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*(Acts whose publication is obligatory)*

# COUNCIL REGULATION (EEC) No 2467/81

## of 24 August 1981

## imposing a definitive anti-dumping duty on potato granules originating in Canada

THE COUNCIL 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 12 thereof,

Having regard to the proposal from the Commission, after consultations within the Advisory Committee set up by Article 6 of Regulation (EEC) No 3017/79,

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 concerned, to increase their prices to a level sufficient to eliminate the dumping margin found and exempted exports of the latter 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 products concerned at a loss on the domestic market; whereas normal value was established, therefore, on the basis of the constructed value including in particular a 6 % profit margin; whereas subsequently Vauxhall contested the methods of the finding of dumping and in particular the addition of the 6 % profit margin; whereas it was not necessary to examine the merits of these arguments because, for the purpose of the final determination of the dumping margin, the Commission determined normal value on the basis of sales on the domestic market made at a price which was not less than the cost of production; whereas these sales represented approximately one-third of total domestic sales volume during the period of investigation and were considered, therefore, to constitute 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 such as 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 owing to a shortage of potatoes in Canada in the current 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 established by the Commission and Vauxhall did not supply any supporting evidence in respect thereto; whereas the Commission has therefore definitively concluded that the dumped imports have caused material injury to the Community industry concerned;

Whereas Vauxhall Foods Ltd have voluntarily undertaken to increase their prices to a level which eliminates the injurious effects of their exports to the Community; whereas the Commission has accepted this undertaking;

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

Whereas, although the only two companies known to be exporting potato granules to the Community have voluntarily undertaken to increase their export prices, protection of Community interests nevertheless requires the imposition of a definitive anti-dumping duty, in order to avoid the price levels established by the undertakings being under-cut by future exports made by other Canadian manufacturers; whereas the level of this duty should be equal to the rate of the provisional duty which was applied to exporters other than Vauxhall, and which has never been challenged; whereas Community interests also call for the definitive collection in their entirety of the amounts secured by way of provisional anti-dumping duty;

Whereas it is appropriate, however, to exclude the exports made by Vauxhall and Carnation, whose undertakings have been accepted by the Commission, from the application of this definitive duty,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. A definitive anti-dumping duty is hereby imposed on potato granules falling within Common Customs Tariff heading No ex 11.05 and corresponding to NIMEXE code ex 11.05-00, originating in Canada. This duty shall not apply to potato granules exported by Carnation Inc., Carnation Foods Company Ltd and Vauxhall Foods Ltd, Canada.

2. The duty referred to in paragraph 1 shall be equivalent to 4·481 European units of account per 100 kg net weight.

3. The provisions in force for the application of customs duties shall apply to this duty.

*Article 2*

The amounts secured by way of provisional anti-dumping duty in accordance with Commission Regulation (EEC) No 1101/81 shall be definitively collected.

*Article 3*

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

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

Done at Brussels, 24 August 1981.

*For the Council*

*The President*

P. WALKER