(11) The second request was introduced on 30 April 2012 and relates to measures taken or planned from November 2011 until December 2012 to control

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

Anoplophora glabripennis in Alsace. Measures were taken in France as a consequence of findings in 2011 of that harmful organism in the bordering area of Germany.

(12) Italy introduced two requests for financial contribution on 30 April 2012. The first request of Italy relates to the measures taken or planned for 2012 in Veneto, province of Treviso, area of Cornuda, to control *Anoplophora glabripennis*. The outbreak of that harmful organism was detected in 2009. The measures taken in 2009, 2010 and 2011 have also been the subject of co-financing in 2010 and 2011.

(13) The second request of Italy relates to measures taken in 2011 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. The measures taken in 2010 have also been the subject of co-financing in 2011.

(14) Cyprus introduced a request for financial contribution on 30 April 2012 relating to measures taken or planned for 2012 to control *Rhynchophorus ferrugineus*. The intial outbreaks of that harmful organism occurred in 2009. Measures taken in 2010 and 2011have also been the subject of co-financing in 2010 and 2011.

(15) The Netherlands introduced one request for financial contribution on 23 December 2011. That request relates to measures taken from November 2010 until December 2011 in the area of Almere to control *Anoplophora glabripennis*. The appearance of that harmful organism was detected in November 2010.

(16) Portugal introduced two requests for financial contribution on 30 April 2012 relating to measures taken to control *Bursaphelenchus xylophilus*. The first request relates to measures taken or planned in the first half of 2012 in 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 the second half of 2008, in 2009, 2010 and 2011 have also been the subject of co-financing in 2009, 2010 and 2011. A follow-up request for measures from January 2012 until June 2012, i.e. to cover the maximum duration of four years, has been accepted.

(17) The second request of Portugal concerns exclusively measures of heat treatment of wood or wood packaging material in the area of Setubal, in 2012. The measures taken in 2010 and 2011 have also been the subject of co-financing in 2011.

(18) Germany, Spain, France, Italy, Cyprus, 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.

(19) 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.

(20) Germany, Spain, France, Italy, Cyprus, 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 Union for plant-health control and repealing Regulation (EC) No 2051/97 ([1]).

(21) The technical information provided by Germany, Spain, France, Italy, Cyprus, 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 part of the expenditure on those programmes.

(22) 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 two 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.

(23) The Union financial contribution up to 50 % of eligible expenditure should therefore apply to Germany, Baden-Württemberg, *Diabrotica virgifera*, rural district of Breisgau-Hochschwarzwald and Freiburg city, rural district of Rastatt and city district of Baden-Baden (2011), Germany, *Diabrotica virgifera*, Hessen (2011), Germany, *Diabrotica virgifera*, Nordrhein Westfalen

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

(2011), France, *Anoplophora glabripennis*, (November 2011 to December 2012), Italy, Emilia-Romagna, *Pseudomonas syringae* pv. *Actinidiae*, provinces of Bologna, Ferrara, Ravenna and Forlì-Cesena (2011), the Netherlands, *Anoplophora glabripennis*, Almere area (November 2010 to December 2011).

(24) The Union financial contribution up to 45 % of eligible expenditure should therefore apply to the third year of the following programmes: Germany, Nordrhein-Westfalen, *Anoplophora glabripennis* (2011), Germany, Baden-Württemberg, *Diabrotica virgifera*, rural districts of Emmendingen, Konstanz, and Lörrach (2011), Spain, Catalonia, *Pomacea insularum* (2012), Spain, Galicia, *Bursaphelenchus xylophilus* (2012), France, PACA Region, *Rhynchophorus ferrugineus* (September 2011 until September 2012), Cyprus, *Rhynchophorus ferrugineus* (2012) and Portugal, *Bursaphelenchus xylophilus*, Setubal area (2012) as the measures concerned have already been the subject of a Union financial contribution under Commission Decision 2010/772/EU [1] (Germany, *Diabrotica virgifera*, France, Italy, Cyprus) and/or Commission Implementing Decision 2011/868/EU [2] (Germany, Italy, Spain, Portugal) for the first two years of their implementation.

(25) Moreover, a Union contribution up to 40 % should apply to the fourth year of the following programmes: Spain, Extremadura, *Bursaphelenchus xylophilus*, outbreak 2008 (2012), Italy, Veneto, *Anoplophora glabripennis* (2012), Portugal, *Bursaphelenchus xylophilus* (2012), area of 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 Commission Decision 2009/996/EU [3], Decision 2010/772/EU and Implementing Decision 2011/868/EU for the first three years of their implementation.

(26) In accordance with the conclusions of the audit mission in Portugal from 19 to 28 March 2012 of the Food and Veterinary Office of the Commission, only 85 % 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 2012, which represents an under-implementation of 15 %. In addition, the sampling and testing of the suspicious coniferous trees was applied at an intensity of about 1 %, which is far below the requirements of Commission Decision 2006/133/EC of 13 February 2006 requiring Member States temporarily to take additional measures against the dissemination of Bursaphelenchus xylophilus (Steiner et Buhrer) Nickle et al. (the pine wood nematode) as regards areas in Portugal, other than those in which it is known not to occur [4].

(27) In view of this, 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 the costs of laboratory tests executed by the National Forestry Authority. Taking into account that in 2011 already, the felling of the trees and the testing intensity was not properly implemented, a reduction higher than the level of under-implementation should be applied in 2012. Therefore, a reduction of 25 % to the expenditure of tree felling should be applied and the testing activities should not be eligible.

