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⁽¹⁾ Text with EEA relevance

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⁽¹⁾ Text with EEA relevance

I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COMMISSION REGULATION (EC) No 212/2007**of 28 February 2007****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 ⁽¹⁾, 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 1 March 2007.

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

Done at Brussels, 28 February 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ 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 28 February 2007 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 ⁽¹⁾	Standard import value
0702 00 00	IL	116,2
	MA	58,3
	TN	136,3
	TR	147,2
	ZZ	114,5
0707 00 05	MA	96,4
	MK	57,6
	TR	173,6
	ZZ	109,2
0709 90 70	MA	58,1
	TR	107,2
	ZZ	82,7
0709 90 80	IL	141,5
	ZZ	141,5
0805 10 20	CU	36,3
	EG	48,6
	IL	57,4
	MA	43,1
	TN	46,1
	TR	66,0
	ZZ	49,6
0805 50 10	EG	63,4
	IL	64,5
	TR	44,6
	ZZ	57,5
0808 10 80	AR	90,7
	CA	101,7
	CL	112,4
	CN	98,8
	US	114,8
	ZZ	103,7
0808 20 50	AR	79,5
	CL	77,6
	CN	66,5
	US	90,8
	ZA	80,4
	ZZ	79,0

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 213/2007**of 28 February 2007****fixing the import duties in the cereals sector applicable from 1 March 2007**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92 ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 10(2) of Regulation (EC) No 1784/2003 states that the import duty on products falling within CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002, ex 1005 other than hybrid seed, and ex 1007 other than hybrids for sowing, is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Article 10(3) of Regulation (EC) No 1784/2003 lays down that, for the purposes of calculating the import

duty referred to in paragraph 2 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

- (3) Under Article 2(2) of Regulation (EC) No 1249/96, the price to be used for the calculation of the import duty on products of CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002 00, 1005 10 90, 1005 90 00 and 1007 00 90 is the daily cif representative import price determined as specified in Article 4 of that Regulation.
- (4) Import duties should be fixed for the period from 1 March 2007, and should apply until new import duties are fixed and enter into force,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 March 2007, the import duties in the cereals sector referred to in Article 10(2) of Regulation (EC) No 1784/2003 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

Article 2

This Regulation shall enter into force on 1 March 2007.

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

Done at Brussels, 28 February 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1816/2005 (OJ L 292, 8.11.2005, p. 5).

ANNEX I

Import duties on the products referred to in Article 10(2) of Regulation (EC) No 1784/2003 applicable from 1 March 2007

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 10 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00
1002 00 00	Rye	0,00
1005 10 90	Maize seed other than hybrid	0,00
1005 90 00	Maize, other than seed ⁽²⁾	0,00
1007 00 90	Grain sorghum other than hybrids for sowing	0,00

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal the importer may benefit, under Article 2(4) of Regulation (EC) No 1249/96, from a reduction in the duty of:

- 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or
- 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating the duties laid down in Annex I

Period from 15-27 February 2007

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

	<i>EUR/t</i>					
	Common wheat (*)	Maize	Durum wheat, high quality	Durum wheat, medium quality (**)	Durum wheat, low quality (***)	Barley
Exchange	Minneapolis	Chicago	—	—	—	—
Quotation	155,97	126,05	—	—	—	—
Fob price USA	—	—	187,44	177,44	157,44	150,58
Gulf of Mexico premium	28,90	12,22	—	—	—	—
Great Lakes premium	—	—	—	—	—	—

(*) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

(**) Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(***) Discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight costs: Gulf of Mexico–Rotterdam: 27,46 EUR/tonne

Freight costs: Great Lakes–Rotterdam: — EUR/tonne

COMMISSION REGULATION (EC) No 214/2007**of 28 February 2007****amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Regulation (EEC) No 2454/93 is amended as follows:

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, and in particular Article 247 thereof,

1. In Article 308a(10), the term 'ECU 10' is replaced by '10 euro'.

Whereas:

2. Article 308c is amended as follows:

(1) Commission Regulation (EEC) No 2454/93 ⁽²⁾ lays down a management system for tariff quotas. To reduce the administrative burden and costs at importation and to promote uniformity of treatment, provision has been made that certain tariff quotas are to be considered as critical. Experience with the system and improved use of electronic exchange of data between the Member States and the Commission have shown that the criteria used in determining the critical status can be further relaxed without a risk to the Community's own resources. Accordingly a tariff quota should be considered as critical where 90 % of the initial quota volume, instead of 75 % as in the current system, has been used.

(a) in paragraph 1, the percentage '75 %' is replaced by '90 %';

(2) The need to carry out surveillance of goods in order to obtain data related to imports and exports has increased considerably. As a consequence, in cases of surveillance of goods, Member States should provide to the Commission, more frequently than under the current system, data on customs declarations for release for free circulation or on export declarations. Where such data are not available or are only partially available on the date of the customs declaration under a simplified procedure, they should be provided afterwards.

(b) in paragraph 3, the percentage '75 %' is replaced by '90 %'.

(3) Regulation (EEC) No 2454/93 should therefore be amended accordingly.

3. Article 308d is replaced by the following:

'Article 308d

(4) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

1. Where Community surveillance is to be carried out, the Member States shall provide to the Commission at least once every week data on customs declarations for release for free circulation or on export declarations.

The Member States shall cooperate with the Commission to determine which data are required from customs declarations for release for free circulation or from export declarations.

2. The data provided under paragraph 1 by individual Member States shall be treated as confidential.

However, aggregate data for each Member State shall be available for authorised users in all Member States.

The Member States shall cooperate with the Commission to set up the practical rules on authorised access to the aggregate data.

⁽¹⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1875/2006 (OJ L 360, 19.12.2006, p. 64).

