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2/90  Community merger control law

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4/90  The European Community and German unification
Commission statement on German unification, 3 October 1990

The Community and German unification
Communication from the Commission to the special session of the European Council in Dublin on 28 April 1990

The Community and German unification: implications of the Staatsvertrag
Communication from the Commission to the European Council in Dublin on 25 and 26 June 1990

The Community and German unification
(presented by the Commission to the Council on 22 August 1990)

Document drawn up on the basis of SEC(90) 751, SEC(90) 1138 and COM(90) 400
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On 3 October 1990 Germany was united once more. The German people thus regained their rightful place in Europe and the world. This was the culmination of a fervent ambition solidly supported by the Community and its Member States. The Commission shares the joy of the German people at this historic development, which will give a new thrust to a stronger and more united Community as it looks forward to economic and monetary union and to political union.

The Community institutions have done their utmost to enable the integration of the former German Democratic Republic into the Community to proceed as smoothly as possible within the deadlines set by the pace of events. The Commission’s immediate reaction was that the integration of the Democratic Republic into a unified Germany, and hence into the Community, could be done in stages without any need to amend the Treaties. By April the Commission was already considering the practical arrangements which unification would involve. Out of this emerged a blueprint for integration which it laid before the European Council and this was adopted at the special meeting in Dublin on 28 April.

The Heads of State or Government agreed that, subject to the necessary transitional provisions, the integration of the territory of the German Democratic Republic would take effect without any revision of the Treaties as soon as unification was legally established. At the same time, the European Council noted that the Commission would submit proposals for transitional measures to the Council, as part of a comprehensive report.

Welcoming the European Council’s wholehearted support for the unification process, the European Parliament, and in particular its specially constituted temporary committee, was closely associated from the outset with the Commission’s appraisal of the implications of unification, in which the authorities of the two Germanys were also involved.

Parliament and the Council made all the necessary procedural arrangements and adjusted their timetable to ensure that the former German Democratic Republic was harmoniously incorporated into the Community’s legal system. This has been done according to the rules of law and in good order, despite the sharp acceleration of the process since April 1990, which entailed an extensive delegation of powers to the Commission to enable it to bring in interim measures designed to be swiftly superseded by a package of transitional measures. Close cooperation between the institutions has helped to complete the legislative process in a remarkably short period of time for a package of such dimensions.

In this Supplement to the Bulletin the Commission is publishing the principal documents laid before the Council and Parliament in connection with German unification and the integration of the former Democratic Republic into the
Community. The five new Länder of the Federal Republic and the united city of Berlin all now belong to the Community family.

The measures set out in this Supplement form the basis for the integration into the Community of these Länder and for their gradual economic and social adjustment to the Community way of life.
Commission statement on German unification 3 October 1990

Today is the day on which the German people has finally become one. The European Commission shares its jubilation. We welcome the entry into the Community family of five new German Länder: Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia, together with the reunited city of Berlin.

The citizens of East Germany, after decades of oppression, will henceforth be living in a free and democratic society, in prosperity and solidarity. It is worth reflecting here on the prophetic commitment which the authors of the constitution of the Federal Republic of Germany made to the German people in the aftermath of the Second World War — 'to achieve in free self-determination the unity and freedom of Germany' and 'to serve the peace of the world as an equal partner in a united Europe'. This commitment is being honoured today. It has likewise always been the objective of the European Community to bring about German unification as part of the process of European integration.

The Federal Republic's membership of the European Community was an essential asset in the accomplishment of German unification. Yet at the same time the Community would not be what it is today without the Federal Republic. The constructive part played by the Federal Republic over the last 40 years has contributed in no small measure to shaping the Community — making it a Community based on the rule of law, on solidarity and stability. And it is from these very principles that the Community draws its strength and power of attraction, notably in the eyes of the peoples of Eastern, Central and Southern Europe.

German unification has provided new impetus for a stronger and more united Community moving towards economic and monetary union and political union. The solution of the German problem in the Community framework will speed up the Community's own progress towards unity.

The Community institutions have all done their utmost to bring about the integration of what was the German Democratic Republic as smoothly as possible and within the timescale allowed by the unification process. However, we realize full well that the process of adjustment will be a painful one. The Commission intends to do whatever it can to limit the stresses and strains that will inevitably arise.

The divided Germany was part of a divided Europe. German unity opens the way to unity for the whole of Europe. The opening of the Brandenburg Gate is a symbol of this new prospect for our continent. The integration of the former German Democratic Republic enhances the identity of the Community whose boundaries it has extended. Strengthened by a unified Germany, the Community will be in a better position to act as the driving force for a pan-European area of cooperation and stability, consolidate the Atlantic Alliance, establish closer relations with the USSR and strengthen its links with its other partners in the world at large. The Community will discharge to the full its increased res-
ponsibilities towards its new neighbours in Central and Eastern Europe: it will support the transformation of their economies and help them to develop and enrich their rediscovered democracies.
The Community and German unification

Introduction

1. At the Strasbourg European Council on 8 and 9 September 1989, the Heads of State or Government reaffirmed their commitment to German unification through free self-determination in a peaceful and democratic process, in full respect of the relevant agreements and treaties and of all the principles defined by the Helsinki Final Act, within a context of dialogue and East-West cooperation.

Elections have now been held. The German people have delivered a clear verdict in favour of unity. The conditions have therefore been met for a dynamic and orderly process of unification to go ahead. This process is compatible with the goals of European integration, as was also emphasized at the Strasbourg European Council. Integrating the German Democratic Republic within the Community will call for solidarity and a balanced approach.

2. The step-by-step integration of more than 16.5 million people into a united Germany and hence into the Community — a de facto enlargement — poses a major challenge to the German authorities and the Community.

The unreliability of the economic data and the uncertainty surrounding currency conversion make any comparisons between the two Germanys — whether in terms of GDP, per capita GDP, or balance of trade — difficult and speculative, and any attempt to compare the German Democratic Republic with the other Community countries all the more so. The macro-economic aggregates calculated on these bases have to be treated with great caution to take account of the qualitative aspects (the mediocre state of services and infrastructures, and serious environmental problems) as well as the purely quantitative aspects.

The German Democratic Republic's economy may appear relatively strong in broad terms, with per capita GDP markedly higher than in the other CMEA countries and approaching the Community average. Closer inspection reveals severe structural shortcomings and deficiencies in production plant but also real growth potential that could no doubt be quickly stimulated by the need to catch up and modernize.

Looking at the shortcomings and deficiencies, notable effects include the woeful state of housing and the roads and the manifest inadequacy of the rail network and communications system. The environmental situation, too, is extremely grave and the effect of this is felt well beyond the German Democratic Republic itself.

As for the potential for lasting growth, the level of both general and technical education among East Germans is good and certain sectors (chemicals, optics, electronics, machine-tools) still retain some industrial and technological advantages. There is also a substantial reservoir of untapped productivity gains in terms of labour, capital and business organization, as well as a strong attraction for foreign capital and direct investment, in particular from the Federal Republic, the other Member States and the EFTA countries.

The Commission considers that the unification of Germany represents not only a challenge but also a major opportunity for the Community as a whole because of the additional investment, growth, trade and contacts it will generate at all levels.

Unification procedure

3. Federal constitutional law offers several avenues towards unification. The choice between the procedure laid down in Article 23 of the Basic Law and that of Article 146 is a matter for the Federal Republic and the German Democratic Republic.

Both procedures allow for prior negotiations between the two Germanys on the conditions for unification and would make it possible to take into account developments as they occur during talks on the external aspects of unification. But it should be stressed that the Article 23 procedure is simpler as far as the Community is concerned.

As stated on several occasions, the integration of the territory of the German Democratic Republic into a unified Germany and hence into the Community constitutes a 'special' case. For this reason Article 237 of the EEC Treaty — which relates to the accession of other States — does not apply.
The integration of the German Democratic Republic into the Community through German unification, therefore, does not amount to accession in formal terms. However, the practical problems involved are on a par with those posed by the most recent enlargements of the Community. Now, as then, integration into the Community will proceed by stages, requiring transitional measures to facilitate the gradual application of the 'acquis communautaire'.

One of the first major differences by comparison with a 'normal' accession is that the initial stage of the German Democratic Republic's integration into the Community will take place within the framework of the German unification process, in other words ahead of formal integration into the Community. A second difference lies in the special nature of the case and the absence of the usual negotiations on the conditions of accession. At Community level the similarities noted above and these special features will have to be taken into account to ensure optimum integration of the German Democratic Republic into the Community from the very outset of the interim phase.

As far as the Commission can tell at the moment, it should be possible to integrate the German Democratic Republic in the Community without the need to amend the Treaties. This, of course, is assuming that the body of new legislation applicable in the territory of the German Democratic Republic is compatible with the Treaties as a whole and in particular with those provisions that are directly applicable.

Integration scenario

4. The Commission sees the integration of the German Democratic Republic into a unified Germany, and hence into the Community, taking place by stages:

(i) The first will be the interim adjustment stage, beginning with the introduction of inter-German monetary union, accompanied by a number of social and economic reforms (Währungsunion, Wirtschafts- und Sozialgemeinschaft).

(ii) The second, transitional stage will begin with the formal unification of the two Germanys.

(iii) The full application of the 'acquis communautaire' will not take place until the final stage.

During the interim adjustment stage, the German Democratic Republic will gradually bring in the legislation necessary for step-by-step integration into the Federal and Community system. Consequently, the integration of the German Democratic Republic into the Community will partly take place ahead of formal unification of the two Germanys.

The start of the transitional stage will coincide with the formal unification of the two German States. Community legislation, both primary and secondary, will then automatically apply in the territory of the German Democratic Republic except where the Council specifically decides otherwise (temporary exceptions) on a proposal from the Commission.

Decisions to allow these exceptions will be taken by the competent institutions, sector by sector, on the basis of the relevant Treaty articles. The European Parliament will be involved in the Community's decision-making process under either the consultation or the cooperation procedure. After taking the initiative of setting up an ad hoc committee, Parliament called for this in the resolution it adopted.

Problems arising during the interim adjustment stage

5. This stage comprises:

(i) the introduction of inter-German monetary union;

(ii) the parallel introduction of the economic and social reforms essential for the progressive introduction of a social market economy in the German Democratic Republic;

(iii) the progressive integration of the German Democratic Republic into the economic system of the Federal Republic and gradual adjustment of the German Democratic Republic's legislation to bring it into line with Federal and Community law.

A large part of the German Democratic Republic's integration into the Community, then, will take place during this stage, and this will affect the working of the Community and will substantially influence the transitional arrangements applicable once formal unification has taken place.

Care will therefore already have to be taken at this stage to ensure that the process of German unification is compatible with Community law, by facilitat-
ing the German Democratic Republic's gradual integration into the Community and preparing the transitional arrangements in good time. Provisions to this effect should be included, as necessary, in any treaty between the Federal Republic and the German Democratic Republic covering this initial stage.

6. The introduction of inter-German monetary union — and in particular the question of what conversion rates will apply — is essentially a political and economic choice which rests with the two Germanys. Nevertheless this choice will involve both macroeconomic and monetary consequences for the Community as a whole. The gradual transformation of the East German economy to the social market model will go hand in hand with large-scale industrial restructuring, which will involve substantial aid from the public purse. The Commission will have to be able to assess such aid in the light of the Community rules on competition. This implies that the Commission will have to be informed in advance in order to ensure that all aids granted are compatible with the Community's objectives and do not discriminate between Community firms and distort competition.

The same attention should be given during the interim period to arrangements between enterprises, State monopolies and public procurement procedures. Lastly, the Commission feels that VAT will have to be introduced in the territory of the German Democratic Republic during this stage.

7. The introduction of the Deutschmark in the German Democratic Republic and the transfer of monetary sovereignty to the Bundesbank constitute the basic elements of German monetary union. A crucial point will be the conversion rate(s) of East German marks into Deutschmarks. The choice of the rate(s) must hold the balance between the need to avoid creating excessive purchasing power, weakening the competitiveness of East German enterprises and causing unemployment as a result, and the need to take account of the German Democratic Republic population's expectations that wages and pensions will catch up with West German standards.

Decisive and immediate economic reforms will have to take place in the German Democratic Republic. To overcome the adjustment problems, investment on a massive scale and additional social transfers are required. Opening up the goods and services, labour and capital markets, together with considerable private investment (from the Federal Republic, other Member States and the rest of the world) and public transfers will build a base for a catching-up process which could be fairly rapid. But this adjustment period must be able to rely on a labour market that works, an employment, training and conversion policy and the introduction of a social policy for the unemployed.

Exports to the German Democratic Republic could provide a strong boost for demand in the Federal Republic of Germany and the Community, which could translate into a higher growth rate in the medium term.

As far as the Commission can see at present, the most likely prospect is that of a significant positive impact on growth in the Federal Republic and the Community in general. The Federal Republic could enjoy a one percentage point higher growth rate in the next couple of years. This would in turn stimulate Community growth on average by an additional 0.5 percentage points.

To limit the risk of inflationary pressures in the Federal Republic and to help stimulate growth throughout the Community, it will be important for all the Member States to have the same ease of access to the market in the German Democratic Republic to enable them to participate in the restructuring process.

It is likewise important that the Government of the Federal Republic inform and consult the Community about all the steps it takes in the context of German monetary union. The further adjustment of the policy mix within the Community must be coordinated with the competent Community institutions and in the framework of the process of multilateral surveillance at the first stage of economic and monetary union.

8. Parallel to German monetary union, some decisive and immediate reforms towards a social market economy will be introduced in the German Democratic Republic. They will include:

(i) a comprehensive reform of the price system, which is distorted by subsidies and does not reflect the relative scarcities of goods;

(ii) a reform of the money and credit system;

(iii) a reform of the tax and social security system in the direction of the Federal Republic's system;

(iv) the establishment of an economic and legal framework allowing free enterprise, private property and privatization of public enterprises.

The Commission considers these reforms to be totally in line with preconditions for the German Demo-
The interim period should be used to the utmost to prepare for the application of the basic Treaty provisions guaranteeing free movement of goods and services via the principle of mutual recognition and of secondary legislation on harmonization in the areas of public health and technical safety. During the interim period, the Protocol on German internal trade and the existing controls will continue to apply.

The current volume of German internal trade is not very large: somewhat less than ECU 3 500 million in both directions. Trade with the other Member States amounts to around ECU 1 400 million. Re-export of East German goods from the Federal Republic is negligible. It seems probable that initially, during the interim phase, the trade flow from the Federal Republic to the German Democratic Republic will increase more rapidly than in the opposite direction. The Commission considers that the use of all the instruments available under the Protocol on German internal trade should be sufficient to avoid any distortions of trade, including agricultural trade, during the interim phase. It will make sure that this is the case throughout that phase.

Likewise, in respect of Member States' exports to the German Democratic Republic, equality of access will need to be ensured.

From the outset of the interim period, the restructuring of the East German economy will require the input of capital from private and public sources. To begin with, there is the possibility of help through the various instruments available under the scheme for coordinating international economic and financial assistance, in particular through the European Bank for Reconstruction and Development (EBRD).

The German Democratic Republic would also be eligible for aid under the Tempus programme and for assistance from the future European Training Foundation.

The Commission takes the view that the German Democratic Republic should be given access to Community loan facilities (EIB, Euratom, ECSC) from the outset.

Whether, during the interim period, there should be a special Community aid programme (as for Portugal) along the lines suggested by Parliament is a question which the Commission intends to put to the European Council.

Problems arising during the transitional stage

12. The problems of adaptation to a market economy and of integration into the Community are under active examination by the two Germanys and the Commission as well. They concern both the external commitments of the German Democratic Republic and the application of the internal policies of the Community.

On the external side there is the question of the unified Germany taking over German Democratic Republic commitments. The application in the unified Germany of the Community's external policy and commitments will take place from the date of unification, subject to any transitional measures of a technical kind.

An important principle of the application of the internal policies of the Community — in particular the internal market, structural policies, environment and transport — in the unified Germany from the date of unification should be that this should take place with as few exceptions and transitional arrangements as possible. Until 1 January 1993 controls could, if necessary, be operated within the unified Germany. From that date only end-use control will be possible.

13. The question of external agreements falls into two categories: on the one hand, the application by the unified Germany of agreements already con-
cluded by the German Democratic Republic and, on the other hand, the application of the Community's external agreements in the territory of what is now the German Democratic Republic. The German Democratic Republic has a large number of international agreements which fall mainly into three types: cooperation agreements, framework agreements normally of five-year duration, and annual commercial arrangements — and reflect very closely the present pattern of the German Democratic Republic's trade.

Sixty-five per cent of the German Democratic Republic's current trade is with CMEA countries (of which 40 % is with the Soviet Union alone and 25 % with other CMEA countries), 20 % with OECD countries (including about 8 % intra-German trade) and 5 % with developing countries. The Commission will study these agreements in consultation with the Federal Republic and the German Democratic Republic in order to establish how far they are consistent with Community rules and practice or whether they may require some transitional or other exceptions.

It is important also to recognize that continuation of traditional trade flows has a role to play in maintaining good political and commercial relations with other East European countries. In many cases also, it will be in the interest of the unified Germany that production which is geared to export to some East European countries should continue. The current pattern of trade between the German Democratic Republic and the Soviet Union, in particular, is based mainly on imports of energy and raw materials from the Soviet Union and the export of manufactured goods directed especially to the needs of the Soviet market.

The Commission has also examined the question of the application of the Community's existing international commitments in the whole territory of a unified Germany. Technically, the changes necessary in order to ensure the full respect of the regime at the external frontiers and when goods have passed into free circulation are complex and need close examination. Obviously, once unification is effected the Community, as a legal personality within international organizations, will cover the whole territory of a unified Germany.

14. On the internal side the questions which require the most careful attention are:

(i) the best means of integrating the German Democratic Republic into the Community's internal market;
(ii) respect for competition policy;
(iii) the application of common policies, notably those in agriculture and fisheries, to the current territory of the German Democratic Republic after unification;
(iv) the application of the structural policies of the Community, notably in the absence of a fully reliable statistical basis for their application and in the light of the very different economic structure of the German Democratic Republic;
(v) the application of other policies — notably those in the environment and transport sectors, where the needs of the German Democratic Republic are evident;
(vi) the financial consequences of unification for the Community.

15. As far as the internal market is concerned, it is not excluded that from the date of unification, on a temporary basis, some differential treatment might be required for goods and services from the current German Democratic Republic territory in respect of technical regulations or other harmonized provisions.

The Commission does not foresee any major difficulty as far as the free movement of persons, services and capital is concerned. From the date of unification at the latest, German Democratic Republic territory will be part of the customs union, which implies integral application of CCT and commercial policy arrangements except for the necessary transitional measures which may be adopted to take account of the external arrangements of the German Democratic Republic.

The Commission considers, however, that it would be highly desirable if the number of transitional arrangements and exceptions in relation to the internal market after 1 January 1993 should be limited as far as possible. From that date the internal frontiers in the Community will be removed and the form of control will have to be adapted.

Linked with the progressive application of the internal market to the current territory of the German Democratic Republic will be strict attention to the avoidance of distortions of competition. It is probable that there will be a very high level of investment in the current territory of the German Democratic Republic in coming years. It will be necessary to ensure that it does not give rise to serious distortions of competition in goods and services.

The authorities of the Federal Republic of Germany have agreed to inform the Commission of all aid measures designed to rebuild the German Demo-
cratic Republic’s economy. The Commission will examine the likely effect of such measures on intra-
Community trade in order to prevent any distortions of competition and to ensure non-discriminatory
access for all Community firms irrespective of their place of establishment.

The new context of a unified Germany will also require a re-examination by the Commission of cer­
tain existing aid schemes in the Federal Republic (Zonenrandgebiet, West Berlin).

The same attention should be given to the applica­
tion of competition rules applying to agreements
between firms. It may be necessary to apply these
rules in a sensitive and flexible way to take account
of new market realities. Such agreements should not
distort competition or affect trade between Member
States.

16. When new members have joined the Com­
munity in the past, the question of the gradual applica-
tion of the price system of the common agricultural
policy has given rise to detailed and specific excep-
tions. The pattern of agriculture in the German
Democratic Republic differs very considerably from
that in the Federal Republic of Germany. Its agricul-
ture is dominated by agriculture cooperatives (LPG)
or State farms (VEG), which cover almost 95 % of the
cultivated land. The average size of farms is very
large — over 4 500 hectares on average for arable
farms — and thus represents in general a form of
paid employment rather than of family farms.

Notwithstanding satisfactory technical performance,
overall productivity in the German Democratic
Republic’s agriculture is below West European stan-
dards, mainly owing to its organization and excess
labour force.

The trend of produce prices in the German Demo-
cratic Republic will depend largely on how its agri-
cultural system is phased into a market economy as
from the entry into force of Inter-German monetary
union.

The Commission is of the opinion that the introduc-
tion of Community agricultural prices and support
systems, at least by 1 January 1993, should not be
excluded at the level of production.

For certain products there are very substantial con-
sumer subsidies in operation in the German Demo-
cratic Republic’s agriculture depend on the decisions
of those engaged in that production, but the complica-
tions, including the question of land ownership, are
considerable and may take some time.

The integration of the German Democratic Republic
into the fisheries policy will pose some awkward
problems. German unification will result in a substan-
tial increase in the capacity of the Community fleet,
whereas resources are already very limited. The
capacity of the German Democratic Republic’s fleet
(which is roughly twice the size of that of the Federal
Republic) is out of all proportion to the resources to
which it can have access.

As regards markets, fundamental adjustments to the
production and marketing structures in the German
Democratic Republic are clearly essential. The inte-
gration of the German Democratic Republic’s fleet
into the fishing industry’s structural arrangements
will also require adjustments to the existing set-up.

In terms of internal resources, unification would
mean a small increase in the Community fishing
zone in the Baltic. Allowing the German Democratic
Republic’s fleet access to the other zones could jeo-
pardize the balance in fishing capacity currently in
use and the existing balance between Member States.
This is especially the case with precautionary TACs,
which are not shared out between Member States,
given the size of the German Democratic Republic’s
fleet and its tendency to concentrate on certain stocks
(blue whiting, horse mackerel, etc.).

On the external front, the Community will have to
take over the bilateral agreements concluded by the
German Democratic Republic, and this may entail
complex negotiations.

17. As from unification, the Community structural
policies will apply to German Democratic Republic
territory. By that time the massive and urgent task of
economic and social restructuring in the German
Democratic Republic will be under way.

Reorganization and restructuring will affect all sec-
tors of the economy and imply vast investments in
capital and human resources. The financial burden of
these investments will necessarily be a shared one. A
large part of the investment effort in the productive
sector will be undertaken by the private sector. Addi-
tional funding will be necessary from public sources,
mainly from the Federal authorities.

German Democratic Republic territory will also be
entitled to Community assistance in accordance with
the structural Fund regulations. The criteria contained in these regulations pose certain problems of applicability to the German Democratic Republic in addition to the difficulty caused by the absence of reliable statistics. It can, however, be assumed that the territory of the German Democratic Republic is beset by the same type of problems as are encountered by other regions of the Community and that it will therefore be eligible under one or more of the structural policy objectives.

As far as the European Social Fund is concerned, emphasis should be put on those interventions which enable the German Democratic Republic to meet the challenges of the market economy (vocational training and occupational integration).

The total volume of Community aid will depend on the classification of the regions of the German Democratic Republic with reference to the various objectives of the structural policies.

18. Among the other policies, technical adjustments and transitional measures will probably be required in transport policy and the social sphere (health and safety).

In the field of transport it should also be noted that there is a considerable need for infrastructure improvements.

However, the area which calls for the most particular attention — because of the gravity of the situation in the German Democratic Republic and the urgency of the problem — is the environment.

The roots of the problem go back to the effort made by the German Democratic Republic from its very beginnings to achieve maximum economic autarky, which led to the development and retention of very highly polluting and technologically outdated industries, with a heavy toll in terms of their impact on the environment and public health. For example, the German Democratic Republic is one of the last countries still running a major coal-based chemical industry based on massive use of brown coal.

First, a distinction has to be made between plants where pollution is too high for them to be adapted (which will have to be closed down) and those where anti-pollution equipment could be fitted to bring them closer into line with Community levels. For the latter, it is clear that transitional, and in some cases long-term, exemptions from Community standards will be necessary.

Second, the new investment sectors will have to meet Community requirements. Account will have to be taken of the cross-frontier aspects of pollution (e.g. Elbe, Baltic).

Massive economic investment will be required to retrieve the environmental situation. This applies both to the adaptation of existing plant and to the construction of new plant.

The grave environmental situation is a phenomenon common to all the countries of Central and Eastern Europe. In this connection, the Commission warmly welcomes the special conference due to be held in Dublin in June to consider this whole problem. It believes that the Community, together with the other Western nations, should demonstrate solidarity in the search for solutions.

More generally, a new energy policy for the German Democratic Republic will have to be defined, based on the exploitation of new sources and improved energy efficiency. In this context the problem of nuclear safety will also have to be tackled.

19. As far as the budgetary impact of the German Democratic Republic’s integration into the Community is concerned, the Commission’s view is that any figures are bound to be guesswork at this stage. The position will, of course, become clearer once the arrangements for inter-German monetary union are settled. But even that will not remove all uncertainty.

On the expenditure side, the cost will largely be determined by the impact of integration on the CAP and the scale of intervention under the structural policies.

On the revenue side, too, much will depend on the transitional arrangements and the macroeconomic impact.

In general terms, we are likely to see vigorous economic growth in the German Democratic Republic, generating higher demand throughout the Community, and an increase in imports from the other Member States. This additional growth will be reflected in additional revenue.

Conclusions

The entry of the German Democratic Republic into the group of democratic countries and the forthcom-
The Commission considers that German unification offers an opportunity for reinforcing and speeding up European integration.

The Commission sees no reason whatsoever for concluding that the process of German unification and the place of the unified Germany in the European Community will hold back the development of the Community's relations with other countries in Central and Eastern Europe or with the Community's other neighbours or with the Third World. On the contrary, the new developments point to a more prosperous and more open Community, confident in its own democratic values and its increased role in the world.
The Community and German unification: implications of the Staatsvertrag

Introduction

1. The draft Treaty on monetary, economic and social union (Staatsvertrag) between the Federal Republic of Germany and the German Democratic Republic represents a decisive step towards German unification. The Staatsvertrag, which is scheduled to come into force on 1 July 1990, involves the immediate introduction of monetary union (with transfer of sovereignty to the Bundesbank) and the gradual integration of the German Democratic Republic in the economic and social system of the Federal Republic of Germany. Under Article 11(3) of the Staatsvertrag, the German Democratic Republic will align its policy on Community objectives. The preamble states that the provisions of the Treaty must ensure that Community law is applied after the achievement of German unity. The Staatsvertrag is thus both the legal framework and the main instrument for the gradual integration of the German Democratic Republic into the legal order of the Community ahead of the formal unification of the two Germanys.

2. In line with the conclusions of the special meeting of the European Council in Dublin, the Federal Government has regularly informed the Community (Council meetings on general affairs or economic and financial affairs) about the progress of the inter-German negotiations on the Staatsvertrag. The Commission too has had detailed talks with the Ministers and State Secretaries in the Federal Government responsible for the various areas covered by the Staatsvertrag. The Commission has also, on a number of occasions, been able to discuss in detail with the Federal Republic of Germany's main negotiator how the proposed Staatsvertrag will affect the Community's powers. The Commission has thus been able to state its views on certain basic principles and on the substance itself of various provisions.

3. The purpose of this paper is to:
(i) give a brief summary of the contents of the Staatsvertrag;
(ii) assess its compatibility with Community law;
(iii) discuss various macroeconomic implications at Community level;
(iv) comment on the effects ahead of integration;
(v) highlight certain immediate implications to ensure the success of the interim period;
(vi) set out the timetable for adjusting Community law to integrate the German Democratic Republic into the Community.

Staatsvertrag: main points

4. The main points of the monetary union part of the preliminary Staatsvertrag concern the conversion rate, the treatment of enterprise debt and restrictions on public finances.

From 1 July 1990, the Deutschmark will become the only means of payment in the German Democratic Republic. Sovereignty in the conduct of monetary policy is taken over by the Bundesbank. The prevailing regulations of bank supervision will also apply in the German Democratic Republic. Wages and pensions which prevailed at 1 May will be converted at a rate of 1:1. In general, debt and claims will be converted at a rate of 2:1. However, for residents of the German Democratic Republic, the conversion rate for savings including cash money will be 1:1 within the following limits: children (age group 0 to 14) DM 2 000, adults (age group 15 to 60) DM 4 000, elderly (age group over 60) DM 6 000. Remaining money in circulation and savings — with some macroeconomically minor exceptions — will be converted at a rate of 2:1.

Non-residents are allowed to exchange East German marks at a rate of 3:1 into Deutschmarks, however, only to the extent that these have been issued by German Democratic Republic banks after 31 December 1989.

As cash money can be converted on the same conditions as savings accounts, equalization activities first among families but also among the population in general can be expected. Therefore, the theoretical maximum amount of 64 billion East German marks will probably be converted into Deutschmarks at a rate of 1:1, leading to equalization needs (Ausgleichs-
forderungen) on the balance sheet of the German Democratic Republic Government of about DM 32 billion.

5. Regulations affecting public finances in the budgets of both the Federal Republic of Germany and the German Democratic Republic concern transfer payments from West to East, budget and borrowing rules for the German Democratic Republic's budget, the German Democratic Republic's public debt after unification, revenue and expenditure structure of the German Democratic Republic's budget.

Public transfers in particular consist of support for the old-age pension scheme and unemployment insurance (Anschubfinanzierung). These transfers will be limited as they will correspond to budget positions announced in the budget of the Federal Republic of Germany.

As regards budget procedures, the German Democratic Republic is obliged to introduce the West German tax system. Strict borrowing requirements will prevail for different budgets, excluding the social security budget. Approval by the Minister for Finance of the Federal Republic of Germany is required for a budget deficit.

Public debt which exists at the time of unification will become public debt of the German Democratic Republic's Länder. This would relieve the Federal budget of any additional debt burden associated with a unified Germany.

While on the revenue side the German Democratic Republic will have to introduce the Federal Republic of Germany's tax system, on the expenditure side subsidies for private households and the housing sector will have to be reconsidered or abolished. As regards agriculture, CAP regulations will be introduced. Salaries for public servants will have to take account of the general economic and financial conditions in the German Democratic Republic.

A financial fund named 'Deutsche Einheit' has been created to provide financial resources to the German Democratic Republic. The overall amount is DM 115 billion, of which DM 20 billion should be provided by expenditure cuts, while the remaining DM 95 billion will be financed on the capital market. Liabilities are equally shared between the Federal Government and the Länder.

The fund is designed to finance two thirds of the predicted budget deficit of the German Democratic Republic within the next four and a half years. It is not project-linked, i.e. to rebuild the infrastructure of the German Democratic Republic. Moreover, it does not include supplementary contributions to the social security system in the German Democratic Republic. The total amount is spread over a period of four and a half years. The contributions of the Federal Republic of Germany to the German Democratic Republic's budget deficit amount to two thirds of the territorial authorities' deficit in 1990 and 1991. Therefore, fiscal policy in the German Democratic Republic seems to be under a constraint not to exceed the expected deficit.

Any potential financial risks will mainly be borne by the Federal Government, as the existing revenue-sharing mechanisms, i.e. sharing of income tax, value-added tax and the horizontal Länder equalization mechanism (Länderfinanzausgleich) will not be altered until 1994.

6. On economic union, the Staatsvertrag provides for the introduction of the basic rules governing market economies in the German Democratic Republic, e.g. contract freedom between economic agents, abolition of administered prices, wage autonomy on both sides of industry and private property rights.

As regards trade, the conditions of German-German trade concerning goods of German origin will be normalized and treated as inter-regional trade. There will be no border and customs control for goods of German origin and exports to the other parts of Germany will not initiate special VAT procedures. Goods of non-German origin will be treated as normal imports (exports). An intra-German border control will thus still be necessary. Both parties, however, have agreed to prepare the ground for the abolition of the intra-German border as soon as possible.

Special quantitative rules can also be introduced in agricultural trade with the Federal Republic of Germany. Nevertheless, the German Democratic Republic is introducing EC regulations including the respective producer price system.

The structural adjustment of enterprises can be supported by the government of the German Democratic Republic by providing financial resources during a transition period. This support is however dependent upon the financial situation of the German Democratic Republic's budget and the consent of the Federal Government must be obtained.

7. According to the social union part, pension, health, accident and unemployment insurance will be administered by self-governing bodies under the legal supervision of the State. They are mainly financed
through contributions by employers and employees (normally 50% each). The German Democratic Republic introduces an unemployment insurance scheme comparable to the Federal Republic of Germany’s. A health insurance scheme will be established. In the case of illness, wages are paid by employers according to the regulations in the Federal Republic of Germany. Pensioners have to contribute to the health insurance system.

Pensions are fixed at a level that represents 70% of the average net wages in the German Democratic Republic (after 45 years of paying contributions to the pension system). If the pension would fall below the previous East German pension, the amount of the previous pension will be paid in DM. Pensions will be adjusted according to the development of net wages. If, during a transitional phase, regular contributions to the pension and unemployment schemes do not fully cover expenditures, the Federal Republic of Germany will make a transitory contribution (Anschubfinanzierung).

Compatibility of the Staatsvertrag with Community law

8. During the negotiation of the Staatsvertrag the Federal Government had the job of pursuing the objective of preparing the ground for German unification and at the same time protecting Germany’s rights and obligations deriving from Community law.

It was helped by two factors. First, Community law already makes allowance for Germany’s special situation, in particular with the Protocol on German internal trade and connected problems. Second, from the start of the negotiations between the two Germanys, the objective of the Staatsvertrag was to gradually align the law and policy of the German Democratic Republic on Community law.

