

COMMISSION IMPLEMENTING DECISION

of 18 December 2013

on a Union financial contribution for 2013 to cover expenditure incurred by Germany, Spain, France, the Netherlands and Portugal for the purposes of combating organisms harmful to plants or plant products

(notified under document C(2013) 8999)

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

(2013/800/EU)

THE EUROPEAN COMMISSION,

have also been the subject to co-financing in 2009, 2010, 2011 and 2012.

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) and (6) 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 three requests for financial contribution. The first one was introduced on 30 April 2013 and relates to measures taken in 2012 to eradicate or contain *Diabrotica virgifera* in Rheinland-Pfalz. The outbreak of that harmful organism was detected there in August and September 2012.

(3) The second one was introduced on 30 April 2013 and relates to measures taken from August 2011 until August 2012 to control *Anoplophora glabripennis* in Nordrhein-Westfalen. The outbreak of that harmful organism was detected there in 2009.

(4) The third request of Germany was introduced on 24 April 2013 and relates to measures taken in 2012 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 (Alb-Donaukreis, Biberach, Breisgau-Hochschwarzwald, Emmendingen, Karlsruhe, Konstanz, Loerrach, Rastatt and Ravensburg) in different years, i.e. 2009, 2010, 2011 and 2012. The measures taken in those years

(5) Spain introduced four requests for financial contribution on 17 April 2013. The first one relates to measures of intensified inspections taken in 2012 in the four Autonomous Communities bordering Portugal to control *Bursaphelenchus xylophilus*.

(6) The second request of Spain relates to measures taken or planned for 2013 in Galicia to control *Bursaphelenchus xylophilus*. The outbreak of that harmful organism was detected in 2010 in the area of As Neves.

(7) The third request relates to measures taken or planned for 2013 in Catalonia to control *Pomaceca insularum*. The outbreak of that harmful organism was detected in 2010.

(8) The fourth request of Spain relates to measures taken or planned for 2013 in Extremadura to control *Bursaphelenchus xylophilus*. The outbreak of that harmful organism was detected in 2012 in the area of Valverde del Fresno.

(9) France introduced two requests for financial contribution on 30 April 2013. The first one relates to measures taken or planned from July 2012 until November 2013 to control *Anoplophora glabripennis* in Alsace. Measures were taken in France as a consequence of findings in July 2011 of that harmful organism in the bordering area of Germany.

(10) The second request relates to measures taken or planned from October 2012 until September 2013 to control *Rhynchophorus ferrugineus* in the PACA region. The initial outbreaks of that harmful organism were detected in 2009. Measures taken from September 2009 until September 2012 have also been the subject of co-financing in 2010 and 2012.

(11) The Netherlands introduced one request for financial contribution on 30 April 2013. That request relates to measures taken from July until October 2012 in the area of Winterswijk to control *Anoplophora glabripennis*. The appearance of that harmful organism was detected on 10 July 2012.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

