

COMMISSION IMPLEMENTING DECISION

of 17 December 2012

on a third Union financial contribution pursuant to Council Directive 2000/29/EC for 2006 and 2007 to cover expenditure incurred by Portugal for the purpose of combating *Bursaphelenchus xylophilus* (Steiner et Buhrer) Nickle *et al.* (pinewood nematode)

(notified under document C(2012) 9356)

(Only the Portuguese text is authentic)

(2012/796/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(6) thereof,

Whereas:

- (1) Commission Decision 2006/923/EC ⁽²⁾ approved a financial contribution from the Union for a programme of measures introduced by Portugal aiming in 2006 and 2007 at controlling the spread of *Bursaphelenchus xylophilus* (Steiner et Buhrer) Nickle *et al.* (pinewood nematode) to other Member States. The measures included the creation of a barrier free from all host trees of the pinewood nematode vector, hereinafter the 'clear cut belt'.
- (2) The financial contribution granted by Decision 2006/923/EC was based on the programme for further actions for pinewood nematode (hereinafter: PWN) and the budget estimation referring to this programme as submitted by Portugal to the Commission on 28 July 2006.
- (3) The final payments to Portugal connected to the actions laid down in Decision 2006/923/EC occurred in June 2008.
- (4) By Commission Implementing Decision 2011/851/EU ⁽³⁾, an additional Union co-financing of EUR 3 986 138,36 was granted to Portugal to cover eligible expenditure in excess to the initial estimate of July 2006.

(5) At the time of that additional Union co-financing, the claim submitted by Portugal did not include all the bills related to the creation of the clear cut belt.

(6) By letter of 5 December 2011, the Portuguese authorities introduced a revised claim of EUR 15 000 932,08. That claim included EUR 4 915 405,87 that had not been paid at the time of the previous audit of July 2010 (audit SANCO/10/2010) and could not be declared eligible for co-financing at that time. The rest of that new claim is composed of costs for felling an increased number of large coniferous trees and of a separate expenditure for the elimination of small coniferous trees.

(7) In March 2012, the Commission carried out an audit on the information communicated by Portugal on 5 December 2011. After examination of all supporting documents for the additional claim, and based on the report of that audit, the Commission concluded that an eligible amount of only EUR 5 044 839,72 of paid invoices (including coordination costs) could be taken into consideration. The rest of the claimed expenditure has not been found eligible for co-financing because it concerns expenditure already co-financed by Implementing Decision 2011/851/EU (EUR 2 024 128,16) and expenditure of EUR 7 931 964,20 related to small trees, the necessity of which has not been sufficiently justified by Portugal.

(8) As the measures included in that additional claim are of the same nature, and target the same purpose as the measures of Decision 2006/923/EC, it is appropriate to allocate the same Union financial contribution rate as in that decision, namely a rate of 75 %.

(9) 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 ⁽⁴⁾, 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⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ OJ L 354, 14.12.2006, p. 42.

⁽³⁾ OJ L 335, 17.12.2011, p. 107.

⁽⁴⁾ OJ L 209, 11.8.2005, p. 1.

(10) 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 ⁽¹⁾ 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 ⁽²⁾, the commitment of expenditure from the Union budget shall be preceded by a financing decision adopted by the institution or the authorities to which powers have been delegated, setting out the essential elements of the action involving the expenditure.

(11) The present decision constitutes a financing decision for the expenditure provided in the co-financing request presented by Portugal.

(12) 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

Principle

The allocation of a third Union financial contribution to cover expenditure incurred by Portugal in 2006 and 2007 relating to the creation of a clear cut belt and taken for the purpose of combating pinewood nematode, is hereby approved.

Article 2

Amount of Union financial contribution

The maximum Union financial contribution referred to in Article 1 is EUR 3 783 629,79.

Article 3

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 17 December 2012.

For the Commission

Tonio BORG

Member of the Commission

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 357, 31.12.2002, p. 1.