This objective is reflected in:

(i) the preamble to the Staatsvertrag, where the contracting parties state their intention that the Staatsvertrag should ensure application of Community law after unification;

(ii) Article 11(3), which provides that the German Democratic Republic should gradually align its economic policy on Community law and the Community’s economic objectives, while at the same time respecting the existing economic links with Comecon;

(iii) the first of the principles enshrined in a Protocol annexed to the Staatsvertrag which, as stated in Article 4, is designed to allow the adjustment of German Democratic Republic law to be directed by the requirements of the monetary, economic and social union to be attained by the Staatsvertrag. This fundamental principle is that German Democratic Republic law will be shaped in accordance with the principles of a free, democratic, social and constitutional order and will move towards the legal order of the European Community.

9. The general content of the Staatsvertrag, including its nine annexes, and the institutional arrangements for its application are compatible with Community law, given what has been said above. A number of areas covered by the Staatsvertrag are, however, within the Community’s jurisdiction. This is in particular the case with Article 13, which deals with commercial policy, an area where the Community has exclusive powers.

The final text of the Staatsvertrag contains provisions which take account of these considerations:

(i) Article 35 provides that the Staatsvertrag does not affect the international treaties concluded by the Federal Republic of Germany and the German Democratic Republic, which means that from the outset there is no incompatibility between the obligations which the Federal Republic of Germany has contracted with the German Democratic Republic and its obligations towards the Community;

(ii) Article 13(3) of the Staatsvertrag, which provides for close cooperation between the contracting parties to defend their external policy interests, stipulates that this cooperation must not infringe the powers of the European Communities.

10. It would have been desirable to stipulate that the arbitration tribunal provided for in Article 7 of the Staatsvertrag should seek preliminary rulings from the Court of Justice in accordance with the procedure in Article 177 of the EEC Treaty when it has to settle disputes between the contracting parties on the interpretation of the Staatsvertrag which involve matters of Community law. However, it is not essential that this be stipulated, since it can be argued that it derives automatically from the combined provisions of Article 35 of the Staatsvertrag and Article 177 of the EEC Treaty interpreted in the light of the objectives of aligning the German Democratic Republic’s law on Community law as mentioned at
point 1. The Federal Government should be able to give an undertaking that it will defend this point of view in any procedure before the arbitration tribunal.

There is, in fact, a certain link between this tribunal and the Community, because if the parties fail to agree, the President of the Court of Justice will have to appoint its President.

11. The objective of aligning the German Democratic Republic's law on Community law is pursued in many areas in the Staatsvertrag. The Commission hoped that in this context the principle of equal treatment for Community nationals and firms would be clearly asserted. The provisions of the Staatsvertrag on agriculture are wholly satisfactory from this point of view: Article 15 of the Staatsvertrag on the alignment of the German Democratic Republic’s system of price stabilization and external protection on the CAP contains a provision that the German Democratic Republic will refrain from introducing levies or refunds in trade with the other 11 Community countries provided that the Community does likewise with the German Democratic Republic (Article 15(1)).

The Staatsvertrag can be interpreted to mean that this principle applies to the provisions of the Staatsvertrag concerning the alignment of the German Democratic Republic's customs system on the Community system (Article 30 of the Staatsvertrag on customs law and Article 12(2) on customs surveillance).

Similarly, it can be argued that the basic principles of a market economy as stated in Article 2 of the Staatsvertrag will be applied with due respect for equal treatment for Community nationals and firms in the areas of Community jurisdiction.

When the Staatsvertrag was signed, the German Democratic Republic stated that it will afford nationals and firms from all the Community Member States, on a basis of reciprocity, the same treatment as natural persons and firms in the Federal Republic of Germany if the matter concerned might affect the areas of jurisdiction of the European Communities and there is no express provision to the contrary in the Staatsvertrag.

In view of the objectives of the Staatsvertrag, the statement made by the German Democratic Republic when it was signed and the assurances given by the Federal Government, it can be stated that this equality of treatment will be respected in the application of the Staatsvertrag in the areas of Community jurisdiction.

12. The Staatsvertrag will also affect certain more specific areas of Community law. It will be noted in this respect that the parties are resolved to establish 'as soon as possible' the conditions required to completely eliminate controls at the intra-German border (Article 12(3) on intra-German trade) and to remove the tax frontier between them as regards VAT (Article 31(2) on taxation). These provisions must be seen in the context of the Protocol on German internal trade. The Commission has made it quite clear to the Federal authorities that in its view, the existing practice of administrative cooperation with the Commission in the management of German internal trade should make it possible to adapt this management to an increased volume of trade while at the same time continuing to maintain adequate surveillance adapted to the new circumstances. It will be noted that the Staatsvertrag requires the German Democratic Republic to introduce the road tax for lorries planned in the Federal Republic of Germany. The Commission is challenging the compatibility of this tax with Community law.

Macroeconomic implications

13. The prospective economic and monetary unification of the two German States will have a significant positive impact on activity in the Community. It will also contribute to reduce the large external imbalances among some Member States.

Providing the German Democratic Republic's residents with hard currency will probably imply an important shift in the internal demand of the German Democratic Republic towards imports. This will add to the demand effects arising from desired foreign direct investment in the German Democratic Republic and public transfers. All in all, the growth stimulus for the Federal Republic of Germany can be expected to be around 1% of GDP per year in the two years following the introduction of the monetary union, and the effect on the Community as a whole 0.5%.

For the German Democratic Republic a big adjustment process will be required. In the very short run significant imbalances in the form of a current account deficit, a fiscal deficit and unemployment might occur. Provided wages are kept at a realistic level relative to the expected level of productivity, it seems, however, reasonable to expect that substantial investments from both the Federal Republic of Ger-
many and other countries will ensure an accelerated pace of catching-up. To alleviate bottlenecks in infrastructure and ease the adjustment process, transfers from the Federal Republic of Germany are likely to play a considerable role.

14. For the Federal Republic of Germany, the growth dividend referred to above will by the automatic stabilizer effect lead to an increase in the revenue side of the federal budget. This will in some way compensate for the increased transfers to the German Democratic Republic. The likely deficit of the total budget for the two German States will also be reduced by revenues from privatization of public property in the German Democratic Republic.

The labour market in the Federal Republic of Germany will be affected by integration forces arising from monetary, economic and social union and leading to new kinds of spill-over effects. Cross-border contracts will become quite attractive to residents of the German Democratic Republic as they could combine high salaries with low rents.

15. For the Federal Republic of Germany and the rest of the Community the increased demand effect on both consumption and investment might in the short run lead to some inflationary pressure given the already high levels of capacity utilization.

It is, however, to be assumed that the monetary authorities in the Federal Republic of Germany will be reasonably successful in sterilizing the excess liquidity that will result from currency conversion and that transitory distortions in the behaviour of monetary aggregates will not unduly affect long-term inflationary expectations.

To mitigate any potential inflationary pressure and to avoid any overloading of the monetary policies in the Member States, equal access to the market of the German Democratic Republic will be an important factor. The Federal Republic of Germany might also facilitate the process and reduce the burden of monetary policy by a reduction of subsidies.

Outside the Federal Republic of Germany, the positive growth stimulus would facilitate the task of fiscal adjustment in the countries where public deficits or debt are very high. This would be fully in line with the need for more convergence in the Community and would facilitate the process of creating economic and monetary union.

Effects ahead of integration

16. In its communication to the Dublin European Council on the Community and German unification, the Commission stated that the integration of the German Democratic Republic in the Community will be prepared and assisted by the legislative reform required for the gradual integration of the German Democratic Republic in the Federal order during the interim adjustment phase, i.e. before the unification of the two Germanys. The Commission thus expressed the view that the German Democratic Republic would be integrated into the Community ahead of unification. The Staatsvertrag confirms that the Commission was right.

In concluding the Staatsvertrag the German Democratic Republic undertakes to carry out far-reaching legislative reform in a short period of time as support measures for the institution of monetary, economic and social union. There are two main aspects of this reform:

(i) Acceptance by the German Democratic Republic of a large number of the Federal Republic of Germany's laws and regulations, which will be introduced without any change when the monetary union is established on 1 July 1990. It is not only monetary legislation and banking and insurance legislation that is involved, but also major sections of the Federal Republic of Germany's civil law (i.e. the civil and commercial codes) and the main company law and worker participation legislation (Mitbestimmungsgesetze, Betriebsverfassungsgesetz);

(ii) A substantial harmonization operation to adjust the German Democratic Republic's legislation to the general principles to be respected in the monetary, economic and social union, as stipulated in the Staatsvertrag and developed in greater detail in an annexed protocol. This harmonization, which is also to be largely completed by 1 July 1990, will first require the repeal or amendment of a number of the German Democratic Republic's laws and regulations listed in Annex III to the Staatsvertrag. Annex IX then specifies the areas in which the German Democratic Republic must introduce new legislation, e.g. competition, price formation and control, taxes and excise duties.

Accomplishment of this legislative reform will have major consequences for the gradual integration of the German Democratic Republic into the Community legal order, ahead of the unification of the two Germanys.
These consequences will be evident in the legal structures required to accommodate a market economy and in the indirect and direct adjustments to Community law.

17. Integrating the German Democratic Republic into the Community will mean abolishing the centralized economy system and introducing principles and structures, from a legal angle too, to allow gradual development towards a market economy with a social dimension. Such measures are essential to enable the German Democratic Republic to fit into the common market. The Staatsvertrag provides for these reception structures to be set up during the interim adjustment phase:

(i) the monetary reform will involve ipso facto the inclusion of the German Democratic Republic in the European Monetary System and prepare for its subsequent inclusion in European monetary union;

(ii) monetary union, by eliminating all problems of convertibility of currencies and forcing the German Democratic Republic to introduce a banking system in accordance with the principles of a market economy, will clear the ground for the integration of the German Democratic Republic in the Community arrangements for free movement of capital, including freedom of payments under Article 106 of the EEC Treaty and its entrance into the European financial services market;

(iii) introduction of a system of private property, competition with free price formation (ending of State subsidies), contract freedom and freedom to trade;

(iv) recognition of the principles of free movement of workers, capital, goods and services (ending of the State monopoly on external trade);

(v) introduction of social legislation recognizing the basic principles of a social legal order: freedom of association, free negotiation of wages, right to strike, worker participation both in firms and companies, protection in the event of dismissal;

(vi) introduction of a social security system (unemployment, sickness and retirement insurance).

18. The reform of the legislation and regulations to which the German Democratic Republic is pledged under the Staatsvertrag will involve indirect adjustments to Community law in certain sectors. First of all, this will concern some of the Federal Republic of Germany's legislation that the German Democratic Republic will be introducing, where such legislation is of Community origin, e.g. as a result of a harmonization requirement. VAT is an example, as is company law and law on the environment. For instance, upon entry into force of the Staatsvertrag, new industrial plant in the German Democratic Republic will have to satisfy the requirements of the Federal Republic of Germany's environmental legislation, which, in part, is harmonized at Community level. As regards existing plant, the German Democratic Republic has undertaken to satisfy the requirements as soon as possible. This automatic adjustment to Community law may occur in other cases with the process of harmonizing the German Democratic Republic's law in accordance with the principles and guidelines set out in the annexes to the Staatsvertrag, in particular in economic law (including banking and insurance) and social law.

19. In some cases the Staatsvertrag calls for direct adjustment to Community law ahead of unification. To begin with, the German Democratic Republic has given a general undertaking to base itself on the Community legal order when carrying out the legislative reform required under the Staatsvertrag (first of the rules set out in the joint protocol annexed to the Staatsvertrag, governing the process for harmonizing the German Democratic Republic's legislation). Other explicit references to Community law concern the following points:

(i) In adjusting and developing its economic policy the German Democratic Republic will move gradually in the direction of Community law and the Community's economic policy objectives. As regards commercial policy, this principle is in the form of the German Democratic Republic's undertaking to take over, in stages, the customs law of the Community, including the Common Customs Tariff.

(ii) In external economic policy, the German Democratic Republic will have to take into account the GATT arrangements. If this principle is applied it will facilitate the subsequent integration of the German Democratic Republic in the common commercial policy. As regards economic relations with the Comecon countries, and in particular the agreements involved, the Staatsvertrag recommends that the principle of legitimate expectation be respected. It provides for the continuation and development of these relations taking into account the existence of economic and monetary union, the interests of all the parties concerned and application of the principles of a market economy. It is recommended that these international obligations of the German Democratic Republic be adjusted as appropriate, with the agreement of its partners. This adjustment, which will at all events be necessary when the German Democratic Republic is incorporated in the Community, could thus be negotiated during the interim adjustment
period. As the Federal Republic of Germany must be directly involved in these negotiations as provided for in the Staatsvertrag and as this is a matter where the Community has exclusive powers, the Community must be associated as well.

The Staatsvertrag makes provision for this with the reference to the need to respect Community jurisdiction in this area.

(iii) The German Democratic Republic will introduce a system of price support and protection in relation to the outside world corresponding to the market organization system of the common agricultural policy, in order to bring the prices of agricultural products within the country to a level that is comparable with that in the Community.

20. The Staatsvertrag thus makes effective preparations for the integration of the German Democratic Republic in the Community and will make it possible to achieve a substantial part of this integration before unification:

(a) by establishing the essential legal structures to permit the transition to a market economy system;

(b) by indirectly adjusting the German Democratic Republic’s law to Community law in major economic and social sectors;

(c) by providing explicitly for such adjustments in other sectors.

Finally, it should be noted that the Staatsvertrag can be amended by a simplified procedure, i.e. by simple agreement between Governments, should that be necessary to achieve one of its objectives. If the implementation of the Staatsvertrag is a source of serious difficulties for the impending integration of the German Democratic Republic into the Community, it is quite conceivable that this procedure might be applied, as the objective of preparing for the adjustment of the German Democratic Republic’s law to the Community legal order is clearly expressed in the Staatsvertrag.

Management of the interim period

21. The first thing to do is to consider the implications for the management of the Protocol on German internal trade and the consequences of early introduction (before formal unification) of a de facto customs union between the Community and the German Democratic Republic.

As regards management of the Protocol, administrative cooperation with the Commission should make it possible as in the past to avoid any harmful effects for the economies of the other Member States.

In any case the Protocol would become far less important as selling prices in the German Democratic Republic would be formed by the interplay of supply and demand and trade in most products would be liberalized with the advance introduction of a de facto customs union between the German Democratic Republic and all the Member States.

22. According to the Staatsvertrag as interpreted above (point 11), levies, refunds, customs duties and quantitative restrictions would not apply to the Member States other than the Federal Republic of Germany (principle of equal treatment), provided that the Community offers reciprocity. Legal instruments must therefore be provided to make it possible to adopt a mirror approach on the Community side given that external protection and the CCT would apply and all the Member States would be able to export to the German Democratic Republic with no levies, customs duties and quantitative restrictions. This legislation would have to make possible, in due course, the autonomous suspension of customs duties, levies and quantitative restrictions with the German Democratic Republic.

The legislation should authorize the Commission to suspend customs duties and agricultural levies in the light of the measures applied in the German Democratic Republic (including the price level for agricultural products).

Appropriate proposals will be sent to the Council shortly.

Decisions not to apply refunds can be taken by the Commission.

23. The Commission has agreed with the Federal authorities that they will inform the Commission of any measures they take to develop the economy of the German Democratic Republic. Where such measures constitute or contain State aids the Commission will examine them for their compatibility with Article 92 of the EEC Treaty. One such scheme (the extension of the interest subsidies available under the European recovery programme to activities in the German Democratic Republic) has already been
approved by the Commission and a further 11 measures are now under examination. This process will allow the Commission to ensure that all aid measures are in conformity with Community objectives and do not unfairly distort competition.

Article 14 of the Staatsvertrag requires coordination between the Governments of the Federal Republic and the German Democratic Republic on the content of certain structural measures proposed by the German Democratic Republic, and Article 28 provides for financial grants from the Federal budget to compensate for budget deficits in the German Democratic Republic. In so far as the application of these articles leads to aid measures in the German Democratic Republic which can only be implemented after the agreement of the Federal authorities and will be directly or indirectly funded from the Federal budget, the Commission considers that these aids must also be assessed under Articles 92 and 93 of the EEC Treaty. The Commission is in contact with the Federal authorities to agree on the appropriate practical implementing arrangements to ensure control by the Commission of State aids granted by both German authorities.

24. At its special meeting on 28 April 1990 the European Council concluded that during the interim period the German Democratic Republic will have complete access to European Investment Bank loans and to the loan facilities available under the Euratom and ECSC Treaties.

As regards the EIB, the Council (Economic and financial affairs) on 11 June 1990 asked the Bank to provide the German Democratic Republic with loans for investment projects which satisfy the usual conditions governing the operations it finances from its own resources.

The Bank can therefore start up its loan operations in the German Democratic Republic.

The Commission has also just sent to the Council, for its assent, a draft Decision extending to the German Democratic Republic entitlement to all the loan instruments under the ECSC Treaty.

Finally, the Commission has proposed that the Council extend Euratom borrowing operations so that it will be possible to contribute to the financing of investment projects.

These facilities are in addition to Community support as part of the coordinated action of the Group of 24 and participation in Eureka projects.

25. With the entry into force of the Staatsvertrag on 1 July 1990 the interim adjustment will have actually started.

This phase can be expected to be relatively short. It is therefore important that the Commission should continue to be closely involved in the subsequent discussions between the authorities of the two Germanys for the application of the Staatsvertrag in areas of Community jurisdiction and with the objective of gradually integrating the German Democratic Republic into the Community.

Such involvement is also necessary in the discussions between the Federal Republic of Germany and certain non-member countries (particularly the Comecon countries) concerning the external commitments of the German Democratic Republic (Article 13(3) of the Staatsvertrag). The Commission is expecting suitable arrangements to be established in the very near future to enable it to be involved with the Federal Republic of Germany in these discussions. The preparation of the technical adjustments to secondary legislation and the necessary transitional measures will at all events require thorough knowledge of all the facts about the German Democratic Republic and the adjustments to its legislation brought in ahead of the formal unification of the two Germanys.

The legislative proposals must be prepared in close collaboration with the German authorities.

Timetable

26. It is impossible at this stage to set a timetable for German unification, especially as this timetable will depend to a large extent on the accession (of the Länder) of the German Democratic Republic to the Federation under Article 23 of the Basic Law (hence on a decision by the German Democratic Republic).

The specific features of the procedure envisaged for the integration of the territory of the German Democratic Republic into the Community mean that preparations for unification must be made very soon.

The Commission will therefore endeavour to present an overall report in September setting out all the proposals for technical adjustments to secondary legislation and the transitional measures judged necessary.
However, this will involve a great deal of legislative work both for the Commission and for Parliament and the Council.

Preparatory work within the Commission is also frequently handicapped by the lack of reliable facts and statistics about the German Democratic Republic.

An accelerated unification procedure would therefore require major efforts from all the institutions.

At the present time the Commission, in close conjunction with the German authorities, is busy identifying the problems sector by sector.

The entire ‘acquis communautaire’ is being systematically reviewed to see what technical adjustments are required and what are the essential transitional measures. The results will be set out in an overall report to Parliament and the Council, where a clear distinction will be made between political issues and technical matters. They will also serve as the basis for the preparation of proposals for legal instruments. Parliament will be associated with the Council’s decisions under either the consultation procedure or the cooperation procedure.

Where necessary the institutions will have to concert in order to ensure that the legislative preparations are conducted in the manner best suited to the requirements of the timetable for German unification.

As regards Parliament, it can be assumed that the intensive work being done by the ad hoc Temporary Committee on German Unification ahead of the presentation of proposals by the Commission will help to speed up and facilitate the subsequent legislative process within Parliament.

The Commission, for its part, will be maintaining close contacts with Parliament’s ad hoc Committee throughout the preparatory work on the adjustments to legislation.

It sees the interim report which the ad hoc Committee is drafting as an important stage in Parliament’s work on German unification.
The Community and German unification

I — General explanatory memorandum

Introduction

1. Background

1.1. In its communication of 19 April to the European Council, the Commission stated its view that the conditions had been met for a dynamic and orderly process of German unification to go ahead. It also felt that unification should take place under the Community roof and that it offered an opportunity for reinforcing and speeding up the process of European integration.

The Commission views the integration of the German Democratic Republic into a united Germany, and hence into the Community, as a special case. It will have to be done by stages. However, it does not necessarily require any amendment of the Treaties. Working from these premises, the Commission considered the unification arrangements and put before the European Council a suggested scheme for the integration of the German Democratic Republic.

1.2. At its special meeting in Dublin on 28 April, the European Council gave a warm and unreserved welcome to the process of German unification taking place under the Community roof. It expressed the view that the integration of the territory of the German Democratic Republic into the Community should be accomplished in a smooth and harmonious way. In particular it stated that integration would become effective as soon as unification was legally established, subject to the necessary transitional arrangements, and confirmed that it would be carried out without revision of the Treaties.

As regards the transitional arrangements, the European Council noted that the Commission would, as soon as possible and within the context of an overall report, submit to the Council proposals for such measures as were deemed necessary. It went on to state: 'These measures, which will enter into force at the moment of unification, will permit a balanced integration based on the principles of cohesion and solidarity and on the need to take account of all the interests involved, including those resulting from the "acquis communautaire". The transitional measures will be confined to what is strictly necessary and aim at full integration as rapidly as possible.'

1.3. In its resolution of 17 May the European Parliament welcomed the conclusions of the European Council, in particular its unambiguous support for the German unification process and its recognition of the need for this to take place within the European Community context. Parliament also took note of the European Council's statement that the integration of the German Democratic Republic into the Community could take place without revision of the Treaties.

Since then Parliament and especially its Temporary Committee on German Unification, working in close consultation with the Commission and the German authorities, has looked carefully at the implications of German unification for the Community.

In the light of an interim report by the Temporary Committee, Parliament adopted a further resolution on 12 July, in which it particularly welcomed the efforts being made to bring about European integration in parallel with German unification. It believed that German unification must contribute to strengthening the Community politically and economically and considered that any derogations and transitional measures should not weaken central Community objectives, in particular completion of the single market and the achievement of economic and monetary union. It also set out its views on the substance of the measures required during the interim adjustment phase and after formal unification.

Parliament, then, has already spelled out its position on the nature and content of the transitional measures in advance of the Commission's presenting its proposals.

1.4. This communication sets out the Commission's entire package of proposals for legislation effecting the technical adjustments and transitional measures necessary to ensure the harmonious integration of the territory of the German Democratic Republic into the Community.
Following the European Council's special meeting in Dublin on 28 April the process of German unification gathered pace appreciably. This prompted the Commission to speed up its own preparations so as to be able to present proposals for transitional measures in September. With the recent further acceleration in the pace of unification the Commission has decided to bring forward presentation of its proposals to the month of August.

Since the integration of the German Democratic Republic into the Community is a special case, and in view of the planned timetable, these preparations have been conducted in close association with the German authorities, Parliament being kept constantly informed. In drawing up its proposals, the Commission has been especially grateful for the guidance offered by Parliament's resolution of 12 July.

This communication is in four parts:

1: General explanatory memorandum;
2: Sector-by-sector explanatory memorandum;
3: Financial aspects;

1.5. The communication confines itself to the direct consequences of German unification in terms of Community competence and secondary Community legislation.

The economic impact of the integration of the German Democratic Republic into the Community is assessed in the light of the first Staatsvertrag and on the assumption that Community law will be applied in full, subject to the necessary transitional measures.

The assessment of the financial implications covers both the overall impact of integration as well as its impact by sector (or group of sectors) and is accompanied by some indications regarding the financial perspective and the repercussions on the 1991 budget.

The communication does not consider how German unification will affect the internal and external development of the Community nor its geopolitical implications for the construction of a greater Europe.

The fact is, however, that it has already made a substantial contribution:

(i) internally the process of economic and monetary union has gained momentum, as testified by the latest European Council's decision to convene the two intergovernmental conferences:

(ii) on the international stage we are witnessing the end of the cold war and the laying of firm new foundations for peace, security and cooperation and for a strong Community that will play its full part in the process.

2. Unification arrangements and integration scenario

2.1. In its communication of 19 April to the European Council the Commission noted that Federal constitutional law offers several avenues towards unification. It pointed out, however, that the procedure in Article 23 of the Grundgesetz is simpler as far as the Community is concerned. It is now clear that German unification will proceed along these lines.

The accession of the new Länder under Article 23 will take effect with their declaration of accession (Beitrittserklärung). That, then, is the date on which the German Democratic Republic will become an integral part of the Community and on which Community law will begin to apply there.

2.2. The Commission's suggested scenario for the integration of the GDR into a unified Germany and the Community involved several stages, the first of which began on 1 July with the introduction of monetary, economic and social union on the basis of the Staatsvertrag.

The first chapter (p. 30) summarizes the main points of the Staatsvertrag and analyses the economic and monetary impact both on the German Democratic Republic and on the Community and the Federal Republic of Germany.

During the interim adjustment phase, the German Democratic Republic has been progressively introducing the legislation needed for its gradual integration into the Federal and Community system. Although formally the German Democratic Republic remains outside the Community until unification takes effect, its gradual integration with the Federal Republic of Germany in advance of formal unification gives it "unofficial membership" of the Community already. The Community and the German authorities (Federal Republic of Germany and German Democratic Republic) have already acted accordingly, on trade and competition. The second chapter (p. 37) analyses the compatibility of the Staatsvertrag with Community law and summarizes the effects ahead of integration. It also takes stock of
the way the interim phase is being managed in this respect and of access by the German Democratic Republic to loan facilities prior to formal unification, as decided by the European Council. Lastly, it outlines the Commission's plans to provide information for people and firms in the German Democratic Republic, in line with Parliament's resolution of 12 July.

The gradual integration of the German Democratic Republic into a unified Germany will culminate in a Treaty of Union (Einigungsvertrag), which will have to lay down the constitutional and institutional provisions needed to effect the German Democratic Republic's transition and integration into a unified Germany. These provisions will also have to deal with the application and, where necessary, the incorporation of Community law in the new Länder following formal unification.

The third chapter (p. 42) summarizes the main points of the Einigungsvertrag, considering in particular the provisions affecting Community competence and those dealing with the application of Community law.

2.3. Formal unification will mark the beginning of the transitional phase. Community law, both primary and secondary, will then automatically apply in its entirety in the present territory of the German Democratic Republic.

Any technical adjustments or temporary derogations will therefore have to be decided by the appropriate institutions in good time so that they can take effect from the date of formal unification.

The fourth chapter (p. 44) sets out the general principles for adjustment to secondary legislation.

3. **Timetable for the institutions**

3.1. The package of legislative proposals which the Commission is putting before Parliament and the Council is the outcome of a major technical exercise on much the same scale as for the formal accession of a new Member State.

The Commission has carried out a detailed review of the entire body of existing Community law to identify where there are objective grounds warranting technical adjustments and/or transitional measures. This required the active assistance of the German authorities to enable it to compare their respective legislation, to pinpoint the economic possibilities and constraints, and to verify the factual data. In carrying out its review the Commission also had the benefit of Parliament's active assistance and ideas.

Since the probable deadline for German unification has been brought forward, Parliament and the Council will both have to complete their second readings as soon as possible.

3.2. In its resolution of 12 July Parliament felt it essential to be consulted on all the transitional measures and derogations as well as other adjustments of secondary legislation. It considered itself entitled to give its opinion both on the package as a whole and on the detailed proposals contained in it. It therefore suggested that there should be an interinstitutional arrangement on the timetable and working method to ensure that no decision could be taken without the opinion of Parliament on the package as a whole.

3.3. The Commission shares Parliament's view that the proposed measures constitute a single comprehensive package.

It also believes that Parliament must be able to discuss and give its opinion on the proposed legislation as a whole. The logic of the procedure being followed dictates that Parliament should state its position both on the package as a whole — in other words on the integration of the German Democratic Republic into the Community — and on the individual proposals.

The Commission therefore backs Parliament's call for consultations between the institutions to settle practical arrangements on the timetable and working method to be followed so as to meet the need for swift and effective action and to ensure Parliament's full involvement in the legislative process for the integration of the territory of the German Democratic Republic into the Community. The fact that the Germans have decided to bring forward the date of unification makes this all the more vital.

3.4. The German decision means that unification may take place before the institutions have had time to take the necessary final decisions. Hence the Commission proposal to the Council and the European Parliament for a decision-making procedure authorising it to apply provisional measures. In this way a potential legal vacuum between German unification and final adoption by the Council of the necessary transitional and technical adaptation measures can be avoided. Details of the two proposals for legislation are to be found in the chapter on adjustment of secondary legislation (p. 44).
The economy of the German Democratic Republic: main features and possible impact of German economic, monetary and social union

1. Main features of the economy of the German Democratic Republic: an overview

1.1. The population

At the end of 1988, 16.6 million people were living in the German Democratic Republic. Since then 600 000 have emigrated to the Federal Republic of Germany. Although the average density of population is fairly low, its concentration is high. More than 50% of the population lives in East Berlin and in the centres of the South (Halle, Leipzig, Dresden and Chemnitz). Significantly, some of these centres are near the border of the Federal Republic.

The age pyramid shows that the proportion of the population below 18 years of age (24%) is larger than in the Federal Republic (19%), while all other age groups are somewhat lower — in particular the age group above 60 years (18% in the German Democratic Republic, 23% in the Federal Republic of Germany). Nevertheless, the German Democratic Republic is also faced with a growing number of elderly compared to working age groups. This problem is accentuated by emigration concentrated in the younger age groups.

Labour force participation is extremely high by international standards (almost 90% of the working age population compared to just over 60% in the Federal Republic of Germany) owing mainly to a much higher participation rate of women. Total employment amounts to almost 9 million (55% of the population) compared with 26 million (41% of population) in the Federal Republic.

The level of professional qualification is relatively high. Three quarters of the labour force have received professional training. However, to the extent that education has been ideologically influenced, in particular in the academic professions — economists, lawyers, general administration — shortcomings have to be expected. Engineers should, in general, be in a position to meet the new challenges. As for skilled workers, considerable adaptation to new Western technology will be necessary. Moreover, a crucial condition for successful integration of the East German economy into the Western market economy will be the regeneration of entrepreneurship and market-oriented management methods.

The standard of living in the German Democratic Republic is undoubtedly the highest in Eastern Europe. Comparison with Western countries is fraught with uncertainty, but per capita income is probably higher in the German Democratic Republic than in Ireland, Greece and Portugal, though below that of Spain.

1.2. Industry: a sectoral overview

The orientation of the economy of the German Democratic Republic hitherto has been characterized by the lowest possible dependence on imports from Western countries. This was partly motivated by a permanent shortage of foreign currency. There is thus a low degree of specialization. Compared to Western industrialized countries, the structure of the East German economy has changed relatively little over the past few decades. Industry is by far the most important sector, while in Community countries the service sector is the largest.

Labour productivity in the German Democratic Republic is generally considered to be about one third of the level in the Federal Republic of Germany, depending, however, on the specific sector under consideration. Three main factors are held responsible for this productivity gap: organization (bureaucratic central planning), motivation (lack of incentives) and technology (outdated capital stock). The latter factor was accentuated during the 1980s as the share of investment in national income fell considerably. Integration in Comecon's static trade pattern, together with marginal integration in the world economy, contributed to the obvious inefficiency of the economy of the German Democratic Republic.

Energy production is mainly based on the only mineral resource available to the German Democratic Republic: lignite. With 310 million tonnes (25% of world production), the German Democratic Republic is by far the world's largest producer of lignite. 85% of electricity generation is lignite-based, as is most household heating. Consequently, over two thirds of primary energy inputs consist of brown coal. Nuclear energy currently provides about 10% of the German Democratic Republic's electricity requirements. However, security standards are below acceptable levels.

Energy consumption per head of population in the German Democratic Republic is very high relative to
international standards (15% above the level of the Federal Republic of Germany). High energy input in industry, low efficiency of power stations, absence of realistic energy pricing and of home insulation are the major reasons.

The German Democratic Republic developed its own steel production capacity after the war, mainly based on scrap iron. The prevailing Siemens Martin technique, abandoned completely in 1982 in the Federal Republic of Germany, makes for high production costs. High-quality steel cannot be produced and labour productivity is below 50% of the level in the Federal Republic of Germany.

The German Democratic Republic’s chemical industry is largely based on coal-fired plants built before the Second World War. The synthetic materials industry is far behind Western standards. Production in this strongly growing sector is only 10% of production in the Federal Republic of Germany and there are quality problems. As regards fertilizers — generally a low profit area — the German Democratic Republic is an important net supplier on the world market. Modernization of existing firms is necessary to reinforce their market position but faces serious environmental constraints.

Mainly for quality reasons, statistics on the machine and car industries, the most important sectors after chemicals, are hardly comparable with those in Western countries. Almost 1 million persons are employed in this sector. The machine-tool industry is less important than in the Federal Republic of Germany. However, this is one area where the German Democratic Republic could be competitive on the world market. The machinery sector suffers from a lack of the electronic control mechanisms (Cocom list), which are becoming increasingly important in the production of machinery (industrial robots). Nevertheless, East German exports in this sector amount to 30% of all Comecon exports to Western countries. Despite the key position which the car industry has in Western countries, it is of minor importance in the German Democratic Republic. A symptom of the very low efficiency of the industry is that lorries can barely be exported even to Eastern countries.

Investment in microelectronics has been extraordinarily high. The aim was to build up a monopoly position in Eastern countries. Competition with Western countries will probably render these industries obsolete. Developments are much more favourable in the software sector because of highly skilled programmers. In the traditional industries of precision engineering and optics, East German industry is relatively well prepared for international competition.

The construction sector is mainly orientated towards large-scale housing construction. It employs 6.6% of the labour force. Although the technique of prefabricated housing construction is quite advanced, it is highly doubtful whether large blocks of flats will meet demand in this area. Instead, the modernization of the existing housing stock and the building of small housing units will require more craftsmen. So, although demand will certainly grow, restructuring is required.

The production of textiles (6% of total GDR production) is concentrated on the mass market, where there is strong competition with developing countries in markets abroad. Shortage of capital has prevented companies from introducing automatic and flexible production lines. Most of the capital stock still stems from the pre-war period.

The main problem for the food industry (15% of total GDR production) is lack of variety and low quality. High-quality products are not available as a consequence of self-reliance and import avoidance. Productivity is particularly low.