3. In respect of certain goods surveillance shall be carried out on a confidential basis.

4. Where under the simplified procedures referred to in Articles 253 to 267 and Articles 280 to 289, the data referred to in paragraph 1 of this Article are not available, the Member States shall provide to the Commission the data available at the date of acceptance of the complete or supplementary declaration.'

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 28 February 2007.

For the Commission
László KOVÁCS
Member of the Commission

COMMISSION REGULATION (EC) No 215/2007**of 28 February 2007****on implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the list of target secondary variables relating to over-indebtedness and financial exclusion****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1177/2003 of the European Parliament and the Council of 16 June 2003 concerning Community statistics on income and living conditions (EU-SILC) ⁽¹⁾, and in particular Article 15(2)(f) thereof,

Whereas:

- (1) Regulation (EC) No 1177/2003 established a common framework for the systematic production of Community statistics on income and living conditions, encompassing comparable and timely cross-sectional and longitudinal data on income, and on the level and composition of poverty and social exclusion at national and European Union levels.
- (2) Under Article 15(2)(f) of Regulation (EC) No 1177/2003, implementing measures are necessary for the list of target secondary areas and variables to be included every year

in the cross-sectional component of EU-SILC. For the year 2008, the list of target secondary variables included in the module on over-indebtedness and financial exclusion should be laid down. This should be accompanied by the provision of variable codes and definitions.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The list of target secondary variables, the variable codes, and the definitions for the 2008 module on over-indebtedness and financial exclusion to be included in the cross-sectional component of Community statistics on income and living conditions (EU-SILC) shall be as laid down in the Annex.

*Article 2*This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 28 February 2007.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 165, 3.7.2003, p. 1. Regulation as amended by Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

ANNEX

For the purposes of this Regulation, the following units, modes of data collection, reference periods and definitions shall apply.

1. Units

The target variables relate exclusively to the household. Where dealing with financial services, the household should be understood as any member of the household.

2. Modes of data collection

For all target variables the mode of data collection is personal interview with the household respondent or extraction from registers.

3. Reference periods

The target variables relate to four types of reference periods:

- last 12 months (*Arrears*),
- next 12 months (*Future expectations*),
- last three months (*Uncleared balance credit/store card*),
- current (*All other variables*).

4. Definitions**(1) Amounts**

- (a) Variables for collecting amounts: the amount is to be collected according to a harmonised discrete scale to be established by the Working Group on Living Conditions.

(2) Bank account

- (a) Bank current account: deposit account offering day-to-day money management facilities such as various flexible payment methods to allow customers to distribute money directly to others. Standard services offered by current accounts include a cheque book, the facility to arrange standing orders, direct debits and payment via a debit card. A savings account is not a current account where no such facilities are available.
- (b) Bank account overdraft: the household is currently maintaining a negative balance on one of its bank accounts because of financial difficulties (urgent need of money, output higher than input, etc.). Interest is charged on the amount owed. The bank account does not need to be a current account.

(3) Credit/store cards

- (a) Credit cards (Visa, Amex, MasterCard, Diners, etc.) provide a specific credit facility: money is lent to people between the time they purchase goods and the time of full repayment of the amount; interest is to be paid on any balance that is not cleared at the end of the month. There are monthly statements for the money spent specifying the minimum amount to be paid. Credit cards are not bank debit cards, where the money spent on the card is immediately deducted from a linked bank account.
- (b) Store cards are credit cards issued by a single company/store and can only be used for payments to that company/store.
- (c) Uncleared balance: the household has not paid in full at the 'end of the month' the amount spent or owed with credit/store cards for at least the last three months because of financial difficulties.

(4) Source of credit and loans

- (a) Credit and loans encompasses any commercial credit or loans with planned and scheduled repayments, except mortgage loans for the main dwelling. Overdraft facilities, credit or store cards for which repayments are not planned are not included. Borrowing from friends and relatives (informal credit) is not included either.

(5) Arrears

- (a) Arrears: amount owed (bills, rent, credit/mortgage repayment, etc.) not paid on schedule during the last 12 months for financial reasons; same concept as used for HS010, HS020 and HS030.

- (b) Total amount currently in arrears: the sum of the amounts the household currently owes that could not be paid on schedule.
- (c) Housing-related bills/payments: rent and mortgage repayment for the main dwelling and utility bills (water, electricity, gas, heating, etc.). Should correspond to the coverage of variables HS010 and HS020.
- (d) Other loans and credit repayment: cash loans (other than mortgage repayment for the main dwelling) or hire purchase instalments and the like (e.g. mail order catalogues, car finance, etc.). Minimum credit/store card repayments are also included. Should correspond to the coverage of variable HS030.
- (e) Other non-housing household bills: education, health, any other bills not covered by housing-related bills.
- (6) *Drop in income*
- (a) Income: gross total income of the household.
- (7) *Financial exclusion*
- (a) Reasons why the household does not have a current bank account and needs one: several reasons can be mentioned and will be reported through indicators variables MI111-MI114. Questions are filtered: households that do have a bank current account or do not need one should not be asked the questions.
- (b) Reasons why the household does not have commercial credit and needs it: several reasons can be mentioned and will be reported through indicators variables MI122-MI125. Commercial credit: overdraft facilities, credit or store cards, mortgages and other loans or credit linked to purchases. Borrowing from friends and relatives is not included. Questions are filtered: households that do have commercial credit or do not need it should not be asked the questions. Households having borrowed only from family and friends should be asked the questions.

5. Transmission of data to Eurostat

The target secondary variables on 'over-indebtedness and financial exclusion' will be sent to Eurostat in the household data file (H) after the target primary variables.

