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## Legislation

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<sup>(1)</sup> Text with EEA relevance

## I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 425/2006**  
**of 14 March 2006**  
**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables<sup>(1)</sup>, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the

standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 15 March 2006.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 March 2006.

*For the Commission*

J. L. DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

## ANNEX

**to Commission Regulation of 14 March 2006 establishing the standard import values for determining the entry price of certain fruit and vegetables**

<i>(EUR/100 kg)</i>		
CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	95,0
	204	60,5
	212	102,0
	624	120,2
	999	94,4
0707 00 05	052	127,9
	068	143,9
	204	36,3
	628	169,1
	999	119,3
0709 10 00	220	46,4
	999	46,4
0709 90 70	052	83,8
	204	56,4
	999	70,1
0805 10 20	052	56,0
	204	41,0
	212	44,6
	220	51,3
	400	60,8
	512	33,1
	624	61,0
	999	49,7
0805 50 10	052	60,2
	624	65,6
	999	62,9
0808 10 80	388	94,2
	400	134,7
	404	105,1
	512	72,5
	524	76,3
	528	76,5
	720	76,1
	999	90,8
0808 20 50	388	82,0
	400	74,8
	512	63,3
	528	64,5
	720	49,4
	999	66,8

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 28 February 2006

setting up a group of high-level national regulatory experts

(2006/210/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community,

*Article 1*

The Commission hereby establishes an expert group entitled 'Group of high-level national regulatory experts', hereinafter referred to as 'the group'.

Whereas:

*Article 2*

**Task**

(1) On 16 March 2005 the Commission adopted the communication entitled 'Better Regulation for Growth and Jobs in the European Union'<sup>(1)</sup>, in which it announced its intention to set up, in the course of 2005, a group of high-level national regulatory experts to facilitate the development of better regulation measures at both national and EU level.

The Commission may consult the group on all questions concerning better regulation policy and the development of related measures at both national and EU levels.

The group's task is to:

(2) This group shall advise the Commission on better regulation issues in general; it shall not give its opinions on initiatives or projects concerning the development of specific legislative proposals.

— provide an efficient interface between the Commission and key governmental authorities, in order to assist the Commission in improving the regulatory environment for enterprises, industry, consumers, the social partners and citizens at large,

(3) The group shall be composed of high-level national experts appointed by the Commission acting on proposals from the Member States, and open for observers from acceding countries.

— contribute to the spread of best practices developed both at EU level and at national level on better regulation within the EU,

(4) The group of high-level national regulatory experts should therefore be set up and its terms of reference and structures detailed,

— strengthen cooperation between the Commission and the Member States with a view to implementing better regulation at national level; in particular, to examine jointly how EU legislation is transposed and implemented by Member States (i.e. the introduction of additional requirements or procedures in the course of its transposition),

<sup>(1)</sup> COM(2005) 97 final, 16 March 2005.

- contribute to the development of a coherent set of common indicators to monitor progress as regards the quality of the regulatory environment both at EU level and in the Member States themselves, as a basis for benchmarking within their national Lisbon programmes,
- advise the Commission on better regulation issues, in particular: simplification; the assessment of economic, social and environmental impacts, including administrative costs; consultation practices; and the various types of regulation possible.

### Article 3

#### Composition — Appointment

1. The Commission charges the Secretary General to appoint the members of the group on the basis of the candidates proposed by the Member States.
2. The group shall comprise one or, in some exceptional cases <sup>(1)</sup>, two members per Member State. Alternate members can be appointed by the Secretary General of the Commission on Member State proposal and automatically replace members who are absent or indisposed.
3. The following provisions shall apply:
  - the members shall be high-level officials with experience in the field concerned and representatives of a public authority,
  - the members are appointed for a one year renewable mandate. They shall remain in office until such time as they are replaced or their mandate ends,
  - the members who are no longer able to contribute effectively to the group's deliberations, who resign or who do not respect the conditions set out in the first or second point of this Article or Article 287 of the Treaty establishing the European Community may be replaced for the remaining period of their mandate,
  - the names of the appointed members shall be published on the Internet site of the Commission.

### Article 4

#### Operation

1. The group is chaired by the Commission.
2. In agreement with the Commission, sub-groups may be set up to examine specific questions under terms of reference

<sup>(1)</sup> Two members per Member State may be appointed by the Commission if there is shared competency at the level of the administration in that Member State.

established by the group; they shall be disbanded as soon as these have been fulfilled.

3. The Chair may invite experts with specialist knowledge of a topic entered on the agenda and observers, including acceding countries <sup>(2)</sup>, to attend meetings of the group or sub-groups when this would be useful and/or necessary.

4. Information obtained by participating in the group's or sub-group's deliberations may not be divulged if the Commission requests confidentiality.

5. The group and its sub-groups shall normally meet in one of the locations where the Commission and its departments have premises, following the procedures and timetable laid down by it. The secretariat shall be provided by the Commission.

6. The group shall adopt its rules of procedure on the basis of the standard rules of procedure adopted by the Commission <sup>(3)</sup>.