Agriculture contributes about 10% to GDR (employment 10.8%). However, given important price distortions, this figure is unreliable. About 95% of the agricultural sector is socialized. The ratio of agricultural acreage to population is twice as large as in the Federal Republic. Nevertheless, labour productivity (per head) is below 50% of the level in the Federal Republic of Germany. This is mainly the consequence of shorter working hours. Productivity of land is therefore much higher, i.e. about 75% of the level in the Federal Republic of Germany.

Before recent economic reforms, only 458 000 people (5.3% of the total working population) were employed in the private sector, producing 3.6% of the net national product. This figure excludes services. The private economy is concentrated in the trade and handicraft sector, i.e. repairing, trade and construction.

The German Democratic Republic has adopted the two-stage banking system. Nevertheless, some kind of specialization will prevail, mainly because of past experience and historically established relations. Within the banking sector, the Kreditbank is responsible for most credits to industry. The Kreditbank obtains most of its funds from Sparkassen which currently hold about 80% of all savings. Without some guarantee of loans to the industrial sector (e.g. by the Treuhandanstalt), the Kreditbank will probably go bankrupt, since many firms, once privatized, will not
be able to service debts in Deutschmarks. A further problem for the commercial banking system overall is that the capital base is very thin; at present the capital adequacy ratio for Sparkassen seems to be about 1% of total assets.

A major problem for the Sparkassen is staffing — 95% of the personnel have not even completed secondary education, their jobs limited to registering deposits. Initially, the Sparkassen will therefore not be equipped to provide loans on a commercial basis.

1.3. The trade pattern

Autarky having been a prime objective, the German Democratic Republic is poorly integrated into the international trade system for a country of its size. Despite the almost complete lack of reliable statistical information, estimates suggest that the German Democratic Republic's export share is in the order of 25% of GDP. This would indicate a comparatively small participation in the international division of labour for a country of its size (the Netherlands, for example, with a population of approximately the same size, has an export share of 55 to 60% of GDP).

At present, about two thirds of the German Democratic Republic's trade is with other CMEA countries, notably with the Soviet Union (around 37% of total trade). The CMEA division of labour, however, has been characterized by non-economic considerations. As trade with developing countries plays a minor role, most of the remainder is with Western industrialized countries (of which one third is with the FRG).

In analysing the product profile of GDR trade, it is useful to distinguish between different destinations. GDR exports to other CMEA countries (especially the USSR) largely consist of machinery and equipment (two thirds of exports), while imports contain a high share of energy products and raw materials. This complementary trade pattern offers relatively small welfare gains (typically related to substitutable trade). Normally such trade patterns are found in relationships between (highly industrialized) core countries and (much less industrialized) peripheral zones. Exports to Western industrialized countries show a very underdeveloped pattern with a certain emphasis on simple consumer goods. Investment goods are exported to Western countries to a considerably lesser extent.

An analysis of GDR trade flows with the Community reveals that the German Democratic Republic is a net exporter of energy and labour-intensive products (the production of which also causes a high level of pollution) and a net importer of products with a high raw materials, R&D and technology content. In light of the fact that the German Democratic Republic has little fossil fuel deposits except lignite and given the alleged high quality of GDR employees, it is unlikely that this trade pattern is to East Germany's comparative advantage.

Overall, it is noticeable that GDR trade is still dominated by inter-industry trade (i.e. imports and exports belong to different product groups) while Community countries are characterized by a high degree of intra-industry trade.

1.4. Infrastructural and environmental characteristics

Infrastructural and environmental problems could prove a major impediment to private investment in the German Democratic Republic. Rail is the most important means of transport. Although the network is only half as dense as in the Federal Republic, the railways achieve roughly the same transportation performance. About one third of all rail transport is devoted to the carriage of lignite. Preferential treatment of the railways was not based on environmental considerations or on reasons of economic efficiency, but on the need to save crude oil. Repair and modernization of the existing rail network will be a high priority.

In terms of coverage, the road network is fairly good by European standards. However, the state of the road network is far below West German standards. Road transport is thus very slow — not least because of the many railway crossings! In future, bottlenecks will increase as private traffic intensifies through increased tourism from the West and more cars per inhabitant. Public transport within cities is provided mainly by tramways.

With the exception of East Berlin, telecommunications systems are very bad. The telephone system is overburdened despite the very low number of connections. Modernization will probably mean the complete rebuilding of the communications system. On the positive side this will prove an opportunity to introduce the most advanced technology. Private investment will doubtless produce a higher level of efficiency in the new system.

In other areas of vital public infrastructure, investment needs are also substantial. This is particularly the case for sewerage facilities as only 50% of house-
holds are connected to purification plants. Although the German Democratic Republic is only half the size of the Federal Republic of Germany (25% of the population) sulphur-dioxide emission is more than twice as large. Many rivers are polluted and the availability of drinking water is a problem. Forests have suffered severe damage. Deforestation is very advanced, particularly in the south.

2. Economic, monetary and social union: main elements of the Staatsvertrag and accompanying measures

2.1. Economic union

The German Democratic Republic has introduced the basic rules governing market economies, e.g. contract freedom between economic agents, abolition of administered prices, wage autonomy on both sides of industry, introduction of private property rights.

The conditions of German-German trade in goods of German origin have been normalized and treated as interregional trade. There are no border and customs controls for goods of German origin. Exports to other parts of Germany do not initiate special VAT procedures. Goods of non-German origin are treated as normal imports.

Special quantitative rules were introduced with limited success in agricultural trade with the Federal Republic of Germany. Now, however, the German Democratic Republic is introducing Community regulations, including the producer price support system.

Financial support by the East German Government for the structural adjustment of companies during a transition period is possible. Support is, however, dependent on the state of the German Democratic Republic's budget and the consent of the Government of the Federal Republic of Germany.

2.2. Monetary union

The main points of the monetary union part of the Staatsvertrag concern the conversion rate, the treatment of enterprise debt and restrictions on public finances.

Since 1 July 1990, the Deutschmark has become the only means of payment in the German Democratic Republic. Sovereignty in the conduct of monetary policy has been taken over by the Bundesbank. The prevailing regulations on bank supervision in the Federal Republic of Germany also apply in the German Democratic Republic. Wage and pension levels at 1 May were converted at a rate of 1:1. In general, debts and claims were converted at a rate of 2:1. However, for residents of the German Democratic Republic, the conversion rate for savings including cash was 1:1 within the following limits: children (age group 0 to 14) DM 2 000; adults (age group 15 to 60) DM 4 000; elderly (age group over 60) DM 6 000. Remaining money in circulation and savings — with some macroeconomically minor exceptions — have been converted at a rate of 2:1.

2.3. Public finance

Regulations affecting public finances in the budgets of both the Federal Republic of Germany and the German Democratic Republic concern (1) transfer payments from West to East, (2) budget and borrowing rules for the German Democratic Republic's budget, (3) the German Democratic Republic's public debt after unification, (4) revenue and expenditure structure of the budget of the German Democratic Republic.

Public transfers in particular have to balance the German Democratic Republic's budget and finance the State pension and unemployment insurance schemes (Anschubfinanzierung).

As regards budget procedures, the German Democratic Republic has generally introduced West German methods, including the tax system. Strict borrowing requirements prevail for the various budgets, excluding social security. Approval by the West German Minister for Finance is required for a budget deficit.

Public debt still existing at the time of political unification will become public debt of the GDR-Länder to be created. This will relieve the Federal budget of any additional debt burden associated with a unified Germany.

On the revenue side the German Democratic Republic has introduced the West German tax system. On the expenditure side subsidies for private households, industrial products, public transport, energy used by private households and rents will have to be reconsidered or abolished. However, in...
agriculture. CAP regulations have been introduced. Salaries for civil servants will take account of general economic and financial conditions in the German Democratic Republic.

2.4. Social union

Pension, health, accident and unemployment insurance are administered by self-governing bodies under the legal supervision of the State. These are mainly financed through contributions by employers and employees (normally 50% each). The German Democratic Republic has introduced an unemployment insurance scheme comparable to that of the Federal Republic of Germany. A health insurance scheme has been established. In the case of sickness, wages are paid by employers in accordance with West German rules. Pensioners contribute to the health insurance system.

Pensions are fixed at a level representing 70% of the average net wages in the German Democratic Republic (after 45 years of contributions to the pension system). If the pension should fall below the previous East German pension, the amount of the previous pension would be paid in DM. Pensions are adjusted according to the development of net wages. If, during a transitional phase, regular contributions to the pension and unemployment schemes do not fully cover expenditure, the Federal Republic of Germany will make special contributions (Anschubfinanzierung).

West German labour market rules and laws have also been copied — bar some important modifications, namely in the Labour Promotion Act. These modifications allow the classification of unemployed workers as short-time workers attending training courses. Consequently, registered unemployment will not rise as fast and as obviously as predicted.

2.5. Accompanying measures of the Federal Republic of Germany

The central government’s Finance Minister and the Länder agreed to set up a German Unity Fund (Fonds Deutsche Einheit) to help finance the German Democratic Republic’s budget. The total amount of DM 115 billion in financial aid is to be spread over the next four and a half years as follows:

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DM 20 billion will be met by cuts in some lines of the central government’s budget, while the major part of DM 95 billion is to be raised on capital markets by issuing bonds. Liabilities are shared 50:50 by Bonn and the Länder governments.

The Fund’s aim is to balance the German Democratic Republic’s budget. Financial aid to launch a Western social security system is to be financed directly by the central government’s budget.

As regards trade, the Federal Government will subsidize imports of goods from the German Democratic Republic to the Federal Republic of Germany during the interim stage. Firms in the Federal Republic of Germany will be allowed to deduct from the invoiced price of goods imported from the German Democratic Republic — in addition to the normal VAT rate (14 or 7%) — 11 or 5.5% respectively.

2.6. Accompanying measures of the German Democratic Republic

In order to foster new investment in the German Democratic Republic, an investment allowance of 12% is granted for new investment in equipment during the period from 1 July 1990 to 30 June 1991. Thereafter, the investment premium will be reduced to 8% for the following 12 months. Special regulations in favour of East German enterprises (special depreciation allowances, favourable tax treatment of reinvested profits, tax-free periods for new companies) have been announced.

Several sectors in the German Democratic Republic will still be eligible for subsidies, in particular energy, transport and housing. The amount of these subsidies is estimated at more than DM 12 billion for the second half of 1990.

3. Macroeconomic impact on the economy of the Federal Republic of Germany and Europe

The economic unification of Germany will trigger a positive growth effect on the economy of the Federal Republic (about 1% of GDP). This is mainly the result of a shift of internal demand in the German Democratic Republic towards imports from Western
countries and the way in which fiscal policy in the whole German public sector will be handled. All Community countries will participate in the import pull of the East German economy, given the high rate of capacity utilization in the Federal Republic and the potential for all EC countries to establish a similar market share to that held in other EC countries. Thus, the overall German current account surplus may shrink considerably, while the current account balances of the other EC countries may improve. This will contribute to more convergence in the external balances of Community countries.

The labour market in the Federal Republic of Germany has been influenced by significant emigration from the German Democratic Republic and other East European countries. Integration of these new workers into the labour force may lead to new kinds of working patterns. Despite the obvious difficulties of finding accommodation in the Federal Republic of Germany, the shortage of qualified labour in the Federal Republic of Germany will continue to attract people from the German Democratic Republic. In these circumstances short-term working contracts during seasonal or holiday periods should prove attractive to residents of the German Democratic Republic. Cross-border contracts will also become attractive to GDR residents, as they can combine high salaries in the Federal Republic of Germany with low rents in the German Democratic Republic. In the long term, the impact on the labour market of the Federal Republic of Germany should be positive, with the regional and sectoral mobility of labour improving considerably and downward pressure on wage costs.

All in all, the overall macroeconomic impact of economic, monetary and social union on the economy of the Federal Republic of Germany will be enhanced by capital mobility, a single currency and labour mobility, which will probably be larger than elsewhere in the Community in the foreseeable future. It will therefore be more and more difficult to disentangle the economic interrelationships of the two German economies. In particular, macroeconomic performance within German monetary union will have to be looked at in a whole German context. A number of likely features of macroeconomic policy in German economic, monetary and social union are clear:

(i) overall fiscal policy will be less tight; given that the credibility of German fiscal policy in controlling future trends in public finances is to be maintained, this fiscal loosening will have only conventional demand-expansionary effects;

(ii) for Germany as a whole, there will be a period in which the pace of increase in demand outstrips that of supply; at a later stage, supply will accelerate;

(iii) in short, the overall German economy is likely to be subject to successive periods of excess demand. These problems can be eased by immediate measures to increase foreign supplies. The East German market should be open to all Community countries and measures should be taken to promote imports, thereby reducing the gap between demand and supply. Nevertheless, the likely pattern of supply and demand may pose difficulties for monetary policy, in particular with regard to preserving the goal of price stability.

The macroeconomic impact of German economic, monetary and social union on the rest of Europe will be significant and positive. The changing balance between demand and supply within the union will affect trade flows and savings in partner countries. The significant reduction of the current account surplus of unified Germany will stimulate demand in the whole Community. Thus, GDP in the whole Community may be stimulated by half a percentage point during the first two years.

In the longer run, it can be expected that the beneficial effects anticipated from the single market will be reinforced. Moreover, to the extent that the other East European economies progress towards a market economy, the advantages of a progressive division of labour within Europe may increase further. Given the relatively high integration of the GDR economy into the East European economies, the German Democratic Republic can act as a bridge between the Community and Eastern Europe.

Nevertheless, fears have been expressed as to whether rapid economic developments in Germany might displace the catching-up process in other, relatively poor, Community countries, notably Spain, Portugal and Ireland, by reducing investment in those countries. However, investment in these countries is based on an expected high real rate of return. So, because German economic, monetary and social union will not change this and because of the integration of world financial markets, financial constraints should not be overemphasized.

Integration of the German Democratic Republic into the European Communities will also raise some questions regarding external trade and market access. In general, problems exist only for those products where East European countries are very competitive on world markets and where access to the Community market is restricted, while access to the East
German market has not been affected by quotas or tariffs. For other products, affected by tariffs or quantitative restrictions, it is doubtful whether there will remain demand for East German goods at all. For sub-EC-standard products from East European countries, demand from East Germany will shrink considerably. Trade relations between the German Democratic Republic and East European countries could decline significantly in the short run, while the potential for EC countries to export to the former territory of the German Democratic Republic will significantly increase.

The introduction of the DM and economic and social union have triggered an important adjustment process in the economy of the German Democratic Republic. The pressure for adjustment may be higher than in other countries moving from a planned economy to a market economy because the German Democratic Republic has to compete immediately on the world market. However, the consequences are cushioned by important financial support from the Federal Republic. Nevertheless, it is important for the GDR economy rapidly to transform its economic structures and the behaviour of economic agents. Adopting market economy rules will facilitate the catching-up process in the medium term and minimize the danger of long-lasting economic instability. However, the short-term implications for the GDR economy will be significant.

In the short term German economic, monetary and social union has important macroeconomic consequences for economic development in the German Democratic Republic. Providing GDR residents with hard currency has led to an important shift towards consumption of imports. Consumption is generated not only by additional transfers and foreign investment, but also by the convertible currency income of GDR residents. Price competitiveness is only one factor attracting GDR residents to consume imported products. There are two others. First, the inappropriate product-mix provided by GDR suppliers may prove even more important. Second, the modernization of GDR industry requires Western technology, so increased foreign investment and investment by viable GDR enterprises will further boost imports.

4. Implications for the economy of the German Democratic Republic

The conditions for external trade are fundamentally altered by the introduction of the DM. This holds especially for trade with East European countries. As demand in the German Democratic Republic shifts to Western products, special trade structures with Comecon countries will disappear. Comecon exports to the German Democratic Republic will soon begin to follow the pattern of trade with other West European countries. GDR exports to both West and East European countries may diminish quite considerably. This holds especially for exports to East European countries in hard currency payments.

The effective fusion of the labour markets of the German Democratic Republic and the Federal Republic of Germany, and by extension integration into the Community's, will have a profound impact on wages in the German Democratic Republic. The agreed conversion rate of 1:1 may be consistent with prevailing levels of productivity. However, the price reform and newly-introduced indirect taxes have already led to upward pressure on wages. The need for wage differentiation to provide greater incentives for certain sections of the labour force will push average wages further upwards. To the extent that GDR workers will have the choice between working in the German Democratic Republic or in the Federal Republic of Germany, cross-border work contracts will have spill-over effects on GDR wage levels. Lower rents in the German Democratic Republic will not, in principle, exert a dampening effect on wages as both the advantages of high wages and low rents can be combined. Productivity of new investment will be similar to West European levels. Thus, wages will probably have to be higher than current GDR levels in order to attract the most qualified labour. Sooner or later this will affect the general wage level. Moreover, to the extent that top and middle management comes from West Germany and receives West German wages, perhaps even with a supplement, wage differentials between the various sectors of the labour force may ultimately prove unacceptably wide. Finally, trade unions in both regions may seek to promote wage parity between the Federal Republic of Germany and the German Democratic Republic.

However, two factors may reduce the mismatch of wage level and labour productivity. First, high unemployment will have a dampening effect on wages both in the German Democratic Republic and to the extent that labour markets are integrating, in the Federal Republic of Germany as well. Second, considerable room exists to increase labour productivity in the short term. Reducing labour hoarding, improving the organization of the production process and a more flexible use of capital stock are ways to increase productivity even in the short term.
Company investment will, in future, be undertaken in an integrated German or European context in anticipation of the single market. Although the effect on net investment will probably be positive, it is uncertain whether new investment will shift from the Federal Republic of Germany to the German Democratic Republic or, alternatively, if production capacities will simply be enlarged in the Federal Republic of Germany with a view to exploiting the GDR market. So, if capital is to be attracted to the German Democratic Republic, it is important to create a positive investment climate in the German Democratic Republic relative to the Federal Republic of Germany.

Prospects for public finance in the German Democratic Republic are very uncertain as the entire structure of expenditure and revenue will be changed. On the one hand, the abolition of major price subsidies together with taxes on consumer goods will lead to higher net revenues. On the other, the abolition of production levies together with the introduction of a new tax system will inevitably lead to a substantial deficit, at least temporarily.

Given these short-term problems, it is important to create a positive climate for new investment as soon as possible. This could be done, for example, by a regional development plan for the German Democratic Republic aimed at fostering investment, new business creation and greater labour market flexibility. It is of crucial importance to strengthen the productive capacity of the German Democratic Republic. Infrastructure investment is a major precondition for such a strategy but the whole framework of subsidies in the Federal Republic of Germany basically works to the detriment of the German Democratic Republic. Moreover, likely temporary, regionally unfavourable developments in the former German Democratic Republic will necessitate a general review of regional policies. Finally, the revival of private entrepreneurship and rapid privatization of existing industries will be preconditions for the promotion of the efficient allocation of factors of production and thus a successful catching-up process in the GDR economy.

Interim adjustment stage

1. Staatsvertrag: compatibility with Community law

The Treaty of 18 May 1990 establishing a monetary, economic and social union between the Federal Republic of Germany and the German Democratic Republic is compatible with Community law. This was noted by the Commission in its communication of 14 June entitled 'The Community and German unification: implications of the Staatsvertrag'.

This compatibility is explained by the fact that Community law already made allowance for the special situation of Germany and that the objective of the Staatsvertrag is gradual alignment of the law and policy of the German Democratic Republic to ensure application of Community law after unification. This objective is reflected in the preamble and a number of provisions of the Staatsvertrag. It is given substance, in particular, by application of the principle of equal treatment to Community nationals and firms in areas of the Staatsvertrag within the Community's jurisdiction.

2. Staatsvertrag: effects ahead of integration

Under the Staatsvertrag the German Democratic Republic undertakes to carry out far-reaching legislative reform to underpin the creation of monetary, economic and social union. This legislative reform will have major consequences for the gradual integration of the German Democratic Republic into the Community's legal order. The Commission analysed these consequences in its communication of 14 June.

First, it should be noted that the German Democratic Republic has given Community goods free access to its territory on a reciprocal basis since 1 July. GDR trade in both industrial and agricultural products with non-member countries is treated in the same way as regards customs rules and procedures as trade between the Federal Republic of Germany and non-member countries, subject to observance of the German Democratic Republic's obligations under agreements concluded with non-member countries. In the case of imports into the German Democratic Republic.

1 SEC(90) 1138 final, points 8 to 12.
3 SEC(90) 1138 final, point 11.
4 SEC(90) 1138 final, points 16 to 20.
Republic under such agreements, the Federal Republic of Germany is cooperating closely with the Commission, to devise, with the German Democratic Republic, measures to ensure that Community provisions relating to non-member countries are not evaded.

In addition, on 1 July the main features of the common agricultural policy came into effect in the German Democratic Republic in accordance with Article 15 of the Staatsvertrag. The agricultural policy measures adopted are described in Section 3, pp. 80 and 81.

Secondly, the Staatsvertrag ensures the introduction of private ownership and freedom of establishment for all Community nationals and firms. These provisions are supplemented by measures adopted by the German Democratic Republic pursuant to Annex IX to the Staatsvertrag to enable foreign investors to acquire the land necessary to exercise the right of establishment.

The key provisions of the commercial code, the law on public limited liability companies (Aktiengesetz) and the law on private limited liability companies (GmbH-Gesetz) of the Federal Republic of Germany have been put into effect in the German Democratic Republic. This means that investors can operate in the German Democratic Republic using legal forms consistent with company law directives adopted by the Community to protect members and others.

Thirdly, the German Democratic Republic has taken over the Federal German law on restrictions of competition. The German Democratic Republic authorities have undertaken to apply this in the light of Community competition policy.

3. Trade arrangements

3.1. The Community has adopted legal instruments to allow the rapid adjustment of Community external trade arrangements to the gradual integration of the German Democratic Republic into the customs system of the Federal Republic of Germany and the Community legal order in advance of formal unification.

Council Regulation No 1794/90 of 28 June 1990 on transitional measures concerning trade with the German Democratic Republic 1 gives goods other than agricultural products and products covered by the ECSC Treaty free access to the Community on condition that the German Democratic Republic allows free access to Community goods, aligns its legislation governing trade with non-member countries on Community regulations and adopts measures to ensure that Community law is not circumvented.

Commission Decision No 1796/90 ECSC contains parallel provisions for products covered by the ECSC Treaty. 1

Commission Regulation (EEC) No 1795/90 of 29 June 1990 2 was adopted in application of these two instruments. The Commission noted that the conditions for free access for non-agricultural goods from the German Democratic Republic to the Community had been met and adopted the appropriate implementing measures with effect from 1 July.

Agricultural and fisheries products are subject to similar arrangements under Council Regulation (EEC) No 2060/90 of 16 July 1990. 3 This gives East German products free access to the Community provided the Community is satisfied that the German Democratic Republic is giving free access to Community goods and has introduced mechanisms similar to those of the common agricultural policy.

By Regulation (EEC) No 2252/90, 3 the Commission noted that these conditions had been met and adopted the appropriate implementing measures. The Regulation came into force on 1 August 1990.

Since then, all GDR goods have had free access to the Community. It can therefore be said that a de facto customs union has existed between the Community and the German Democratic Republic since 1 August 1990.

The Community Regulations adopted include appropriate safeguard clauses to ensure that liberalization does not create serious difficulties in any economic sector in the Member States.

3.2. The introduction of a de facto customs union has made the provisions of the Protocol on German internal trade redundant. It was achieved thanks to considerable assistance from the Federal customs authorities and joint management by the Commis-

3.3. The abolition of frontier controls inside Germany does not have the effect of leaving a 'gap' at the external borders of the Community for such trade. The German Democratic Republic applies the same measures as the Federal Republic, i.e. Community trade measures, to industrial and agricultural trade with third countries.

The German Democratic Republic applies import and export formalities on behalf of the Federal Republic both to third-country goods destined for the Community (and thus not put into free circulation in the German Democratic Republic) and to Community goods exported via the German Democratic Republic to these countries (i.e. one could already speak of a de facto extension of the Community border as far as formalities go). The EC rules on the de facto customs union with the German Democratic Republic provide that industrial imports in free circulation in the German Democratic Republic may move freely within the entire Community.

4. Indirect taxation

4.1. By the Staatsvertrag, VAT and excise duties were introduced in the German Democratic Republic on 1 July 1990 in accordance with the tax legislation of the Federal Republic of Germany. This implies not only identical legal texts (with minor modifications) but also identical tax rates, as well as application of the principles of the common customs regulations for the application and calculation of VAT on GDR imports.

Furthermore, a customs and tax administration similar to the Federal administration was created and — as a logical consequence of German economic and monetary union — fiscal frontiers between the Federal Republic of Germany and the German Democratic Republic were abolished (tobacco and tobacco products excepted as the fiscal stamps (banderoles) will continue to be different during the transitional period). Abolition of fiscal frontiers meant introducing a clearing system for indirect tax revenues.

The German Democratic Republic adopted Community legislation in the fields of harmonized indirect taxation before German unification, while remaining for the other Member States, as far as indirect taxation is concerned, a third country. For this reason, there will be some divergences in the relations between the German Democratic Republic and the other Member States (the Federal Republic of Germany excepted) in the area of indirect taxation in the transitional period. These divergences, which are of minor importance, concern the application of the principles of the Sixth Directive and travellers' allowances.

4.2. As far as the Sixth Directive is concerned, there will be such divergence on the supply of services (Article 9.2a). Supplies of services from a Member State to non-taxable persons established in the German Democratic Republic will not be taxed (in compliance with the Directive) either in the Member State supplying these services or in the German Democratic Republic. Supplies of the German Democratic Republic to non-taxable persons established in a Member State will be taxed in the German Democratic Republic. However, in accordance with Article 9.3b of the Directive, the Member State, for reasons of competition, could also impose VAT. To avoid double taxation it has been suggested in discussions with the Federal Ministry of Finance that GDR VAT should be refunded on a case-by-case basis.

Travel agencies in the German Democratic Republic are to be taxed. Services of travel agencies established in a Member State are — in compliance with the Directive — not to be taxed (Article 26.3).

4.3. As far as travellers' allowances are concerned, purchases of goods by GDR residents visiting a Member State and returning to the German Democratic Republic are to be 'detaxed' in the Member State of export, according to the common provisions for residents of third countries. However, for importation of such purchases into the German Democratic Republic, the GDR resident will not have to pay VAT if these purchases do not exceed the amount of DM 810 (intra-Community limit). In other words, during the transitional period there is a possibility for GDR residents to make some tax-free purchases in other Member States.

On the other hand, purchases by residents of a Member State effected in the German Democratic Republic and imported by the traveller into the Member State will be taxed in the Member State if they exceed the amount of ECU 45 (third-country limit). However, tax refunds for exports will be granted in the German Democratic Republic only for purchases exceeding the amount of DM 810 (ECU...
Therefore, for purchases less than DM 810 double taxation will be possible. To avoid this, the GDR fiscal authorities will refund the GDR VAT, if the traveller provides evidence of taxation in his/her Member State.

4.4. As far as VAT relations between the Federal Republic of Germany and the German Democratic Republic are concerned, the following changes in West-German VAT law are worth mentioning, most of them being necessary because of the abolition of fiscal frontiers:

(i) **Special provisions**: the existing provisions (taxation of supplies to the German Democratic Republic without tax refund, VAT reductions for East German supplies to West German taxable persons) based on the ‘Berliner Abkommen’ were abolished by the end of June 1990.

(ii) **Supplies to the German Democratic Republic**: these supplies are to be taxed at the existing rates of 7 and 14%.

(iii) **VAT deduction**: GDR VAT on purchases and imports by West German taxable persons is deductible in the Federal Republic of Germany. Correspondingly, West German VAT is deductible in the German Democratic Republic. For this reason, tax refunds to taxable persons in the German Democratic Republic by virtue of the Eighth or Thirteenth Directive are no longer allowed.

(iv) **Place of supply of services**: by derogation from Article 9(2) of the Sixth Directive, the place of supply is now the place where the taxable person is established (in the Federal Republic of Germany or in the German Democratic Republic). As far as passenger transport is concerned, in cases of taxable persons established outside the two territories, VAT is imposed once at the relevant border, even if transport extends over East and West German territory (or vice versa).

(v) **Travel agencies**: West German travel agencies using supplies of goods and services in the German Democratic Republic when providing travel facilities are now to be taxed.

(vi) **Travellers’ allowances**: no limits to be applied between the Federal Republic of Germany and the German Democratic Republic.

For the period ending with German unification these changes in West German VAT law are covered by the German declaration to Article 3 of the Sixth Directive and do not necessitate Community legal action.

5. **Competition**

5.1. **State aid**

There is a clear need for State aids in order to support the adaptation and restructuring of the East German economy, while at the same time the potentially distorting effects of such aids must not be ignored.

The Commission took the view that the Community State aid rules had to apply from an early date in order to guarantee a balance between the needs of the German Democratic Republic’s economic conversion and established policies.

The Commission therefore agreed with the Federal authorities that they inform the Commission of any measures taken to develop the East German economy. Where such measures constitute or contain State aids the Commission examines them for their compatibility with Article 92 of the EEC Treaty. A series of such schemes, including the extension of the interest subsidies available under the European recovery programme to activities in the German Democratic Republic, have already been approved. This allows the Commission to ensure that all aid measures are in conformity with Community objectives and do not unfairly distort competition.

Article 14 of the Staatsvertrag requires coordination between the Governments of the Federal Republic and the German Democratic Republic on the content of certain structural measures proposed by the German Democratic Republic, and Article 28 provides for financial grants from the Federal budget to compensate for budget deficits in the German Democratic Republic. In so far as the application of these Articles leads to aid measures in the German Democratic Republic which can only be implemented after the agreement of the Federal authorities and will be directly or indirectly funded from the Federal budget, the Commission considers that these aids must also be assessed under Articles 92 and 93 of the EEC Treaty. The Commission is in contact with the Federal authorities to agree on the appropriate practical implementing arrangements to ensure control by the Commission of State aids granted by both German authorities.

5.2. **Agreements/mergers**

A large number of operations have taken place in the German Democratic Republic, particularly cooperation agreements and proposed West German acquisi-
tions of holdings in East German firms. There is a danger that some of these may lead to the strengthening or the abuse of dominant positions on the German market and affect intra-Community trade. For this purpose the Commission has kept a close eye on developments from the outset. It has initiated one formal proceeding which is being actively pursued and will not hesitate to initiate others should the situation warrant this.

As to the application of competition rules in the German Democratic Republic, the East German authorities have assured the Commission that the German Democratic Republic would be prepared to deal with competition policy as if the Treaty were already in force. Moreover, the German Democratic Republic Government would ensure non-discrimination against non-German companies while specific complaints about mergers or acquisitions which appeared anti-competitive would be looked at carefully in the light of the first point above. Commission officials will keep in close touch with officials of the German Democratic Republic.

6. Access to borrowing facilities and operation Phare

6.1. On 11 June 1990, in the wake of the special European Council on 28 April 1990, the Council requested the European Investment Bank (EIB) to provide the German Democratic Republic with loans for investment projects which satisfy the usual conditions governing the operations it finances from its own resources.

Since then, the EIB has begun work by assessing a number of projects and giving the German Democratic Republic access, with immediate effect, to global loans currently being managed by various German, Spanish, Dutch and British financial institutions.

6.2. Again in line with the European Council’s conclusions, the Council has adopted decisions giving the German Democratic Republic access to borrowing instruments under the ECSC and Euratom Treaties.

Borrowing requirements for restructuring the German Democratic Republic’s steel industry are considerable. Substantial recourse to ECSC loans can therefore be expected. There are likely to be similar heavy financial requirements for the energy sector in the German Democratic Republic.

Talks are in progress with the East German authorities to identify the projects and financing needs under these financial instruments.

6.3. The Council has not yet adopted a decision extending economic aid to the German Democratic Republic under operation Phare. The Commission has however initiated exploratory talks to identify projects that could be completed in a short time. These tend to be concentrated in the area of the environment and transfrontier regional development.

As soon as the Regulation extending economic aid is adopted by the Council, the Commission will notify the Management Committee of its programme for the German Democratic Republic. Decisions on projects and necessary financial commitments should be made before unification.

The Commission would point out that the German Democratic Republic would be eligible prior to unification under the Tempus programme and European Training Foundation operations. Projects initiated under this heading would have to be incorporated into Community programmes (Erasmus, Comett and Lingua) at a later stage.

7. Information

7.1. As far as general information policy is concerned, the Commission has adopted a specific action programme concerning the German Democratic Republic.

Priority themes in the Commission’s information effort in the German Democratic Republic include general information on the purpose, scope and function of the Community. Information on key policy areas, such as the common agricultural policy, the internal market, the environment, the social dimension and the financial support programmes will form part of a major information drive. This will target key sectors of the media, the new administration in the Länder, the social partners and institutions of education and training.

In practice, this means strengthening existing methods of information. The Commission’s Office in Berlin is being expanded and preparation is under way for the extension of the Euro-Info-Centres network.
and European Documentation Centres. Publicizing Community policy priorities will involve the provision of material to public libraries, contributions to television, radio and the print media, the organization of information visits to Brussels, speaker panels and touring events, exhibitions and seminars. A special brochure on the impact of German unification is being prepared.

7.2. The Euro-Info-Centres project is specifically designed to provide enterprises, and particularly small and medium-sized enterprises, with access to information relating to the European Community. The establishment of such Centres in the German Democratic Republic will therefore play an important part in the integration of the territory into the Community. In particular, they will provide information relating to Community legislation and standards, participation in Community programmes, and a network permitting the exchange of information with other regions of the Community.

It is intended to establish progressively eight to ten Euro-Info-Centres in the German Democratic Republic. In accordance with the philosophy of the project, the Centres will be distributed geographically and based in existing organizations already providing services to local businesses. Initial steps have already been taken to identify such organizations and to prepare for the establishment of the Euro-Info-Centres.

