II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 17 July 1986

terminating the anti-dumping proceeding concerning imports of Portland cement originating in the German Democratic Republic, Poland and Yugoslavia

(86/344/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee as provided for under the abovementioned Regulation,

Whereas :

A. PROCEDURE

1. In January 1985 the Commission received a complaint lodged by the 'Liaison Committee of the Cement Industries in the European Economic Community' acting on behalf of the national organizations of cement manufacturers in the Community and representing substantially all Community production of cement.

   The complaint contained *prima facie* evidence of dumping and at least of threat of injury resulting therefrom which was considered sufficient to justify initiating a proceeding in order to establish whether the facts alleged existed and justified any action being taken. The Commission accordingly announced, by a notice in the *Official Journal of the European Communities* (2), the initiation of an anti-dumping proceeding concerning imports into the Community of Portland cement, falling within Common Customs Tariff heading No ex 25.23, originating in the German Democratic Republic, Poland, Spain and Yugoslavia, and commenced an investigation.

2. The Commission officially so advised the exporters and importers known to be concerned, the representatives of Yugoslavia and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

3. The exporters of the product originating in the German Democratic Republic and Poland made their views known in writing, requested and have been granted hearings.

   The Yugoslav producers/exporters concerned in this proceeding made their views known in writing, requested and have been granted a hearing.

   Some of the importers of the product concerned from the countries involved in this proceeding made their views known in writing, but only a few have requested and been granted hearings.

4. One Danish user of the product concerned made a submission to the Commission.

(1) OJ No L 201, 30. 7. 1984, p. 1.

(2) OJ No C 84, 2. 4. 1985, p. 5.

5. The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following:

(a) *Community producers:*

Denmark: Aalborg Portland, Aalborg,

Federal Republic of Germany:

— Alsen-Breitenburg Zement- und Kalkwerke GmbH, Hamburg,

— Nordcement AG, Hannover,

— Teutonia Zementwerk AG, Hannover,

Ireland: Irish Cement Ltd, Dublin,

Italy:

— Italcementi SA, Bergamo,

— Friulana Cementi Spa, Travesio,

— Savic Sementeria di Cadola Spa, Belluno,

— Cementeria di Monselice Spa, Bergamo,

— Cementi Verona Spa, Verona,

— Cementi Piave Spa, Treviso,

United Kingdom:

— Blue Circle Industries Plc, Aldermaston,

— RTZ Cement Ltd, Peterborough,

— The Rugby Portland Cement Plc, Rugby;

(b) *Producers/exporters:*

Spain:

— Cementos Rezola SA, San Sebastian,

— Cementos Alfa SA, Santander,

— Cementos del Norte SA, Madrid,

— Cementos Portland de Limona SA, Bilbao,

— Cementos Portland SA, Pamplona,

— Corporation Noroeste SA, Vigo,

— Tudela Veguin SA, Oviedo,

— Tracoisa SA, Madrid,

Yugoslavia:

— Salonit Anhovo, Nova Gorizia,

— RO Astra Tvornica Cementa, Umag,

— RO Tvornica Portland Cementa, Koromacno;

(c) *EEC importers:*

Denmark:

— BC Industricement APS, Roskilde,

— assisted by representatives of NIC AB (Helsingborg),

Ireland:

— O'Brien Ltd, New Ross,

— Irish Agricultural Wholesale Society Ltd, Dublin;

(d) *Other companies:*

— Babcock Hydro-Pneumatics Ltd (London), which had been involved in the design and construction of the Rostock terminal (GDR),

— The Axel Johnson Group (Stockholm) and Skandinavska Cement AB (Stockholm), both involved in trade in the product concerned originating in the German Democratic Republic.

6. In the course of the proceeding the Greek manufacturers, representing approximately 11 % of total Community production of cement, withdrew their support from the complaint, mainly because the allegedly dumped imports were considered most unlikely to represent a threat of injury to them.

7. With regard to the import of the product concerned originating in Spain, the proceeding has been continued as of 1 January 1986 on the basis of Article 380 (3) of the Act of Accession of Spain and Portugal.