- (12) Portugal introduced two requests for financial contribution on 30 April 2013 relating to measures taken to control *Bursaphelenchus xylophilus*. The first request relates to measures taken or planned in 2013 and 2014 in continental Portugal, in the buffer zone at the border with Spain.
- (13) The second request of Portugal concerns exclusively measures of heat treatment of wood or wood packaging material in the area of Setubal, in 2013. The measures taken in 2010, 2011 and 2012 have also been the subject of co-financing in 2011 and 2012.
- (14) In their requests, Germany, Spain, France, 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.
- (15) 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.
- (16) Germany, Spain, France, The Netherlands and Portugal have applied for the allocation of a Union financial contribution to these requests in accordance with the requirements laid down in Article 23 of Directive 2000/29/EC, in particular paragraphs 1 and 4 thereof, and in accordance with Commission Regulation (EC) No 1040/2002⁽¹⁾.
- (17) The technical information provided by Germany, Spain, France, 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 requests.
- (18) The measures and expenditure eligible for Union financial contribution have been clarified by letter of
- DG SANCO of the Commission to the Chief Plant Health Officers of the Member States dated 25 May 2012.
- (19) 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 up to four years 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 depressive over the years concerned.
- (20) Having regard to the conclusions of the Plant Health Evaluation Board of the Commission of 24 to 26 June 2013 on the evaluation of the respective requests, it is appropriate to extend the two-year period for the requests concerned, while reducing the rate of the Union financial contribution for these measures to 45 % of eligible expenditure for the third year and to 40 % for the fourth year of these requests.
- (21) The Union financial contribution up to 50 % of eligible expenditure should therefore apply to the following requests: Germany, Baden-Württemberg, *Diabrotica virgifera*, rural districts of Alb-Donaukreis, Biberach, Karlsruhe, Rastatt and Ravensburg (2012), Germany, *Diabrotica virgifera*, Rheinland-Pfalz (2012), Spain, Extremadura, *Bursaphelenchus xylophilus* (2013), France, *Anoplophora glabripennis*, (November 2012 to October 2013), The Netherlands, *Anoplophora glabripennis*, Winterswijk area (July to October 2012).
- (22) The Union financial contribution up to 45 % of eligible expenditure should therefore apply to the following requests: Germany, *Anoplophora glabripennis* (August 2011 to August 2012), Germany, Baden-Württemberg, *Diabrotica virgifera*, rural districts of Breisgau-Hochschwarzwald and Freiburg city (2012), as the measures concerned have already been the subject of a Union financial contribution under Commission Implementing Decisions 2011/868/EU⁽²⁾ and 2012/789/EU⁽³⁾ for the first two years of their implementation.

⁽¹⁾ 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 (OJ L 157, 15.6.2002, p. 38).

⁽²⁾ Commission Implementing Decision 2011/868/EU 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 (OJ L 341, 22.12.2011, p. 57).

⁽³⁾ Commission Implementing Decision 2012/789/EU 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 (OJ L 348, 18.12.2012, p. 22).

- (23) Moreover, a Union contribution up to 40 % should apply to the fourth year of the following requests: Germany, Baden-Württemberg, *Diabrotica virgifera*, rural districts of Emmendingen, Konstanz and Lörrach (2012), Spain, Catalonia, *Pomacea insularum* (2013), Spain, Galicia, *Bursaphelenchus xylophilus* (2013), France, *Rhynchophorus ferrugineus* (October 2012 until September 2013), Portugal, *Bursaphelenchus xylophilus*, Setubal area (2013) as the measures have been the subject of a Union financial contribution under Commission Decision 2010/772/EU ⁽¹⁾ (Germany, Spain, *Pomacea insularum*, France and Portugal), Implementing Decisions 2011/868/EU (Germany, Spain and Portugal) and/or Decision 2012/789/EU (Germany, Spain, France and Portugal) for the first three years of their implementation.
- (24) Pursuant to the first and second subparagraphs of Article 23(6) of Directive 2000/29/EC, further action may be implemented in the light of the development of the situation in the Union, and allocation of financial contribution from the Union for such further action shall be decided. That action must be made subject to certain requirements or additional conditions, if these are necessary for the achievement of the objective in question. Moreover, pursuant to the third subparagraph of Article 23(6), where such further action is essentially designed to protect Union territories, other than that of the Member State concerned, it may be decided that the Union financial allocation covers more than 50 % of the expenditure.
- (25) In the case of co-financing of actions against *Bursaphelenchus xylophilus* in Portugal, the maximum time period of four years, as laid down in Article 1(2)(b) of Regulation (EC) No 1040/2002, has elapsed since 2012. However, given the great relevance of *Bursaphelenchus xylophilus* for coniferous plants and wood, the rapidity with which the disease spreads, the proximity of Spain to the area demarcated in Portugal for that harmful organism, and the possible impact on Union forestry and international wood trade, further action is necessary to achieve the objective of phytosanitary protection of the Union territory, both in Portugal and in Member States other than Portugal. That action should concern measures taken by Portugal in the buffer zone bordering Spain. Therefore, co-financing of those further actions should apply to the request of Portugal for 2013 and 2014 for measures to control *Bursaphelenchus xylophilus* in the buffer zone bordering Spain. In addition, it is appropriate to allocate a higher rate of Union financial contribution to that request, and in particular a rate of 75 %, as that action is considered essentially designed to protect the territory of Union territories other than that of Portugal.
- (26) Spain has carried out intensive inspections for *Bursaphelenchus xylophilus* at the border area with Portugal, in the Autonomous Communities of Andalusia, Castilla y Leon, Extremadura and Galicia, and covering areas that are not demarcated for that harmful organism. Those inspections aim at intensive surveillance for early detection and eradication in the particular areas to protect the rest of the Union territory. Spain has already allocated significant resources to control two isolated outbreaks of *Bursaphelenchus xylophilus* in Extremadura and Galicia. That action is considered essentially designed to protect the territory of Spain, as well as Union territories other than that of Spain, given the great relevance of *Bursaphelenchus xylophilus* for coniferous plants and wood, the rapidity with which the disease spreads, and the possible impact on Union forestry and international wood trade. It is therefore relevant to allocate a higher rate of Union financial contribution to that request, and in particular a rate of 75 %.
- (27) A mission of the Food and Veterinary Office of the Commission (hereinafter: 'FVO') in April 2013, revealed several shortcomings in the application of Union emergency measures against *Bursaphelenchus xylophilus* adopted pursuant to Commission Implementing Decision 2012/535/EU ⁽²⁾. Those shortcomings concern the measures taken by Portugal in the buffer zone bordering Spain. In particular, the felling, removal and disposal of pinewood nematode host trees which are dead, in poor health or situated in fire- or storm affected areas, was not completed within the deadlines fixed by Implementing Decision 2012/535/EU. Noting that, for the same reasons, the Commission decided, by Implementing Decisions 2011/868/EU and 2012/789/EU, to apply reduced levels of co-financing of similar applications in 2011 and 2012, it appears appropriate to apply a further reduction to the co-financing concerning those actions. That reduction should be proportional to the period for which the FVO mission could ascertain the improper implementation of Union measures, namely the first three months of 2013.
- (28) In accordance with Article 3(2)(a) of Council Regulation (EC) No 1290/2005 ⁽³⁾, 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.