7.3. More generally, the Commission is in favour of the development of small and medium-sized enterprises (SMEs) in the new Länder of the German Democratic Republic just as in the Community as a whole. Support for SME development must come in three forms: establishing a favourable legal and administrative environment for business, developing the services required to support SME development and providing resources to encourage investment and to improve the physical environment in which SMEs operate.

Einigungsvertrag

1. General outline

1.1. The Commission welcomed the opportunity to participate directly in the negotiations between the two Germanys on the second Staatsvertrag (Einigungsvertrag). This enabled it to play a part in formulating provisions which could have a bearing on the Community's powers and others governing the transposition of Community law into the legislation of the new Länder of the unified Germany. On a number of occasions the Commission was able to report on the negotiations between the two Germanys to Parliament's Temporary Committee on German Unification and the Chairmen of the Standing Committees. As far as the Community aspects are concerned, discussions on the Einigungsvertrag were thus conducted in a transparent manner and in full consultation with the Commission.

1.2. Negotiations on the Einigungsvertrag are still under way at government level. The purpose of the Einigungsvertrag is to lay down the constitutional, technical and organizational conditions in which the process of unification is to take place with due regard for the objectives already reached by the first Staatsvertrag.

After unification, the Vertrag will continue to operate as Federal law. The rights of the German Democratic Republic under the Vertrag will devolve upon the newly formed Länder after the German Democratic Republic has disappeared.

The main provisions concern:

(i) the newly formed Länder and their interim status;

(ii) the entry into force of the Basic Law of the Federal Republic of Germany in the territory of the former German Democratic Republic;

(iii) the changeover to the Federal Republic of Germany's public finance system in the former German Democratic Republic;

(iv) the general adaptation of the law (transition to Federal law, continued operation of GDR law, European Community law);

(v) international treaties of which the two countries are signatories (including references to Community legislation);

(vi) public administration and the administration of justice in the former German Democratic Republic;

(vii) the treatment of the public property and debts of the German Democratic Republic including the powers of the Treuhandstelle;

(viii) economic development (in particular the setting up of a special programme for the entire territory of

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1 The particulars given below refer to the draft at 21 August 1990.
the former German Democratic Republic involving preferential treatment);

(ix) the existing foreign trade relations of the German Democratic Republic (see details below);

(x) a section on labour, social affairs, the family, health and the protection of the environment;

(xi) a section on culture, science and education;

(xii) arrangements (to apply until elections are held) for seating members of the Volkskammer in the Bundestag.

2.2. As regards the introduction of Federal law in the territory of the former German Democratic Republic, the draft Einigungsvertrag proceeds on the principle that Federal law will come into effect in the said territory save where otherwise provided in the Einigungsvertrag itself. Adjustments will be laid down in the Einigungsvertrag and its annexes (negative list). Provisions of Community law (including amendments and adaptations) do not need to be annexed to the Einigungsvertrag, since they will be introduced ipso jure into the territory of the former German Democratic Republic on the grounds of the principles of Community law itself mentioned above.

The draft Einigungsvertrag also contains provisions on the continued application of GDR law. This will continue in operation either as Federal law or as law of the Länder, only where this is expressly provided in the Einigungsvertrag and its annex (Article 9 of the draft; positive list). It is expressly stated that GDR law will continue to operate where it is consistent with directly applicable Community law.

2.3. It should be pointed out that the term 'Rechtsakte' (legal acts) in paragraph 2.1 above includes all the Community's international agreements, whether bilateral or multilateral.

There is no need to refer in this context to decisions and agreements of the Representatives of the Governments of the Member States meeting within the Council, agreements concluded under Article 220 of the EEC Treaty and those relating to the Community's legal order, or declarations, resolutions and other positions adopted by the Council. Since these decisions and other acts apply automatically as a result of the transposition of Federal law into the law of the former German Democratic Republic or via commitments entered into by the German Democratic Republic vis-à-vis the Community or the other Member States, a clause similar to those found in Acts of Accession (Article 3, identical) is unnecessary.

2.4. Legal acts adopted or to be adopted by the Federal Republic of Germany to transpose or implement Community law (notably directives) apply in former GDR territory too, in accordance with the principle set out in the draft Einigungsvertrag.

The Federal Government is to be empowered, in accordance with Community law, to make the adjustments needed for accession by statutory instruments. Such instruments will require the assent of the Bundesrat where they refer to laws which require the assent of the Bundesrat.
Despite these procedural arrangements, practical difficulties could arise in the case of Community provisions which need to be amended/adapted by the Community’s institutions. Even if matters progress quickly, the German legislator will have very little time to amend national transposition/implementation legislation in advance of unification. Close cooperation between the German authorities and the Community’s institutions will be required if a satisfactory outcome is to be guaranteed within the time allowed.

There is a particular problem here as regards the adoption of legislation which falls within the jurisdiction of the Länder, because the new Länder will presumably not be constituted until 14 October 1990. Special efforts will be needed here to prevent the emergence of gaps at national level.

2.5. The Einigungsvertrag is to contain a reference to the issue of ‘Vertrauensschutz’ (legitimate expectations) with regard to the German Democratic Republic’s ‘gewachsenen aussenwirtschaftlichen Beziehungen’, with similar wording to that of the (first) Staatsvertrag (Article 13.2). It will probably read as follows:

‘The existing foreign trade relations of the former German Democratic Republic, in particular its contractual obligations towards the countries of the Council for Mutual Economic Assistance, shall be respected. They shall be further developed and extended, taking into account the interests of all involved and with due regard for free-market principles and for the jurisdiction of the European Community.

The Federal Government and, where appropriate, the Government of a united Germany shall agree with the relevant institutions of the European Communities on the transitional exceptions which are necessary in the field of foreign trade for the purposes of the first paragraph.’

As it stands, this provision is only binding on the contracting parties, that is to say, the Federal Republic of Germany and the German Democratic Republic. The second paragraph emphasizes their concern that the Community should adopt a number of transitional exceptions in the area of commercial policy to take account of this principle. However, the paragraph is drafted in such a way as to avoid any interference in an area of exclusive Community competence.

2.6. The draft Einigungsvertrag contains other references to the European Communities as well — to the effect that their powers and legislation have to be taken into account. Note in particular the Article in the draft concerning GDR treaties, which requires the powers of the Communities to be taken into account in discussions regarding the continued operation, adjustment or termination of such treaties. These references usefully reinforce the principle that Community law will apply ipso jure.

**Adjustment of secondary legislation**

1. **Adjustment criteria**

The unification of Germany entails the incorporation of the German Democratic Republic ipso jure into the Community legal order. In other words, the entire panoply of Community law will automatically apply in the territory of the former German Democratic Republic as soon as unification takes place. This legal integration will not involve any amendment of the Treaties or other acts which constitute primary law. By contrast, the immediate, across-the-board application of secondary legislation is not feasible. As with any accession, various technical adjustments will first be needed on account of the specific features of the former German Democratic Republic’s socioeconomic and legal system. Equally, the particular difficulties in some sectors mean that there will have to be transitional arrangements to allow the former German Democratic Republic’s legislation to be gradually adapted to the Community system, especially in such areas as safety and quality standards, environmental legislation and structural policy. These adjustments and transitional arrangements will have to be in line with the Treaties. However, their legal basis need not differ from that of secondary legislation involved, providing a certain number of conditions are met:

(i) acceptance of the ‘acquis communautaire’ must be both the starting point and the ultimate objective;

(ii) any transitional arrangements must be warranted on objective economic, social, or legal grounds;

(iii) any exceptions or derogations must be temporary and cause as little disturbance as possible to the functioning of the common market (proportionality).

These were the criteria applied by the Commission when framing the accompanying legislative proposals. The Commission believes that the adjustment of secondary legislation can be achieved without departing in any way from Community law, relying in particular on the principle of equality, so often held up by
the Court of Justice as a general principle of Community law. Thus Community rules can — and indeed should — be modulated to take account of objective differences between economies. However, since the Single European Act, the principle is now enshrined in Article 8c of the EEC Treaty.

2. Horizontal problems

In preparing the package of measures contained in Part IV of this report, the Commission aimed for a simple but comprehensive and coherent presentation, containing uniform solutions for horizontal problems.

2.1. The required technical adjustments and transitional arrangements have, as far as possible, been grouped by sector and by legal basis. For example, although there are a hundred or so directives on the harmonization of technical rules whose implementation will require transitional arrangements of some sort, only one legislative instrument has been proposed on the basis of Article 100a of the Treaty.

2.2. The adjustment arrangements fall into two broad categories:

(i) technical adjustments: these take account of the former German Democratic Republic's particular economic, legal and other circumstances; since much of the German Democratic Republic's economic legislation has already been brought into line with that of the Federal Republic of Germany, mainly in the wake of the Staatsvertrag, this category is less important than the second;

(ii) transitional arrangements: this category is by far the more important of the two: as a general rule, the application of Community rules in the territory of the former German Democratic Republic will need to be phased in by 31 December 1992, although some sectors, such as the environment, will require a longer time-scale; in other sectors, provision has been made for extending the initial transitional period should this be necessary.

2.3. Delegation of powers to the Commission to adapt legislation (flexibility clauses)

The proposed legislation for adjustments and transitional arrangements in the various sectors should also include provision for the delegation of implementing powers so that any adjustments needed in the light of new information or developments in the former German Democratic Republic can be made promptly.

The delegation arrangements may vary depending on each sector's needs.

Most of the acts proposed in this communication confer implementing powers on the Commission using the regulatory committee formula (procedure IIa of Council Decision No 87/373 of 13 July 1987). However, where management committees (procedure II) already exist, the Commission has proposed that formula instead.

Purely technical adjustments (additions to the lists of national authorities responsible for a given sector, for example) do not, in the Commission's opinion, require recourse to a committee.

In each case the scope of the powers delegated is limited to what is required to ensure the consistent application of all the Community rules covered by the proposed act, taking into account the situation in the former German Democratic Republic and the particular problems of the sector in question.

Any measures taken under these delegated powers must, of course, comply with the basic principles of Community law and will not apply beyond 31 December 1992, except in the case of ongoing technical adaptation. Any derogations extending the time-limit will therefore be decided following the normal legislative procedure.

2.4. In some sectors (e.g. the environment and technical standards), the application of transitional measures will result in products being marketed which do not meet the conditions laid down by Community law. Although the German Democratic Republic's present situation does not permit the immediate wholesale application of Community rules, it is neither necessary nor in the public interest to allow the marketing of sub-standard products outside the region concerned. Consequently, under the transitional scheme envisaged, the German authorities would have to take steps to ensure that such products did not reach other parts of the Community, while at the same time respecting the rules of the Treaty and in particular the restrictions imposed by Article 36 and the 'Cassis de Dijon' ruling. Appropriate arrangements will be needed to ensure that Community standards are met outside the former German Democratic Republic when such products are sold.

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and that penalties are imposed in cases of non-compliance (end-use control).

The external relations sector is a case in point. The transitional system proposed is designed to avoid sudden disruption to trade with East European countries ("Vertrauensschutz") and only grants tariff concessions to products released for free circulation in the former German Democratic Republic. Such products will enjoy all the advantages of the internal market, notably free movement. However, the tariff concession will only be granted if they are consumed (or processed before re-export) in the former German Democratic Republic, so that the scope of the measure is limited to what is needed to achieve the objective in question ("Vertrauensschutz").

2.5. The package of legislative measures set out in this report only covers those requiring adoption by the Council. In some cases, technical adaptations and transitional arrangements will be decided by the Commission alone, in so far as the powers conferred on or delegated to it allow. The Commission will act as necessary before the official date for German unification.

3. Provisional measures

3.1. As indicated in the introduction, in case unification takes place before the institutions have had time to take the necessary final decisions the Commission is proposing two legal instruments authorizing it to apply provisional measures, thereby avoiding a potential legal vacuum between German unification and final adoption by the Council of the necessary transitional and technical adaptation measures.

3.2. From a legal point of view, this authorization should take the form of two texts, to be adopted in accordance with different procedures. The first text would be a proposal for a Directive on interim measures to be applied in anticipation of the transitional measures laid down in the proposals for Directives to be adopted by the Council under the cooperation procedure. The aim would be to grant a temporary derogation from the Directives to be covered by the transitional measures proposed on 21 August. The legal basis would be the legal bases chosen for each of these proposals.

3.3. The substance of the two texts would be broadly similar. The Commission would be empowered to authorize the German authorities, on a provisional basis, to retain existing legislation applicable in the territory of the former German Democratic Republic which did not conform to Community law but which would be covered by transitional measures proposed by the Commission.

A safeguard clause would make it possible to surmount any difficulties arising from the retention of such legislation. It would also make it possible to adapt Community law, where appropriate, to bring it into line with this provisional authorization. This would be particularly necessary in the case of legislation relating to agriculture and fisheries. It is proposed that the Commission be empowered to make these adjustments under the regulatory committee procedure (procedure IIIa) except in the case of rules and regulations affecting the markets in agricultural and fisheries products where the management committee procedure would apply.

3.4. The two texts would not cover transitional measures or technical adaptations for any granting of aid to the ECSC sector nor planned structural Fund operations. Interim measures do not appear to be necessary in these fields, given the long-term effects of the measures to be introduced.

II — Sector-by-sector explanatory memorandum

External aspects

The external aspects of German unification pose the Community a number of problems:

(i) the applicability of treaties concluded by the Community to the new Community territory,

(ii) the extent to which the Community is a legal successor to the international rights and obligations of
the German Democratic Republic (GDR) in the areas of Community competence,

(iii) the economic impact on the German Democratic Republic's neighbours and major trading partners,

(iv) legitimate trade expectations of these trading partners ('Vertrauensschutz', an explicit principle contained in the two State treaties between the two German States).

These and related questions are analysed below in terms of legal, economic and political implications.

Finally, the adoption of specific measures is suggested, providing for a transitional period allowing both East German and East European businesses to adapt to the new framework of external economic relations.

1. Legal implications

1.1. Succession to GDR treaties

There is no reason why the applicability of Community treaties to the territory of the former German Democratic Republic should be approached differently from the applicability of Community law in general. Thus all Community treaties apply immediately on unification, unless specific exemptions are granted by Community legal acts. At present no such exemptions from the full effect of Community treaties are foreseen for the territory of the former German Democratic Republic. However, some Community treaties may need to be adapted to the new situation, e.g. the Community textile agreements.

The preceding paragraph describes one aspect of the rule of moving treaty boundaries, a rule of international law applied in the field of succession of States to treaties. This field of public international law is in a state of flux. There is no inherent reason, however, why the basic rules of succession to treaty rights and obligations should not apply to an entity having international personality and having been granted extensive treaty-making power, such as the Community, in so far as the treaties concerned fall within its recognized sphere of competence.

The Commission rejects the application of the so-called negative aspect of the abovementioned rule of moving treaty boundaries, which would lead to the automatic extinction of all GDR treaties with third States. The Community is bound by the legal principle of the continuity of treaty rights and obligations. A fundamental exception is to be made for so-called personal treaties, i.e. those which are inextricably linked with the political 'persona' of the former German Democratic Republic. Moreover, as it is likely that inherited treaty rights and obligations will conflict with Community law, including Community treaties, it is clear that their continuity must be subject to (re)negotiation.

If the subject-matter of a GDR treaty is within the exclusive competence of the European Community, the Community succeeds directly. It alone should carry out any necessary renegotiation with the third country concerned, in accordance with normal Community procedures.

In cases of treaties of mixed competence, the Community and the united Germany each succeed in respect of their own competence. (Re)negotiation should be carried out jointly, subject of course to careful coordination.

Both in cases of mixed and of exclusive competence the possibility of a temporary authorization to a united Germany to exercise rights and obligations under the inherited treaty should not be excluded. This may, indeed, provide a practical solution to difficult situations in practice. Such authorization should clearly be subject to safeguards, for example Commission supervision.

An alternative, relatively simple, way to avoid conflict between GDR treaties in the area of Community competence and Community law, is to request the German Democratic Republic, where possible, to denounce such treaties.

The fact that the present law of succession in respect of treaties may open the possibility of restricting inherited treaty rights and obligations to the territory to which they formerly applied, is noteworthy. This may well be reasonable, and be perceived as such by former GDR treaty partners, in the case of economic obligations of a limited duration and of economic rights specifically geared to GDR capacities (e.g. fishing rights). Thus, a solution to a treaty succession problem could only be the result of an understanding with the treaty partner concerned. It should only be suitable for a brief period, since the former GDR territory could not be effectively isolated from the rest of the common market for any length of time.

Finally, the technique of autonomous adaptation of Community law may also reconcile incompatibilities of inherited treaty obligations with Community law.
Moreover, this may be the most convenient legal technique where the Community wishes to meet justified economic or political requests from third States, outside the realm of legal obligation.

To sum up, therefore, where the German Democratic Republic does not unilaterally rescind treaties, the Community has the following instruments at its disposal with regard to legal rights and obligations inherited from the German Democratic Republic:

(a) renegotiation of the relevant treaty, according to normal Community procedures;
(b) temporary authorization of a united Germany to exercise the rights and fulfill the duties under the relevant inherited treaty;
(c) restriction of the territorial scope of an inherited treaty to the former German Democratic Republic;
(d) autonomous adaptation of Community law.

The choice of which instrument or combination of instruments will depend on the nature and scope of the treaties concerned. The following analytical inventory of GDR treaties potentially affecting Community law, including Community treaties, gives an indication of which instruments to use in which cases.

1.2. Analytic inventory of GDR treaties

The following inventory contains only those GDR treaties which affect Community competence. A distinction is made between multilateral and bilateral treaties and these are each divided into a number of separate categories, each with specific problems and solutions.

(a) Multilateral treaties

This group of treaties includes multilateral treaties which establish international organizations.

(aa) Multilateral treaties to which the Federal Republic of Germany, the German Democratic Republic and the Community are parties

This category of treaty (which includes international organizations in which the Community is an observer) poses no particular problems. In mutual agreement and depending on the Community's status in such treaties or organizations, Germany or the Community will notify the fact of unification to the depositary of the treaty or to the organization concerned.

(ab) Multilateral treaties to which the Community and the German Democratic Republic are parties, but the Federal Republic of Germany is not

In these cases the Community will notify the treaty depositary or the organization concerned that the territory to which the Community treaties apply has been extended as a result of German unification. This applies to multilateral fisheries organizations, such as NAFO, and to the international Sugar Agreement. In accordance with the internal rules of these organizations, this will have consequences for the Community's voting rights and financial contribution.

(ac) Multilateral treaties to which the German Democratic Republic is a party, but the Community and the Federal Republic of Germany are not

These are treaties concluded within the framework of the CMEA but independent from membership in the organization. There are 64 such agreements between governments. Only 14 of these affect Community competence. Seven of these are normative agreements, of which four are in the field of standards and certification. It would be logical to allow continued application of these treaties to the former GDR territory for as long as exemptions are granted from Community standards and certification. Concrete proposals for a Community view with respect to these treaties are contained in Annex I. There are 76 such agreements concluded at ministerial level. It is hoped that the large majority of these can be maintained by private firms. Proposals for the eight remaining agreements are also contained in Annex I. Finally, there are 25 agreements setting up multilateral economic organizations of the CMEA countries. Current information indicates that Community law is only tangentially affected by three such organizations (Nuclear Research Institute Dubna; Organization for the Cooperation between Railways; Organization of Post and Telecommunications). No immediate action is proposed on these.

(b) Bilateral treaties

(ba) Treaties running parallel to the five-year plan 1986-90

Such treaties have been concluded with all CMEA countries and with a number of LDCs. They provide
a framework for trade between the partners. Lists of goods in which trade may take place are attached to them. The goods and the quantities in which trade will actually take place are laid down in yearly protocols. Obviously these treaties and the protocols for 1990 have no legal consequences for the Community beyond 31 December 1990. However, for the time between formal unification and the expiry of these treaties the Commission proposes to allow trade on the terms of the yearly protocols. Moreover, the yearly protocols for 1990 (for Poland: 1989) could serve as a reference point for any measures the Community might wish to take in favour of the East European CMEA members for a transitional period (see below, point 4). The German Democratic Republic is discussing new annual protocols for 1991 (with indicative product lists) with the USSR and probably also with others.

(bb) Specific treaties GDR-USSR, to which the Community should not necessarily succeed, but which will have consequences for Community law

The GDR authorities have submitted a specific list of bilateral treaties with the USSR which they are asking to maintain, principally for economic reasons. Since most of these treaties concern investment projects and other cooperative ventures between the two States, it is for the united Germany to decide whether to maintain them. However, the cooperation of the German Democratic Republic in these projects is in many cases compensated by deliveries from the USSR to the German Democratic Republic of raw materials, semi-finished goods and energy goods. These are of extreme importance to the GDR economy and the Community will allow the import of these goods into the territory of the former German Democratic Republic during a transitional period on the same terms as before unification. A list of these agreements can be found in Annex II.

(bc) Specific treaties between the German Democratic Republic and various third countries with consequences for Community law

The GDR authorities have submitted a list of agreements with various third countries which pose the same problems as those mentioned under (bb). For the European CMEA countries concerned, the Community will provide for specific transitional measures (see below, point 4). The agreements are also contained in Annex II. For some LDCs involved their ACP status gives them free access to the Community market for their deliveries in compensation for GDR projects. But in the case of the countries which do not have this status or whose deliveries are in agricultural products, the Community is willing to entertain requests for renegotiation.

(bd) Trade agreements (Eastern Europe and Asia)

The German Democratic Republic has concluded trade and navigation treaties with its neighbours in Eastern Europe (Albania, Bulgaria, Czechoslovakia, Poland, USSR) and with two Asian countries (China, North Korea). These agreements can be rescinded by the German Democratic Republic with six months' notice. In consultation with both Germanys, the Commission has asked the German Democratic Republic to avail itself of this possibility in the cases of Albania, China and North Korea.

The Commission is willing to take the existing agreements with East European CMEA countries into account in future talks on the Community's relations with these countries. These agreements essentially ensure most-favoured-nation (mfn) treatment, but in coverage go somewhat beyond the Community's present mfn-treaties with these countries, and even beyond Community competence (mfn treatment of individuals; recognition and execution of arbitral awards, etc.).

(be) Trade agreements (other States)

The German Democratic Republic has trade agreements with countries from the following groups: EFTA States; Mediterranean and Middle Eastern States; ACP States; States of Asean and South Asia; States of South and Central America and some OECD countries (Australia, New Zealand, Canada and Japan). All of these treaties are essentially pure mfn-treaties (although some include shipping), except for the agreement with Japan. The large majority of these treaties can be terminated by unilateral denunciation before 30 September 1990. The German Democratic Republic has expressed its readiness to denounce them all. The Community can agree to this, since the Community treaties with the countries concerned, or the Community trade policy in conformity with GATT, guarantee at least the same or better treatment than that granted by the German Democratic Republic treaties.

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1 Even those which have different deadlines for denunciation, but with an exception for those which form the ultimate legal basis for continuing barter payments to the German Democratic Republic (notably Brazil).
The agreement with Japan, which goes beyond trade, should be carefully studied by the Community and the united Germany.

(bf) Agreements on economic and technical cooperation

In so far as cooperation by the Community is concerned, there are sufficient instruments available (Lomé Convention, Mediterranean agreements, other agreements on trade and cooperation) to ensure further Community cooperation with the countries broadly covered by the GDR treaties in question. The Community has always admitted that is Member States may also have economic and technical cooperation treaties with third countries: hence a united Germany must have the right to succeed to GDR treaties of this kind, if it so wishes. Obviously such German cooperation treaties will be subject to the consultation procedure of Council Decision No 74/393/EEC of 22 July 1974.

(bg) Transport agreements

Air transport: in view of the specific situation created by unification, the Commission proposes to authorize the united Germany to succeed to GDR air transport agreements.

Shipping agreements: these are for Germany to succeed to. However, in so far as the GDR agreements include cargo sharing and cargo reservation clauses — and many of them do — these are fully subject to the disciplines of Regulation (EEC) No 4055/86.

Road transport agreements: for commercial and technical road transport agreements as for the air transport agreements, the Commission envisages an authorization for Germany to succeed to this type of agreement. Clearly, these agreements remain subject to existing EC disciplines.

(bh) Agricultural agreements

Here a distinction can be made between:

(i) agreements on scientific and technical cooperation in the agricultural sector,

(ii) agreements on veterinary matters and plant health,

(iii) development aid agreements in the agricultural sector.

The first and third category of agreements should not be subject to succession by the Community. The second category falls in principle within the framework of Community competence. However, the German Democratic Republic has announced that its Government intends to denounce the multilateral CMEA agreement and to terminate bilateral treaties in this area.

(bi) Fishing agreements

Some GDR fishing agreements (notably with the Faeroes, Norway and Sweden) have been concluded along the same lines as Community fishing treaties with the same countries. With the permission of the GDR authorities, the Commission proposes that the GDR quota agreed pursuant to these agreements should become part of the negotiations for the Community quota with these countries for 1991. Other GDR fishing agreements contain particularities or are with States which subject the Community fleet to certain restrictions. In these cases the Commission will need to explain to the treaty partners of the former German Democratic Republic that succession does not imply a recognition of such peculiarities and restrictions, but seeks to guarantee that these fisheries can continue to be exploited by former GDR fishermen. That is to say that the fisheries treaties, which for the moment are not integrated into Community agreements, will have a continued validity only for the ‘East German’ fleet (for concrete proposals, see the chapter on the common fisheries policy).

(bj) Textile agreements

Although the Community will have to take account of some GDR agreements on trade in textiles, the primary task here is to adapt the existing Community textile agreements to the new situation of a larger Community market. Where hitherto trade was nonexistent, this operation would be restricted to an autonomous technical adaptation of these agreements given the absence of a general legal obligation flowing from the MFA (Multifibre Arrangement) or the GATT and not lead to a wholesale renegotiation of the textile regime with third countries. A proposal for a Directive for negotiations to this effect is included.

(bk) Steel agreement

The German Democratic Republic has concluded a steel arrangement with the USA which runs parallel to the Community steel arrangement with the USA both as to form and to duration but not as to products covered. The Commission believes that arrangement should be allowed to continue to benefit steel-
works within the former GDR territory alone until the expiry date in March 1992.

The above inventory of GDR treaties to which the Community will succeed or by which Community law is affected is far from complete. The Commission departments, in spite of the effective help they have received from Federal and GDR authorities, have not been able to analyse all possibly relevant treaties in depth. Nor can it be entirely excluded that some treaties have been overseen.

To take account of this, the Commission reiterates its basic willingness to succeed to GDR treaty rights and obligations which fall within the Community’s sphere of competence, but on the other hand subjects such willingness to (re)negotiation.

2. Economic assessment

The impact on foreign trade of German unification and integration of East German territory into the Community is difficult to assess. No reliable estimates quantifying the decline in trade exist. But trade decline has already been observable since 1 July, the date of German economic and monetary union (GEMU).

The Commission’s economic assessment is therefore limited first to a short description of the GDR’s traditional patterns of foreign trade to 1990 and second to an analysis of their macroeconomic importance both for export industries in the German Democratic Republic and for the German Democratic Republic’s main trading partners in the Council for Mutual Economic Assistance (CMEA). These patterns have traditionally been fixed by multianual foreign trade treaties (see paragraph (b), (ba), p. 49) and the corresponding annual trade protocols. This will no longer be the case from January 1991.

The structural and political changes in the CMEA countries affecting the future trade of the former German Democratic Republic are also analysed below. In conclusion, the potential effects of the application of the Community’s commercial policy are described.

2.1. Historic trade patterns

With autarky a prime objective, for a country of its size the German Democratic Republic has been comparatively unintegrated into the international trade system. In 1988, about two thirds of GDR trade was with other CMEA countries, notably with the Soviet Union (around 37% of total trade). As trade with developing countries plays only a minor role, most of the remainder is with Western industrialized countries (of which, depending on the statistical source, one quarter to one half is with the Federal Republic of Germany).

The GDR’s small share of world trade is illustrated by its overall volume of foreign trade which, in 1988, at USD 58.7 billion accounted for a share of somewhat more than 1% of world imports and exports. By comparison, the Federal Republic of Germany with a trade volume of USD 551.9 billion scored an average share of world trade of 10%.

The GDR’s foreign trade is characterized by:

(i) low level of involvement in the international division of labour,

(ii) one-sided orientation towards the CMEA countries, and

(iii) a product pattern inappropriate to a highly industrialized country.

These characteristics derive from the politically determined compensatory function of the GDR’s foreign trade:

(a) Goods were only imported to obtain scarce resources and to fill gaps in the range of goods available. Goods were only exported in order to finance import requirements.

(b) Until the beginning of 1990, the State monopoly of foreign trade determined the orientation of external economic relations towards the socialist countries.

(c) An attitude of self-sufficiency, non-convertibility of the currency and lack of competitiveness are further adverse limiting factors.

The table below provides a brief overview of the GDR’s foreign trade with its CMEA trading partners.

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1 According to more recent publications, trade with the USSR was only one quarter of total trade. These discrepancies in official figures are the result of a modification of the exchange rate of the transfer rouble. At present, it is not possible to quantify trade on the basis of market economy indicators. This makes it difficult to compare analyses of the GDR’s foreign trade with CMEA countries with its trade with Western countries.
Breakdown of GDR-CMEA trade volume for 1990

(CMEA trade represents about 65% of total GDR trade)

<table>
<thead>
<tr>
<th>Trade partners</th>
<th>Total trade volume (mio TR)</th>
<th>% of total trade volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>USSR</td>
<td>13 200</td>
<td>55.4</td>
</tr>
<tr>
<td>Czechoslovakia</td>
<td>2 900</td>
<td>12.2</td>
</tr>
<tr>
<td>Poland</td>
<td>2 500</td>
<td>10.5</td>
</tr>
<tr>
<td>Hungary</td>
<td>2 000</td>
<td>8.4</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>1 400</td>
<td>5.8</td>
</tr>
<tr>
<td>Romania</td>
<td>1 100</td>
<td>4.6</td>
</tr>
<tr>
<td>Cuba</td>
<td>568</td>
<td>2.4</td>
</tr>
<tr>
<td>Vietnam</td>
<td>140</td>
<td>0.6</td>
</tr>
<tr>
<td>Mongolia</td>
<td>30</td>
<td>0.1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>23 838</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

1 Estimates based on annual trade protocols for 1990.

Annex III contains a more detailed overview of trade with CMEA member countries by product group and separate information on the GDR's foreign trade flows. The Annex also provides country-based information on existing long-term obligations and issues requiring particular attention.

The structure of the GDR's trade with the CMEA countries has remained relatively constant. Stable export and import patterns have been established with a number of partners. A good 60% of the GDR's exports to the CMEA countries are accounted for by machinery and equipment while on the import side raw materials are the major group with 40 to 50%.

The compensatory function of the GDR's foreign trade is clearly reflected in this basic pattern. The Soviet Union is the GDR's main supplier of energy and raw materials (covering, for example, 100% of its natural gas, lead, pig iron, wood and phosphate requirements). This is matched by the fact that the German Democratic Republic, with its principal exports in the area of machinery, industrial equipment and transport facilities, is the Soviet Union's main supplier (it accounts for approximately 20% of all Soviet imports in this area). Trade with the other socialist countries is characterized by a greater degree of substitution.

The USSR is the GDR's main trading partner. In November 1989 a level for 1990 of 6.8 billion transferable roubles (TR) was agreed for the GDR's exports and a figure of 6.4 billion TR for imports. Since 1987, however, there has been an unmistakable downward trend in the volume of trade with the USSR. In 1986 this still accounted for 70.6 billion transferable marks (VM). In 1987 it fell to 68.4 billion VM and again in 1989 to 65.4 billion VM.

Recently, the USSR has stepped up its purchase of microelectronics products, equipment for light industry and the foodstuffs sector and for commerce and public utilities. The raw materials package accounts for some 50% of deliveries and purchases in trade with the USSR. The USSR has been making efforts to ensure that this aspect of trade will continue to enjoy a State guarantee (possibly through State contracts with firms).

Trade links with the other CMEA countries differ in volume and structure from those with the USSR. The total volume of trade is approximately 1.5 billion TR less than with the USSR, accounting for 44.6% of total GDR trade with CMEA countries. The differences from one country to another arise primarily from the different levels of economic development of the countries concerned and their progress towards economic reform. Since 1990, there has been a dramatic decline in trade with several East European countries. The introduction of a market economy has meant that Hungary and Poland could no longer guarantee to purchase GDR products. Firms have terminated purchases previously made from the German Democratic Republic.

The 1990 protocol with Hungary contains no State guarantees of purchases on the part of the Hungarian Government and no provisions on pricing. In the case of Poland, it was decided not to conclude an annual protocol for 1990 but merely a loose agreement. The agreement provides only for a volume of approximately 20% of the previous years' trade, this being the amount for which the Polish Government considered it could provide a certain guarantee. On the other hand, Poland has recently expressed interest in greater supplies of consumer goods, including cars. These are products which the German Democratic Republic will find increasingly difficult to sell on its domestic market.

2.2. Structural changes affecting foreign trade

Much of business in the German Democratic Republic (and even more in its CMEA trading partners) depends on a continuation, in some form, of existing trade relations. Severance of existing relations, even after short-term contractual obligations have been met, could lead to the disappearance of...
entire businesses and to widespread unemployment. About 1.8 million people are employed in export-related jobs, 480,000 (15% of total employees in GDR industry) of which are directly or indirectly related to exports destined for the USSR.

The GDR foreign trade reflects the high level of self-sufficiency. As a result, the range of products manufactured has been far too large measured in terms of a single country's opportunities on the world market, if the German Democratic Republic is exposed in the short term to the full pressure of competition on the world market, without fundamental changes to the pattern of production, many of its companies may not survive.

The Soviet, Polish and Hungarian Governments have expressed similar concerns about the fate of industries wholly or partially dependent on exports of the German Democratic Republic. Their potential losses have been attributed to German unification and the future application of the Community's commercial policy.

However, German unification and the subsequent integration of the GDR's territory into the EC is taking place simultaneously with several other important structural economic changes. In most Central and East European countries there is a clear transition to market economies, linked with a shift towards trade in convertible currencies at world market prices. The principle was formally adopted by the CMEA Sofia Summit in January 1990. There thus would have been major changes to the intra-CMEA trade pattern even without German unification. It is likely that the very swift process of German unification will reinforce these changes. Reliable quantification of this additional factor is impossible.