8. The period under investigation with regard to dumping and price undercutting was 1 October 1984 to 31 March 1985. With regard to injury and threat of injury, facts which occurred after 31 March 1985 were generally not taken into consideration.

B. DUMPING

(a) German Democratic Republic

Normal value

9. In order to establish whether the imports from the German Democratic Republic were dumped, the Commission had to take account of the fact that that country does not have a market economy and the Commission therefore had to base its determinations on the normal value in a market economy country. In this connection, the complainants had suggested the Spanish market. However, due to lack of cooperation from the Spanish producers, it was impossible to determine properly normal value in Spain. The Commission, therefore, considered determining normal value in Yugoslavia, the other market economy country involved in this proceeding. The exporter of the product originating in the German Democratic Republic was informed by the Commission of this choice and did not submit comments.

The Commission is satisfied that both in Yugoslavia and the German Democratic Republic there are comparable production processes used by the manufacturers concerned and that there are, in both countries, products of a comparable quality manufactured.

The Commission therefore concluded that it would be appropriate and not unreasonable to determine normal value on the basis of domestic prices charged in Yugoslavia for the type comparable with the type originating in the German Democratic Republic. It was determined that during the period under investigation, normal value in Yugoslavia remained unchanged at one particular level between 1 October 1984 and 26 December 1984 and at another level between 27 December 1984 and 31 March 1985.

Export price

10. Export prices were determined on the basis of the prices actually paid for the product sold for export to the Community.

Comparison and dumping margin

11. In comparing normal value with export prices to the Community, the Commission took account, where appropriate, of differences in conditions and terms of sale such as transport costs and payment terms.

12. The export price of each individual transaction has been compared at an ex-works level with the normal value relating to the period during which the transaction took place.

The weighted average dumping margin so calculated amounts to 34 % on a cif-Community-frontier basis, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

(b) **Poland**

Normal value

13. In order to establish whether the imports from Poland were dumped, the Commission had to take account of the fact that that country does not have a market economy and the Commission therefore had to base its determinations on the normal value in a market economy country. In this connection, the complainants had suggested the Spanish market. However, due to lack of cooperation from the Spanish producers, it was impossible to determine properly normal value in Spain. The Commission, therefore, considered determining normal value in Yugoslavia, the other market economy country involved in this proceeding. The exporter of the product originating in Poland was informed by the Commission of this choice and did not submit comments.

The Commission is satisfied that both in Yugoslavia and Poland there are comparable production processes used by the manufacturers concerned and that there are, in both countries, products of a comparable quality manufactured.

The Commission therefore concluded that it would be appropriate and not unreasonable to determine normal value on the basis of domestic prices charged in Yugoslavia for the type comparable with the type originating in Poland. It was determined that during the period under investigation, normal value in Yugoslavia remained unchanged at one particular level between 1 October 1984 and 26 December 1984 and at another level between 27 December 1984 and 31 March 1985.

Export price

14. Export prices were determined on the basis of the prices actually paid for the product sold for export to the Community.

Comparison and dumping margin

15. In comparing normal value with export prices to the Community, the Commission took account, where appropriate, of differences in conditions and terms of sale such as transport costs and payment terms.

16. The export price of each individual transaction has been compared at an ex-works level with the normal value relating to the period during which the transaction took place.

The weighted average dumping margin so calculated amounts to 54 % on a cif-Community-frontier basis, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

(c) **Yugoslavia**

Normal value

17. Normal value was provisionally determined on the basis of the domestic prices of the producers concerned who exported the type concerned to the Community and who provided sufficient evidence concerning the prices actually paid in the ordinary course of trade for Portland cement intended for consumption in Yugoslavia.

It was determined that during the period under investigation normal value remained unchanged at one particular level between 1 October 1984 and 26 December 1984 and at another level between 27 December 1984 and 31 March 1985.

Export price

18. Export prices were determined on the basis of the prices actually paid for the product sold for export to the Community.

Comparison and dumping margin

19. In comparing normal value with export prices to the Community, the Commission took account, where appropriate, of differences in conditions and terms of sale such as transport costs, payment terms and commissions.

