II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 24 August 1981

accepting undertakings in connection with the anti-dumping proceedings concerning potato granules originating in Canada

(81/663/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1], and in particular Article 10 thereof,

After consultations within the Advisory Committee set up under that Regulation,

Whereas the Commission, by Regulation (EEC) No 1101/81 [2], imposed a provisional anti-dumping duty on imports of potato granules originating in Canada; whereas at the same time the Commission accepted voluntary undertakings, offered by Carnation, one of the two Canadian exporters known to be concerned, to increase their prices to a level eliminating the dumping margin found and exempted their exports from the application of the provisional duty;

Whereas, with regard to the other exporter concerned, Vauxhall Foods Ltd, the provisional dumping margin was established by taking account of the fact that this company, during the period of investigation, had sold substantial quantities of the product concerned at a loss on the domestic market; whereas normal value was established, therefore, on the basis of the constructed value including a 6 % profit margin; whereas subsequently Vauxhall contested the finding of dumping and in particular the addition of a 6 % profit margin; whereas it was unnecessary to take a decision on the merits of these arguments because, for the purpose of the final determination, the Commission determined normal value on the basis of the company's sales on the domestic market made at a price which was not less than the cost of production, which represented approximately one-third of total domestic sales volume during the period of investigation and was deemed, therefore, to represent a reliable basis for comparison;

Whereas this normal value was compared with Vauxhall's export prices, transaction by transaction, on an ex-factory basis;

Whereas, for the purpose of a fair comparison between normal value and export prices, account was taken of the fact that certain variable costs like commissions paid to sales agents were only incurred on the domestic market;

Whereas this comparison showed that exports to the Community made by Vauxhall during the period of investigation were dumped at varying rates, in some instances up to 20 %, the weighted average margin being 6·9 %;

Whereas, with regard to injury caused by the dumped imports to the Community industry, no additional information has been received by the Commission; whereas, however, Vauxhall alleged that due to a

[1] OJ No L 339, 31. 12. 1979, p. 1.
[2] OJ No L 116, 28. 4. 1981, p. 11.

shortage of potatoes in Canada in the present crop year they were unable to supply substantial quantities of granules to their EEC customers and could not, therefore, cause any injury to Community producers; whereas this allegation is not supported by the facts available to the Commission and Vauxhall did not supply any supporting evidence;

Whereas upon request Vauxhall was informed, orally and in writing, of the essential facts and considerations on the basis of which it was intended to take definitive action;

Whereas Vauxhall has voluntarily undertaken to increase their prices to a level which eliminates the injurious effects of their exports to the Community;

Whereas the Commission considers this undertaking acceptable,

HAS DECIDED AS FOLLOWS:

Sole Article

The Commission hereby accepts the undertaking offered by Vauxhall Foods Ltd in connection with the anti-dumping proceeding concerning imports of potato granules, falling within Common Customs Tariff heading No ex 11.05 and corresponding to NIMEXE code ex 11.05-00, originating in Canada.

Done at Brussels, 24 August 1981.

For the Commission

Wilhelm HAFERKAMP

Vice-President