These radical changes are bound to call into question existing foreign trade patterns and will inevitably alter the structure of production. Since 1987, there has already been a decline in the volume of intra-CMEA trade, as described above. This process will now accelerate substantially in the remainder of 1990 and in 1991. Intra-CMEA trade volumes are likely to contract significantly as importers who previously bought within the CMEA have to pay in hard currency and may switch to other sources. The only way for CMEA exporters to avoid this is to lower their prices substantially. This may not work in all cases. Some of the CMEA's traditional exports could have problems finding a buyer at any (hard-currency) price.

However, these effects are the short-term results of the structural changes brought about by German unification. In the medium term new areas of co-operation will open up (e.g. cooperation in reconversion, transfer of GDR production specialized in exports to the USSR to East European countries, expansion of the tourist industry, cooperation of small and medium-sized businesses). The reform process in Central and East European countries, strongly supported by the Community, is creating new business opportunities. They will now be enhanced by the economic growth resulting from German unification. Additionally, the Central European CMEA countries will swiftly become very attractive for foreign investors looking for low production costs for new industries exporting to Germany and the EC.

### 2.3. Prospects for GDR exports to CMEA countries

GDR exports to CMEA countries fall into two categories: those products exported only to CMEA countries and those also exported to Western countries.

Basically, if products have only been exported to CMEA countries, they are not competitive on the world market. This holds mainly for investment goods and for protected markets such as those for agricultural goods and mining products, except where the CMEA has not been the only market for these goods. Consequently, exports of the German Democratic Republic to CMEA countries are soon likely to decrease substantially unless GDR producers either have had a monopoly position on these markets, or prove to be competitive or their exports are heavily subsidized.

If products have also been exported to Western countries, prospects for exports to CMEA countries are favourable. This will, however, depend on the development of production costs in the German Democratic Republic. This holds especially for those goods which have not depended on export subsidies to be competitive on world markets. For all other products, subsidies may be necessary to maintain prevailing export flows.

### 2.4. Prospects for CMEA exports to the German Democratic Republic

A parallel distinction between goods exclusively exported to the German Democratic Republic and those also exported to Western countries must be made for CMEA exports to the German Democratic Republic — which in principle also means to the European Community after German unification.
Goods only exported to CMEA countries but not to Western countries are obviously not competitive on the world market in convertible currency. Consequently, these exports to the German Democratic Republic will soon disappear, probably already in 1990. An exception might be exports processed in the German Democratic Republic and then re-exported to CMEA countries. But this will hold only as long as the GDR processing industry remains competitive.

Some goods exported to Western countries, e.g. oil, gas and coal, have proved competitive on the world market at current prices. Despite the prevailing preference of GDR consumers for goods of Western and mainly West German origin, such CMEA exports may be maintained or even extended in the medium term as long as they fulfil EC standards. If not, GDR demand for these products will probably soon decline.

In the absence of significant interventions on the market, CMEA exports to the German Democratic Republic (excluding raw materials) may fall in 1991 to less than one third of their 1989 level. CMEA raw material exports (oil, gas) will be maintained or even increased, assuming a phasing-out of nuclear energy production and plants based on lignite.

2.5. Potential effects of the application of the common commercial policy

Germany has to adopt the Community's common external tariff (previously the German Democratic Republic conducted tariff-free trade with CMEA countries) and apply Community and GATT rules to the territory of the former German Democratic Republic. Federal Republic of Germany quantitative restrictions will extend to GDR territory, as well as EC standards and quality norms.

(a) USSR

The Commission has noted that exports of the USSR to the German Democratic Republic follow approximately the same general pattern as USSR exports to the EC. Owing to the high percentage of raw material (particularly energy) exports, the current average rate of duty on such exports is 2.3% and may drop to 1.7% if the Uruguay Round tariff offer is maintained. The tariff impact will therefore be moderate (86% of goods at 5% duty or less). However, the USSR has noted that though market access is likely to be maintained, the pricing of currently price-balanced CMEA trade arrangements will be affected and cause problematic imbalances.

Technical barriers based on the adherence to EC norms and standards by the German Democratic Republic will also adversely affect trade in various sectors such as machinery and equipment.

Under the EC-USSR Trade and Cooperation Agreement, all quantitative restrictions (QRs) for which it was agreed liberalization would take place, were liberalized by Regulation (EEC) No 1434/90. Only 67 have been maintained, of which 18 are agricultural. In the agricultural sector only coffee and vegetables, particularly potatoes, are involved. Therefore, none of the QRs in the agricultural sector would be likely to have a great impact on trade with Germany. In the non-agricultural group, the QRs are mostly for intermediate products such as fibre-board and ferro-silicon, and for a variety of finished goods with a limited importance in USSR-GDR trade.

(b) Other East European CMEA countries

The impact of the application of the tariff will be greatly alleviated for the other countries of the CMEA. Romania has had the benefit of the generalized system of preferences (GSP) on a limited basis for a long time. Poland and Hungary benefit from the full extension of the GSP in the framework of the G-24 Phare programme for a temporary period of five years from 1 January 1990. The Community intends to extend this on the same basis to Czechoslovakia, Bulgaria and Yugoslavia from 1 January 1991. This will certainly ensure that there is no adverse impact as far as industrial goods are concerned.

However, Regulation No 3420/83 and Regulation No 288/82 should be taken into account. These Regulations provide for regional quantitative restrictions (QRs) on certain imports on a regional basis in the Community. German unification implies the extension to the former GDR territory of those restrictions applied by the Federal Republic of Germany against the CMEA countries.

However, the impact of these restrictions will be minor, since the number applied by the Federal Republic of Germany is relatively small and covers a small range of products. Furthermore, the Federal Republic of Germany has reduced its impact almost totally under the system known as 'Testausschreibung' which has permitted, on an experimental basis, the unrestricted entry of industrial imports from the countries concerned. In the case of Poland and Hun-
The impact of QRs was reduced to zero on a Community-wide basis by the liberalizing Regulations of late 1989. The same measures are planned for Czechoslovakia, Bulgaria, Romania, and Yugoslavia. A proposal to this effect is with the Council. For Yugoslavia no QRs are maintained by the Federal Republic of Germany and there will therefore be no effect after unification.

In sum, Community measures already taken or being taken to improve the access of certain countries of Central and Eastern Europe to the Community market will greatly diminish the potentially adverse effects of the application of tariffs and of QRs.

2.6. Conclusions

The current structure of the external trade of the German Democratic Republic is seriously distorted by the special division of labour within the CMEA and by accounting in non-convertible currencies. As both distortions will disappear in 1990, the present trade structure cannot be maintained. For market reasons, trade flows among CMEA countries, in particular between the German Democratic Republic and the other countries, will diminish significantly. GDR trade with the CMEA will adjust to the pattern of trade flows between CMEA countries and Western countries.

If the countries of Central and Eastern Europe undertake serious efforts to catch up, there will be significant trade and current account surpluses in EC countries vis-à-vis these countries, including the former GDR territory. This should prepare the ground for suspending remaining EC tariffs and quantitative restrictions vis-à-vis these countries during a transitional period. Trade relations should be extended on a market basis and East European countries should be helped to improve their competitiveness on the world market.

3. Political considerations

Legally, the Community is affected by an important number of existing foreign obligations of the German Democratic Republic. However, from an economic point of view it appears doubtful whether these obligations will be honoured, given the structural changes taking place and the introduction of world market competition.

Against this background, the Commission had to evaluate carefully whether a transitional period should precede the full implementation of the Community’s commercial policy. This would allow both the German Democratic Republic and its main trading partners to adapt to the additional change. The process of internal change towards market economies and external adaptation to world market prices and hard currency puts the CMEA economies under enormous pressure to restructure industry. This pressure has already been greatly increased by German economic and monetary union since 1 July 1990. Any additional strain on these countries resulting from the indiscriminate and immediate application of the common commercial policy which could result in subsequent economic and social destabilization ought to be avoided.

Even if the economic effect of possible derogations is likely to be limited in the case of CMEA exports to the former GDR territory (since the market will not be very responsive), the potential political and psychological impact could negatively affect EC relations with its Central and East European neighbours and the USSR.

Any destabilization from, or perceived as stemming from, the immediate application of EC commercial policy would run the risk of contradicting other major EC initiatives in Eastern Europe (Phare, association agreements, aid to the Soviet Union), which aim at establishing a pan-European free trade area in the long term.

Finally, it is declared policy of the EC to support the process of German unification. Since the principle of legitimate expectation (‘Vertrauensschutz’) is contained in the two State treaties between the German States and constitutes one of the external cornerstones of the unification process, it is a politically relevant factor for the Community as well.

Ways had therefore to be found to reconcile traditional trade patterns with the legal, political and economic integration of the German Democratic Republic into the Community. They combine transitional exemptions with the necessity rapidly to transform the German Democratic Republic into a market economy fully integrated into the EC. The application of the different measures proposed may be the beginning of very close economic cooperation between the EC and Central and East European countries.

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1 Regulations Nos 3381/89 and 3691/89.
countries. The GDR's external commitments will thus have served as a catalyst for pan-European economic cooperation.

Clearly, the European Community's interest is limited to providing its Central and East European neighbours with this framework. These countries benefit from other efforts of the EC to stabilize their economic and political transition processes and negotiations on far-reaching association agreements with them are currently being prepared. Specific transitional measures of the Community are therefore limited to the active European member States of CMEA and Yugoslavia, the GDR's main trading partners.

Clearly, however, these measures can obviously not ensure actual market shares. Unified German and/or individual East German businesses may therefore have to guarantee the sales of certain products for the transition period.

4. Adaptation measures during the transition period

4.1. Application of common commercial policy

In principle, the common commercial policy applies from the day of formal unification. In fact, the principle is already in force since Council Regulation No 1794/90 establishing 'accelerated customs union' simultaneously with the creation of German economic and monetary union. However, during the interim phase preceding German unification, a general clause stated that the customs union 'shall apply without prejudice to the German Democratic Republic's obligations under agreements concluded with third countries' (Art. 2 (2)). Such indiscriminate preferential treatment was only justified for the short period before unification and applied to a country which was not even a member of the EC. The Community now has to define a more differentiated policy.

In the following section only adaptation measures for the import regime are discussed, since no major problems exist for the Community in the export field. As to the export side the possible granting of State aids to East German businesses is mainly a matter for Germany. Such aids will need authorization by the Commission in order to avoid distorting effects on the common market.

4.2. Exceptions during the transition period for trade with European CMEA countries

Legal, economic and political considerations led to the conclusion that a transitional period of adaptation was needed. During this period, a set of policies are to be applied, which fulfil the objectives of:

(i) implementing the principles and instruments of the common commercial policy within a clearly defined time horizon;

(ii) taking due consideration of the potentially serious effects on the economies of several Central and East European countries;

(iii) promoting necessary structural adjustments in East Germany and its traditional main trading partners in Europe.

A variety of different measures are to be applied in order to meet these objectives. They are outlined below. But there is one common provision which has to be applied to all transitional measures envisaged, except for quantitative restrictions (bdt), namely application only to products of which final consumption takes place in the territory of the former German Democratic Republic. Despite its practical disadvantages, this approach can be justified in GATT and vis-à-vis economic sectors in the Community possibly affected by exceptions to Community rules.

The Commission will require commitment to this provision from the German Governments as well as from benefiting countries.

(a) Renegotiations

(aa) Immediate renegotiation of EC agreements with third countries

The EC has concluded a number of bilateral agreements with third countries limiting market access (textile and steel). The Commission is seeking a mandate from the Council for the adaptation of these agreements in order to increase EC quotas and add the increases to the share of the Federal Republic. Traditional trade flows of the German Democratic Republic ought to be taken into account in this exercise.

A proposal for a Council Directive for negotiations to adapt the bilateral textile agreements can be found in Part IV. GDR rights and obligations should be honoured until adaptation of existing EC agreements with third countries is complete.
(ab) Treaty succession and renegotiation of GDR treaties with third countries

As stated in Part I, the Community will succeed to the rights and obligations of the German Democratic Republic in areas of EC competence. However, a simple takeover of these treaties is impossible, owing to the differences between the legal nature and competences of the EC and those of a former socialist country with a State monopoly in trade. The EC can only provide a favourable framework for the necessary adaptation of these treaties to the new international economic environment. This point could be integrated into the negotiations on the conclusion of association agreements with the countries concerned.

Long-term investment projects and cooperative ventures involving deliveries to the German Democratic Republic in the industrial sector (1.2 (bb)) and in agriculture (1.2 (be)) are of particular importance in this context. Most of these treaties have to be renegotiated by Germany (with the Commission associated).

(b) Exemption from application of common commercial policy instruments

(ba) Time horizon

Any exception has to start on the day of German unification and should be limited in time. The ultimate time-limit for any transitional measure should coincide with the end of preparations for the internal market, in order not to hamper its realization with external commitments not corresponding to internal market requirements. For the moment, the transitional period ends on 31 December 1991. After evaluation, extension may prove possible.

(bb) Beneficiaries

As already noted the USSR, Poland, Hungary, Czechoslovakia, Romania, Bulgaria and Yugoslavia should be the beneficiaries of any exemptions. It is clear that the USSR will gain most since it is not included in the Phare liberalization measures and does not have access to the GSP.

(bc) Trade volume covered

The maximum volume of goods covered by the transitional measures are those contained in

(i) the annual protocols agreed between the German Democratic Republic and the countries mentioned under (bb) for 1990 (1989 in the case of Poland);

(ii) long-term cooperation agreements contained in Annex II.

(bd) Instruments

(bda) Tariff quotas for products originating in European CMEA countries and Yugoslavia

This solution is formulated in a proposal for a Council Regulation (see Part IV). It suspends all duties for amounts identical with the quantities/values contained in the treaties mentioned under (bc).

(bdb) Quantitative restrictions

The Community has already liberalized or is currently undertaking efforts to eliminate or suspend remaining quantitative restrictions vis-à-vis East European countries included in operation Phare (see above, 2.5 (a) and (b)).

GDR imports from the USSR should also benefit from suspension of QRs applied by Germany until 31 December 1991. This is valid for specific QRs. Suspension of non-specific QRs is under consideration.

(bdc) Anti-dumping measures

The Commission prefers to stay within the terms of anti-dumping regulations, so a review of undertakings and anti-dumping duties is the most appropriate action. The Commission will ensure that the revision procedures requested in connection with German unification are treated as expeditiously as possible.

(c) Agricultural products

Given the high percentage of food exports to the German Democratic Republic from Hungary, Bulgaria and Romania (see Annex III), it is not possible to exclude agricultural products from transitional measures. However, duty-free tariff quotas should be limited to agricultural products subject to tariffs, excluding products subject to levies. Community provisions on minimum and reference prices would continue to apply.

(d) GATT notification

The Community should notify GATT of its intentions to implement the abovementioned arrange-
ments to either respect or phase out previous prefer­ential agreements of the German Democratic Republic with third countries. It is important that the Community makes clear that:

(i) the measures are limited to a very brief period;
(ii) they are intended to solve very specific economic problems;
(iii) there is no serious and viable alternative to this solution;
(iv) the arrangements are undertaken within the framework of an overall liberalization of trade agree­ments.

(e) Norms and quality standards

The Commission proposes a two-year derogation period from the application of norms and standards in the sphere of the internal market (see the Chapter on the internal market, p. 68). Parallel to the provision for an adaptation period for domestic (GDR) industries, a similar period is proposed for export products to the former German Democratic Republic. The respective legislative provision is con­tained in the proposal for a Council Regulation on the introduction of a transitional period for the harmonization of technical rules (Article 1(3), see Part IV).

4.3. Additional measures

Even a more generous transition scheme could not guarantee sales. Efforts will therefore be made to offer concrete help for the improvement towards world market competitiveness, particularly with regard to quality and marketing. Possible methods could be:

(i) the design of management training products in the most affected exporting industries;
(ii) the establishment of a ‘cooperation stock exchange’ where GDR enterprises could find West European partners willing to share rights and obligations with regard to East European business partners, thus offering promising long-term cooperation to non-German as well as German firms;
(iii) increased cooperation in research and technol­ogy projects geared to innovative product develop­ment.

The Soviet Union has also expressed interest in closer customs cooperation (e.g. facilities for stepping up drug traffic control).

5. Legislative measures

There will be not more than three legislative mea­sures to be adopted at this stage. The most important is a Council Regulation on the introduction of a transitional tariff quota (see above, 4.2 (bda)). This Regulation provides for the exemption from the application of the Common Customs Tariff for all goods covered by the annual trade protocols (Poland: 1989) and the long-term cooperation treaties with the European CMEA countries and Yugoslavia. The proposal covers both industrial and agricultural products.

The second proposal is for a Council Directive for negotiations to adapt the existing bilateral textile agreements to take account of German unification (see above, 1.2 (bj) and 4.2 (aa)).

The third proposal is for a Commission Decision exempting ECSC products imported from the European CMEA countries and Yugoslavia which are covered by the annual trade protocols and the long­term cooperation treaties between the German Democratic Republic and the countries in question, from customs duties and taxes having an equivalent effect.

6. Annexes

I. List of multilateral treaties concluded within the framwork of the CMEA to which the German Demo­cratic Republic is a party and to which the Com­munity needs to define its attitude.

II. List of long-term cooperation treaties of the Ger­man Democratic Republic with the USSR, Poland and Czechoslovakia affecting Community law.

III. Overview of GDR foreign trade with CMEA countries.
Annex I

List of multilateral treaties concluded within the framework of the CMEA to which the German Democratic Republic is a party and to which the Community needs to define its attitude

(a) **Government agreements**

<table>
<thead>
<tr>
<th>Short title</th>
<th>Signed</th>
<th>Validity</th>
<th>Proposed Community action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention on quality assessment and certification</td>
<td>14.10.1987</td>
<td>unlimited</td>
<td></td>
</tr>
<tr>
<td>Cooperation agreement on the establishment and application of type standard/standardized patterns</td>
<td>5.7.1985</td>
<td>unlimited</td>
<td></td>
</tr>
<tr>
<td>Cooperation agreement</td>
<td>6.7.1984</td>
<td>unlimited</td>
<td></td>
</tr>
<tr>
<td>Agreement on harmonizing requirements for patent applications</td>
<td>5.7.1975</td>
<td>5 years from entry into force (2.10.1975), 6 months' notice of termination, otherwise extended for 5 years</td>
<td>Continued application to former GDR territory until 31.12.1992 (with possible prolongation if technical necessity exists)</td>
</tr>
<tr>
<td>Agreement on legal protection for inventions</td>
<td>12.4.1973</td>
<td>as above (came into force 11.7.1973)</td>
<td></td>
</tr>
<tr>
<td>Agreement on plant for nuclear power stations</td>
<td>28.6.1979</td>
<td>2000</td>
<td>Renegotiation to be considered (possible consequences for customs duties)</td>
</tr>
<tr>
<td>General agreement on the development of the CMEA countries' unified electricity system</td>
<td>14.10.1987</td>
<td>2000</td>
<td>Renegotiation by Germany and/or Community to be considered</td>
</tr>
<tr>
<td>General agreement on the Winniza-Albertischa 750 kV power line</td>
<td>28.2.1974</td>
<td>2008</td>
<td>Renegotiation to be considered, but probably to be continued between the companies concerned</td>
</tr>
<tr>
<td>Agreement on guaranteed supply of electricity</td>
<td>23.1.1979</td>
<td>2009</td>
<td></td>
</tr>
<tr>
<td>Agreement on 750 kV power line from Chmelnitzki to Rzeszow</td>
<td>29.3.1979</td>
<td>2013</td>
<td>To be continued between private companies; Consequences for EC energy policy to be considered</td>
</tr>
<tr>
<td>General agreement on feeding yeast production in Mosyr</td>
<td>28.6.1979</td>
<td>1998</td>
<td>Denunciation by German Democratic Republic; GDR claims to deliveries to be considered</td>
</tr>
</tbody>
</table>
### Agreement on cooperation in merchant shipping

<table>
<thead>
<tr>
<th>Title</th>
<th>Signed</th>
<th>Validity</th>
<th>Proposed Community attitude</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreement on the mutual recognition of test results</td>
<td>4.7.1982</td>
<td>unlimited</td>
<td>Renegotiation by Germany and/or Community to be considered</td>
</tr>
<tr>
<td>Cooperation agreement on the establishment and application of standards</td>
<td>7.7.1983</td>
<td>unlimited</td>
<td>Continued application to former GDR territory until 31.12.1992</td>
</tr>
<tr>
<td>Agreement on the development of reference standards and types</td>
<td>23.11.1972</td>
<td>unlimited</td>
<td></td>
</tr>
<tr>
<td>Agreement on patent information</td>
<td>10.11.1989</td>
<td>5 years</td>
<td></td>
</tr>
<tr>
<td>Agreement on the establishment of reference centres for major animal pathogens</td>
<td>14.9.1974</td>
<td>unlimited</td>
<td></td>
</tr>
<tr>
<td>Scientific and technical cooperation agreement on combating foot-and-mouth disease</td>
<td>20.12.1974</td>
<td>unlimited</td>
<td></td>
</tr>
<tr>
<td>Agreement on the establishment of a reserve of foot-and-mouth vaccine</td>
<td>20.12.1974</td>
<td>unlimited</td>
<td></td>
</tr>
<tr>
<td>Agreement on monitoring radioactivity levels in the Baltic Sea in the context of operating nuclear power stations</td>
<td>7.12.1984</td>
<td>1991</td>
<td></td>
</tr>
</tbody>
</table>

### Sectoral agreements

<table>
<thead>
<tr>
<th>Title</th>
<th>Signed</th>
<th>Validity</th>
<th>Proposed Community attitude</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreement on monitoring radioactivity levels in the Baltic Sea in the context of operating nuclear power stations</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Accession agreements to multilateral economic bodies of the CMEA countries

<table>
<thead>
<tr>
<th>Organization</th>
<th>Founded</th>
<th>Duration</th>
<th>Recommended action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dubna Joint Nuclear Research Institute</td>
<td>26.3.1956</td>
<td>unlimited</td>
<td>Euratom interest to be discussed</td>
</tr>
<tr>
<td>Organization for Rail Transport Cooperation (OSShD)</td>
<td>1956</td>
<td>unlimited</td>
<td>Community interest to be assessed</td>
</tr>
<tr>
<td>Post and Telecommunications Organization</td>
<td>1957</td>
<td>unlimited</td>
<td>Community interest to be assessed</td>
</tr>
</tbody>
</table>
Annex II

List of long-term cooperation treaties of the German Democratic Republic with the USSR, Poland and Czechoslovakia affecting Community law

<table>
<thead>
<tr>
<th>1. Long-term cooperation treaties (government level) with the USSR</th>
<th>Consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreement of 20 January 1986 between the Government of the German Democratic Republic and Government of the Union of Soviet Socialist Republics on cooperation in the exploitation of the Jamburg natural gas deposits</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 28 October 1987 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction of mining and processing combines for oxidic ores including the Agreement of 28 October 1987 on residence and employment conditions for the contracting organizations</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 15 April 1985 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in shipbuilding and the mutual supply of ships and ships' fittings</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 21 July 1976 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction of a 750 kV electricity transfer network</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 21 June 1974 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on joint investment in natural gas (Orenburg) (annual take-up of 2 800 million m$^3$ until 1998)</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 21 June 1974 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on joint investment in asbestos (Kijembai plant) (annual take-up of 40 000 tonnes until 1991)</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 21 June 1973 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on joint investment in pulp (Ust-Ilimsk plant) (annual take-up of 56 000 tonnes until 1992)</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 14 July 1965 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the construction of nuclear power stations (Nord and Stendal I)</td>
<td>Environment</td>
</tr>
<tr>
<td>Agreement of 3 June 1987 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the rehabilitation of 210 mW thermal power units</td>
<td>Customs</td>
</tr>
<tr>
<td>Treaty of 27 September 1953 between the German Democratic Republic and the Union of Soviet Socialist Republics on trade and shipping (including Annex to the Treaty concerning the legal status of the GDR's trade delegation to the USSR's trade delegation to the GDR)</td>
<td>Renegotiation to be considered by the Community and Germany</td>
</tr>
</tbody>
</table>
Agreement of 28 July 1962 between the Government of the German Democratic Republic, the Government of the Polish People’s Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the fisheries sector

Renegotiation by the Community of the fisheries rights

Agreement of 18 September 1974 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in metrology

Continued application to former GDR territory until 31.12.1990

idem

Agreement of 2 February 1973 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the harmonization of national standards, technical specifications and other technical rules

Agreement of 31 January 1989 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on environmental cooperation

Renegotiation

2. Long-term agreements of the German Democratic Republic with the Republic of Poland

Consequences

Agreement of 18 December 1959 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic and the Government of the Union of Soviet Socialist Republics on the construction of an oil pipeline from the Union of Soviet Socialist Republics to the German Democratic Republic via Poland

Customs

Agreement of 18 January 1961, amended on 12 November 1972, between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on the construction and financing of the oil pipeline from the Union of Soviet Socialist Republics to the German Democratic Republic

Customs

Agreement of 18 October 1969 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on the construction and financing of a second pipeline for transporting oil from the Union of Soviet Socialist Republics to Poland across Polish territory to the German Democratic Republic

Customs

Agreement of 17 August 1983 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on the construction and financing of a crossing of the Vistula at Plock for the first and second strands of the ‘Friendship’ oil pipeline

Customs

Agreement of 12 June 1972 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on the joint construction, management and running of a cotton-spinning mill on the territory of the latter

Customs

Agreement of 28 November 1973 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on cooperation in the construction of a feeding yeast production plant in the German Democratic Republic and the supply of feeding yeast to Poland

Customs

Agreement of 6 September 1985 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on the supply of sulphur with deferment of the GDR’s credit balance
3. *Long-term agreements of the German Democratic Republic with Czechoslovakia*  

<table>
<thead>
<tr>
<th>Agreement</th>
<th>Consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreement of 2 July 1971 between the Government of the German Democratic Republic and the Government of the CSSR on the transport of natural gas from the Union of Soviet Socialist Republics to the German Democratic Republic across the territory of the CSSR, and the Protocols to this Agreement of 12 January 1973 and 31 May 1989</td>
<td>Customs</td>
</tr>
<tr>
<td>Treaty of 25 November 1959 between the German Democratic Republic and the CSSR ('Staatsvertrag') on trade and shipping</td>
<td>Renegotiation</td>
</tr>
</tbody>
</table>

4. *Long-term sectoral agreements of the German Democratic Republic with the USSR Union of Soviet Socialist Republics involving primarily delivery obligations*  

<table>
<thead>
<tr>
<th>Agreement</th>
<th>Consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministerial Agreement of 6 June 1980 concerning specialization and cooperation in the manufacture of, and trade in, types of paper and cardboard and cooperation in science and technology</td>
<td>Customs (1992)</td>
</tr>
<tr>
<td>Ministerial Agreement of 24 May 1989 concerning cooperation in the development and production of computerized scanning machines</td>
<td>Customs (1992)</td>
</tr>
<tr>
<td>Agreement of 27 June 1977 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in developing the production and ensuring the supply of roller bearings</td>
<td>Customs</td>
</tr>
<tr>
<td>Ministerial Agreement of 4 December 1985 concerning specialization and cooperation in the manufacture of type 1532 cotton-combing machinery</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 14 December 1984 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the manufacture of patented colour formers</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 28 June 1979 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the manufacture of feeding yeasts in Mosyr</td>
<td>Customs</td>
</tr>
<tr>
<td>Ministerial Agreement of 17 December 1986 concerning specialization and cooperation in the field of catalytic reactors</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 9 December 1975 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the further development of integration in the chemical industry</td>
<td>Customs</td>
</tr>
<tr>
<td>Agreement of 18 June 1982 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in developing production and user technology in the field of nitrification inhibitors for nitrogenous fertilizers</td>
<td>Customs</td>
</tr>
</tbody>
</table>

S. 4/90
Agreement of 15 June 1973 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the foundation of an international economic body for the photochemical industry ("Assofoto")

Agreement of 30 October 1986 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction of the Stendal II nuclear power station

Agreement of 21 November 1973 between the German Democratic Republic and the Union of Soviet Socialist Republics on the mutual protection of copyright

Agreement of 9 December 1983 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction and rehabilitation of cold storage depots for potatoes, fruit and vegetables

Agreement of 9 December 1983 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the production of lucerne seed

Agreement of 14 December 1984 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in expanding the production of kieselguhr (filter powder) for the food-processing industry

Agreement of 28 December 1961 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the development of cooperation concerning the peaceful use of atomic energy

Agreement of 22 December 1977 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the improvement, development and establishment of new technological processes and installations for the treatment of waste water from cities and industrial plants

Ministerial Agreement of 3 June 1987 on scientific and technical cooperation in improving safety standards for the running and maintenance of nuclear power plant in the German Democratic Republic and the Union of Soviet Socialist Republics

Ministerial Agreement of 11 June 1982 on cooperation in implementing research, construction and test projects in the field of controlled nuclear fusion

Ministerial Agreement of 21 March 1979 on cooperation in improving calcium carbide production technology and increasing production efficiency
Annex III

Overview of German Democratic Republic foreign trade with CMEA countries

GDR-USSR

Total: 13.2 billion transferable roubles (TR) (GDR exports 6.8 billion TR; imports 6.4 billion TR), based on annual trade protocol for 1990.

Structure: GDR portion represents 10% of total USSR trade; USSR portion represents 37% of total GDR trade. A breakdown of trade by product group follows:

GDR exports: 62.6% machines, equipment, transport goods, electronic and electrotechnical goods; 19.6% industrial consumption goods; 5.6% chemical products; 13% other.

GDR imports: 61.5% energy and mineral-based raw materials; 25.4% machines, equipment, transport, electronic and electrotechnical goods; 7.4% refined and other raw materials; 2.5% chemical products; 3.2% other.

Agreements: In addition to annual trade protocols, there are 26 governmental S&T agreements with durations to 1995, of which 20 include concrete delivery obligations, plus additional long-term (until 1995) commercial agreements for a total of 4.4 billion TR in long-term GDR obligations. Corresponding USSR obligations for the same period vis-à-vis GDR amount to 3 billion TR.

Focal points of these agreements are: shipbuilding, natural gas pipeline construction, iron ore extraction, paper production, cooling systems.

Furthermore, there are 29 agreements on long-term research cooperation; resulting financial obligations are unknown.

GDR-Poland

Total: 2.5 billion TR for 1990 (GDR exports 1.3 billion TR; imports 1.2 billion TR)

GDR exports: 65% machines and equipment; 22.6% energy and raw materials, metals, chemical products, fertilizers; 12.4% industrial consumption goods.

GDR imports: 49.3% machines and equipment; 26.5% services, 6.3% energy and raw materials, metals, chemical products, fertilizers; 6.3% industrial consumption goods; 1.7% food.

Agreements: Around 150 specialized cooperation agreements with durations past 1990.

GDR-Czechoslovakia

Total: 2.9 billion TR for 1990 (GDR exports 1.6 billion TR; imports 1.3 billion TR)

GDR exports: 60.8% machines and equipment; 26.1% energy and raw materials, metals, chemicals, food; 11.9% technical consumption goods.

GDR imports: 61.4% machines and equipment; 28.2% energy and raw materials, metals, chemicals, food.

Agreements: 92 long-term (past 1990) specialized cooperation agreements; 350 S&T cooperation agreements; 480 direct agreements on enterprise and research institute level.

GDR-Hungary

Total: 2 billion TR for 1990 (GDR exports 1.6 billion TR; imports 0.92 billion TR).

GDR exports: 60.8% machines and equipment; 17.9% energy, raw and building materials, metals, chemicals; 17.8% industrial consumption goods.

GDR imports: 60% machines and equipment; 13.7% food and luxury food items; 12% industrial consumption goods.

Agreements: Few long-term agreements despite strong Hungarian interest.

Issues: Hungarian concern with continued access for its agricultural goods after German monetary and economic union, especially as regards wine (600 000 hl p.a.) and canned vegetables (10 000 t p.a.).

GDR-Bulgaria

Total: 1.1 billion TR (GDR exports 0.6 billion TR; imports 0.5 billion TR).
GDR exports: 74% machines and equipment; 17.2% energy and raw materials, metals, chemical products; 7.7% industrial consumption goods.

GDR imports: 69.6% machines and equipment; 15.6% food and luxury food items; 7.2% energy and raw materials, metals, chemical products; 6.4% industrial consumption goods.

GDR-Romania

Total: 1.4 billion TR for 1990 (GDR exports 0.7 billion TR; imports 0.7 billion TR)

GDR exports: 70.3% machines and equipment; 18.6% energy, raw and building materials, metals, chemical products; 7.6% industrial consumption goods.

GDR imports: 69.2% machines and equipment; 12.9% food and luxury food items; 8.5% energy, raw and building materials, metals, chemical products; 6.6% industrial consumption goods.

Issues: In view of Bulgarian and Romanian inability to pay, the question arises whether deliveries until end-1991 should be continued in the clearing system framework. Bulgarian and Romanian deliveries have been ceased, while the GDR currently continues to deliver.

GDR-Mongolia

Total: 30.3 million TR for 1990 (GDR exports 14.3 million TR; imports 15.9 million TR)

GDR exports: 35.7% consumer goods; 32.2% chemical goods; 25.2% metal-finishing industrial goods.

GDR imports: 73.6% consumer goods; 11.9% raw materials.

GDR-Vietnam

Total: 140 million TR for 1990 (GDR exports 84 million TR; imports 56.1 million TR)

GDR exports: 56.3% machines and equipment; 26.4% energy, raw and building materials, metals, chemicals; 17% industrial consumption goods.

GDR imports: 68.6% industrial consumption goods; 19.4% energy, raw and building materials, metals, chemicals; 9.2% food and luxury food items.

Issues: Vietnam urges continuation of foreign labour agreements with GDR (currently 60 000 workers with contracts until 1993/94).