7. The Commission shall provide secretarial support for the group and any sub-groups created under Article 4(2) of this Decision.

8. The Commission may publish on the Internet, in the working language(s) of the group, any résumé, conclusion, or partial conclusion or working document of the group. The working documents shall be published in accordance with the availability of the different language versions.

### Article 5

#### Meeting expenses

The Commission shall reimburse travel and, where appropriate subsistence expenses for members, experts and observers in connection with the group's activities in accordance with the Commission's internal rules on the compensation of external experts. The Commission shall reimburse one member of the group of high-level national regulatory experts per Member State. The members shall not be paid for their duties.

<sup>(2)</sup> Experts from acceding States having signed the Accession Treaty in accordance with the Communication 'Towards the Enlarged Union — Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries' of 9 October 2002 (COM(2002) 700 final) and with Article 7 of the Commission Decision C(2005) 874 of 24 March 2005, to reinforce the gradual integration of acceding countries into Community structures.

<sup>(3)</sup> See Annex III of SEC(2005) 1004 adopted by the Commission on 27 July 2005.

Meeting expenses are reimbursed within the limits of the annual budget allocated to the group by the responsible Commission services.

*Article 6*

**Entry into force**

The decision shall take effect on the day of its adoption by the Commission. It shall apply until 31 December 2009.

Done at Brussels, 28 February 2006.

*For the Commission*  
*The President*  
José Manuel BARROSO

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## COMMISSION DECISION

of 8 March 2006

**establishing that Article 30(1) of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors applies to electricity generation in England, Scotland and Wales**

(notified under document number C(2006) 690)

(Only the English text is authentic)

(Text with EEA relevance)

(2006/211/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors <sup>(1)</sup>, and in particular Article 30(4) and (6) thereof,

Having regard to the request submitted by the United Kingdom by e-mail of 2 November 2005 and confirmed by a signed fax of 8 November 2005, and to the additional information requested by Commission staff by e-mail of 2 December 2005 and submitted by the United Kingdom by e-mail of 12 January 2006,

Having regard to the conclusions of the independent national authority, the Office of the Gas and Electricity Markets (OFGEM), that the conditions for the applicability of Article 30(1) of Directive 2004/17/EC would be met,

Whereas:

(1) Article 30 of Directive 2004/17/EC provides that contracts intended to enable the performance of one of the activities to which the Directive applies shall not be subject to the Directive if, in the Member State in which it is carried out, the activity is directly exposed to competition on markets to which access is not restricted. Direct exposure to competition is assessed on the basis of objective criteria, taking account of the specific characteristics of the sector concerned. Access is deemed to be unrestricted if the Member State has implemented and applied the relevant Community legislation opening a given sector or a part of it. This legislation is listed in Annex XI of Directive 2004/17/EC, which, for the elec-

tricity sector, refers to Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity <sup>(2)</sup>. Directive 96/92/EC has been superseded by Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC <sup>(3)</sup>, which requires an even higher degree of market opening.

(2) Under Article 62(2) of Directive 2004/17/EC, Title III of that Directive setting out the rules on service design contests does not apply to contests organised for the pursuit, in the Member State concerned, of an activity to which the applicability of Article 30(1) of the Directive has been established by a Commission decision or has been deemed applicable under the second or third subparagraph of Article 30(4) or the fourth subparagraph of Article 30(5).

(3) The request submitted by the United Kingdom concerns electricity production in England, Scotland and Wales. Given the unified character of the markets of these three geographical areas and the limited capacity <sup>(4)</sup> of the connections between the United Kingdom networks and those of other areas of the Community, England, Scotland and Wales should be considered to constitute the relevant market for the purposes of evaluating the conditions laid down in Article 30(1) of Directive 2004/17/EC. This conclusion is consistent with one of the findings of the Communication from the Commission to the Council and the European Parliament: Report on progress in creating the internal gas and electricity market <sup>(5)</sup>, hereafter referred to as the '2005 Report', that 'in economic terms ... electricity ... markets in the EU remain national in economic scope'.

(4) This assessment, and any other contained in this Decision, is made solely for the purposes of Directive 2004/17/EC and is without prejudice to the application of the rules on competition.

<sup>(1)</sup> OJ L 134, 30.4.2004, p. 1. Directive as last amended by Commission Regulation (EC) No 2083/2005 (OJ L 333, 20.12.2005, p. 28).

<sup>(2)</sup> OJ L 27, 30.1.1997, p. 20.

<sup>(3)</sup> OJ L 176, 15.7.2003, p. 37.

<sup>(4)</sup> Of the order of approximately 4 % of peak demand.

<sup>(5)</sup> COM(2005) 568 final of 15.11.2005.