(28) Moreover, in accordance with the conclusions of the financial audit by the Commission of heat treatments costs for wood and wood packaging material in Portugal, the unit cost per equivalent-pallet should be fixed to EUR 0,30 in place of EUR 0,43. Therefore, the amount of eligible expenditure for those heat treatment measures should be adapted in the two dossiers introduced by Portugal in order to reflect those conclusions.

(29) 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.

(30) 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.

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

(32) 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 information and documents submitted by the Member States and analysed by the Commission, the allocation of a Union financial contribution for 2012 to cover expenditure incurred by Germany, Spain, France, Italy, Cyprus, 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.

[1] OJ L 330, 15.12.2010, p. 9.
[2] OJ L 341, 22.12.2011, p. 57.
[3] OJ L 339, 22.12.2009, p. 49.
[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 2

The total amount of the Union financial contribution referred to in Article 1 is EUR 7 271 741,06. The maximum amounts of the Union financial contribution for each of the programmes shall be as indicated in the Annex.

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) 2nd 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 French Republic, the Italian Republic, the Republic of Cyprus, the Kingdom of the Netherlands and the Portuguese Republic.

Done at Brussels, 14 December 2012.

For the Commission

Tonio BORG

Member of the Commission

ANNEX

ERADICATION/CONTAINMENT PROGRAMMES

Section I:

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

(EUR)

Member State	Harmful organisms combated	Affected plants	Year	a	Eligible expenditure	Maximum Union contribution per programme
Germany, NordRhein Westfalien	*Diabrotica virgifera*	*Zea mays*	08.2010 - 09.2011	1 and 2	133 400,32	66 700,16
Germany, Hessen	*Diabrotica virgifera*	*Zea mays*	2011	1	55 374,84	27 687,42
Germany, Baden-Württemberg, rural district of Rastatt and city dictrict Baden-Baden (year 1 of the measures), Breisgau-Hoch-schwarzwald and Freiburg city (year 2 of the measures)	*Diabrotica virgifera*	*Zea mays*	2011	1 or 2	31 750,29	15 875,14
Spain, Extremadura (outbreak 2012)	*Bursaphelenchus xylophilus*	Coniferous trees	2012	1	1 081 399,69	540 699,84
France, Alsace	*Anoplophora glabripennis*	Various tree species	11.2011-12.2012	1 and 2	213 993,15	106 996,57
Italy, Emilia-Romagna (Provinces of Bologna, Ferrara, Ravenna and Forlì-Cesena)	*Pseudomonas syringae* pv. *actinidiae*	*Actinidia sp.*	2011	2	152 330,13	76 165,06
The Netherlands, Almere area	*Anoplophora glabripennis*	Various tree species	11.2010 - 12.2011	1 and 2	583 436	291 718

Section II:

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

(EUR)

Member State	Harmful organisms combated	Affected plants or plant products	Year	a	Eligible expenditure	Rate (%)	Maximum Union contribution
Germany, Nordrhein-Westfalen	*Anoplophora glabripennis*	Various tree species	08.2010 - 09.2011	3	207 314,64	45	93 291,58
Germany, Baden-Württemberg, rural district of Emmendingen, Lörrach, Konstanz	*Diabrotica virgifera*	*Zea mays*	2011	3	33 675,54	45	15 153,99
Spain, Catalonia	*Pomacea insularum*	*Oryza sativa*	2012	3	1 914 477,44	45	861 514,84
Spain, Extremadura (outbreak 2008)	*Bursaphelenchus xylophilus*	Coniferous trees	2012, (January-October)	4	316 519,91	40	126 607,96

(EUR)

Member State	Harmful organisms combated	Affected plants or plant products	Year	a	Eligible expenditure	Rate (%)	Maximum Union contribution
Spain, Galicia	*Bursaphelenchus xylophilus*	Coniferous trees	2012	3	1 652 201,49	45	743 490,67
France, PACA region	*Rhynchophorus ferrugineus*	*Palmaceae*	September 2011 until September 2012	3	421 173,40	45	189 528,03
Italy, Veneto (Cornuda area)	*Anoplophora glabripennis*	Various tree species	2012	4	281 945	40	112 778
Cyprus	*Rhynchophorus ferrugineus*	*Palmaceae*	2012	3	299 814	45	134 916,30
Portugal, Continental Portugal, area outside the area of Setubal	*Bursaphelenchus xylophilus*	Coniferous trees	2012 (January to June)	4	Measures 1,2,3,4,5,9	40	Measures 1,2,3,4,5,9
					1 473 813,32		589 525,32
					Measure 6 (testing-sampling)		Measures 6 (testing-sampling)
					0		0
					Measure 7 (HT measures), i.e. 16 800 000 equivalent-pallets at 0,30 EUR		Measure 7 (HT measures)
					5 040 000		2 016 000
					Measure 8 (tree felling), i.e.reduced to 75 % of 1 894 606,34		Measure 8 (tree felling)
					1 420 954,75		568 381,90
					Sum		***Sum***
					7 934 768,07		***3 173 907,23***
Portugal, Setubal area, heat treatment measures	*Bursaphelenchus xylophilus*	Wood and wood packaging material	2012	3	Measures 1 and 2	45	Measures 1 and 2
					9 582,92		4 312,31
					Measure 3 (HT measures), i.e. 5 114 059 equivalent-pallets at 0,30 EUR		Measure 3 (HT measures),
					1 534 217,70		690 397,96
					Sum		***Sum***
					1 543 800,62		***694 710,27***

Total Union contribution: EUR 7 271 741,06

Legend:

— a = year of implementation of the eradication programme.