AREAS AND LIST OF TARGET VARIABLES

Variable name	Module 2008	Over-indebtedness and financial exclusion
	Code	Target variable
Bank accounts and overdraft		
MI010		Household has a bank current account
	1	Yes
	2	No
MI010_F	1	Variable is filled
	-1	Missing
MI020		Household is overdrawn on one of its bank accounts
	1	Yes
	2	No
MI020_F	1	Variable is filled
	-1	Missing
	-2	N/A (no bank account)
MI025		Estimated total amount unbalanced on household's banks accounts in classes
	1-9	Class
MI025_F	1	Variable is filled
	-1	Missing
	-2	N/A (no overdraft: MI020=2)

Variable name	Module 2008	Over-indebtedness and financial exclusion
	Code	Target variable
<i>Credit/store cards</i>		
MI030	1	Household has credit card(s) and/or store card(s) Yes
	2	No
MI030_F	1	Variable is filled
	-1	Missing
MI040	1	Household has credit card(s) and/or store card(s) with uncleared balances Yes
	2	No
MI040_F	1	Variable is filled
	-1	Missing
	-2	N/A (no credit/store card (MI030=2))
MI045	1-9	Estimated total amount unbalanced at the last monthly statement on household credit/store cards in classes Class
MI045_F	1	Variable is filled
	-1	Missing
	-2	N/A (no unbalanced credit/store card (MI040=2 or MI030=2))
<i>Source of credits and loans</i>		
MI050	1	Household has credits or loans (other than mortgage for the main dwelling) Yes
	2	No
MI050_F	1	Variable is filled
	-1	Missing
MI051	1	Household has mortgage for other than the main dwelling Yes
	2	No
MI051_F	1	Variable is filled
	-1	Missing
	-2	N/A (MI050=2)
MI052	1	Household has hire purchase instalments (e.g. leasing, car, technical equipment) Yes
	2	No
MI052_F	1	Variable is filled
	-1	Missing
	-2	N/A (MI050=2)
MI053	1	Household has home-related credit/loans (inventory, domestic appliances, repairs) Yes
	2	No
MI053_F	1	Variable is filled
	-1	Missing
	-2	N/A (MI050=2)

Variable name	Module 2008	Over-indebtedness and financial exclusion
	Code	Target variable
MI054		Household has credit/loans to pay for holidays/leisure
	1	Yes
	2	No
MI054_F	1	Variable is filled
	-1	Missing
	-2	N/A (MI050=2)
MI055		Household has credit/loans to pay for education or childcare
	1	Yes
	2	No
MI055_F	1	Variable is filled
	-1	Missing
	-2	N/A (MI050=2)
MI056		Household has credit/loans to pay for health issues
	1	Yes
	2	No
MI056_F	1	Variable is filled
	-1	Missing
	-2	N/A (MI050=2)
MI057		Household has credit/loans for investment or business start-up
	1	Yes
	2	No
MI057_F	1	Variable is filled
	-1	Missing
	-2	N/A (MI050=2)
MI058		Household has other cash loans (debt conversion, to cover overdraft, credit card and other bills, etc.)
	1	Yes
	2	No
MI058_F	1	Variable is filled
	-1	Missing
	-2	N/A (MI050=2)
Arrears		
MI060		Arrears on other non-housing household bills
	1	Yes
	2	No
MI060_F	1	Variable is filled
	-1	Missing
	-2	N/A (no other non-housing household bills)
MI065		Estimated total amount currently in arrears for other non-housing household bills in classes
	1-9	Class

Variable name	Module 2008	Over-indebtedness and financial exclusion
	Code	Target variable
MI065_F	1	Variable is filled
	-1	Missing
	-2	N/A (no arrears currently (MI060=2 or current amount owed is zero) or no other non-housing household bills (MI060_F=-2))
MI075		Estimated total amount currently in arrears for household housing bills/ repayments in classes
	1-9	Class
MI075_F	1	Variable is filled
	-1	Missing
	-2	N/A (no arrears currently (HS010=2 and HS020=2 or current amount owed is zero) or no housing household bills/repayments (HS010_F=-2 and HS020_F=-2))
MI085		Estimated total amount currently in arrears for household other loans and credit repayment in classes
	1-9	Class
MI085_F	1	Variable is filled
	-1	Missing
	-2	N/A (no arrears currently (HS030=2 or current amount owed is zero) or no other loans and credit repayment (HS030_F=-2))
Drop in income		
MI090		Major drop in household income during the last 12 months
	1 2	Yes No
MI090_F	1	Variable is filled
	-1	Missing
MI095		Main reason for drop in income
	1	Job loss/redundancy
	2	Change in hours worked and/or in wages
	3	Inability to work through sickness or disability
	4	Maternity — parental leave — childcare
	5	Retirement
	6	Marriage/relationship breakdown
	7	Other change in household composition
8	Other reason	
MI095_F	1	Variable is filled
	-1	Missing
	-2	N/A (no drop in income (MI090=2))
Future expectations		
MI100		Expectation of financial situation in the next 12 months; do you expect your financial situation
	1	To improve
	2	To stay about the same
	3	To get worse
MI100_F	4	Don't know
	1	Variable is filled
	-1	Missing

Variable name	Module 2008	Over-indebtedness and financial exclusion
	Code	Target variable
Financial exclusion		
Reasons why the household does not have a bank current account		
MI110		Household doesn't need an account and prefers to deal in cash
	1	Yes
	2	No
MI110_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has bank current account (MI010=1))
MI111		The charges are too high
	1	Yes
	2	No
MI111_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has bank current account (MI010=1) or does not need one (MI110=1))
MI112		There is no bank branch near where household lives or works
	1	Yes
	2	No
MI112_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has bank current account (MI010=1) or does not need one (MI110=1))
MI113		Household has applied for an account and been turned down
	1	Yes
	2	No
MI113_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has bank current account (MI010=1) or does not need one (MI110=1))
MI114		Banks would refuse household
	1	Yes
	2	No
MI114_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has bank current account (MI010=1) or does not need one (MI110=1))
Reasons why the household does not have commercial credit		
MI120		Household doesn't need to borrow at all
	1	Yes
	2	No
MI120_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has commercial credit)