GDR-Cuba

Total: 568 million TR for 1990 (GDR exports 286.1 million TR; imports 282 million TR)

GDR exports: 64.5% machines and equipment; 15% industrial consumption goods; 14.9% energy, raw and building materials, metals, chemical products; 4.9% food and luxury food items.

GDR imports: 54.3% energy, raw and building materials, metals, chemicals, including sugar cane; 41.4% food and luxury food items.

Issues: Cuba is very dependent on GDR deliveries. GDR import obligations for 300 000 tonnes of sugar at 270% over world market price is politically motivated. Sugar protocol expires end 1990.
Internal market

1. Customs union

The unification of the German Democratic Republic with the Federal Republic of Germany will not entail any temporary derogations from the application of Community legislation governing the customs union. This is because the constituent elements of the customs union have been in place in the German Democratic Republic since the entry into force of economic, monetary and social union between the two Germanys (I July 1990). The marginal parts of the customs arrangements, which will have to be implemented when the German Democratic Republic is integrated into the Community, do not pose problems.

2. Technical rules

2.1. The free movement of goods is governed by the relevant rules set out in the Treaties, including Article 30 et seq. of the EEC Treaty. On unification, these rules will apply in full both to products legally manufactured and/or marketed in the new Länder and introduced into other Member States and to products legally manufactured and/or marketed in other Member States and introduced into the territory of those Länder.

Since 1967, the Community has embarked on a process of removing technical obstacles to trade by way of rules harmonizing national provisions, with close on 600 Community instruments already adopted. These technical rules concern the design, composition, labelling and marketing of industrial products. Their implementation in the Member States necessitates not only a control structure but also an ability on the part of industry to comply with them under competitive conditions.

An analysis of the problems that will be encountered in introducing these technical rules in the territory of the new Länder requires, on the one hand, a comparison of GDR rules with Community rules and, on the other, an assessment of the adaptability of the production systems in order to ensure that products comply with those rules.

2.2. In its analysis of the problems of adapting Community law in the new Länder, the Commission has not considered legislative instruments which, by their very nature, do not give rise to any problems of implementation:

(i) the 'optional' Directives (i.e. the technical rules that firms may apply in order to avoid a prohibition or restriction on the free movement of goods on the basis of Article 36 of the EEC Treaty) allow the German authorities to retain the present GDR rules provided, however, that they do not disrupt the marketing of products that comply with the Directives in the territory for the new Länder. This means that the analysis need not be extended to almost half the technical rules, and in particular all the Directives relating to motor vehicles (with the exception of Directive 89/458 on vehicle emissions), tractors, pressure vessels (old approach), the medical sector and fertilizers;

(ii) the Community instruments introducing cooperation procedures between Member States and the Commission, notably the notification arrangements (Directive 83/189) or the ‘early-warning’ systems (Decision 89/45);

(iii) the Directives adapting technical rules (Commission Directives), the application of which is directly linked to the entry into force of the basic text; any derogation from the basic text will, therefore, automatically result in a derogation from the adaptation Directives;

(iv) the instruments that are to enter into force in the course of 1992 since, given the principle that derogations may not run beyond the deadline of 31 December 1992, the situation of industry in the new Länder is no different from that of industry in other Member States, which must also adopt provisions incorporating Community measures into national law within comparable time-limits. This concerns in particular the agri-food sector (additives, Directive 89/107; materials in contact with foodstuffs, Directive 89/109; labelling, Directive 89/395) as well as most of the ‘new approach’ directives (construction products, Directive 89/106; machinery, Directive 89/392; equipment for individual protection, Directive 89/686).

2.3. The analysis has, therefore, focused on the ‘total’ Directives already in force or due to enter into force in the very near future. These Directives have been examined in close collaboration with the two German administrations. Two types of problem have come to light:

(i) first, the existence on markets in the new Länder of products which do not comply with the Directives but the withdrawal of which would impose an excessive burden on those concerned; this is particularly true of pharmaceutical products that were approved prior to unification;
(ii) second, the matter of the adjustment periods for the manufacturing industries concerned (see those granted to Community industries while Directives were being translated into national law).

2.4. On the basis of the analysis, the following industrial sectors have been identified:

(a) Agri-food industry

The agri-food industry is faced with the twin problems of adapting its products to the marketing conditions laid down in Community directives and making significant adjustments in its manufacturing processes. It is an industry which has no tradition of exporting to international markets other than the Comecon markets and which, unlike other industries, has not therefore been able to become acquainted with international standards and, even less so, with Community rules. Moreover, it is industry that depends on raw-material imports from Comecon countries which do not comply with Community rules (additives, contact materials, health standards). A derogation is, therefore, justified both by the need to adapt the production process (notably through the introduction of labelling techniques that satisfy the requirements set out in the relevant directive) and by the need to retain, within acceptable limits, traditional industrial outlets in Eastern Europe.

However, it has been deemed inadvisable to provide for a derogation from the Directive on the official control of foodstuffs (Directive 89/397). For one thing, the Directive is due to enter into force in June 1991 and, for another, it will be of assistance in securing the conformity of products and production systems by offering industrialists in the new Länder recognition for controls carried out by authorized agencies. Similarly, most of the Directives on preservatives have been excluded since the legislation in force in the German Democratic Republic already complies with these Directives to a large extent.

The proposed derogation does, however, cover close on 80% of food legislation. On account of the lack of detailed information on the rules in force in the German Democratic Republic, it has not been possible to limit the scope of this derogation further.

(b) Pharmaceutical industry

The pharmaceuticals market in the German Democratic Republic is very small compared with the market in the Federal Republic of Germany or, more generally, the markets in industrialized countries. The range of pharmaceutical products at present corresponds to only just over 1.5% for the market in the Federal Republic of Germany. In addition, the pharmaceutical industry in the German Democratic Republic supplies only some 75% of market requirements (in value terms). Of the 1 400 pharmaceutical products in circulation, 600 are imported, of which half from the countries of Eastern Europe and a quarter from the Federal Republic of Germany.

As early as 7 June 1990, the Health Minister of the German Democratic Republic took the steps necessary to permit the marketing of pharmaceutical products approved in the Federal Republic of Germany. Since 1 July 1990, the prices of pharmaceutical products have been freed on the basis of the Federal German price regulations.

This has provided the impetus necessary for the gradual introduction of the Community Directives on pharmaceutical products and those on veterinary medicinal products.

Even so, as was the case in the Member States, transitional periods seem necessary for:

(i) manufacturing licences, good manufacturing practices and inspection: this would concern solely the application of Chapter IV of Directive 75/319 to the territory of the new Länder and of Chapter V of Directive 81/851 on veterinary medicinal products;

(ii) the marketing of pharmaceutical products: on unification, any new application for marketing approval will be vetted by the Bundesgesundheitsamt (Federal Health Office), in accordance with Community Directives. The only problem, therefore, concerns medicines approved prior to unification. The Commission is proposing a 'review' period along the lines of Article 39(2) of Directive 75/319. This period would expire at the beginning of the second phase of the future arrangements for approving medicines in the Community (31 December 1995). During this period, 'old' medicines would enjoy 'notional' approval, as is presently the case in the Federal Republic of Germany.

(c) Chemical industry

Financially, structurally and commercially, the chemical industry in the German Democratic Republic is in a very difficult situation. Many jobs have already been lost and it is estimated that the number could rise to 15% out of a total workforce of 337 000. Prod-
uction has fallen since June 1990 as a result of the ecological standards that have been imposed and their impact on the price structure. Lastly, prospects for the future offer private investors few guarantees.

Immediate introduction in the new Länder of Community legislation, whether on environmental protection or on the marketing of products, would simply accentuate the difficulties currently facing the industry. The introduction of a transitional period thus appears inevitable in the case of all the 'total' Directives, i.e. all the Directives on dangerous preparations, with the exception of those relating to fertilizers.

(d) Veterinary and plant health matters

In the immediate future neither agriculture nor the processing industry of the German Democratic Republic will be in a position to comply with all Community legislation concerning quality, including plant health, veterinary and public health standards. There are some areas, for example general veterinary health, where the situation in the German Democratic Republic is better than in the Community. For other sectors, however, several derogations are necessary to facilitate the adaptation of production and commerce to Community standards. With very few exceptions, all of them will be limited to the end of 1992. In so far as East German products do not conform to Community quality standards provision should be made for the products concerned to be marketed only in the former German Democratic Republic.

Legislation on seeds and propagating material

Certain transitional exemptions must be provided for in respect of the Community legislation on seeds and propagating material.

As far as the marketing of seeds and other propagating material is concerned, the difficulties of progressively adapting current production and marketing practices to Community rules must be taken into account. Transitional exemptions from these rules, with the exception of those related to products satisfying Community conditions, should therefore be allowed.

In the case of seeds and seedlings of crop plant species or of vegetable species, these exemptions should, however, be more specific. In principle they should be restricted to products harvested before unification, or immediately derived from them, as well as to products marketed as a consequence of current international obligations. For certain species, the exemptions should also take into account particular situations such as deliveries of bulked material in large quantities and variety blending.

Legislation concerning animal nutrition

In the field of animal nutrition, the large majority of Community provisions concerning the use of additives in feedingstuffs will be applied in the ex-GDR territories after unification. There is, however, a need to provide for minor exceptions to those concerning three additives. Derogations are proposed for continued use of these additives until 31 December 1992 in order to permit these cases to be examined at Community level. With regard to the marketing of additives in feedingstuffs, general derogations from Community labelling rules are proposed until the same date to enable the feedingstuffs industry in the ex-GDR territories to adapt progressively and run down existing stocks of packaging.

The use of certain yeasts manufactured in the ex-GDR territories from n-alkanes for incorporation in feedingstuffs will be phased out by 31 December.
1991 in order to comply with the Community prohibition of the use of such products.

Veterinary legislation

In the veterinary sector the Commission considers that only two pieces of Council legislation should be amended: first, the Directive concerning battery hens, for which an extra implementation deadline must be set, and second, Council Decision 88/303/EEC concerning the recognition of areas free of swine fever. It should be made clear that the Commission's proposal to include the ex-GDR territories in Annex II to this Decision is made on the assumption that those territories will be fully integrated into the notification system provided for by Council Directive 72/461/EEC before the date of unification.

(e) Cosmetic products

Cosmetic products manufactured in the ex-GDR territories do not comply with the conditions for marketing under Community rules. In addition, it is uncertain whether the methods of analysis provided for in Community rules can be applied by the new Länder immediately from unification. A transitional period will therefore be necessary.

(f) Mechanical and electrical engineering

For industrial policy reasons and in order to allow this sector to adjust gradually, a transitional period is essential for production of machinery and electrical equipment. Certain categories of products such as roll-over protective structures (ROPS) and falling-object protective structures (FOPS) for certain construction plants and industrial trucks do not currently comply with the directives and would prevent marketing of such equipment if the directives were to enter into force immediately.

(g) Textiles

The textile names provided for in Community Directives do not correspond to those laid down by East German rules on textiles. An adjustment period will be necessary to allow the sale of textiles manufactured in the former German Democratic Republic before unification.

(h) Pre-packages

The territory of the new Länder must be allowed a transitional period for bottle volumes, in the same way as Member States were able to maintain 70 cl bottle sizes on their market until the entry into force of the Directive.

(i) Mobile telephones

Technical analysis of radio-telephone frequencies shows that the frequency bands between 901 and 914 MHZ and between 950 and 959 MHZ, which would have to be made available to the Community’s cellular mobile communications systems, are in fact currently used by Warsaw Pact troops. Negotiations will have to be initiated between the German authorities and the Warsaw Pact authorities in order to make these frequencies available. The Commission considers a two-year period sufficient to allow the frequency bands to be made available and thus to allow the Community Directive to be implemented.

Although the technical and legal situation in the telecommunications sector as a whole is very different from that in the other Community countries, the Commission does not think that other derogations will be necessary.

As regards a number of technical problems in the new Länder, the Commission envisages solutions in terms of the implementation of the directives.

(j) Crystal glass

The composition, manufacturing characteristics, labelling and advertising of crystal glass manufactured within the territory of the former German Democratic Republic do not comply with the specifications laid down by Community law. An adjustment period will be necessary in order to allow the sale of crystal glass manufactured before the date of unification.

(k) Tobacco

The Council recently adopted two Directives, one on the labelling of tobacco products and the other on the tar yield of cigarettes. Transitional provisions allow the marketing of cigarettes and tobacco products beyond the date when the Directives enter into force, i.e. 31 December 1991 in the case of labelling and
31 December 1992 and 31 December 1997 in the case of the various tar yields of cigarettes.

These two Directives do not pose major problems for the adjustment of existing structures in the new Länder. The provisions governing the marketing of products are sufficient to ensure the gradual implementation of the Directives without disruption to the market. However, the German authorities would like to be able to maintain the rules currently in force up to 31 December 1992 so as to avoid any administrative problems. At any rate, any such derogation would not affect the timetable for implementing the Directive on tar yield; it would have an effect only as regards labelling.

2.5. On the basis of this analysis, the Commission proposes a derogation mechanism based on the following principles.

(i) Under the proposals presented, the Commission would authorize the German authorities to exempt the territory of the new Länder from implementation of the Community Directives. This means that the final decision on exemption would lie with the German authorities in the case of the Directives, subject to strict conditions laid down in the Commission proposal.

(ii) Such derogations may be extended to imported products, provided this is necessary for the industry of the new Länder and that it is confined to traditional trade flows. Steps must be taken to ensure that third countries which do not have traditional trade relations with the German Democratic Republic do not take advantage of the derogations in order to penetrate the market of the new Länder, to the detriment of products complying with the Directives.

(iii) Products complying with the Directives must be able to move freely within the Community; this applies both to products manufactured in other Member States and to products manufactured in the new Länder.

(iv) Products which continue to be manufactured to specifications peculiar to the new Länder and do not comply with Community Directives cannot move freely in the rest of the Community. The German authorities must take all necessary steps to protect the other Member States against imports of such products. The other Member States will be entitled to withdraw from the market products which do not comply with the Directives, as they are already so authorized under Community law.

(v) The Commission must be able to administer the derogations flexibly, provided that they do not run beyond 31 December 1992 and provided that they comply with the criteria stipulated in the proposals for Directives. Such flexibility is essential for the coherent application of Community provisions and is justified in that analysis of the problems of integrating the German Democratic Republic into the system of Community law has been carried out in a very short period of time. Subsequent difficulties therefore cannot be ruled out. Provision must therefore be made for a flexible procedure enabling the Commission to introduce additional measures and subsequent adjustments up to 31 December 1992. Any change made after 1992 or extending the derogation beyond 31 December 1992 will have to be covered by a Commission proposal.

In administering the flexibility clause, the Commission will be assisted by a regulatory committee in accordance with Procedure IIIa of the Council Decision of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission.

The Commission is proposing two Directives to take account of the legal bases for the instruments to which these derogations will apply.

3. Public procurement

3.1. The Community Directives on public supply and public works contracts have been applicable since 1 July 1990. The East German Government has approached the Commission to have invitations to tender published in the Official Journal of the European Communities during the interim adjustment phase.

During the interim adjustment phase, however, it is difficult to estimate a priori the volume of the contracts to which the Directives will apply during the transitional phase, since it will depend both on the duration of that phase and the rate at which contracts are awarded.

The volume of such contracts will also depend on the existence of the entities subject to public procurement procedures. The current structure of the 'Bezirke' is supposed to disappear, and these entities will therefore not be awarding any public contracts of major importance. The five new Länder will not be established before the October elections. Only the local authorities set up after the May elections are likely at present to award such contracts. The volume
of the contracts also depends on the budgetary capacities of the entities, such capacities being difficult to determine at this stage. It is therefore difficult to forecast the benefits which the other Member States will be able to derive from the publication of invitations to tender in the Official Journal as of the interim phase.

3.2. The actual implementation of the Directives in the new Länder after unification will not be without difficulties: firstly, because they represent a challenge to administrative traditions; secondly, because they presuppose strict application of the qualifying criteria for undertakings; and, lastly, because they are often based on the implementation of Community technical rules or European standards. The Commission will therefore have to monitor procedures carefully in order to ensure fair competition in invitations to tender. For this purpose, it will make use of the supervisory instruments which it has acquired in recent years.

In December 1991, the German arrangements concerning review procedures will have to be adjusted to the requirements of Directive 89/665. As from that date, undertakings in the other Member States will be able to rely on supervisory arrangements in the new Länder equivalent to those in the rest of the Community. The main investment projects will be in the water, energy, transport and telecommunications sectors. The Community rules governing the award of contracts by entities operating in these sectors will have to be applicable on 1 January 1993. The Commission will ensure that the entities, including those in the new Länder, are listed as fully as possible. In the mean time, it will see to it that the principle of non-discrimination deriving from the Treaties is observed.

4. Industrial and intellectual property

The Community's achievements to date are confined to the Directive on the harmonization of trade marks (Directive 89/104/EEC) and the Directive on the legal protection of topographies of semiconductor products (Directive 87/54/EEC). Only the latter has already entered into force. German law on industrial and intellectual property has already incorporated the provisions of the latter Directive. It will apply to the new Länder as from unification. Implementation of the Directive on the harmonization of trade marks should not pose any difficulties.

5. Free movement of persons

The free movement of persons is governed by the Treaty (right of establishment and ban on discrimination) and by secondary legislation establishing freedom of entry and residence for Community nationals. GDR nationals were covered by these principles and rules as soon as they acquired official documents from the Federal Republic of Germany recognizing their German nationality. After unification, Community rules will apply directly to German nationals in the new Länder.

6. Recognition of diplomas in the regulated professions

6.1. Most of the regulated professions, whose exercise is subject under national provisions to the possession of professional qualifications, are covered by Directives providing for such qualifications to be recognized between Member States. There are some 50 such Directives. They cover both technical qualifications and evidence of good character and good repute and introduce different methods of recognition. Depending on their object and the method used, it may prove necessary to provide for amendments to these directives.

6.2. The Directives which provide for automatic recognition of diplomas based on a Community definition of minimum training need to be amended in a number of respects. This method of recognition was used in the case of seven professions: doctors, nurses responsible for general care, dentists, veterinary surgeons, midwives, architects and pharmacists. Virtually all the existing provisions can be applied in a coherent manner to a united Germany. However, a number of new provisions should be introduced in order:

(i) to guarantee the established rights of German nationals originating in the new Länder who exercise their profession on the basis of training begun before unification; such guarantees would consist in allowing recognition of their diplomas in conditions similar to those allowed nationals of other Member States when the directives were adopted or when the Community was enlarged;

(ii) to repeal the particular provisions relating to the recognition of diplomas issued by the German Democratic Republic, such provisions having become inapplicable;
(iii) to set a period of 18 months as from unification to implement new rules in line with Community law on the training of specialist doctors.

6.3. The other Directives do not require amendment. The Directives on freedom of establishment and freedom to provide services were adopted on the basis of Articles 54 and 63 of the EEC Treaty. These include provisions concerning the recognition between Member States of certificates relating to good repute, to the absence of bankruptcy and to financial capacity. Germany will notify the Commission and the other Member States, in accordance with these Directives, of the new competent authorities designated.

Similarly, in the case of the Directives providing for recognition of professional qualifications based on the exercise of a professional activity during a given period, Germany will notify the Commission and the other Member States, in accordance with such Directives, of the new competent authorities designated to issue the relevant certificates.

In the case of Directive 89/48/EEC (general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years’ duration), no adjustment seems necessary. It will be for any German holding a diploma issued by an institution in the new Länder to establish to the satisfaction of the authorities in the host country, in the same way as any migrant national from a Member State, that he possesses a higher-education diploma and that the activity which he wishes to exercise in the host Member State is or is not regulated in his Land of origin. Qualification difficulties may, of course, arise in that the concept of regulated profession does not fit easily into the reality of a socialist economy. However, it should be possible to solve such difficulties within the framework of the coordinating group provided for in Article 9 of Directive 89/48/EEC.

6.4. In the case of lawyers, it is anticipated by the German authorities that, even after unification, lawyers established in the new Länder will not be able to set up freely in the other part of Germany and vice versa. The purpose of these temporary arrangements is to take account of the major differences which currently exist between the laws applicable in the two territories.

Despite its anomalous nature, this German rule is compatible with Community rules, which do not therefore require any adjustment.

The cross-frontier provision of lawyers’ services is governed by Directive 77/249/EEC, which, as regards the exercise of activities relating to the representation of a client in legal proceedings, provides for the migrant lawyer and the local lawyer to work in conjunction with one another. The Directive will apply both to lawyers established in the new Länder and wishing to provide services, say, in the United Kingdom or in Spain and to lawyers established in Member States wishing to provide services in that part of Germany.

The right of establishment is covered by Directive 89/48/EEC on the general system for the recognition of diplomas. This provides that the host Member State may require applicant lawyers from other Member States to sit an exam in order to test their legal knowledge. An exam could therefore be imposed, for example, by Denmark or Italy on lawyers coming from the new Länder, and by Germany on Danish or Italian lawyers wishing to practise in the new Länder.

7. Financial services, company law and taxation

7.1. In the financial services sector, the adoption and immediate implementation of existing legislation is provided for under the Staatsvertrag. Prudential regulation became the responsibility of the Federal authorities when the Staatsvertrag came into force and they have indicated that there would be full compliance with existing prudential rules immediately. New Community legislation under the internal market programme will be applied in the former German Democratic Republic at the same time as in the Federal Republic of Germany.

7.2. In the company law sector existing Federal company law became directly applicable in the former German Democratic Republic at the moment of the entry into force of the Staatsvertrag. No mention was made of the EEIG Regulation (EEC) No 2137/85 but the Federal authorities have undertaken to include it in the second State Treaty.

7.3. Tax legislation based on Community Directives in fields other than VAT and excise duties (i.e. capital duty) applies as from 1 July 1990.

8. Indirect taxation

VAT and excise taxes already introduced in the German Democratic Republic since 1 July 1990 corre-
spond to the West German system of taxation, which complies with Community provisions. For this reason, and under present circumstances, no derogations from the common provisions are needed for the period after unification.

9. Consumer protection

Consumer protection consists of a 'physical protection' aspect and a 'protection of economic interests' aspect. These two areas comprise important provisions requiring appropriate information to be provided for consumers.

The 'physical protection' of consumers is provided for, at Community level, by the various sectoral directives laying down the technical specifications of products, in particular basic safety requirements, and the rules on labelling. In so far as derogations from these Directives are granted (see point 2 above) and are implemented by the German authorities, a minor level of protection will exist for German nationals in the new Länder and for nationals of other Member States travelling or residing within such Länder. This must be accepted for a transitional period, provided that appropriate warning measures are taken. It should also be borne in mind that consumer protection will be guaranteed by the fact that products not complying with Community rules will not be allowed to leave the former territory of the German Democratic Republic.

In the same context, a partial derogation will also be needed as regards implementation of Council Decision 89/45/EEC on a Community system for the rapid exchange of information on dangers arising from the use of consumer products. Such a derogation is necessary, at least for an initial period, in view of the lack of administrative infrastructure and operational resources within the former territory of the German Democratic Republic. However, all possible measures must be taken to ensure that the objectives of the decision are nevertheless achieved from the outset.

With regard to the 'protection of the economic interests' of consumers, the Community rules in force (Directives 79/581/EEC and 88/315/EEC concerning the indication of prices; Directive 84/450/EEC on misleading advertising; Directive 85/577/EEC on contracts negotiated away from business premises) may be applied without derogations.

10. Competition

10.1. State aid

10.1.1. After political unification, the existing principles of the Community's State aid rules ('acquis communautaire') will apply in full throughout the united Germany. It is neither considered necessary nor desirable to introduce a general transition period for their application. Furthermore, although the integration of the German Democratic Republic into the Community does not constitute an accession but an enlargement of the German territory and market, this operation is not to be treated differently from accessions, where the provisions of the Treaty on State aid and most secondary legislation were immediately applied in full.

On several occasions, the Commission has stated that it will apply these rules constructively to facilitate the development and full integration of the economy of the former German Democratic Republic. At the same time, application of State aid rules will have to continue to perform its normal function of keeping competitive conditions equal throughout the Community, maintaining a level playing field in the common market and avoiding any artificial and unjustified advantage for East German companies.

The desolate state of the GDR economy in general, the absence of an economic structure adequate for a market economy, the requirement to rebuild, modernize and gear up industry and services, and the need to improve the environment significantly, to name only a few major problems, require an assessment as to whether full and immediate application of all State aid rules can be regarded as providing an adequate response to the exceptional and unique situation arising with unification.

The Commission has carefully scrutinized this question and considers that, with the exceptions set out below, none of the existing horizontal or sectoral rules, directives, frameworks, guidelines, etc. require adaptation in order to cope with the problems referred to above. These provisions allow for a sensitive and flexible application by the Commission both facilitating the building of a suitable new economic and industrial structure and avoiding the often harmful side-effects of State aids. There is, therefore, no need to modify them or to envisage transitional arrangements for the legislative instruments concerned. These have been communicated to the Federal German Government at the proper time and the Commission expects the German authorities to comply with them in full after unification.
10.1.2. As regards State aids to the West German zonal border area and Berlin (West), the Commission takes the view that the economic justification for continuous subsidization of these regions has ceased to exist. It welcomes the intention of the Federal authorities to phase out this aid totally. In its own re-examination of aid to the zonal border area and Berlin (West), which is under way, the Commission will also look at the matter of the phasing-out period which it considers necessary and justified. It also feels that VAT aid should cease with unification.

10.1.3. The Commission takes the view that the provisions of the current Community legislation (Sixth Directive on aid to shipbuilding) and those included in the draft of the forthcoming Seventh Directive can be directly applied to East Germany in so far as restructuring aid (investment, closures, research and development aid) is concerned. However, for a limited period of time and until such time as they have completed their restructuring, it is likely that East German yards will need a higher level of operating aid than permissible in the case of other yards in the Community. In that case, a special clause similar to the one for Spain and Portugal (Article 9 of the Sixth Directive) can apply.

Legislative clauses will have to be added to the Seventh Directive in order to take into account the position of East Germany's shipbuilding industry after unification.

Finally, the Commission would point out that the special arrangement permitting the granting of aid to the shipbuilding industry of East Germany must be included in the possible international agreement concerning aid to shipbuilding at present under examination in the OECD.

10.1.4. The steel industry in the former German Democratic Republic will have to undergo substantial restructuring. The aim will be to ensure viability of the GDR steel industry and its integration into the common market. The Commission proposes to authorize Germany to grant investment aid to the steel industry on condition that the aim remains rendering the industry competitive without increasing capacity.

10.2. Articles 85 and 86 of the EEC Treaty

Articles 85 and 86 of the Treaty and the new merger control Regulation will be applied by the Commission on a non-discriminatory basis after formal unification. This does not rule out flexible application in particular cases during an initial period.

10.3. Monopolies

Monopolies of a commercial character, organized in the form of external trade companies, will have to be abolished immediately in cases where exclusive export rights are involved. As far as exclusive import rights are concerned, a transitional period could be envisaged for the companies concerned, so as to allow them to adjust to competition.

11. Statistics

11.1. Statistical context

Community legislation reflects the specific data requirements required for the implementation, monitoring and assessment of Community policies. Statistical legislation consists of over 50 directives, regulations and decisions, in particular in the areas of agriculture, external trade, iron and steel, transport and social affairs.

GDR statistics are being completely reorganized in collaboration with West German statisticians so as to satisfy the information needs of a market economy. The aim is a common methodology, collecting system and organizational structure. The main problems are organizational.

11.2. Community legislation and statistics in a unified Germany

Four specific areas of statistics require legislation.

Technical adaptations of the directives relating to the regional breakdown of data are necessary as regards the transport of goods and energy pricing (gas and electricity for industrial end-consumers).

The present coverage of the labour force survey will have to be changed. Hitherto, it comprised 100,000 households in the Federal Republic. For forthcoming surveys, it will be increased by 30,000 households to take account of the larger territory of Germany.

Finally, in the field of agricultural statistics transitional measures are necessary while structural
changes in local statistical services, and the adjust­
ment of the statistics system are under way. The
expenditure section of the regulation on cereals pro­
duction needs revision.

Proposals for legislation in these four areas can be
found in Part IV.

Common agricultural policy

1. Introduction

The proposed changes in secondary agricultural legis­
lation provide for the harmonious and speedy inte­
gration of GDR agriculture into the Community sys­
tem.

Enormous efforts are necessary in agriculture, the
processing industry and marketing in the German Dem­
aocratic Republic to secure a fair share of Com­
munity markets. Switching to the Community system,
with its totally different institutional and economic
conditions, is a major challenge. However, it has
been agreed that integration should be achieved as
fully and as quickly as possible in order not to delay
its benefits.

Thus, a basic principle of the proposals is to work
with the least possible number of exceptions in the
core areas of agricultural policy. If, however, excep­
tions are considered to be necessary, these are to be
strictly limited in time. Preference is being given to
the search for additional instruments to assist the
adaptation process.

The elaboration of the proposals was considerably
facilitated by the fact that Germany anticipated a sig­
nificant part of the changes necessary for the integra­	ion of former GDR agriculture into the common
agricultural policy in the provisions for the interim
period prior to unification.

Clearly, the Commission’s views and concerns could
not be confined to the German Democratic Republic
and its problems. It was also vital to respect Com­
munity policies, and in particular the ongoing reform

The Commission’s information note on the state of
progress of the integration of the German Democratic
Republic into the common market in the agricultural
sector, presented to the Council in June 1990, draws
attention to these matters in more detail.

2. The situation of agriculture

2.1. The agricultural area of the German Demo­
ocratic Republic covers 6 182 million hectares, of
which 4 687 million ha or 76% is arable land. The
quality of the land is very variable. Some of the best
German soils are found in the German Democratic
Republic but about 20% of the land is extremely poor
(sandy and light) and in principle not well suited to
agricultural production. In general the quality of land
in the German Democratic Republic is comparable
to the Federal Republic.

2.2. Agriculture employed 840 000 persons in 1988
or 10% of total employment; investment was between
7 and 8% of total national investment and the contri­
bution of agriculture to the NMP (GDP) was about
10%. The two latter indicators, however, are distorted
by administrative and arbitrary price levels.

2.3. To understand the economic and social situa­
tion of agriculture the past policy objectives should
be remembered. They differed from the Community’s
and created particular characteristics. The main
objective was to introduce ‘socialist organization’ of
production covering the elements of central planning,
collectivization of the agricultural means of produc­
tion and ‘industrial production methods’. Other
major objectives were to ensure the same living con­
ditions and wages for the agricultural population as
for the industrial population and to ensure a constant
increase of production with the aim of national self­
sufficiency.

These objectives were fulfilled in a relatively thoro­
got and successful way. Compared to other social­
ist countries the production results in agriculture were
quite good. Intersectoral comparisons of the interna­
tional competitiveness of the GDR economy also
show a good position for agriculture.

2.4. The predominant feature of GDR agriculture is
its organization. 5.85 million ha or 95% of total agri­
cultural land is operated by only 4 751 farms (465
directly State-owned and 3 855 cooperative ones).
Moreover, most farms are specialized in either animal
or crop production. Both elements are the direct out­
come of the philosophy of introducing ‘industrial
production methods’. As a result the average size of
arable farms is about 4 500 ha and the average size of
dairy farms is about 740 cows.

However, in many cases the farms’ technical equip­
ment is not appropriate for large units, in particular
in animal production. The separation of crop and
animal production is not considered to be very effi­
cient because of both logistic and environmental problems.

2.5. Employment figures in agriculture are astonishingly high, but the large agricultural production units carry out a good deal of work not directly linked to production, such as construction, repair services, social and cultural services, etc.

Only about 60% of the agricultural workforce is directly involved in production. Nevertheless, this reduced figure is still 8.2 persons per 100 ha of land despite the favourable farm structures. The high number may be partly explained by industrial-type working conditions, i.e. fixed hours per day, regular holidays, etc. but also by the pay structure. Indeed, average wages in agriculture reached nearly the average wages of industrial workers or, in the case of very efficient agricultural cooperatives, were even higher. This was possible by virtue of an internal price system very favourable to agriculture.

2.6. Since 1984, the date of the last agricultural price reform, producer prices in the German Democratic Republic have been fixed to cover average production costs and to guarantee a certain margin. Consequently, prices have constantly increased, while Community prices have remained stable or dropped.

It is difficult to speculate about the absolute level of prices because the former East German mark was not convertible. However, in a purely domestic context, prices could be considered relatively high. In the German Democratic Republic the 1988 price for 100 kg of wheat was 67.54 East German marks or 5.2% of the average monthly wage. At the same time the respective values for West Germany were DM 38.60 and 1.2%. A similar ratio applies to agricultural input prices.

Producer price ratios in the German Democratic Republic and the Community differed considerably. In particular, animal production benefited from relatively higher protection than in the Community system. The ratio is nearly 2:1. In the crop sector there was a relatively high price for potatoes.

2.7. Consumer prices for basic food have remained extremely low and stable over time. The price for 1 kg of potatoes for example was 0.17 East German marks, whereas agricultural producers received 0.56 East German marks for the raw material. The consumers responded to this situation by very high yearly per capita consumption, such as 93 kg of bread, 111 litres of milk or 147 kg of potatoes. The difference between the high producer prices and the low consumer prices was covered by subsidies from the national budget. Subsidies reached a level of 32 billion East German marks in 1988.

2.8. Direct subsidies from the national budget to agriculture were relatively low owing to the mechanism of price fixing already described. Total support was about 7 billion East German marks during recent years, which corresponds to 8% of the production value. 3 to 4 billion East German marks were spent on subsidizing agricultural inputs, and another 1.5 billion East German marks for 'compensatory measures linked to the place of production'. Since the GDR authorities were very keen to increase production and extend the idea of self-sufficiency even to regional level, agricultural production had also to take place in regions that are not really suitable. The budgetary transfers referred to were meant to compensate the relevant farms for the disadvantages.