20. The export price of each individual transaction has been compared at an ex-works level with the normal value relating to the period during which the transaction took place.

The weighted average dumping margin so calculated amounts for both RO Astra Tvornica Cementa and RO Tvornica Portland Cementa to 25 % on a cif-Community-frontier basis, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

C. INJURY

21. With regard to the injury allegedly being caused by the dumped imports, the evidence available to the Commission shows that imports into the Community as constituted on 31 December 1985 from the German Democratic Republic, Poland, Spain and Yugoslavia of the product concerned, excluding imports from the German Democratic Republic into the Federal Republic of Germany, increased from 165 397 tonnes in 1981 to 552 101 tonnes in 1984, with a consequent increase in the aggregated market share held by these exporting countries from 0,13 % in 1981 to 0,47 % in 1984.

22. With regard to the resale prices of these imports, it was found that during the period under investigation they significantly undercut the prices of the Community producers most concerned.

The levels of price undercutting found were as follows :

— imports into the UK of the product originating in :

— GDR up to 19 %,
— Poland up to 5 %,
— Spain up to 19 %,

— imports into Ireland of the product originating in :

— GDR up to 14 %,
— Spain up to 21 %,

— imports into Denmark of the product originating in :

— GDR up to 6 %,
— Poland up to 6 %,

— imports into the Federal Republic of Germany of the product originating in Poland :

up to 35 %,

— imports into Italy of the product originating in Yugoslavia :

up to 7 %.

23. With regard to the possible impact of the dumped imports on the situation of the producers in the Community as constituted on 31 December 1985, account has to be taken of the following factors :

(a) production of the Community producers decreased between 1981 and 1984 in all Member States (Greece excluded) by an average of 13 % except in the United Kingdom, where it increased by 6 % ;

(b) utilization of the production capacity of most of the Community producers decreased between 1981 and 1984, except in the United Kingdom ;

(c) since the product concerned is not suitable for holding large quantities in stock, it is reasonable to assume that sales figures follow the trend of production figures ;

(d) the market share held by the producers in the Community as constituted on 31 December 1985 decreased from 99,74 % in 1981 to 99,39 % in 1984 ;

(e) the number of people employed by the Community producers concerned in the United Kingdom, Ireland, Denmark, the Federal Republic of Germany and Italy decreased by 17 % between 1981 and 1984 ;

(f) some of the Community producers were not able to raise their sales prices in order to enable them to follow the general trend of price increases ; some granted special rebates or extended payment terms ;

(g) the profitability of most of the Community producers concerned in the United Kingdom, Denmark, the Federal Republic of Germany and Italy developed positively between 1981 and 1984 ; the profitability of the sole producer in Ireland developed negatively during this period.

24. It is considered that the development of the factors mentioned under recital 23, in so far as it was negative, is predominantly caused by factors other than the dumped imports, such as :

(a) a significant decrease in demand for the product concerned in a number of Member States due to the recession in the building industry ;

(b) the restructurng and the rationalization of some of the main Community producers concerned leading to a reduction in the number of producers and plants and to a contraction of employment ;

(c) cost involved in important investments carried out by producers in some of the Member States linked to the conversion from oil to coal energy and new technology ;

(d) competition resulting from intra-Community trade in the product concerned, which was, in the period from 1981 to 1984, considerably higher than imports from third countries.

25. Since the profitability of most of the Community producers, which they claimed in this sector to constitute the main factor to be viewed under Article 4 of Regulation (EEC) No 2176/84, did not generally deteriorate despite the negative development of a number of other criteria, the Commission, particu-

larly in the light of the extremely low market share held by the dumped imports, considers that the development of the factors mentioned above cannot be held to constitute material injury to the Community producers of the product concerned in the Community as constituted on 31 December 1985 from the dumped imports under consideration.

Furthermore, it is considered in view of the facts mentioned above that factors other than dumped imports considerably affected the Community producers and that, therefore, no clear causal link between the dumped imports and the situation of the Community producers could be established.

D. THREAT OF INJURY

26. With a view to examining whether a determination of threat of injury could be made, it was considered whether a change of circumstances, which would create a situation in which the dumping would cause material injury, could be clearly foreseen and was imminent.