Variable name	Module 2008	Over-indebtedness and financial exclusion
	Code	Target variable
MI121	1	Household can borrow from family or friends Yes
	2	No
MI121_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has commercial credit)
MI122	1	Household will not be able to repay debt Yes
	2	No
MI122_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has commercial credit or does not need it (MI120=1))
MI123	1	Household has applied for credit and been turned down Yes
	2	No
MI123_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has commercial credit or does not need it (MI120=1))
MI124	1	Household used to have credit but the facility was withdrawn Yes
	2	No
MI124_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has commercial credit or does not need it (MI120=1))
MI125	1	Banks would refuse to give credit to household Yes
	2	No
MI125_F	1	Variable is filled
	-1	Missing
	-2	N/A (household has commercial credit or does not need it (MI120=1))

COMMISSION REGULATION (EC) No 216/2007

of 28 February 2007

initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EC) No 1629/2004 on imports of certain graphite electrode systems originating in India by imports of certain artificial graphite originating in India and making such imports subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

C. EXISTING MEASURES

Having regard to the Treaty establishing the European Community,

- (5) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Council Regulation (EC) No 1629/2004 ⁽²⁾.

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ('the basic Regulation') ⁽¹⁾, and in particular Articles 13(3), 14(3) and 14(5) thereof,

D. GROUNDS

- (6) The request contains sufficient *prima facie* evidence that the anti-dumping measures on imports of the product concerned are being circumvented by means of imports of the product under investigation.

Whereas:

- (7) The evidence submitted is as follows:

A. REQUEST

- (1) The Commission has received a request pursuant to Article 13(3) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on imports of certain graphite electrode systems originating in India.
- (2) The request was lodged on 15 January 2007 by the European Carbon and Graphite Association (ECGA) on behalf of Community producers of certain graphite electrode systems.

- (i) The request shows that a significant change in the pattern of trade involving exports from India to the Community has taken place following the imposition of anti-dumping measures on the product concerned, and that there is insufficient due cause or justification other than the imposition of the duty for such a change.

B. PRODUCT

- (3) The product concerned by the possible circumvention is graphite electrodes of a kind used for electric furnaces, with an apparent density of 1,65 g/cm³ or more and an electrical resistance of 6,0 µΩ.m or less, falling within CN code ex 8545 11 00 (Taric code 8545 11 00 10) and nipples used for such electrodes, falling within CN code ex 8545 90 90 (Taric code 8545 90 90 10) whether imported together or separately originating in India (the product concerned). These codes are given for information only.
- (4) The product under investigation is artificial graphite rods of a diameter of 75 mm or more originating in India (the product under investigation), normally declared under CN code ex 3801 10 00 (TARIC code 3801 10 00 10). This code is given for information only. The product under investigation is an intermediate product in the manufacturing of the product concerned, and it already embodies the basic characteristics of the latter product.

- (ii) This change in the pattern of trade appears to stem from a simple conversion operation carried out in the Community whereby imports of the product under investigation are converted into the product concerned.

- (iii) Furthermore, the request contains sufficient *prima facie* evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined in terms of quantity. Significant volumes of imports of the product under investigation appear to have replaced imports of the product concerned.

- (iv) Finally, the request contains sufficient *prima facie* evidence that the prices of the product under investigation after conversion are dumped in relation to the normal value previously established for the product concerned.

- (v) Should circumvention practices covered by Article 13 of the basic Regulation, other than simple conversion, be identified in the course of the investigation, the investigation may cover these practices also.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 295, 18.9.2004, p. 10.

E. PROCEDURE

(8) In the light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13 of the basic Regulation and to make imports of the product under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) Questionnaires

(9) In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporters/producers and to the associations of exporters/producers in India, to the importers and to the associations of importers in the Community which cooperated in the investigation that led to the existing measures and to the authorities of India. Information, as appropriate, may also be sought from the Community industry.

(10) In any event, all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3 of this Regulation in order to find out whether they are listed in the request and, if necessary, request a questionnaire within the time limit set in Article 3(1) of this Regulation, given that the time limit set in Article 3(2) of this Regulation applies to all interested parties.

(11) The authorities of India will be notified of the initiation of the investigation and provided with a copy of the request.

(b) Collection of information and holding of hearings

(12) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) Exemption of imports from registration or measures

(13) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from registration or measures if such importation does not constitute circumvention.

(14) Since the possible circumvention takes place inside the Community, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to importers of the product under investigation that can show that they are not related to producers subject to the measures. Importers wishing to obtain an exemption should submit a request duly supported by evidence

within the time limit indicated in Article 3(3) of this Regulation.

F. REGISTRATION

(15) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied retroactively from the date of registration of such imports originating in India.

G. TIME LIMITS

(16) In the interest of sound administration, time limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— importers in the Community may request exemption from registration of imports or measures,

— interested parties may make a written request to be heard by the Commission.

(17) Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time limits mentioned in Article 3 of this Regulation.

H. NON-COOPERATION

(18) In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

(19) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available. If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is hereby initiated pursuant to Article 13(3) of Regulation (EC) No 384/96, in order to determine if imports into the Community of artificial graphite rods of a diameter of 75 mm or more originating in India, normally falling within CN code ex 3801 10 00 (TARIC 3801 10 00 10), are circumventing the measures imposed by Council Regulation (EC) No 1629/2004.

Article 2

The Customs authorities are hereby directed, pursuant to Article 13(3) and Article 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports into the Community identified in Article 1 of this Regulation.

Registration shall expire nine months following the date of entry into force of this Regulation.