2.9. Data on the main agricultural products, areas and yields are given in the table below.
Crop and animal production
Average 1986-88

<table>
<thead>
<tr>
<th>Products</th>
<th>Area 1000 ha</th>
<th>% of land under crop</th>
<th>Yield 100 kg/ha</th>
<th>Index FRG = 100</th>
<th>Production 1000 t</th>
<th>Evolution since 1975 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cereals</td>
<td>2 462</td>
<td>52.5</td>
<td>44.3</td>
<td>82.4</td>
<td>10 909</td>
<td>22.4</td>
</tr>
<tr>
<td>Wheat</td>
<td>754</td>
<td>16.1</td>
<td>52.8</td>
<td>82.7</td>
<td>3 978</td>
<td>45.4</td>
</tr>
<tr>
<td>Barley</td>
<td>887</td>
<td>18.9</td>
<td>46.1</td>
<td>94.3</td>
<td>4 096</td>
<td>11.3</td>
</tr>
<tr>
<td>Rye</td>
<td>647</td>
<td>13.8</td>
<td>33.2</td>
<td>80.7</td>
<td>2 158</td>
<td>38.1</td>
</tr>
<tr>
<td>Sugarbeet</td>
<td>214</td>
<td>4.6</td>
<td>310.0</td>
<td>67.2</td>
<td>6 685</td>
<td>4.2</td>
</tr>
<tr>
<td>Oilseeds</td>
<td>160</td>
<td>3.4</td>
<td>26.5</td>
<td>86.6</td>
<td>424</td>
<td>14.6</td>
</tr>
<tr>
<td>Potatoes</td>
<td>450</td>
<td>9.6</td>
<td>250.5</td>
<td>71.0</td>
<td>11 257</td>
<td>46.7</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Products</th>
<th>Herd 1000 heads</th>
<th>Evolution 1975-88</th>
<th>Yield kg/head (Egg/head)</th>
<th>Index FRG = 100</th>
<th>Production 1000 t (mio eggs)</th>
<th>Evolution since 1975 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total cattle</td>
<td>5 745</td>
<td>3.8</td>
<td>4 003</td>
<td>86.9</td>
<td>429</td>
<td>2.8</td>
</tr>
<tr>
<td>Dairy cows/milk ¹</td>
<td>2 022</td>
<td>- 6.2</td>
<td>1 371</td>
<td>21.1</td>
<td>8 097</td>
<td>14.5</td>
</tr>
<tr>
<td>Pigs</td>
<td>12 602</td>
<td>9.6</td>
<td>159</td>
<td>25.2</td>
<td>19</td>
<td>33.3</td>
</tr>
<tr>
<td>Sheep</td>
<td>2 646</td>
<td>40.5</td>
<td>5 678</td>
<td>14.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total poultry</td>
<td>50 122</td>
<td>6.4</td>
<td>224</td>
<td>87.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laying hens</td>
<td>24 737</td>
<td>- 3.8</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sources: Statistics GDR, FAO, DG VI.

¹ Milk: Herd of dairy cows, milk production (4% fat), and production of milk per cow.

As can be seen, yields in crop production were on average about 80% of West German yields, those for sugar beet and potatoes were only about 70%. Yields of milk per cow and eggs per hen reached nearly 90% of West German levels. But the use of fertilizers and pesticides per unit of land was considerably higher than in West Germany. This can perhaps be explained by the organization and technical equipment for using chemicals which allowed neither exact timing nor exact dosage. However, as is well known, the over-use of fertilizers, in particular on light soils, can create severe environmental consequences.

As to land use by crop, the preponderance of oats and potatoes should be mentioned.

Published data on external trade for agricultural products do not seem to be very valid and are even today still contradictory as between different sources. Thus data on self-sufficiency are only approximations. For animal products self-sufficiency is in general estimated to be slightly above 100%, for crop production between 80 and 90%.

It must be underlined that these data only relate to production and consumption patterns under the old central planning system. Radical changes of both aggregates have already taken place or will occur in the near future.

2.10. The performance of the agricultural processing industry is generally very weak. With about 240,000 persons employed, the industry is mainly organized in several central ‘Kombinate’ with, however, rather dispersed plants. Since 1981 it has had to bear negative growth rates of investment with the consequence that its technical equipment is now totally out of date. This also has negative consequences for the quality of the products. In general, the technical and economic position of the processing industry is estimated to be much less competitive than that of primary agricultural production. Insufficient processing capacities are considered to be the main bottleneck for the future development of agricultural production in the German Democratic Republic. The negative effects of this can be seen in the enormous sales problems of agriculture since 1 July 1990.

2.11. Clearly, the abolition of central planning and the introduction of the common agricultural policy in
the German Democratic Republic will mean fundamental changes in the conditions under which agricultural production takes place. In order to clarify the measures required, and with a view to successful policy integration, the Commission has tried to identify areas where major changes will have to be made.

The most obvious area is production. Farms will be confronted with totally changed price systems. This will require completely new designs of production processes and will lead to a different composition and new levels of output. Qualitative changes will also have to be made. Having examined the price changes, market policy restraint and other elements mentioned below, the Commission estimates that animal production, with the exception of beef, will decrease, whereas crop production, with the exception of rye and potatoes, will increase.

As the present structure of agricultural holdings is not really the result of economic processes, nor of processes voluntarily undertaken by the farms, but the result of administrative decisions, profound changes may be expected.

The exact outcome of this is impossible to predict. Apart from some more or less obvious items such as partial reintegration of animal and crop production, partial hiving off of non-agricultural services from farms, and the reduction of the area of some oversized farms, the future structure will very much depend on the decision of the present cooperative farmers whether or not to become private farmers. Obviously German Democratic Republic farmers will need some time to reach decisions. Their decisions will heavily influence other indicators such as investment and employment.

As described above, present employment in agriculture, per unit of land, is far above Community levels. It is estimated that the income capacity of GDR agriculture as a whole will not be sufficient to maintain the high labour force under Community conditions. This will probably concern not only employment in the areas supporting agricultural production, but also the core area of people working in agricultural production itself.

Since much of the technical equipment in the German Democratic Republic is neither of western standard nor suited to requirements imposed by the CAP (e.g. environmental aspects) important new investment will certainly be required. Furthermore, the expected organizational changes of farms (restructuring of LPGs, creation of private farms) will demand important additional investment. The same expectation applies to investment needs in the processing and marketing industries. The Commission estimates that some major processing units such as slaughterhouses, dairies and sugar factories will have to be totally restructured and new marketing agencies created.

The result of the past policy of 'regional self-sufficiency' has been distorted regional distribution of agricultural production. It is estimated that under the conditions of EC markets and EC transfers to comparable regions, some part of this agriculture will fall by the wayside. It should be also underlined that environmental aspects argue against the continuation of production in some cases.

3. Provisions for the interim period

3.1. As well as arranging economic and monetary union between the two Germanys, the German Democratic Republic has started to prepare its agriculture for impending integration into the EEC. Notably, the complex area of market policy has already been dealt with. In Article 15 of the Staatsvertrag the Federal Republic and the German Democratic Republic agreed that the latter would adopt the main elements of the common agricultural policy by 1 July 1990. In order to fulfil this commitment the Parliament of the German Democratic Republic voted a law authorizing the East German authorities to adopt national market organizations for the interim period.

3.2. Regarding domestic support for agricultural production the EC market organizations' main instruments such as intervention schemes and production aids are generally applied. Prices are now practically the same as in the Federal Republic. The organizational framework, namely a public intervention agency ('ALM'), was set up and has been working since 1 July.

Market organizations for crop products closely follow existing Community Regulations. Those for animal products initially had some different elements such as, for example, minimum prices instead of public intervention. These immediately proved to be unworkable, however, and were also changed to the EC-type market organization, including intervention, by 1 August.

3.3. On the external side of agriculture, the German Democratic Republic has taken over, in accordance with the Staatsvertrag, the Community system of
export refunds and import levies or other charges, with amounts identical to those in the Community. At the same time, the German Democratic Republic undertook in the Staatsvertrag to suspend levies and export refunds in its trade with the European Community on the condition of reciprocity. The Community legislation on this subject was adopted in July 1990. This means that from 1 August the German Democratic Republic and the Community have a customs union for trade in agricultural products. This also implies that the rules of the Protocol on German internal trade no longer apply.

Initially, from 1 July on, the German Democratic Republic had introduced a system of quantitative import controls and restrictions similar to those of the Protocol on German internal trade in order to protect its domestic agriculture. This was considered necessary because the German Democratic Republic was faced with major marketing problems for its own agricultural products. Much of the processed food which its citizens buy at present is of western origin. However, the restrictions proved to be inadequate and unworkable and were therefore given up by 1 August. Agricultural trade between the German Democratic Republic and the Community is now totally free. However, safeguard measures may be taken in the event of agricultural market disturbance.

3.4. As to the other agricultural policy fields such as structural, regional, or social policy in agriculture, the situation is much less advanced. Measures in these fields are generally of a medium or long-term character and should continue after German unification. All measures ought therefore to conform to Community law from the beginning. However, copying the existing Community legislation has not been possible because this generally focuses on structures and problems which differ from those in the German Democratic Republic.

Up to now only two concrete measures have been settled. The first is an early retirement scheme, mainly for cooperative farmers, paid from the national budget. The second concerns the new arrangements for the organization of agricultural holdings. By the ‘Law on the structural adaptation of agriculture to the social and ecological market economy in the German Democratic Republic’ (Gesetz über die strukturelle Anpassung der Landwirtschaft an die soziale und ökologische Marktwirtschaft in der Deutschen Demokratischen Republik), private property rights for land, agricultural buildings and equipment have been fully re-established. Also, the legal framework for the reorganization of cooperatives or the foundation of individual farms is provided by law.

Adoption of a ‘Law for the promotion of agro-social and agro-structural adaptation of GDR agriculture to the social market economy’ (Gesetz zur Förderung der agrarsozialen und agrarstrukturellen Anpassung der Landwirtschaft der DDR an die soziale Marktwirtschaft) is planned.

It is supposed to be very closely based on the Commission’s proposals. But it will also cover national aid schemes of which the most important is ‘liquidity’ aid. This scheme aims to attenuate the most damaging consequences of abrupt price changes and to cushion the effects of the abolition of budget transfers to those regions which are less suited for agricultural production.

4. **Main substance of the proposals**

4.1. At market level, the CAP is largely founded on the principle of common prices for agricultural products as the basis for free circulation of agricultural goods within the Community. Ensuring the application of Community price levels in the German Democratic Republic is therefore a most vital issue in the process of integration.

The German Democratic Republic anticipated most of the needs for price changes by the introduction of its transitional market organization and by its pricing system. Therefore, as far as institutional prices, premiums etc. are concerned, only minor exceptions for the German Democratic Republic need to be foreseen.

The same applies to the instruments of the CAP for the external protection of agricultural markets, such as import duties and levies and export refunds. In this area again, thanks to the prior introduction of the Community’s trade rules in the German Democratic Republic, no substantial derogations had to be provided for in the basic instruments.

However, for the case of unforeseeable difficulties, a safeguard clause has been introduced similar to that

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used for new members acceding to the Community. This must be applied in conformity with the Treaty. The object of the exercise is to enable by urgent procedure initiated by a Member State or by the Commission the adoption of measures designed to restore balance to the situation and adapt the sector concerned in conformity with the Treaties.

The German Democratic Republic has traditional, well-established agricultural trade relations within the former CMEA network. These have been carefully examined. The result of this examination is reflected in the first chapter.

Individual proposals were needed only as regards production ceilings, stocks and quality and health standards.

4.2. Production ceilings

A basic aspect of the present CAP is the application of measures to stabilize expenditure, to discourage further production increases which are not market-oriented, or even to cut down present production levels. Integrating extra farmers into the existing Community framework against this background is not without problems.

Opportunities for developing agricultural production in the German Democratic Republic were handicapped by the former economic system. Given the need for the harmonious continuation of CAP reforms, and the Community's responsibility towards its international trading partners, the Commission is insisting on strict respect of the principles of the CAP.

As far as maximum guaranteed quantities (MGQs) for different products are concerned, most will have to be reviewed in the near future. It is therefore proposed — with the sole exception of intervention quantities for beef and processed tomatoes — not to change the MGQs currently in force. On the other hand, GDR production will be discounted when output against the MGQs is measured. However, all possible price decreases or other measures consequent upon overshooting the MGQs should also apply to GDR farmers.

The general rules for fixing production quotas (sugar, milk) have to be applied. The application of these rules in the milk sector will lead to a considerable drop in milk production in the territory of the German Democratic Republic. The Commission is pleased to note that necessary cuts in production levels will be carried out, at least partially, during the interim period.

The proposed amendments in the sugar sector base the quota for the ex-GDR territories on production in the last five years. No specific isoglucose quota has to be attributed. Furthermore, Germany will be authorized to grant national aid to facilitate necessary adaptation in the processing industry.

More substantial amendments are necessary in the milk sector, where a significant reduction of milk production has to be achieved by 1 April 1991. From that day on the quota regime for milk will apply in the ex-GDR territories. Until that date Germany will be entitled to maintain the regime established by the German Democratic Republic as well its system of co-responsibility levy for milk. This will prevent distortions of competition. In order to facilitate the almost immediate adjustment of milk production, financial support is to be given to producers in the ex-GDR territories in 1991/92. This support is calculated on the basis of the significant financial subsidies granted by the Community for the reduction and temporary suspension of milk quotas in Member States for several years since 1984.

Further transitional measures relate to the temporary buying-in of roller milk-powder and butter produced in the ex-GDR territories.

4.3. Other changes

Two further transitional measures need mentioning:

Under the market organization for fresh fruit and vegetables, production units in the ex-GDR territories may — under certain conditions and restrictions — be recognized as producers' organizations despite the differences in their structure compared to producers' organizations in the Member States. This exception was necessary because alternative marketing bodies could not be established in the mean time.

Under the market organization for wine, transitional measures concerning the classification and recognition of varieties will apply. During recent decades about 400 ha of vineyards could not be cultivated owing to the economic situation in the German Democratic Republic. In order to allow the replanting of these vineyards the replanting deadline should be adapted for the German Democratic Republic.

4.4. Assessment of existing stocks

The Commission's proposal is based on the distinction between public and private stocks. It is proposed
to apply the new financial rules for Community intervention to all public stocks built up during the interim period. These will be depreciated to the world market price level from the very beginning. The costs fall to the national German budget.

For private stocks, the measures already used in the case of the accession of Spain and Portugal are provided for. The proposed solution is mainly based on the traditional distinction between ‘normal’ and ‘unusual’ stocks. Details will be dealt with in a Commission implementing regulation.

### 4.5. Quality and health standards

Concerning quality, including plant health, animal and public health standards, the agriculture and processing industry of the German Democratic Republic will not be in a position to comply with all Community legislation in the immediate future. This is for reasons such as the outdated equipment in slaughterhouses, the pollution of soils, existing stocks of substandard seed, etc. Thus, in this important policy area several derogations have had to be proposed. However, with very few exceptions, all of them will be limited to the end of 1992. The practical consequence of any exception to the Community rules is that the products concerned can only be marketed within former GDR territory.

It should be noted, however, that a separate legal text — in the context of the internal market — embodies these proposals (see previous chapter, point 2).

#### B — Structural policy and related measures

Structural policy in agriculture includes horizontal and regional measures covered by Objectives 1 (promoting the development and structural adjustment of regions whose development is lagging behind), 5a (speeding up the adjustment of agricultural structures) and 5b (promoting the development of rural areas) of the reform of the structural Funds. The EAGGF Guidance Section contributes to the attainment of Objectives 1 and 5b along with the other structural Funds, but is responsible for financing Objective 5a entirely on its own.

An additional financial allocation for structural Fund intervention in the former German Democratic Republic is proposed. By analogy with Article 12(2) of Regulation (EEC) No 2052/88 the amount considered necessary for the set-aside scheme must be added.

### 4.6. Regional measures

In view of the differences in agricultural structures between the German Democratic Republic and the Community, the need for rapid restructuring of East German agriculture, the absence of reliable statistics enabling the formal classification by objective of the regions of the German Democratic Republic and the need to avoid disrupting the balance established by the reform of the structural Funds, transitional measures or derogations to the rules in force are needed.

These measures are incorporated in a separate proposal described in the section on structural policies, pp. 95 and 96 of this report.

In particular, the Commission proposes to make the whole territory of the German Democratic Republic eligible for measures under all objectives. The arrangement is foreseen for a three-year period and will benefit from a special budget of ECU 3 billion. The agricultural items of Objective 1 and Objective 5b will be included in this arrangement, as will Objective 5a, the horizontal measures of structural policy in agriculture (see below).

It should be mentioned that the early retirement scheme for farmers, in normal Community legislation covered under Objective 5a, is proposed to the grouped under specific regional measures in the case of former GDR territory. The aim is to keep the GDR early retirement scheme already in force at the beginning of the year (see previous chapter, point 3). It was designed to help reduce the high labour force on socialist farms and does not fit into the Community scheme for early retirement. An important criterion of this is that the land cultivated by the farmers concerned has to be taken out of production. This criterion is not adequate in the present GDR framework.

### 4.7. Horizontal measures (Objective 5a)

Structural policy and other related policies covered by this heading are mostly needed in GDR agriculture to help farmers adapt quickly and in a socially acceptable way to the new situation. However, up to now the Community’s agricultural policy has never had to deal with such a problem, nor were its concrete measures designed to do so. Moreover, Community measures as such are in some cases even contrary to what could be useful in the case of the former GDR territory.

For instance, it is one of the principles of the reform of the structural Funds to concentrate financial
resources. This entails, in Objective 5a measures, focusing on smaller producers and letting larger agricultural holdings benefit relatively little from the measures. It is obvious that under the present conditions in the German Democratic Republic the existing measures could hardly be applied and would not show any effect.

On the other hand the structure of GDR agriculture is expected to change. A new, economically solid equilibrium under the conditions of Community policy and under the new legal provisions for property has to be established. In the Commission’s opinion, policy measures should be completely neutral as regards the different organizational and property structures of agricultural holdings, and should give a fair chance to all types of agriculture that might develop in the former GDR territory.

Thus the task has been to adjust the existing measures of the Community’s structural legislation in a way that fits the needs of present large cooperative holdings and of family farms equally well. This ambiguity is also the reason why the proposed legal constructions are not always homogeneous. In some cases derogations from existing law under Article 43 had to be used, whereas in other cases ‘special arrangements’ or the possibilities for implementing State aids had to be chosen.

(a) Investment aid

On the classic question of investment aid in agriculture there is no problem in view for the few private farms already existing. However, for existing or new large agricultural enterprises (cooperatives) and new family farms adjustments will be necessary. To tackle the restructuring of present cooperative farms it is proposed to increase substantially the maximum eligible amounts for investment, and to increase the maximum numbers of cows and pigs for eligible investment as well. In the case of new family farms there is no Community scheme really suited for this purpose. A State aid solution has therefore been proposed.

(b) Set-aside and extensification

As to the two structural measures designed to help the stabilization of production and the improvement of the rural environment, namely the set-aside scheme and the extensification scheme, exceptions have only been proposed for the former. They concern the minimum area to be set aside and the eligible land (inclusion of land under potatoes because of the present structure of production). Furthermore, it is proposed to authorize the German Democratic Republic to apply a national scheme until 1 July 1990.

(c) Less-favoured areas

The German Democratic Republic has not yet collected the necessary data to define less-favoured areas in accordance with Community criteria. On the other hand, it has defined similar areas in the past. The Commission’s proposal is to suspend the Community scheme until the end of 1991 but to allow Germany to grant State aids in the formerly defined regions.

(d) Processing and marketing

Improvement of the processing and marketing of agricultural and forestry products is — given the present disastrous marketing problems — probably the most urgent task related to GDR agriculture. It has therefore been proposed to allow for Community part-financing of operational programmes, presented in the absence of real sectoral plans, during the year 1991.

C — State aids

4.8. It is obvious that State aids will have to play a certain role in the process of fast integration and adaptation of GDR agriculture, and one might expect an increased number of acceptable State aids on the grounds that there will inevitably be a large number of transitional problems entirely specific to the East German situation. A distinction should be made between State aids already existing in West Germany and those to be expressly introduced for the German Democratic Republic.

4.9. Existing German State aids

On the question of the extension of existing German farm support to the territory of the German Democratic Republic, the Commission sees a problem with aid to compensate for disadvantages West German agriculture had to bear in the past. This applies in particular to aid granted by means of the VAT machinery pursuant to the 20th Council Directive on VAT. In view of the fact that the derogation provided for in this Directive ends definitively on 31 December 1991 the Commission feels that, despite the absence of
economic grounds, there is no reason to oppose its extension to the former German Democratic Republic for this brief period. It has also taken into consideration the need for a single rate within a given Member State.¹

As to the other existing State aids there are no remarks to be made.

4.10. Specific State aids

As described under item B, the Commission intends to authorize State aids for structural adjustment in cases where the normal Community schemes for structural adjustment are considered inadequate or not workable under the present conditions of the German Democratic Republic.

Furthermore, a general authorization for national aids is necessary in order to solve the important problem of adaptation to the new economic environment, as mentioned above.

Some of the existing agricultural holdings are heavily in debt and have to bear the consequences of considerable changes in the price structure resulting from the immediate introduction of the Community price policy. As a consequence, sensitive income and liquidity problems will arise in the transitional period. A solution can only be found through a national support scheme to compensate for loss of income.

5. Specific legislative questions

The proposed amendments and transitional measures for the integration of farming in the ex-GDR territories into the common agricultural policy have been prepared after close consultation with the competent German authorities.

Nevertheless, owing to the extremely rapid process of unification the Commission was forced to prepare the necessary legislation in a very short period of time. This specific situation and a significant lack of information meant that it was not possible to ensure a detailed and definitive examination of the legislation in all cases. Therefore a specific clause has been included in the draft proposal, beside the abovementioned safeguard clause, in order to facilitate the adoption of supplementary measures which may prove necessary in the future.

Common fisheries policy

1. The state of the fisheries sector in the German Democratic Republic

1.1. Fleet, aquaculture and processing

The GDR's total deep-sea fishing fleet is 28 fishing units with a capacity of 63 200 GRT and 55 700 kW. These 28 units include four vessels specializing in shrimp fishing.

In addition there are 10 vessels in operation for processing and transport which cannot be considered to be fishing units.

The Baltic Sea fleet consists of about 200 vessels with a capacity of 13 000 GRT and 30 000 kW. In addition, there is a fleet of about 600 small vessels (some without engines) for coastal fishing.

The total capacity of the GDR fleet is estimated at 76 200 GRT and 85 700 kW.

As regards the aquaculture sector, total annual production is about 25 000 t. The most important species are carp (13 000 t) and trout (7 000 t).

Processing industry activities centre on herring and mackerel/horse mackerel. The main products are smoked, pickled and preserved fish. The distribution network is rather outdated.

1.2. Internal and external resources

Over the last three years 35% of the GDR's total production has been caught in its fishing zone in the Baltic Sea.

During the same period, catches based on bilateral agreements² amount to 20% and those within the

¹ Not finally decided yet.
² The German Democratic Republic has concluded fishery agreements with the following countries: Norway, Sweden, Faroes, Canada, USA, USSR, Mauritania, Guinea (Conakry), Guinea-Bissau and Mozambique.
framework of international conventions to 30%. The GDR fleet catches about 15% of total production beyond the 200-mile zone.

1.3. The market

While the fresh-product market plays a dominant role in the Community, it is of only marginal importance in the German Democratic Republic. It is largely supplied by aquaculture and the small quantities landed by coastal fishing (flat fish, herring, cod).

The greater part of the fishery products market consists of processed products, in particular preserved and semi-preserved fish, smoked and salted products and frozen products. The main species are herring, mackerel, redfish, cod and halibut.

The bulk of the blue whiting and horse mackerel and almost all squid is exported.

Consumption per person in the German Democratic Republic averages only about 8 kg per year compared with 28 kg in the Community.

There are major shortcomings in the distribution of fishery products in the German Democratic Republic. Retail outlets for fresh products, refrigerators and means of transport for fresh products are almost non-existent. Traditional auctions as practised in the Community do not exist in the German Democratic Republic at present.

The German Democratic Republic imports large quantities of herring and mackerel, especially from the United Kingdom and Ireland. These imports are bought over the side in klondyking operations.

Over the last three years exports by the German Democratic Republic averaged around 45 000 t, mainly frozen products. Most of these went to the CMEA countries, Japan and Nigeria.

2. General considerations

2.1. Total production by the GDR fleet averages 160 000 t a year, equivalent to 2% of Community production. Its overall capacity is 76 200 GRT (3.8% of the Community fleet). These figures reflect a level of efficiency below that of the Community fleet.

2.2. Integration of the German Democratic Republic's fleet into the common fisheries policy poses certain problems in a number of areas.

The Commission considers that adaptations are necessary as regards internal and external resources, structures, in particular the deep-sea fishing fleet, and the market.

2.3. Integrating the new fleet into the common fisheries policy poses particular problems politically, since the capacity of the Community fleet is already disproportionately high compared to the limited resources available. However, as regards access to resources, the authorities of the two German States have informed the Commission that a united Germany would not request a readjustment of the quota allocations among the Member States except where the German Democratic Republic brings fish stocks into the Community (Spitzberg cod).

This approach will make it easier to integrate the GDR fleet into Community fisheries policy and maintain the existing balance between the Member States as regards stocks subject to TACs and quotas. The additional fishing opportunities which the German Democratic Republic will bring with it, in particular in the Baltic Sea and as a result of certain fishing agreements concluded with non-Community countries or fishing rights obtained through various international conventions, will ensure that the new fleet does not particularly threaten the balance in the allocation of Community resources.

2.4. However, in the case of 'precautionary' TACs which have not been allocated to the Member States, access by the GDR fleet operating in future under the German flag could, in view of its concentration on certain stocks such as blue whiting, horse mackerel, etc., threaten the current balance of fishing capacity and hence the internal balance of these TACs among the Member States.

2.5. In the case of Community resources not subject to TACs and quotas, the 'theoretically' free access by this additional fleet, particularly to the North Sea, the west of Scotland, the Irish Sea and the Bay of Biscay, could result in a disturbance to stocks. Furthermore,

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1 The German Democratic Republic is a member of NAFO (North-West Atlantic Fisheries Organization), NEAFC (North-East Atlantic Fisheries Commission), IBSCF (International Baltic Sea Fisheries Commission) and CCAMLR (Commission for the Conservation of Antarctic Marine Living Resources). The German Democratic Republic is also a member of ICES (International Council for the Exploration of the Sea).
access ‘as of right’ to Community waters for GDR fishing boats operating under the German flag could raise problems of principle with Spain and Portugal, whose fishing fleets do not enjoy this ‘right of access’ or are unable in practice to exercise the fishing rights granted to them.

2.6. From the resources point of view, the integration of East Germany resembles the accession of Spain and Portugal, which did not have adequate fisheries resources of their own to keep their fleets active.

As in the case of those two Member States, implementation of the common fisheries policy and the integration into it of the current German Democratic Republic could require supplementary provisions on the activity of the fleet concerned and on inspections.

The Commission will therefore have to watch very carefully how the activities of the new fleet in Community waters develop and, where appropriate, take this into account in the revision of the common fisheries policy scheduled for 1991.

Here it should not be overlooked that a large part of the activity of the German Democratic Republic’s fishing fleet is concerned with low-value species such as horse mackerel, blue whiting and mackerel, which are not very profitable in view of the difficulty of selling them on the Community or world market. In the past, the German Democratic Republic has provided large subsidies for the production and marketing of fishery products but it will soon become hard to continue this policy.

The needs of the Community market, and particularly those of Germany after unification, will force the GDR fleet to move towards species which find a readier outlet on a free market, i.e. those which have traditionally been included in the arrangements governing TACs and quotas. The changes required in the fleet will undoubtedly involve increased fishing of certain stocks which are already heavily exploited.

2.7. As regards the market, the Commission thinks that the integration of the former GDR market into the German organization of the market in fishery products should be carried out without transitional measures. Since price formation on the Community market is largely dependent on the situation on the world market and on substantial imports, the Commission in its price policy would like as far as possible to avoid fixing and supporting artificial prices. The former GDR market is relatively small compared to the Community market and is especially dependent on the factors which determine the Federal Republic’s market.

In light of the above, the Commission considers that plans should be made to apply the Community price system on the territory of the former German Democratic Republic immediately after the unification of the two German States and that the introduction of different prices in this region would not be an adequate or realistic solution. This approach also makes it necessary to adapt the existing structures on the territory of the former German Democratic Republic to the established Community conditions.

2.8. As regards the structural aspects, the representatives of the two German States have already signalled their intention to introduce, during the interim period, the measures required to substantially reduce fishing capacities, in particular in the case of deep-sea fishing.

The Commission emphasizes that the adaptation of the fishing capacity of a unified German fleet to the available resources is a very important element in the integration of the GDR fisheries sector into the fisheries policy as a whole.

The Commission will take this aspect into consideration in deciding what measures should be taken to reduce German fishing capacities in order to ensure the compatibility of the multiannual guidance programmes following German unification.

3. Legislation

3.1. Internal resources

Apart from minor changes which will need to be made to the annual ‘TACs and quotas’ Regulation when the time comes, German unification will not require amendments to the internal Community arrangements (Regulation (EEC) No 170/83).

In the case of species not subject to TACs or not allocated, access to Community resources by the GDR fleet could give rise to particular problems.

Accordingly, some inspection measures should be stepped up with regard to these fishing activities and, if necessary, restrictions could be imposed on catches of these species.

In the case of species subject to TACs and quotas which are allocated among the Member States, and
in respect of which the German Democratic Republic has no fishing rights at present, it will not be necessary to revise the allocation keys. GDR boats will fish on German quotas without adjustment of the allocations.

As regards the Baltic, the German Democratic Republic will be adding to Community stocks. The GDR is a contracting party to the IBSFC and possesses quotas for cod, herring and sprat in the area administered by that organization. These rights will be added to those of the current Community and so the three allocations will require adjustment in the light of this extra contribution.

Statistics provided by the authorities of the two German States indicate that the German Democratic Republic has a cod fishery in the Svalbard zone. Cod fishing opportunities for the Community and the Member States in this zone were fixed autonomously by the Council on the basis of historical catch levels (Council Decision 87/277/EEC of 18 May 1987). It will be necessary to amend this system to take into account GDR catches.

3.2. External resources

Once the two German States are formally united:

(i) the Community will take the place of the former German Democratic Republic in international conventions to which the Community is party exclusively in its own right;

(ii) the Community will take over management of the GDR's bilateral agreements. This rights and obligations under these agreements will be continued until such time as they expire at the latest, unless they are renegotiated. However, GDR obligations under these agreements which are not compatible with the existing Community situation cannot be assumed by the Community. They will have to be renegotiated at a convenient moment. Another solution might be a declaration to this effect addressed to the non-Community countries concerned, on the grounds of the changes caused by German unification. At all events, continuity of fishing activities must be ensured for the former GDR fleet.

3.3. Markets

The inter-German agreement envisages the immediate introduction on GDR territory, in the transitional phase, of the instruments of the common market organization in fishery products (Regulation (EEC) No 3796/81). The two German States have confirmed that this system will be applied in its entirety after formal unification.

Given the above, the Commission considers that the integration of the market of the former German Democratic Republic into the common market organization in fishery products can take place without transitional measures.

However, in order to back up the immediate introduction of the Community market system in the former German Democratic Republic, the Commission is proposing higher levels of start-up aid during a transitional period to encourage the establishment of producers' organizations. The speedy establishment of such organizations in the German Democratic Republic is an essential precondition for the smooth application of the common market organization.

3.4. Structures

Under Council Regulation (EEC) No 4028/86 of 18 December 1986, the Commission has adopted two multiannual guidance programmes for the fleet and aquaculture in the Federal Republic of Germany. Integration of the German Democratic Republic into Community territory will involve a Commission Decision revising these two programmes.

As far as Council legislation is concerned, the two German States are requesting the inclusion of the German Democratic Republic coastal region in the list of regions eligible for a higher percentage of Community aid for fleet and aquaculture projects (Annexes II and III to Regulation (EEC) No 4028/86). Given the general economic situation of the region and the unfavourable status of the fisheries sector, this request seems justified.

With regard to the processing industry, the Federal Republic submitted its sectoral plan for fisheries under Regulation (EEC) No 4042/89 on 30 May 1990. This plan, along with those from the other Member States, is currently being examined by the Commission. It forms the basis for the Community support framework to be adopted by Commission Regulation.

Integration of the German Democratic Republic will necessitate revision and adoption of the sectoral plan, which the German authorities will have to request of the Commission.
4. **State aid**

Any aid granted by Germany which is likely to distort competition and affect trade between Member States has to be notified to the Commission in accordance with Article 93(3) of the EEC Treaty. Germany cannot put planned aid schemes into effect before the Commission has adopted a final decision.

If the planned aid relates to projects in the fisheries sector, the Commission will assess each aid plan on the basis of the guidelines for the examination of State aid in the fisheries sector.

It seems evident that there will be a clear need for restructuring the East German fishing industry in order to allow it to compete under free market conditions. It also seems evident that such restructuring will require the grant of State aid.

As regards the assessment of such aid plans, the guidelines refer to the present Community structural measures providing for multiannual guidance programmes.

Proper assessment of German aid schemes for the former East German fishing industry requires Community insistence that the German authorities prepare a restructuring programme which can be converted to a multiannual guidance programme as from unification. Allowing the granting of aid outside the framework of such a programme could jeopardize the effectiveness of structural improvement.

The transitional aspects as regards State aid are covered by the restructuring programme for the East German fishing industry, which will serve as a reference framework for the assessment of aid plans. Since the Commission’s approach under Articles 92 and 93 of the Treaty is essentially on a case-by-case basis, the guidelines could be applied *mutatis mutandis* until unification takes place.

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**Transport**

1. **General**

1.1. Transport in the German Democratic Republic is facing three major challenges:

(i) the need to gear transport policy to a sector run on market economy lines;

(ii) the need to improve the transport infrastructure and means of transport;

(iii) the need to integrate transport undertakings into the common transport market.