27. Therefore the Commission examined the production capacity of the producers in the exporting countries concerned, their spare production capacity, their exports to the Community and other countries, the rate of increase of their exports to the Community, their export facilities, their import facilities within the Community and the likelihood that in the future substantial quantities of the product concerned will be imported into the Community, leading to material injury for a major proportion of the Community industry.

(a) Findings concerning producers/exporters in the German Democratic Republic

28. Production capacity in the German Democratic Republic was estimated at 12 million tonnes and exports to third countries other than the Community amounted to approximately 500 000 tonnes per year.

29. A new terminal with a throughput capacity of an estimated 1 million tonnes per year was set up in Rostock (DDR) and became operational in 1984. The installations in Rostock make it possible to load vessels with a capacity of at least 15 000 tonnes. The storage capacity available in Rostock during the reference period was estimated at 6 800 tonnes.

30. In 1983 Limex, the exclusive exporter of the product concerned in the German Democratic Republic signed a contract with a trading company in the United Kingdom concerning future sales via the Rostock terminal for the United Kingdom and Ireland. The quantities provided for in this contract were the following): ... [1] tonnes in 1984, ... tonnes in 1985 and ... tonnes in 1986. An extension of the contract by two years was also provided for. On the basis of this contract, the trading company was granted the exclusive right to import bulk cement and cement in big bags (1 500 kilograms per bag) into the contract territory. It was also provided in the contract that re-exports to other markets would be possible.

31. As far as imports of the product in small bags to the United Kingdom is concerned, Limex sold to at least six importers who were able to distribute the product all over the country and who developed a regular customer service.

32. Limex also signed a contract with a large Irish cooperative made up of a great number of agricultural cooperatives with a total demand of approximately 100 000 tonnes per year. So far, they are not satisfying more than one quarter of their needs with the imported product. Their storage capacity was estimated at 3 000 tonnes.

33. Limex also signed a contract with a large Scandinavian trading concern, on the basis of which the latter became a non-exclusive purchaser of the product concerned, at least in bulk for the Danish market. The marketing of these imports in Denmark was undertaken by another Scandinavian company.

34. With regard to sales for the Belgian and the Netherlands markets, a contract for the supply in 1985 of 10 000 tonnes to each of these Member States was signed. The Belgian importer has a storage capacity of at least 2 000 tonnes.

(b) Findings concerning producers/exporters in Poland

35. Production capacity for the product concerned in Poland is estimated to reach 20 million tonnes per year. Effective production is estimated to have amounted in 1984 to only 13 million tonnes, leaving significant spare production capacity unused.

36. Total exports of the product concerned from Poland are estimated to have increased from 485 000 tonnes in 1981 to 600 000 tonnes in 1984, although contracts and the national plan had foreseen exports of much larger quantities.

37. As far as exports to the Community are concerned, Minex, the only Polish exporter of the product concerned known to the Commission, signed several contracts with foreign companies.

38. With a view to supplying the United Kingdom and Denmark, Minex signed an exclusive long-term contract with NIC AB, a Swedish company related to one of the main cement traders in the world.

[1] In the published version of the Decision, some figures have hereinafter been omitted, pursuant to the provisions of Article 8 of Regulation (EEC) No 2176/84 concerning non-disclosure of business secrets.

With regard to the United Kingdom, both companies signed in 1982 a contract providing for a minimum quantity of 200 000 tonnes per year. This target has, however, not been met. It was also foreseen that NIC would provide and finance equipment and staff for loading the vessels. Furthermore, NIC would organize the transport to and within the United Kingdom.

In Grimsby, NIC (UK), an affiliate of the Swedish company, has available a terminal which makes it possible to import at least 100 000 tonnes per year, and a storage capacity of 10 000 tonnes. A distribution system enabling it to supply customers on a regular basis in different parts of the United Kingdom was set up. The company is also capable of assisting customers in technical matters.

The 1985 contract complementing the basic contract of 1982 provided for the supply of 70 000 tonnes of the product concerned in big bags (1 500 kilograms per bag). Already in 1984 NIC was actively marketing the product concerned in small bags (50 kilograms per bag).