The Commission, by Regulation, may direct Customs authorities to cease registration in respect of imports into the Community of products imported by importers having applied for an exemption of registration and having been found not to be circumventing the anti-dumping duties.

Article 3

1. Questionnaires should be requested from the Commission within 15 days of the date of publication of this Regulation in the *Official Journal of the European Union*.

2. Interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views in

writing and submit questionnaire replies or any other information within 40 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.

3. Importers requesting exemption of imports from registration or measures should submit a request duly supported by evidence within the same 40-day time limit.

4. Interested parties may also apply to be heard by the Commission within the same 40-day time limit.

5. Any information relating to the matter, any request for a hearing or for a questionnaire as well as any request for exemption of imports from registration or measures must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this Regulation, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as *Limited* ⁽¹⁾ and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled FOR INSPECTION BY INTERESTED PARTIES.

Commission address for correspondence:

European Commission
Directorate General for Trade
Directorate H
Office: J-79 5/16
B-1049 Brussels
Fax (32-2) 295 65 05.

Article 4

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 28 February 2007.

For the Commission
Peter MANDELSON
Member of the Commission

⁽¹⁾ This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

COMMISSION REGULATION (EC) No 217/2007

of 28 February 2007

initiating an investigation concerning the possible circumvention of countervailing measures imposed by Council Regulation (EC) No 1628/2004 on imports of certain graphite electrode systems originating in India by imports of certain artificial graphite originating in India and making such imports subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

C. EXISTING MEASURES

Having regard to the Treaty establishing the European Community,

- (5) The measures currently in force and allegedly being circumvented are countervailing measures imposed by Council Regulation (EC) No 1628/2004 ⁽²⁾.

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community ⁽¹⁾ (the basic Regulation), and in particular Article 23(2) and Article 24(3) and 24(5) thereof,

D. GROUNDS

After having consulted the Advisory Committee,

- (6) The request contains sufficient *prima facie* evidence that the countervailing measures on imports of the product concerned are being circumvented by means of imports of the product under investigation.

Whereas:

- (7) The evidence submitted is as follows:

A. REQUEST

- (1) The Commission has received a request pursuant to Article 23(2) of the basic Regulation to investigate the alleged circumvention of the countervailing measures imposed on imports of certain graphite electrode systems originating in India.
- (2) The request was lodged on 15 January 2007 by the European Carbon and Graphite Association (ECGA) on behalf of Community producers of certain graphite electrode systems.

- (i) the request shows that a significant change in the pattern of trade involving exports from India to the Community has taken place following the imposition of countervailing measures on the product concerned, and that there is insufficient due cause or justification other than the imposition of the duty for such a change;

B. PRODUCT

- (3) The product concerned by the possible circumvention is graphite electrodes of a kind used for electric furnaces, with an apparent density of 1,65 g/cm³ or more and an electrical resistance of 6,0 µΩ.m or less, falling within CN code ex 8545 11 00 (TARIC code 8545 11 00 10) and nipples used for such electrodes, falling within CN code ex 8545 90 90 (TARIC code 8545 90 90 10) whether imported together or separately originating in India ('the product concerned'). These codes are given for information only.
- (4) The product under investigation is artificial graphite rods of a diameter of 75 mm or more originating in India ('the product under investigation'), normally declared under CN code ex 3801 10 00 (TARIC 3801 10 00 10). This code is given for information only. The product under investigation is an intermediate product in the manufacturing of the product concerned, and it already embodies the basic characteristics of the latter product.

- (ii) this change in the pattern of trade appears to stem from a simple conversion operation carried out in the Community whereby imports of the product under investigation are converted into the product concerned;
- (iii) furthermore, the request contains sufficient *prima facie* evidence that the remedial effects of the existing countervailing measures on the product concerned are being undermined in terms of quantity. Significant volumes of imports of the product under investigation from India appear to have replaced imports of the product concerned;
- (iv) finally, the request contains sufficient *prima facie* evidence that the imported product under investigation still benefits from the subsidy;
- (v) should circumvention practices covered by Article 23 of the basic Regulation, other than simple conversion, be identified in the course of the investigation, the investigation may cover these practices also.

⁽¹⁾ OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 295, 18.9.2004, p. 4.

E. PROCEDURE

(8) In the light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 23 of the basic Regulation and to make imports of the product under investigation subject to registration, in accordance with Article 24(5) of the basic Regulation.

(a) Questionnaires

(9) In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporters/producers and to the associations of exporters/producers in India, to the importers and to the associations of importers in the Community which cooperated in the investigation that led to the existing measures, and to the authorities of India. Information, as appropriate, may also be sought from the Community industry.

(10) In any event, all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3 of this Regulation in order to find out whether they are listed in the request and, if necessary, request a questionnaire within the time limit set in Article 3(1) of this Regulation, given that the time limit set in Article 3(2) of this Regulation applies to all interested parties.

(11) The authorities in India will be notified of the initiation of the investigation and provided with a copy of the request.

(b) Collection of information and holding of hearings

(12) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) Exemption from registration of imports or measures

(13) In accordance with Article 23(3) of the basic Regulation, imports of the product under investigation may be exempted from registration or measures if the importation does not constitute circumvention.

(14) Since the possible circumvention takes place inside the Community, exemptions may be granted, in accordance with Article 23(3) of the basic Regulation, to importers of the product under investigation that can show that

they are not related to producers subject to the measures. Importers wishing to obtain an exemption should submit a request duly supported by evidence within the time limit indicated in Article 3(3) of this Regulation.

F. REGISTRATION

(15) Pursuant to Article 24(5) of the basic Regulation, imports of the product under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, countervailing duties of an appropriate amount can be levied retroactively from the date of registration of such imports originating in India.

G. TIME LIMITS

(16) In the interest of sound administration, time limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— importers in the Community may request exemption from registration of imports or measures,

— interested parties may make a written request to be heard by the Commission.