⁽¹⁾ Commission Decision 2010/772/EU of 14 December 2010 on a Union financial contribution for 2010 to cover expenditure incurred by Germany, Spain, France, Italy, Cyprus and Portugal for the purpose of combating organisms harmful to plants or plant products (OJ L 330, 15.12.2010, p. 9).

⁽²⁾ Commission Implementing Decision 2012/535/EU of 26 September 2012 on emergency measures to prevent the spread within the Union of *Bursaphelenchus xylophilus* (Steiner et Bruher) Nickle et al. (the pine wood nematode) (OJ L 266, 2.10.2012, p. 42).

⁽³⁾ Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ L 209, 11.8.2005, p. 1).

- (29) In accordance with Article 84 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽¹⁾ and Article 94(1) of Commission Delegated Regulation (EU) No 1268/2012⁽²⁾, 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.
- (30) The present decision constitutes a financing decision for the expenditure provided in the co-financing requests presented by Member States.
- (31) 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

1. On the basis of the requests submitted by the Member States and analysed by the Commission, the allocation of a Union financial contribution for 2013 to cover expenditure incurred by Germany, Spain, France, 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 requests listed in Annex I, is hereby approved.

2. On the basis of the requests submitted by Spain and Portugal, and analysed by the Commission, the allocation of a Union financial contribution for 2013 to cover expenditure incurred by those Member States and relating to further actions, as specified in Article 23(6), to control *Bursaphelenchus xylophilus* in the requests listed in Annex II, is hereby approved.

Article 2

The total amount of the Union financial contribution referred to in Article 1(1) and (2) is EUR 7 713 355,31. The maximum

amounts of the Union financial contribution for each of the requests shall be as indicated in Annex I or II respectively.

Article 3

The Union financial contribution as set out in Annexes I and II 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.

No payment of the Union financial contribution will occur if the request of payment mentioned under point (b) is submitted later than 31 October 2014. Exceptionally, for the measures taken at a later stage in 2014 by Portugal in the buffer zone with Spain, the deadline of submission of that request shall be 31 October 2015.