With regard to the Scandinavian market (including Denmark) Minex signed in 1982 with NIC AB a contract valid until at least 31 December 1985. The 1985 contract complementing the basic contract of 1982 provided for a quantity of 30 000 tonnes in bulk. The company is also responsible for transport by sea or rail to Denmark. For the reception of cement in Denmark the company constructed a silo in Køge (DK) with a capacity of almost 1 400 tonnes, which became operational at the beginning of 1985. The company also developed a close business relationship with its customer, which was originally a transport company.

39. In order to supply the Federal Republic of Germany, Minex signed in 1984 with HGS Baustoffe GmbH (FRG) (hereinafter called 'HGS') a long-term contract for the supply of at least 1 million tonnes of the product concerned in bulk between 1985 and 1989. The implementing contract for supplies in 1985 provided for the sale of 185 000 tonnes to HGS. That company chartered a vessel for the transport of the product concerned to the Federal Republic of Germany and has a silo with a storage capacity of 2 000 tonnes in Hamburg. Its customer in West Berlin has a storage capacity of 1 300 tonnes.

(c) Findings concerning producers/exporters in Yugoslavia

40. Production of all Yugoslav producers of the product concerned decreased between 1981 and 1984 from 9 613 700 tonnes to 9 031 900 tonnes. Their domestic sales decreased during the same period from 8 862 576 tonnes to 8 453 289 tonnes. Their total exports increased during the same period from 716 450 tonnes to 1 082 329 tonnes (mainly to Egypt and Italy), i. e. by 51 %.

41. The three Yugoslav producers/exporters who were alleged to have dumped the product concerned in Italy have a production capacity of 1 610 000 tonnes per year. Their production and sales increased between 1981 and 1984 by 2 %. Their total exports increased during the same period from 64 932 tonnes to 295 395 tonnes.

42. Salonit Anhovo has a storage capacity of 45 000 tonnes (three silos of 15 000 tonnes each) at the plant. So far, exports to Italy have only taken place in bulk by truck. The market for supplies in bags was considered unattractive. Representatives of Salonit Anhovo admitted that exports by rail to Italy are in principle possible, but require the building of a silo on the Italian side. Such a project was not yet planned.

On 30 October 1981 Salonit Anhovo signed an exclusive supply contract with an Italian importer, Mark. On the basis of this contract, the following supplies were made : . . . tonnes in 1981, . . . tonnes in 1983, . . . tonnes in 1984 and . . . tonnes during the first three months of 1985. According to information available to the Commission, the contract is still in force.

However, Salonit Anhovo has also been supplying 8 000 to 9 000 tonnes per year to another company, Simek, for the purpose of supplying a consortium of concrete producers and another 5 000 tonnes to a producer of concrete tubes in Italy.

43. RO Tvornica Portland Cementa (Koromacno) exported to Italy only the puzzolanic quality falling outside the scope of the investigation. On 13 April 1984 a contract was signed between this Yugoslav company, an exporting company, a transporting company and an Italian importer, Marex, providing for the supply of 20 000 tonnes of puzzolanic cement per year.

44. RO Astra Tvornica Cementa (Umag) concluded an agreement with Marex for the supply of 20 000 tonnes of the product concerned in 1983. On 3 August 1984 the same Yugoslav producer, an exporting company and an Italian importer, signed a contract for the supply of 60 000 tonnes of OPC and pussolanic cement (in bags or bulk) per year.

45. On 18 September 1984 an agreement was initialled between those Yugoslav producers/exporters concerned and the Italian cement producers established in the Veneto-Friuli area near the Yugoslavian/Italian border, with a view to the supply of a maximum of 75 000 tonnes per year. It was expected that the contract would enter into force on 1 January

1985 and would be valid for four years. Furthermore, the contract provided that the export price of the Yugoslav product would remain below prices on the Italian market, should price increases be authorized by the Italian authorities. Simek, a mixed company of which 51 % of the capital shares are held by Italian companies and 49 % by Yugoslav companies, would act as an intermediary. The contract also contained a clause providing that a possible anti-dumping proceeding would not be prejudicial to the fulfilment of the contractual obligations of the partners. Despite strong pressure exercised by the Italian companies on the Yugoslav producers, the agreement was never finalized.