(17) Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time limits mentioned in Article 3 of this Regulation.

H. NON-COOPERATION

(18) In cases in which any interested party refuses access to or otherwise does not provide necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 28 of the basic Regulation, on the basis of the facts available.

(19) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available. If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 28 of the basic Regulation, the result may be less favourable to that party than if it had cooperated,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is hereby initiated pursuant to Article 23(2) of Council Regulation (EC) No 2026/97, in order to determine if imports into the Community of artificial graphite rods of a diameter of 75 mm or more originating in India, normally falling within CN code ex 3801 10 00 (TARIC 3801 10 00 10), are circumventing the measures imposed by Council Regulation (EC) No 1628/2004.

Article 2

The customs authorities are hereby directed, pursuant to Article 23(2) and Article 24(5) of Regulation (EC) No 2026/97, to take the appropriate steps to register the imports into the Community identified in Article 1 of this Regulation.

Registration shall expire nine months following the date of entry into force of this Regulation.

The Commission, by Regulation, may direct customs authorities to cease registration in respect of imports into the Community of products imported by importers having applied for an exemption of registration and having been found not to be circumventing the countervailing duties.

Article 3

1. Questionnaires should be requested from the Commission within 15 days of the date of publication of this Regulation in the *Official Journal of the European Union*.

2. Interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views in

writing and submit questionnaire replies or any other information within 40 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.

3. Importers requesting exemption of imports from registration or measures should submit a request duly supported by evidence within the same 40-day time limit.

4. Interested parties may also apply to be heard by the Commission within the same 40-day time limit.

5. Any information relating to the matter, any request for a hearing or for a questionnaire as well as any request for exemption of imports from registration or measures must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this Regulation, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as 'Limited' ⁽¹⁾ and, in accordance with Article 29(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'FOR INSPECTION BY INTERESTED PARTIES'.

Commission address for correspondence:

European Commission
Directorate General for Trade
Directorate H
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B-1049 Brussels
Fax (32-2) 295 65 05.

Article 4

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 28 February 2007.

For the Commission
Peter MANDELSON
Member of the Commission

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COMMISSION REGULATION (EC) No 218/2007**of 28 February 2007****opening and providing for the administration of Community tariff quotas for wines**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, and in particular Article 62(1) thereof,

Whereas:

- (1) The Agreement in the form of an Exchange of Letters between the European Community and the Argentine Republic relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of accession to the European Community ⁽²⁾, approved by Council Decision 2006/930/EC ⁽³⁾, provides for the opening of tariff rate quotas for wine.
- (2) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽⁴⁾, has codified the management rules for tariff quotas designed to be used following the chronological order of dates of acceptance of customs declarations.
- (3) In accordance with the commitments taken by the Community pursuant to the Agreement in the form of

an Exchange of Letters, this Regulation should apply from 1 January 2007.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for wine,

HAS ADOPTED THIS REGULATION:

Article 1

The following tariff quotas are opened for products imported into the Community:

- (a) a tariff rate quota 20 000 hl (*erga omnes*) for wine (tariff item numbers 2204 29 65 and 2204 29 75), in quota rate 8 EUR/hl (order number 09.0095),
- (b) a tariff rate quota 40 000 hl (*erga omnes*) for wine (tariff item numbers 2204 21 79 and 2204 21 80), in quota rate 10 EUR/hl (order number 09.0097).

Article 2

The tariff quotas referred to in Article 1 shall be administered by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 3

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2007.

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

Done at Brussels, 28 February 2007.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ L 355, 15.12.2006, p. 92.

⁽³⁾ OJ L 355, 15.12.2006, p. 91.

⁽⁴⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1875/2006 (OJ L 360, 19.12.2006, p. 64).

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 26 February 2007

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 the supply of electricity and gas in England, Scotland and Wales

(notified under document number C(2007) 559)

(Only the English text is authentic)

(Text with EEA relevance)

(2007/141/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas:

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 ⁽¹⁾, and in particular Article 30(4) and (6) thereof,

Having regard to the request submitted by the United Kingdom by e-mail of 24 October 2006 and confirmed by a signed fax of the same date, and to the additional information requested by Commission staff by e-mail of 17 November 2006 and submitted by the United Kingdom by e-mail of 27 November 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,

(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.

(2) This legislation is listed in Annex XI of Directive 2004/17/EC, which, for the electricity 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 ⁽²⁾. 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 ⁽³⁾, which requires an even higher

⁽¹⁾ OJ L 134, 30.4.2004, p. 1. Directive as last amended by Council Directive 2006/97/EC (OJ L 363, 20.12.2006, p. 107).

⁽²⁾ OJ L 27, 30.1.1997, p. 20.

⁽³⁾ OJ L 176, 15.7.2003, p. 37. Directive as last amended by Commission Decision 2006/653/EC (OJ L 270, 29.9.2006, p. 72).

degree of market opening. In respect of the gas sector, Annex XI refers to Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas ⁽⁴⁾. Directive 98/30/EC has been superseded by Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC ⁽⁵⁾, which requires an even higher degree of market opening.

- (3) Under Article 62(2)(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).
- (4) The request submitted by the United Kingdom concerns the supply, both wholesale and retail, of electricity and gas in England, Scotland and Wales. Although there may be some similarities, the respective characteristics, in particular the very limited degree of substitutability, nevertheless render it appropriate to consider that there are two different product markets, one for gas and one for electricity, rather than one product market for 'energy'.
- (5) Given the unified character of the markets for electricity of the three geographical areas concerned by the present request and the limited capacity ⁽⁶⁾ 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 electricity for the purposes of evaluating the conditions laid down in Article 30(1) of Directive 2004/17/EC. In respect of gas, it should also be concluded that the relevant geographic market is Great Britain, since, as noted by the British Office of Fair Trade, 'this is the limit of the gas trading regime: although gas is traded with continental Europe through the Bacton-Zeebrugge interconnector, quantities traded are relatively small.' The same applies to quantities traded between Great Britain and Northern Ireland (not covered by this Decision) and Ireland. These conclusions are consistent with one of the findings of the Communication from the Commission to the Council and the European Parliament:

⁽⁴⁾ OJ L 204, 21.7.1998, p. 1.