- (5) The United Kingdom has implemented and applied not only Directive 96/92/EC but also Directive 2003/54. Consequently, and in accordance with the first subparagraph of Article 30(3), access to the market should be deemed not to be restricted.
- (6) Direct exposure to competition should be evaluated on the basis of various indicators, none of which are, per se, decisive. In the 2005 Report, the Commission stated that 'many national markets display a high degree of concentration of the industry, impeding the development of effective competition' <sup>(6)</sup>. Consequently, it considered that, in respect of electricity generation, 'one indicator for the degree of competition on national markets is the total market share of the biggest three producers' <sup>(7)</sup>. According to the latest available information, the aggregate market share of the three largest generators of the wholesale market is 39 % <sup>(8)</sup>, which is a satisfactorily low level and should be taken as an indication of direct exposure to competition.
- (7) The workings of the balancing markets should also be considered as indicators. In fact, 'any market participant who cannot easily match its generation portfolio to the characteristics of its customers may find itself exposed to the difference between the price at which the TSO (transmission system operator) will sell imbalance energy, and the price at which it will buy back excess production. These prices may either be directly imposed by the regulator on the TSO; or alternatively a market based mechanism will be used in which the price is determined by bids from other producers to regulate their production upwards or downwards ... a key difficulty for small market participants arises where there is the risk of a large spread between the buying price from the TSO and the selling price. This occurs in a number of Member States and is likely to be detrimental to the development of competition. A high spread may be indicative of an insufficient level of competition in the balancing market which may be dominated by only one or two main generators. Such difficulties are made worse where network users are unable to adjust their positions close to real time.' <sup>(9)</sup> Since the introduction of the British Electricity Trading and Transmission Arrangements (BETTA) there has been a unified balancing market for England, Scotland and Wales. Furthermore, its main characteristics (market based pricing, half-hourly gate closures and a fairly low spread) are such that it should be taken as an indicator of direct exposure to competition.
- (8) Given the characteristics of the product concerned here (electricity) and the scarcity or unavailability of suitable substitutable products or services, price competition and price formation assume greater importance when assessing the competitive state of the electricity markets. The number of customers switching supplier is an indicator of genuine price competition and, thus, indirectly, 'a natural indicator of the effectiveness of competition. If few customers are switching, there is likely to be a problem with the functioning of the market, even if the benefits from the possibility of renegotiating with the historical supplier should not be ignored' <sup>(10)</sup>. Furthermore, 'the existence of regulated end-user prices is clearly a key determinant of customer behaviour ... Although the retaining of controls may be justified in a period of transition, these will increasingly cause distortions as the need for investment approaches' <sup>(11)</sup>.
- (9) In the UK, the degree of switching for the three categories of users – large and very large industrial users, small and medium-sized industrial and business, and very small business and household users – is above 70 % for the first two groups and close to 50 % for the last category <sup>(12)</sup> and end-user price control was abolished in 2002 <sup>(13)</sup>. The situation in the United Kingdom is therefore satisfactory as far as switching and end-user price control are concerned and should be taken as an indicator of direct exposure to competition.
- (10) In view of these indicators and given the overall picture of this sector in England, Scotland and Wales – in particular the extent to which networks have been unbundled from generation/supply and the effective regulation of network access – that emerges from the information submitted by the United Kingdom, the 2005 Report and the Technical Annex thereto, the condition of direct exposure to competition laid down in Article 30(1) of Directive 2004/17/EC should be considered to be met in respect of electricity generation in England, Scotland and Wales. As noted above in recital 5, the further condition of free access to the activity must be deemed to be met. Consequently, Directive 2004/17/EC should not apply when contracting entities award contracts intended to enable electricity generation to be carried out in these geographical areas nor when they organise design contests for the pursuit of such an activity there.

<sup>(6)</sup> See the 2005 report, p. 2.

<sup>(7)</sup> See the 2005 report, p. 7.

<sup>(8)</sup> See Commission Staff Working Document, Technical Annex to the 2005 Report, SEC(2005)1448, p. 44, table 4.1. Hereafter referred to as the Technical Annex.

<sup>(9)</sup> See Technical Annex, p. 67.

<sup>(10)</sup> See the 2005 report, p. 9.

<sup>(11)</sup> See Technical Annex, p. 17.

<sup>(12)</sup> See the 2005 report, p. 10.

<sup>(13)</sup> See Technical Annex, p. 177.



- (11) This Decision is based on the legal and factual situation as of November 2005 as it appears from the information submitted by the United Kingdom, the 2005 Report and the Technical Annex thereto. It may be revised, should significant changes in the legal or factual situation mean that the conditions for the applicability of Article 30(1) of Directive 2004/17/EC are no longer met.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Advisory Committee for Public Contracts,

HAS ADOPTED THIS DECISION:

*Article 1*

Directive 2004/17/EC shall not apply to contracts awarded by contracting entities and intended to enable them to carry out electricity generation in England, Scotland and Wales.

*Article 2*

This Decision is based on the legal and factual situation as of November 2005 as it appears from the information submitted by the United Kingdom, the 2005 Report and the Technical Annex thereto. It may be revised, should significant changes in the facts or the legal situation mean that the conditions for the applicability of Article 30(1) of Directive 2004/17/EC are no longer met.

*Article 3*

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 8 March 2006.

*For the Commission*  
Charlie McCREEVY  
*Member of the Commission*

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