46. On 30 April 1985 the three Yugoslav producers/exporters concerned signed an agreement with several Italian companies providing that Unical, of which Unicem, one of the main cement producers in Italy, and Calcestruzzi, each own 50 % of the shares, would act as the exclusive importer of ... tonnes of Yugoslav cement per year in Italy. This contract was considered to replace all contracts previously concluded with Italian importers. It entered into force on 30 April 1985 and is valid for five years.

According to Unical and Unicem, the former is expected to act independently of the shareholders. A copy of the contract on this matter between both shareholders was not submitted, despite several express requests from the Commission.

The contract with Unical is complemented by an agreement dated 30 April 1985 amongst the three Yugoslav producers providing that each of them will, in theory, contribute to the quantities concerned in the proportion 55 %, 30 % and 15 % respectively. In practice, however, only Salonit Anhovo will physically export to Italy. Separate contracts implementing the basic agreement were signed by Salonit Anhovo and each of the other two producers.

(d) Exports of the dumped products to the Community and their rate of increase

47. The dumped imports from the German Democratic Republic, Poland, Spain and Yugoslavia into the Community as constituted on 31 December 1985 increased by 68 % between 1981 and 1984, leading to an aggregated market share held in 1984 in the Community by the product originating in the four countries concerned of only 0,47 % (imports from the German Democratic Republic into the Federal Republic of Germany excluded).

(e) Likelihood of increased exports of the dumped products to the Community

(i) With regard to imports originating in the German Democratic Republic

48. Immediately after the signing of the contract in 1983 between Limex and the trading company (see recital 30), one of the three manufacturers of the product concerned in the United Kingdom signed a 'back to back' contract with the latter taking over his rights and obligations. In April 1985 a complementary contract was signed between the manufacturer in the United Kingdom, the trading company and the agent of Limex, mainly because the original contract had not been executed as foreseen (the exporter had not been able to supply the quantities originally contracted for and the manufacturer in the United Kingdom did not have sufficient demand for the product). Although Limex still considers the delivery of ... tonnes per annum as the target, the new contract provides for the supply of ... tonnes per annum up to October 1987. Furthermore, it concerns also the supply of cement in small bags (50 kilograms) but not on an exclusive basis.

49. The 1983 contract with Limex enabled, and is likely to continue to enable, the manufacturer concerned in the United Kingdom to divert from its home market all imports of bulk cement and cement in big bags, which represent the majority of sales of the product concerned on the UK market. Furthermore, the complementary contract of 1985 will enable the same manufacturer also to control to some extent imports of the product concerned in small bags into the United Kingdom and Ireland.

50. There is no evidence available to the Commission showing that imports from the German Democratic Republic into Denmark directly or indirectly via the Scandinavian companies mentioned in recital 33 are likely to increase significantly above the level reached in 1984 when they held a market share of 0,52 %.

51. Imports of the product concerned into the Federal Republic of Germany, where they represented in 1984 a market share of 1,82 % which is significantly higher than the market share held in that Member State by the product concerned originating in any other country, fall within inter-German trade and are, therefore, not subject to this proceeding. Also, German producers did not complain about these imports.

52. Imports of the product concerned into Benelux are restricted by quota, the level of which is set pursuant to a Community procedure.

53. There were no imports into France or Italy and there is no evidence that such imports are likely to take place in the future.

(ii) With regard to imports originating in Poland

54. Imports into the United Kingdom, where substantial efforts were made in order to achieve an effective market penetration, represented in 1984 only 0,4 % of the market. Even if the target of 200 000 tonnes had been met in 1984, the market share would not have been more than 1,5 %.

55. Imports into Denmark, another Member State on which the Scandinavian company mentioned in recital 38 concentrated its efforts, reached in 1984 a market share of 1,34 %. Even if an amount of 30 000 tonnes had been imported (see recital 38), the market share would have been only 2,2 %.