⁽⁵⁾ OJ L 176, 15.7.2003, p. 57.

⁽⁶⁾ Of the order of approximately 4 % of peak demand in the case of electricity.

Report on progress in creating the internal gas and electricity market ⁽⁷⁾, hereinafter referred to as the '2005 Report', that 'in economic terms ... electricity and gas markets in the EU remain national in economic scope'.

- (6) 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.
- (7) In respect of electricity, the United Kingdom has implemented and applied not only Directive 96/92/EC but also Directive 2003/54. Concerning gas, the United Kingdom has also implemented not only Directive 98/30/EC, but also Directive 2003/55/EC. Consequently, and in accordance with the first subparagraph of Article 30(3), access to the market should be deemed not to be restricted, both in respect of electricity and gas.
- (8) 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' ⁽⁸⁾. Consequently, it considered that 'one indicator for the degree of competition on national markets is the total market share of the biggest three producers (electricity) and wholesale suppliers (gas)' ⁽⁹⁾. According to the latest available information, the aggregate market share of the three largest electricity generators of the total production is 39 % ⁽¹⁰⁾, while the aggregate market share of the three largest gas shippers in percentage of the wholesale market is 36 % ⁽¹¹⁾. Both these levels must be considered to be at a satisfactorily low level and should be taken as an indication of direct exposure to competition.
- (9) The degree of liquidity is also a good indicator of competition, as the conditions of competition in electricity and gas supply are greatly influenced by liquidity in wholesale markets. The United Kingdom wholesale market for electricity is characterised by being a bilateral trading market, with brokered deals. There is also more than one power exchange, although UKPX has the largest volume. Some of the principal actors on the wholesale market are the owners of generation capacity, with ownership of generation capacity being rather diverse with eight

⁽⁷⁾ COM(2005) 568 final of 15.11.2005.

⁽⁸⁾ See p. 2. See also the 'Report from the Commission: Annual Report On The Implementation Of The Gas And Electricity Internal Market', COM(2004) 863 final of 5.1.2005, p. 4.

⁽⁹⁾ See the 2005 Report, p. 7.

⁽¹⁰⁾ See Commission Staff Working Document, Technical Annex to the 2005 Report, SEC(2005)1448, p. 44, table 4.1. Hereafter referred to as Technical Annex.

⁽¹¹⁾ Technical Annex, p. 55, table 5.1.

companies sharing around 70 % of capacity. For the United Kingdom, liquidity multiple term trading amounts to around three times the amount consumed⁽¹²⁾. This degree of liquidity should be considered as being satisfactory, i.e. it is such as to constitute an indicator of a well-functioning and competitive wholesale market. For the gas sector, liquidity multiple term trading should also be considered to be at a satisfactory level, as it also amounts to two to three times total consumption⁽¹³⁾. At the retail levels as well, there are a sufficient number of actors, as there are six main suppliers active in the household market with additional companies active in the large user sector.⁽¹⁴⁾ The gas markets are also characterised by a sufficient number of active players and can be summarised as follows: 'The (United Kingdom) gas market has a high level of competition with around 10 companies active in the wholesale market. As with electricity, six companies account for the majority of the domestic supply market ... (of which) ... five are new entrants to the gas supply market. Larger users buy direct from the wholesale market, which also includes many major oil companies'⁽¹⁵⁾. These factors should therefore be taken as an indication of direct exposure to competition.

- (10) The workings of the balancing markets should also be considered as indicators, not only in respect of production but also for the wholesale and retail markets. 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'⁽¹⁶⁾. 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. Similarly for gas, balancing prices are derived on the basis of a market mechanism operated by the TSO. Imbalances are settled on a daily basis and there is not usually a significant spread between the buy and sell price. This non discriminatory mechanism does not act as a barrier to suppliers.

- (11) Given the characteristics of the products concerned here (electricity and gas) 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 and gas 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'⁽¹⁷⁾. 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'⁽¹⁸⁾.
- (12) In the UK, the degree of switching for the three categories of users of electricity — 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⁽¹⁹⁾ and end-user price control was abolished in respect of electricity in 2002⁽²⁰⁾. Concerning gas, the degree of switching for the three categories of users — large and very large industrial users including power plants, small and medium-sized industrial and business, and very small business and households — is above 70 % for the first two groups and close to 50 % for the last category⁽²¹⁾. Price controls for all end users have been removed since 2002. 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.

⁽¹²⁾ See the Preliminary Report of the Sector Inquiry into Competition in Gas and Electricity Markets (in the following referred to as 'Preliminary Report'), Figure 42, p. 113.

⁽¹³⁾ Preliminary Report, point 64, p. 25.

⁽¹⁴⁾ Technical Annex, p. 177.

⁽¹⁵⁾ Technical Annex, p. 178.

⁽¹⁶⁾ Technical Annex, p. 67.

⁽¹⁷⁾ 2005 Report, p. 9.

⁽¹⁸⁾ Technical Annex, p. 17.

⁽¹⁹⁾ 2005 Report p. 10.

⁽²⁰⁾ Technical Annex p. 177.

⁽²¹⁾ 2005 Report p. 10.