Article 4

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

Done at Brussels, 18 December 2013.

For the Commission

Tonio BORG

Member of the Commission

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽²⁾ Commission delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

ANNEX I

REQUESTS BASED ON ARTICLE 23(5) OF DIRECTIVE 2000/29/EC AND SUBJECT TO UNION FINANCIAL CONTRIBUTION

Section I

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

Member State	Harmful organisms combated	Affected plants	Year	a	Eligible expenditure, including overheads (EUR)	Maximum Union contribution (EUR)
Germany, Rheinland-Pfalz	<i>Diabrotica virgifera</i>	<i>Zea mays</i>	2012	1	37 925,05	18 962,52
Germany, Baden-Württemberg, rural district of Alb-Donaukreis, Biberach, Karlsruhe and Ravensburg (year 1 of the measures), Rastatt (year 2 of the measures)	<i>Diabrotica virgifera</i>	<i>Zea mays</i>	2012	1 or 2	76 335,15	38 167,58
Spain, Extremadura (outbreak 2012)	<i>Bursaphelenchus xylophilus</i>	Coniferous trees	2013	2	873 501,52	436 750,76
France, Alsace	<i>Anoplophora glabripennis</i>	Various tree species	November 2012 to October 2013	2	157 334,94	78 667,47
The Netherlands, Winterswijk	<i>Anoplophora glabripennis</i>	Various tree species	July to October 2012	1	389 548,48	194 774,24

Section II

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

Member State	Harmful organisms combated	Affected plants or plant products	Year	a	Eligible expenditure, including overheads (EUR)	Rate (%)	Maximum Union contribution (EUR)
Germany, Baden-Württemberg, rural district of Breisgau-Hochschwarzwald and Freiburg city	<i>Diabrotica virgifera</i>	<i>Zea mays</i>	2012	3	17 716,79	45	7 972,56
Germany, Baden-Württemberg, rural districts of Emmendingen, Lörrach, Konstanz	<i>Diabrotica virgifera</i>	<i>Zea mays</i>	2012	4	48 067,72	40	19 227,09
Germany, Nordrhein-Westfalen	<i>Anoplophora glabripennis</i>	Various tree species	8.2011 - 8.2012	3	156 536,72	45	70 441,52

Member State	Harmful organisms combated	Affected plants or plant products	Year	a	Eligible expenditure, including overheads (EUR)	Rate (%)	Maximum Union contribution (EUR)
Spain, Catalonia	<i>Pomacea insularum</i>	<i>Oryza sativa</i>	2013	4	1 685 969,84	40	674 387,93
Spain, Galicia	<i>Bursaphelenchus xylophilus</i>	Coniferous trees	2013	4	1 632 820	40	653 128
France, PACA region	<i>Rhynchophorus ferrugineus</i>	<i>Palmaceae</i>	October 2012 until September 2013	4	476 231,32	40	190 492,52
Portugal, Setubal area, heat treatment	<i>Bursaphelenchus xylophilus</i>	Wood and wood packaging material	2013	4	35 845	40	14 338

Legend: a = year of implementation of the measures in the request.

ANNEX II

REQUESTS BASED ON ARTICLE 23(6) OF DIRECTIVE 2000/29/EC AND SUBJECT TO UNION FINANCIAL CONTRIBUTION

Member State	Harmful organisms combated	Affected plants or plant products	Year	a	Eligible expenditure, including overheads (EUR)	Rate (%)	Maximum Union contribution (EUR)
Spain, Intensive inspection programme at the border with Portugal	<i>Bursaphelenchus xylophilus</i>	Coniferous trees	2012	1	533 935,71	75	400 451,75
Portugal, Continental Portugal, buffer zone at the border with Spain	<i>Bursaphelenchus xylophilus</i>	Coniferous trees	2013 and 2014	1 and 2	6 554 124,50 (= 7 490 428 × 87,5 %, i.e. with a reduction of 12,5 % corresponding linearly to one trimester in 2013 out of eight for the two years)	75	4 915 593,37
Total Union contribution (EUR)					7 713 355,31		

Legend: a = year of implementation of the measures in the request.