56. On the basis of the information available to the Commission, it appears that the main manufacturers concerned in the Federal Republic of Germany set up a joint venture, which acquired 50 % of the share capital of the importing company 'HGS'. Furthermore, the manufacturers seem to have made arrangements enabling them to control the distribution and marketing of this product in the future.

57. Imports into other Member States did not take place and there is no evidence that such imports are likely to take place in the future.

(iii) With regard to imports originating in Yugoslavia

58. Imports into Italy in 1984 amounted to a market share of 0,44 %. Even if, during the first nine months of 1985, 218 000 tonnes had been imported, that would represent only a 0,56 % share of the market in Italy. Furthermore, as mentioned above, Italian manufacturers have already taken steps in order to limit future imports.

59. No significant imports were made into other Member States and there is no evidence that such imports are likely to take place in the future.

(f) Findings with regard to the alleged loss of other outlets

60. The anti-dumping measures taken by Norway concerning imports of the product originating in the German Democratic Republic, by recommendation of 13 July 1984, which could possibly have led to a diversion of trade to the Community, were repealed in December 1985.

61. The Swedish authorities did not take any formal action against imports of the product concerned originating in the German Democratic Republic and Poland. These countries only entered into voluntary export restraints on the basis of which their exports to Sweden would not exceed ... tonnes per year. It is considered that these quantities do not lead, in the light of the total available production capacity of both exporting countries, to a significant risk of diversion of trade to the Community.

62. In view of the fact that total Yugoslav exports of the product concerned increased from 716 450 tonnes in 1981 to 1 082 329 tonnes in 1984 and that exports by the three Yugoslav companies involved in this proceeding to non-Community countries increased from 0 tonnes in 1981 to 175 000 tonnes in 1984, there is no likelihood of increased imports resulting from a loss of outlets elsewhere.

63. In the light of the facts mentioned above, in particular those relating to measures taken by some of the main Community producers concerned in order to prevent future imports of substantial quantities of the product and the extremely low market share held in 1984 by these dumped imports, it is considered that the change in circumstances, which would create a situation in which the dumping would cause material injury to a major proportion of the Community industry, cannot, at present, be foreseen and is not imminent. In addition, the investigation did not substantiate the complainants' allegation that imports into the Community would increase as a result of a loss of outlets for the producers/exporters of the countries concerned in this proceeding in third countries.

E. REGIONAL THREAT OF INJURY

1. IMPORTS INTO IRELAND, THE UNITED KINGDOM AND DENMARK

64. Considering that :

(i) producers in Ireland, the United Kingdom and Denmark sell almost all their production (95 %, 99 % and 93 %) on their respective domestic markets ; and

(ii) demand in each of these markets is not supplied to any substantial degree by producers of the product in question located elsewhere in the Community (market shares held by the product originating in other Member States on Irish, UK and Danish markets in 1984 were 4,27 %, 2,41 % and 1,16 % respectively) ;

Ireland, the United Kingdom and Denmark may be considered in the framework of this proceeding to constitute isolated markets within the meaning of Article 4 (5) of Regulation (EEC) No 2176/84.

(a) **Imports into Ireland**

65. Dumped imports originating in the German Democratic Republic reached 13 275 tonnes in 1982 and increased to 21 452 tonnes in 1983. In 1984 they decreased to 18 038 tonnes, i. e. by 16 %.

The market share held by these imports amounted to 0,85 % in 1982 and to 1,47 % in 1983. In 1984 it decreased to 1,32 %.

66. Dumped imports originating in Spain no longer fall within the scope of this proceeding. There were no imports from other third countries into Ireland.

67. It is considered that, apart from the facts already mentioned above with regard to a possible threat of injury on a Community-wide basis, in the present case, where the market share held by the dumped imports in Ireland is so low and the quantities of dumped imports did not show a continuous increase, there is no imminent threat of material injury to the Irish industry for the product concerned.

(b) **Imports into the United Kingdom**

68. Dumped imports originating in the German Democratic Republic increased from 11 tonnes in 1981 to 17 977 tonnes in 1982 and further to 56 019 tonnes in 1983. In 1984 they amounted to 52 343 tonnes.