- (13) 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 as well as from the Preliminary Report, 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 and gas supply in England, Scotland and Wales. As noted in recital 7, 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 the supply of electricity and/or gas generation to be carried out in these geographical areas nor when they organise design contests for the pursuit of such an activity there. It is recalled that contracts awarded for the pursuit of other activities, such as the distribution of electricity and gas, continue to be subject to the provisions of Directive 2004/17/EC.
- (14) This Decision is based on the legal and factual situation as of November 2006 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.
- (15) 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 and/or gas supply in England, Scotland and Wales.

Article 2

This Decision is based on the legal and factual situation as of November 2006 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, 26 February 2007.

For the Commission

Charlie McCREEVY

Member of the Commission

COMMISSION DECISION

of 28 February 2007

establishing a Community Veterinary Emergency Team to assist the Commission in supporting Member States and third countries in veterinary matters relating to certain animal diseases

(2007/142/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community,

Article 1

Whereas:

(1) In the event of outbreaks of certain animal diseases or suspicion thereof, the Commission is required to provide assistance to the Member States and to third countries by means of highly experienced veterinary epidemiology expertise. Veterinary expertise availability has also been raised in the context of the Agriculture and Fisheries Council.

(2) The prompt availability of sound technical expertise in the veterinary field is necessary for the Commission to be able to fulfil its tasks, notably in the event of major outbreaks of those animal diseases.

(3) Expertise and support are more efficiently provided by a specialised team of experts, such as a Community Emergency Veterinary Team, whose Members make themselves available to the Commission on request. Such a team should be established and their role and tasks be defined.

(4) For the Community Emergency Veterinary Team to be able to provide the Commission with the veterinary technical assistance required, its members may be sent to the Member States or third countries concerned. In that case the members should operate in cooperation with the competent authorities of the Member State or third country concerned.

(5) The Community Emergency Veterinary Team should work, as appropriate, in close cooperation with other international expert groups, such as the European Centre for Disease Prevention and Control (ECDC), the World Organisation for Animal Health (OIE), the Food and Agriculture Organisation (FAO), and the World Health Organisation (WHO) in order to ensure that the available expertise are used in the most effective way,

1. A Community Veterinary Emergency Team composed of experts is created (the team) for veterinary technical assistance on control measures relating to the diseases subject to notification listed in Annex I to Council Directive 82/894/EEC ⁽¹⁾ (the diseases).

2. Members of the team shall be designated from among experts in the field of veterinary epidemiology, virology, wildlife, management of eradication programmes, laboratory diagnostics, organisation of veterinary services and regulatory framework, risk communication, management and any other relevant field for animal disease control.

Article 2

1. The team shall assist the Commission in technical veterinary matters relating to the animal disease control measures to be taken in the event of outbreaks of the diseases or suspicion thereof.

Such assistance shall include in particular:

(a) scientific, technical and managerial on-the-spot assistance as regards the surveillance, monitoring, control and eradication of the diseases, in close cooperation and collaboration with the competent authorities of the Member State or third country concerned by outbreaks of disease or suspicion thereof;

(b) specific scientific advice on the suitable diagnostic methods and epidemiological investigations in coordination with the concerned Community Reference Laboratory as listed in Annex VII to Regulation (EC) No 882/2004 of the European Parliament and of the Council ⁽²⁾ and with other reference laboratories, as appropriate;

⁽¹⁾ OJ L 378, 31.12.1982, p. 58.

⁽²⁾ OJ L 165, 30.4.2004, p. 1 as corrected by OJ L 191, 28.5.2004, p. 1.

(c) specific assistance to ensure coordination among the veterinary services of the Member States and third countries and with the concerned Community Reference Laboratory as listed in Annex VII to Regulation (EC) No 882/2004 and other reference laboratories, as appropriate.

2. The Commission may publish on its website a summary report of the team's activities and any conclusion or working document from the team's activities.

Article 3

1. Each year, not later than 1 June, and for the first time not later than 30 days from the date of publication of this Decision in the *Official Journal of the European Union*, Member States shall submit to the Commission the list of experts they propose for designation as members of the team for the following calendar year.

On that occasion, Member States shall supply all the appropriate information on the professional profile and the field of expertise for each expert proposed.

2. The members of the team shall be appointed by the Commission from experts proposed by the Member States.

Each year, not later than 1 November, the Commission shall inform the Member States in the framework of the Standing Committee on the Food Chain and Animal Health on the updated list of members of the team.

The Commission shall publish on its website that updated list.

The names of the members shall be collected, processed and published in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽¹⁾.

Members who are no longer able to contribute effectively to the team's activities or who resign or who do not respect the rules set out in Article 4 of this Decision or Article 287 of the Treaty establishing the European community may be replaced.

Article 4

The team shall conform with the rules of procedure established by the Commission services on the basis of the standard rules of procedure for groups of experts.

Those rules of procedures shall be published on the Commission's website.

Article 5

The members of the team shall:

(a) on request by the Commission, be available at any time at short notice;

(b) not divulge information acquired as a result of the work of the team when they are informed that such information is confidential.

Article 6

Members of the team shall be entitled to an indemnity for their participation in the team's on-the-spot activities and for serving as team leader or rapporteur on a specific mission question, as provided for in the Annex to this Decision.

Reimbursement of travel and subsistence costs shall be paid by the Commission according to the rules for the reimbursement of travel, subsistence and other expenses for outside experts of the 'Experts Section', Office for the Administration and Settlement of Individual Entitlements of the European Commission.

Done at Brussels, 28 February 2007.

For the Commission
Markos KYPRIANOU
Member of the Commission

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

ANNEX

INDEMNITIES

Members of the team shall be entitled to indemnities related to their participation in the activities of the team as follows:

For participation in the on-the-spot activities of the team:

- EUR 300 for each full day participation or EUR 150 for participation in a morning or afternoon or at an external meeting attended in connection with the work of the team.

For acting as team leader or rapporteur for activities requiring not less than one day of work and with the prior written agreement of the Commission:

- EUR 300.
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