The market share held by these imports was negligible in 1981 and reached 0,14 % in 1982. In 1983 it increased to 0,42 % ; in 1984 it dropped to 0,38 %.

69. Dumped imports originating in Poland increased from less than 60 tonnes in 1981 and 1982 to 13 207 tonnes in 1983 and further to almost 60 000 tonnes in 1984. The market share held by these imports was negligible in 1981 and 1982 ; in 1983 it amounted to 0,1 % and increased in 1984 to 0,4 %.

70. Dumped imports originating in Spain no longer fall within the scope of this proceeding. There were no imports from other third countries into the United Kingdom.

71. It is considered that, apart from the facts already mentioned with regard to a possible threat of injury on a Community-wide basis, in the present case the aggregated market share of the dumped imports amounting to 0,78 % in 1984 does not represent an imminent threat of material injury to the manufacturers in the United Kingdom.

(c) **Imports into Denmark**

72. Dumped imports originating in the German Democratic Republic increased from 52 tonnes in 1981 to 182 tonnes in 1982 ; in 1983 they increased to 7 546 tonnes ; in 1984 they decreased to 6 999 tonnes.

The market share held by these imports was negligible in 1981 and 1982 ; in 1983 it amounted to 0,62 % and in 1984 it decreased to 0,52 %.

73. Dumped imports originating in Poland increased from 13 157 tonnes in 1981 to 14 495 tonnes in 1982 ; in 1983 they decreased to 11 276 tonnes and in 1984 they increased to 18 146 tonnes.

The market share held by these dumped imports increased from 1,08 % in 1981 to 1,24 % in 1982. In 1985 it decreased, however, to 0,92 % and in 1984 increased to 1,34 %.

74. There were no imports from other third countries into Denmark.

75. In view of the fact that the dumped imports originating in the German Democratic Republic and Poland do not show a continuous increase, the market shares held by these imports are considered too low to represent an imminent threat of material injury to the Danish industry concerned.

2. IMPORTS INTO THE FEDERAL REPUBLIC OF GERMANY AND ITALY

76. With regard to Community producers in the Federal Republic of Germany and Italy, the Commission found that plants situated in the north-eastern regions of those Member States were almost the only ones concerned by the dumped imports. Therefore the Commission examined whether those regions could be considered as distinct markets within the meaning of Article 4 (5) of Regulation (EEC) No 2176/84. However, the evidence available to the Commission in particular with regard to sales made in those areas from elsewhere in the Community did not enable the Commission to determine that these regions may be considered as regional markets on their own.

Although the Commission did not receive full information with regard to the situation of all producers located elsewhere in the Federal Republic of Germany and Italy outside the north-eastern regions in those Member States, it appears on the basis of the information otherwise available that both Member States may be considered to constitute regional markets, considering that producers in the Federal Republic of Germany and Italy sell 93,8 % and 98,8 % respectively of their production on their domestic market and the market share held by supplies from elsewhere in the Community repre-

sents 2,85 % and 0,19 % respectively. However, the data available to the Commission show that the market share held by dumped imports in the Federal Republic of Germany and Italy amounted in 1984 only to 0,56 % and 0,44 % respectively, which is considered, in the light of the findings made above, insufficient for taking action.

F. Termination of the proceeding

77. In these circumstances, therefore, the proceeding concerning imports of Portland cement originating in the German Democratic Republic, Poland and Yugoslavia should be terminated without the imposition of measures.

78. However, as objections to this course of action were raised in the Advisory Committee by several Member States, the proceeding was not terminated by the Commission, but a proposal to that effect was submitted by the Commission to the Council.

Since the Council did not decide otherwise within one month, the proceeding stands terminated in accordance with Article 9 (1) of Regulation (EEC) No 2176/84.

79. The complainants were informed of the essential facts and considerations on the basis of which the Commission intended to terminate this proceeding. Subsequently, they made their comments known to the Commission.

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of Portland cement originating in the German Democratic Republic, Poland and Yugoslavia is hereby terminated.

Done at Brussels, 17 July 1986.

For the Commission

Willy DE CLERCQ

Member of the Commission