1.2. The condition of the transport infrastructure and of the means of transport sometimes considerably impairs productivity, efficiency, safety and quality in passenger transport and road haulage. The German Democratic Republic’s Ministry of Transport estimates that, merely to modernize the road and rail infrastructure to bring it up to Western standards will require DM 200 000 million. Yet rapid improvements in infrastructure and rapid increases in capacity are required because transport forecasts suggest a rapid expansion in road haulage. Whilst 24.6 million tonnes were carried between the two German States in 1988, this is expected to increase by 1 000% to 244 million tonnes by the year 2010 as a consequence of the opening of the frontier between the two Germanys.

The Community will therefore have to keep a watchful eye on the extension of this east-west infrastructure link in order to ensure that the desirable integration of the two economies, and the resulting trade flows, are not hindered by bottlenecks.

1.3. Integrating the German Democratic Republic’s transport economy into the common transport market calls for certain adjustments to Community law. These will be temporary and will affect:

(i) road haulage in respect of admission to the occupation, and the tachograph used to keep a check on drivers’ work and rest periods;

(ii) rail transport in respect of cost accounting by the railways, the commercial autonomy of railway undertakings, and the inclusion of the Deutsche Reichsbahn in the body of Community law covering the railways;

(iii) inland waterway transport in respect of the relationship between inland waterway transport in the German Democratic Republic and the scrapping action now under way in the Community.

2. **Road haulage**

2.1. **Admission to the occupation**

Community legislation includes the requirements of being of good repute, having financial standing and
being professionally competent to practise the occupation of road haulier. As GDR road hauliers will not immediately be able to meet some of the requirements regarding financial standing, namely to have available (in the form of capital and reserves) ECU 3 000 per vehicle or ECU 150 per maximum authorized weight (in the case of lorries) or ECU 150 per passenger seat (in the case of coaches), it would be appropriate to grant a derogation up to 31 December 1992.

There should also be a similar derogation to enable GDR road hauliers to acquire the necessary knowledge (occupational training) to meet Community requirements concerning professional competence.

2.2. Tachograph

To allow checks on compliance with Community law on driving hours and rest periods, the law requires the installation of tachographs. Commercial vehicles in the German Democratic Republic will have to be allowed a period of grace to comply with this requirement. The Commission proposes that, in the case of new vehicles first registered after 1 January 1991, tachographs should be installed from the outset. In the case of vehicles already registered, there will have to be a period of grace. Here, tachographs should be installed by 31 December 1993 at the latest.

As GDR-registered vehicles used in international transport are generally already fitted with tachographs, the exemption will mainly benefit those commercial vehicles used inside the German Democratic Republic. The time allowed for compliance is necessary because of the absolute insufficiency of workshop capacity. In addition small businesses are to have time to replace their fleets (frequently between 20 and 28 years old) before having to finance an expensive re-equipment operation.

2.3. Driving licences

Community legislation on driving licences provides that, where the holder of a licence issued in one Member State changes his normal place of residence to another Member State, the licence remains valid for a maximum of one year and must be exchanged for one issued by the second State before that period expires.

These rules on the recognition and exchange of driving licences are accompanied by others on the issuing of licences. The driving licence issued by the German Democratic Republic complies with the model in the Vienna Convention on Road Traffic, which also provides the basis for the Community driving licence introduced on 1 January 1986.

To ensure that the holder of a driving licence issued in the German Democratic Republic before unification can benefit from the provisions in Community law which facilitate the recognition and exchange of licences, it is not necessary to amend the legislation in question since Article 8 provides for recognition between Member States of driving licences issued by them. After unification driving licences issued by the former German Democratic Republic will be deemed to be issued by a Member State.

2.4. Quotas

The enlargement of Community territory subsequent to the German Democratic Republic becoming subject to the Basic Law of the Federal Republic of Germany means in principle that Community quotas for national and international transport will have to be increased. Using the standard formula, the Community quota for international transport in 1991 should be raised from 47 094 to 47 404 authorizations (an extra 310 authorizations). The increase in the cabotage quota would be from 15 000 to 15 296 authorizations (an extra 296). The Commission intends to submit proposals for this relatively small increase at the same time as proposing the increases in both quotas required in any case.

It should nevertheless be pointed out that, following German unification, Community quotas for international transport will also give operators the right to carry out operations from and to the territory of the former German Democratic Republic and that cabotage authorizations valid for the territory of the Federal Republic of Germany will be valid for the whole of Germany.

2.5. Weights and dimensions

There is no need to foresee a derogation from weights and measures legislation in the road transport sector, despite the serious condition of much of the road net-
work. Pending general upgrading, road signs are foreseen where dangers could arise, such as at weak bridges.

3. Railways

3.1. The railway system of East Germany, the Deutsche Reichsbahn (DR), will eventually become subject to the same conditions as those of the other principal railways of the Community.

This will require the name of the DR being added, as of German unification, to those of the other railways that are covered by the five Community Regulations in force. However, in the case of Regulation (EEC) No 2183/78 laying down uniform costing principles for railway undertakings, it is considered that the accountancy and other technical problems that will be involved require a waiver to be granted so that the provisions will enter into force only on 1 January 1992.

In view of the absence of an adequate accounting system Council Regulation (EEC) No 1192/69 on common rules for the normalization of the accounts of railway undertakings will not apply in the former German Democratic Republic until 1 January 1993.

3.2. In addition to the Community Regulations referred to in paragraph 3.1 above there are also three Council Decisions requiring amendment. These concern the autonomy of railway undertakings in general, in particular with regard to the pricing of freight and passenger services. Amendment to include the DR is necessary. In view of the potential difficulties in converting the DR to an independent commercial entity, a waiver of a maximum of up to two years is proposed.

4. Inland waterways

4.1. Scrapping fund

By Regulation (EEC) No 1101/89 the Council has taken measures aimed at the abolition of structural overcapacity in inland waterways. The Regulation provides in particular for an international scrapping action coordinated at Community level and accompanying measures to curb investment in new capacity for a number of years: the so-called 'old-for-new' rule.

Owners of vessels operating on the interlinked inland waterway networks of Belgium, Germany, France, Luxembourg and the Netherlands had the opportunity to apply for a scrapping premium between 1 January and 30 April 1990.

To meet the costs of the scrapping scheme inland waterway carriers are required to pay annual contributions for a period estimated at roughly eight years starting on 1 January 1990.

As a result of German unification the fleet currently flying the flag of the German Democratic Republic will enter the Community market and hence become subject to the Regulation.

Since the period for submitting scrapping applications has expired, the German authorities must be given the opportunity to organize a specific scrapping action for vessels in their fleet registered in the German Democratic Republic. As vessel operators from the former GDR will also qualify for the increased tariffs likely to be payable after the current scrapping action they must pay the same contributions as the other Community vessel operators; however, for administrative reasons, the first payment payable will be for 1991. To prevent attempts to get round the 'old-for-new' rule the rule will apply from 1 September 1990 to vessels registered for the first time in the GDR. However, for vessels under construction before 1 September the 'old-for-new' rule will not apply before 1 February 1991.

5. Maritime transport

The Community's maritime law provides that the principle of freedom to provide services shall also apply to shipping plying between the Member States and third countries and therefore requires that cargo-

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sharing arrangements in existing bilateral agreements between the Member States and third countries shall be terminated or adjusted.

In trade coming under the United Nations Code of Conduct for Liner Conferences such agreements have to comply with the Code as well as the Member States’ obligations under Regulation (EEC) No 954/75.

Agreements covering non-Code trade are to be adjusted as soon as possible, and at the latest by 1 January 1993 such that, without discrimination, all Community nationals have free access to the cargo shares of the Member State concerned.

In the past the German Democratic Republic negotiated a number of bilateral agreements with third countries and these will not be transferred to the single German State. In so far as they contain cargo-sharing arrangements these agreements will therefore have to be terminated or amended to comply with Community law. A period of grace terminating at the end of 1994 at the latest should be allowed for this purpose for agreements covering non-Code trade.

Solid fuels (almost exclusively brown coal) account for more than 90% of domestic energy production (the GDR is the world’s largest producer of brown coal) and more than 70% of primary energy consumption. More than 80% of electricity is produced by solid fuels, which also cover over 30% of final demand.

Despite presumably low production costs, the transformation to final energy (briquettes) and transport costs of brown coal are probably high. SO$_2$ emissions are estimated at around 5 million tonnes a year.

The German Democratic Republic imports around 21 million tonnes a year of crude oil (of which 20 million tonnes from the USSR) and exports some 6 million tonnes of refined products. Natural gas accounts for about 8% of primary energy consumption. About 70% of natural gas requirements are met by imports of Soviet gas.

Installed electricity generating capacity is in the order of 24.8 GW, of which 16.5 GW comes from brown coal-fired plants and 1.8 GW from nuclear plants.

6. **Air transport**

6.1. **Aircraft noise**

At the end of 1989 the Council issued a Directive limiting the noise emissions of civil subsonic jet aircraft.\(^1\) The aim of the Directive is to reduce aircraft noise whilst at the same time ‘taking into account environmental factors, technical feasibility and economic consequences’ (preamble). However, this Directive does not apply to aircraft entered in Member States’ national registers on 1 November 1990.

Aircraft covered by Chapter II (18 Tupolev) registered in the German Democratic Republic will be put on the same footing as aircraft registered in the EEC.

2. **Restructuring of the energy sector in the German Democratic Republic**

2.1. With regard to the gas sector in the German Democratic Republic political discussion is currently under way regarding the distribution of the market among interested companies. The assumption underlying these discussions is that imports of gas will rise from their current level of 8 billion m$^3$ of Soviet gas to 16 billion m$^3$ by the year 2000 (replacing brown coal used for heating and industrial gas).

As for infrastructure, the German Democratic Republic network is connected via Czechoslovakia to the Soviet Union’s pipeline export system. Two large-scale connections are planned, one with the BEB system and the other with the Ruhrgas system.

2.2. Brown coal is currently the cornerstone of energy supply in the German Democratic Republic. In an attempt to protect the environment from the major emissions of SO$_2$, NO$\_x$ and dust, it is planned to cut the production and burning of brown coal by 50% by 1998, i.e. from the current level of 300 million tonnes to 150 million tonnes in 1998. Discontinuing the use of brown coal for domestic heating should

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\(^1\) OJ L 363, 13.12.1989, p. 27 et seq.
reduce \text{SO}_2\text{ levels} by over 30\% by the year 2000. Similarly, \text{CO}_2\text{ levels} should fail by 20\% over the same period.

Two companies produce brown coal, one at Lausitz (200 million tonnes) and the other at Halle Leipzig (100 million tonnes). A restructuring exercise involving Rheinbraun is being examined.

Brown coal will continue to be used in power stations, given the favourable production costs (DM 20 to 30 per tonne).

However, production of brown coal briquettes, currently standing at 50 million tonnes, should be cut radically to 20 million tonnes by the year 2000. Forty-eight companies currently producing briquettes in the Halle Leipzig region (20 million tonnes) will cease production by 1993.

2.3. The electricity industry consists of two generating 'Kombinate'. One is based on brown coal and provides 80\% of the country's electricity, while the other is based on nuclear power and provides 10\%. The remainder is generated by gas and industry itself.

The distribution system (380 and 220 kW) is organized by a single independent company (Kombinat), which is also responsible for importing and exporting electricity. Local distribution is carried out by 15 Kombinate at district level.

The future organization of production and distribution is still under consideration. Discussions also cover electricity utilities in the Federal Republic of Germany.

Electricity production will continue to be based chiefly on brown coal (total investment requirements for modernization DM 20 billion, including DM 6 billion for the introduction of environmental technology to reduce emissions of dust, \text{SO}_2\text{ and } \text{NO}_x\text{). Gas will play a more important role in electricity production. The future role of nuclear power has not yet been decided, and it is not clear whether the three Greifswald reactors which are shut down (and the fourth reactor, which is still working) will become operational again, given the strict West German safety regulations which will enter into force in East Germany.

2.4. As regards the oil industry, the former State monopoly has been abolished at all levels (supplies, importation, distribution and refinery). The industry is tending towards West European market structures involving joint ventures with oil companies in the Federal Republic of Germany.

Prices for oil products such as petrol, diesel and fuel have been deregulated and are now in the West German price range.

2.5. The restructuring of the electricity and oil industries will have to take place in accordance with Community competition rules.

3. \textit{Internal energy market}

3.1. \textit{Electricity transit}

The Council has reached a common position on the proposal for a Directive on electricity transit. The annex to the Directive should be adapted to take account of the new networks and the new bodies of a unified Germany. Since the number and structure of the bodies responsible for the electricity network in the new \textit{Länder} have still to be determined, the annex will be amended subsequently by a Commission Decision under the procedure laid down in Article 2(2) of the Directive.

3.2. \textit{Gas transit}

The proposal for a Directive on gas transit through transmission grids also provides for the identification of the relevant networks and bodies in an annex.

Discussions are under way on the structure of the gas industry in the new territories. The same updating procedure will be applied as for electricity transit.

3.3. \textit{Price transparency}

Following the adoption by the Council of the Directive concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users, the annexes to the Directive now need to be amended. The annexes contain lists of places and regions where prices have to be recorded, and should be enlarged to cover the present GDR territory.

The lists will be amended by applying the procedure laid down in Articles 6 and 7(a) of the Directive.

The same procedure would be applied if it became apparent that a transitional period would be needed.
to introduce the new pricing systems in the places concerned.

4. Transmission of information

Since it would not be practicable to implement the existing rules immediately on GDR territory, the Commission is proposing a transitional period of one year for their implementation.

5. Energy technology and research

The Thermie programme, whose main objective is to promote innovative technologies in the fields of energy saving, alternative energy sources, solid fuels and hydrocarbons, will be of particular interest to the new Länder. It will offer an opportunity to promote innovative energy technology in the former GDR territory, while at the same time contributing to a better environment. The proposed preferential treatment for small businesses and peripheral regions should create good opportunities to help the new Länder comply with the overall efficiency standards of the Community. The Thermie programme as such does not need any adaptation.

6. Nuclear energy — Euratom Treaty

6.1. Nuclear installations in the German Democratic Republic

The German Democratic Republic has six nuclear reactors which have already been operational, all of them pressurized water reactors. The oldest, Rheinsberg, has a nominal power of 79 MWe and has been operating since 1966. The others are at Greifswald (Lubmin) and are 440 PWRs with a net power of 408 MWe. The first four were commissioned during the 1970s (North 1 to North 4). The fifth began its chain reaction in April 1989. Three others are being built. At Stendal two 1 000 PWRs with a planned net power of 900 MWe are also being built.

The eight 440 PWRs belong to two different series. One series of reactors (North 1 to North 4), built by Atomenergoexport (USSR), are first-generation Model V 230. For safety reasons, reactors North 2, 3 and 4 have had to be shut down. The other series, built by Skoda (Czechoslovakia), are Model 213 which have been made safer.

The two 1 000 PWRs being built are of a generation which includes the most recent Soviet know-how as regards safety.

6.2. Fuel supply

Nuclear fuel elements for the operational PWRs are supplied by the Soviet Union. The German Democratic Republic produces only natural uranium. This is sent to the USSR to be converted into UF6, enriched with U-235 isotopes and turned into fuel elements.

6.3. Uranium resources

There are several uranium deposits in the south-east of the German Democratic Republic near the Czechoslovak border. The German Democratic Republic and the USSR extract the uranium jointly. Reserves in the mines currently being worked are put at 66 000 tonnes (plus a possible further 17 000 tonnes) and annual output totals some 3 000 tonnes, while annual requirements are around 500 tonnes. Costs would not be competitive when compared with the West.

Reserves outside the working mines are put at about 50 000 tonnes. The uranium content of the ore varies between 0.08% and 0.4%.

6.4. The Euratom Treaty will apply from the date of unification. No secondary legislation needs to be adapted; nor do any transitional measures need to be recommended. The authorities of the unified Germany will have to implement the existing legislation in its entirety. All investments currently being made will have to be declared to the Commission. The provisions on supplies (Chapter VI) will apply automatically. Euratom safeguards will automatically apply to nuclear installations in former GDR territory. While no adaptation of secondary legislation is required, substantial follow-up will be needed (particularly inspections). The verification agreement will apply but new facility attachments will to be negotiated between the Commission and the IAEA. The Community will become the owner of all special fissile material on the former territory of the German Democratic Republic. Negotiations with the USSR may be necessary on this matter.
Structural policies

1. The German Democratic Republic faces numerous problems, economic, social, environmental and administrative. These problems hamper integration into the Community at the very moment when its economy becomes exposed to competition.

2. An immense task of restructuring lies ahead. It must be achieved within a short time, without the possibility of attenuating its effects through a gradual phasing out of border protection. This situation calls for Community assistance. The structural Funds have an important task in facilitating a smooth transition and helping the creation of better prospects for the eastern regions of Germany.

Structural Fund intervention has to respond to the problems specific to the regions of the German Democratic Republic, whether they consist in the handicaps of regions whose development is lagging behind, in industrial decline or in the need to adjust agricultural structures and develop rural areas.

The regulations governing the structural Funds require regional, social and agricultural statistics which help guide structural intervention. For example, Objective 1 regions are in principle defined at NUTS Level II as those where per capita GDP measured in terms of purchasing power parity is less than 75% of the Community average, on the basis of the figures for the last three years. Classification under Objective 2 or 5b requires data on a number of other variables at NUTS III or lower level. The system of official statistics in the German Democratic Republic is not yet capable of providing data in the form and quality necessary to allow harmonization with Community statistics.

3. The Commission's proposals for measures of assistance take account of:

(a) the need to treat structural Fund operations in the former German Democratic Republic as soon and as far as possible on the same basis as operations in the rest of the Community;

(b) the need for rapid implementation of Fund operations in the German Democratic Republic, based on simplified procedures;

(c) the impossibility of designating Objective 1, 2 and 5b regions on the basis of the criteria contained in the regulations, in the absence of the relevant statistical data, and the risk that any a priori designation could limit the flexibility of response of the Commission to problems which have not yet been fully identified, analysed and defined;

(d) the fact that the approach chosen allows for identification within the Community support framework of specific areas designated for regional and rural development operations.

4. In the establishment of the basic regulations a delicate balance has been set with regard to the financial allocation of the existing Funds for categories of regions and priority objectives. This is demonstrated by the following implementation provisions and decisions:

(i) doubling of commitment appropriations for the structural Funds in real terms in 1993 by comparison with 1987;

(ii) doubling of commitment appropriations to Objective 1 regions by 1992;

(iii) approximately 80% concentration of ERDF funds on Objective 1 regions;

(iv) concentration of Objective 2 regions to cover up to 15% of the Community population living outside Objective 1 regions;

(v) indicative allocation of ERDF resources between the Member States.

These long-term commitments, which have to be adhered to, have been made on the part of the Community and the Member States and regions. For this reason, the funding of structural Fund interventions in the territory of the former German Democratic Republic can only be additional to the resources already planned for structural intervention.

It is proposed that the structural Funds should have additional commitment appropriations amounting to ECU 3 000 million over the period 1991 to 1993. This amount will cover all Community structural assistance under a Community support framework corresponding to the five priority Objectives of the Funds, including expenditure on measures which are financed in the rest of the Community within the financial allocations for Community initiatives.

Set-aside measures are financed half by the Guarantee Section and half by the Guidance Section of the EAGGF.

It is estimated that an additional amount of ECU 25 million will be needed for the Guarantee Section share.

5. Given the lack of adequate reliable statistics to assess the eligibility of East German regions for structural Fund assistance on the same basis as the exist-
ing regions of the Community, the fact that the Community has already undertaken commitments relating to the concentration of assistance within those regions, and the need for flexibility to allow the Funds to operate from the moment when East Germany becomes part of the Community, a specific transitional regulation is required.

The Council is due to review the structural Fund framework regulation (Regulation (EEC) No 2052/88) on a proposal from the Commission not later than 31 December 1993. That review should provide an opportunity to integrate East Germany into the normal framework of rules governing the Funds.

Until that review is completed, a number of derogations are required.

The derogations proposed should allow:

(i) the financial intervention in the former German Democratic Republic to be additional to the existing financial commitments of the structural Funds;

(ii) flexibility, including a pragmatic approach to the classification of regions by regional objective;

(iii) rapid intervention by dint of a simplified procedure for the analysis of the plan leading to the adoption of the Community support framework and operational programmes.

The new Regulation also

(i) makes clear — by reference to the regulations — that the principles of the reform of the structural Funds will be respected;

(ii) fixes the financial envelope for the intervention;

(iii) lays down the measures eligible for the programme by way of reference to the regulations governing the structural Funds;

(iv) makes appropriate arrangements for the monitoring of measures for compatibility with Community law and policies.

6. Although the financial allocation referred to in paragraph 4 includes provision for measures under Objective 5a, this Regulation does not provide for adjustments to the Council Regulations governing those measures. These adjustments will form the subject of another proposal or proposals by the Commission, described on pp. 76 to 84 of this report.

**Social affairs, education and training**

1. **Free movement of workers in paid employment**

Free movement of workers in paid employment, being an integral part of the free movement of persons, is one of the four fundamental freedoms. Article 48 of the EEC Treaty requires that freedom of movement for workers be secured within the Community. This entails the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.

The Community has adopted a number of instruments of secondary legislation to give effect to the principle of freedom of movement for workers.

Both the Treaty provisions and the secondary legislation will apply from the day of unification. The Commission does not propose any transitional measures.

2. **Social security for migrant workers**

At Community level this area is covered by Regulations (EEC) Nos 1408/71 and 574/72. German unification would call for certain amendments to be made to them.

The purpose of these two Regulations is to protect workers in paid employment and self-employed workers and members of their families who move from one Community country to another. Accordingly, they do not provide for the alignment of the various social security systems in the Community but simply for coordination of the systems. So they leave room for differences between Member States' social security schemes and largely take account of the specific aspects of each of them. For this reason the Council regularly amends the Regulations to reflect changes made in national legislation. Following the
successive enlargements of the Community, the Council has made the consequential adjustments after a thorough examination of the new Member States' social security legislation, the Community Regulations becoming applicable immediately on accession.

At the present time it is not clear how the social security legislation applicable in the former German Democratic Republic will develop after unification, so it is not yet possible to ascertain what adjustments will be needed to the Community Regulations.

The Council, acting unanimously on a proposal from the Commission after consulting Parliament, will amend the Regulations as soon as possible. This is no impediment to the immediate application of all the provisions of the Regulations from the date of unification.

3. Equal treatment of men and women

Article 119 of the Treaty requires each Member State to maintain the application of the principle that men and women should receive equal pay for equal work. In addition, the Community has adopted a number of instruments to give effect to the principle of equal treatment with respect to remuneration, access to employment, vocational training and advancement, self-employment, statutory social security schemes and occupational social security schemes.

In the areas covered by these Directives, apart from such exceptions as are expressly contained in them, any discrimination on grounds of sex, whether direct or indirect, is prohibited.

Community legislation in this field will take effect on the day of unification. The Commission does not propose any transitional period.

4. Labour law

At Community level there are three Council Directives on the protection of workers in the event of collective redundancies, transfers of undertakings and the insolvency of their employer.

Article 17 of the Staatsvertrag and Annex II provide that Federal German labour law will operate in the German Democratic Republic once economic, monetary and social union is effected. Community legislation can therefore be applied without difficulty from the day of unification.

The Commission proposes no transitional period in this area.

5. Health and safety at work

5.1. There are 15 Community Directives on protection of workers at the workplace. Seven of these Council Directives and six individual Directives have to be incorporated in national law by the Member States by 31 December 1992. Germany will also have to give effect to them throughout its territory by that date.

Council Directive 77/576/EEC, as amended by Directive 79/640/EEC, relating to the provision of safety signs at places of work will have effect in the new German territory from the day of unification.

5.2. It would be difficult to have the Directives on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work apply immediately upon unification given the position of industry and existing firms in the former German Democratic Republic.

According to available information, there are administrative, technical and educational difficulties which would be an impediment to the correct application of the Directives, in particular:

(i) lack of equipment to measure the levels specified in some of them;

(ii) need for significant adjustments to the infrastructure to reduce current levels of exposure;

(iii) need for training;

(iv) need to set up a new administrative structure to operate the administrative aspects of the Directives (in particular, recording and storing individual data relating to exposure and medical examinations).

In the light of this information, it would seem that the establishment of appropriate administrative and management systems, the installation and correct use of the necessary technical equipment, modification of
the present technological infrastructure and training of managerial staff, workers and their representatives, inspectors and specialized staff will call for a major effort of adjustment.

The Commission proposes a transitional period until 31 December 1992 for bringing these Directives into effect. This two-year period is shorter than the period for transposition generally allowed the Member States when the Directives were adopted.

6. Education and training

6.1. Situation and problems

The education and training systems in the German Democratic Republic are in a period of transition towards an alignment with the systems in the Federal Republic. By introducing the Federal legislation on initial training (Berufsbildungsgesetz) by 1 September 1990, organizations and responsibilities are undergoing significant changes which will impose great efforts on all concerned.

Up to 2.5 million of the current workforce may require urgent retraining only to take the effects of German economic and monetary union into account. This training effort is all the more essential, as unemployment is increasing in the German Democratic Republic as a consequence of fundamental economic restructuring. The readaptation of the existing workforce must be an urgent priority, as it is without doubt one of the absolutely necessary conditions to meet the structural changes.

The higher-education system is also in a process of change towards the system of the Federal Republic of Germany. Legislation is expected on this subject once the Länder have been created in the German Democratic Republic. One of the major issues here, as for the education system as a whole, is the question of the training and retraining of teaching staff, previously recruited on an ideological platform (socialist theory, planned economy, etc.) for whom a change of attitude under the new system will be fundamental to their capacity to continue in the teaching profession. Some teaching staff have already been made redundant. Additionally, the German Democratic Republic needs support as far as technical equipment and libraries of higher-education institutes are concerned.

Primary and especially secondary education are also subject to substantial reorganization, mostly by moving from a comprehensive system to a wider range of alternatives in secondary education, as well as moving responsibilities from the central State to the Länder, in line with the constitution of the Federal Republic of Germany.

6.2. Integration of the German Democratic Republic in Community education and vocational training programmes

From the date of unification the new Länder in the former German Democratic Republic will be fully entitled to participate in all Community education and training programmes without any special measures for the adjustment of legislation.

The present operational structure of Petra, Force, Yes for Europe, exchanges of young workers and Eurotecnet will allow for the effective participation of the persons and organizations concerned in the former German Democratic Republic, without any major technical or administrative difficulties.

In the case of Comett, Lingua and Erasmus, it could be difficult to secure effective and immediate participation since the time-limits set and current financial commitments for the three programmes leave no room for manoeuvre.

Environment and nuclear safety

1. Environmental situation

1.1. On the basis of the information gathered over the last few months in the meetings of experts and especially the results of the East-West ministerial meeting of 16 and 17 June and the data given in the Report on the Environment published by the GDR Ministry in June 1990 it can be said that the environment in the GDR is in a catastrophic state. Water and air pollution in particular is so bad that it is no longer simply a matter of cleaning up the environment but one of restoring the most basic conditions for life. For example:

(i) in the case of some pollutants atmospheric pollution is four times higher than the Community average; \( \text{SO}_2 \) and suspended particulate emissions are the highest of all the European countries;

(ii) nearly half of the water resources are already unusable for the production of drinking water; the
principal river, the Elbe, is almost ‘dead’ in parts and its fish are unfit for human consumption;

(iii) about 60% of industrial waste is ‘disposed of’ without any control whatsoever and with no consideration for the environmental aspects, thus causing a permanent deterioration in the quality of the soil and the groundwater: some 90% of disposal installations do not appear to meet Community standards;

(iv) the existing nuclear facilities are poorly maintained to the point of being dangerous. As a result, almost all of them have already had to be closed.

This situation is the result of a policy geared to rapid economic growth based on the radical and almost indiscriminate use of the available natural resources, without consideration of the environmental implications. Despite the fact that the German Democratic Republic is the most advanced and industrialized of the East European countries, its investments in the environment amounted to only 0.4% of GDP in 1988, as compared with 1.34% in the Netherlands and 1.07% in the Federal Republic of Germany. For example, the German Democratic Republic has never provided any funds to meet its obligations under the Protocol to the Convention of 9 July 1985 on the reduction of transboundary air pollution.

1.2. The end result of this policy is seen particularly clearly in three key areas: water, air and waste.

(a) The German Democratic Republic has the lowest water potential (groundwater and surface water) of all European countries. In view of the high density of the population and of industrial installations, this potential is already 40% utilized, a percentage three to four times higher than in the neighbouring countries. As a result, only 20% of the water is still usable for producing drinking water, 35% could be, but at the cost of substantial investment, and 45% is no longer usable at all. The Elbe, the German Democratic Republic’s only major river, is one of the most polluted rivers in Europe. Mercury levels found in its fish are several times in excess of the limit value accepted for foodstuffs.

A considerable improvement effort will therefore be required, involving both the reduction of industrial and agricultural pollution (nitrates, pesticides) and the construction of modern purification plant. This will be expensive and will have to be preceded in the medium term by the establishment of a more modern and thorough monitoring and control system.

(b) The German Democratic Republic as yet uses little oil and natural gas. 70% of its energy needs are covered by lignite, of which the German Democratic Republic is the world’s leading producer.

Quite apart from the enormous damage caused by large-scale mining activities, lignite is a fuel that is relatively low in calories but rich in sulphur. It is burned in ageing power stations and domestic stoves, releasing on average 300 kg of sulphur dioxide per inhabitant per year, as compared with a Community average of 70 kg. The German Democratic Republic has thus become ‘the biggest net exporter’ of SO2 to the other European countries (more than 800,000 t in 1988).

Here, too, the clean-up requires a costly and prolonged effort. This will have to be accompanied by a review of energy policy, including the introduction of a real market price and economy measures, by a reorganization of the chemical industry, the second main user of lignite, and by the conversion of the national production of highly polluting cars.

(c) To date there are no reliable data on the volume and nature of industrial and municipal waste. Here again, the Ministry of the Environment’s report reveals that:

(i) there are 10 times more unauthorized than authorized dumps;

(ii) most of the authorized dumps do not even comply with the standards applying in the German Democratic Republic;

(iii) there is no modern installation for incinerating particularly dangerous substances;

(iv) the capacity of the existing installations and dumps will have been used up in 10 years.

In spite of this, the German Democratic Republic has for 10 years been importing waste from the Federal Republic without having any real capacity for its disposal.

On the other hand, mention should be made here of the GDR’s considerable efforts and success in the recycling of waste materials.

Better waste management will depend, in the first instance, on the drawing up of a complete inventory. The decisions on whether to clean up or close down will have to take account of the growing need for disposal. Accompanying measures will be necessary, both in the German Democratic Republic and throughout the European Community, to reduce the production of waste, before tackling the problem of recycling and disposing of it.
One problem of which the scale is impossible to evaluate at this stage is that of pollution of the soil by waste dumps. On the basis of experience in several Member States and in the United States it is to be feared that colossal expenditure will be required for cleaning up the contaminated soil.

1.3. The present environmental situation in the German Democratic Republic is seriously affecting human health. Even now the population, especially in the more industrialized regions of the south of the German Democratic Republic, is obliged to live and work in unhealthy and inhuman conditions. Studies have shown figures for typical diseases, especially in the case of children, well in excess of the national average, and even point to reduced life expectancy in certain places.

1.4. On the practical level, the clean-up and protection measures therefore have to be swift and hard-hitting. The Federal Republic and the German Democratic Republic have already agreed on the financing of a whole range of major projects. As for the EC, certain 'model' projects could be started before unification within the framework of Phare.

It is also important to ensure that industrial and infrastructural development does not adversely affect existing environmental resources. The principles and the obligations arising out of the Community Directive on environmental impact assessment (85/337/EEC) have to be strictly complied with for each new project, both by the national authorities and by the Community institutions. It would be disastrous to increase still further the pressure on natural resources that are already overused and even exhausted.

2. Transitional measures

On the legal front, nearly 200 Community documents on the environment and nuclear safety have been examined jointly by the Commission and the representatives of the Federal Republic and the German Democratic Republic. On the German side, several transitional measures have been proposed, and these have been examined case by case in terms of their legal and practical merits and their likely duration.

Since data on the state of the environment are still patchy and in many cases inaccurate, and there are as yet virtually no clean-up plans or programmes, it has sometimes been difficult to identify the measures that are required. For such cases it has been essential to include an adaptation clause, common to all measures, so as to be able to react to additional data or to developments unforeseeable at this stage. At any event, the Commission's proposals are based on data currently available and on general technical knowledge and experience. They take full account of both the need to protect the population affected and the concern of the institutions to have Community standards respected as soon as possible. The two German Governments have fully accepted their obligations in the matter.

The Commission proposes transitional measures only where the state of the environment is such that Community standards are unattainable at the date of unification. This automatically excludes purely legislative or administrative measures, product standards (except for the rules relating to dangerous substances, where a time-limit will have to be laid down for notification) and all new installations and projects.

The only areas where transitional measures will be justified, or even indispensable if Community law is to be respected, are therefore those of existing installations and quality standards. Air, water and soil will have to be cleaned up on the basis of programmes or plans followed by practical measures. These measures cannot be effective unless they are accompanied by others in the framework of economically and ecologically sustainable development. If this leads to longer deadlines, there will have to be a parallel obligation on Germany to prepare and submit improvement plans or programmes to the Commission in the shortest possible time. In this way the Commission will be able to exercise its right to monitor both the effectiveness of the measures and compliance with the deadlines set.

3. Nuclear safety

No transitional measures are proposed in the field of nuclear safety. From the time of unification, Articles 33, 35, 36 and 37 of the Euratom Treaty and the secondary Community legislation in the field have to be, and can be, applied immediately. Any material problems arising will have to be settled as soon as possible, either by evaluating the whole system of radiation protection (industrial and medical sectors) or by closing any installations that are incapable of complying with the Community protection standards.
4. **Summary table**

The summary table in the Annex shows the measures proposed and the reasons for them, case by case. It should be noted that for the areas most affected, i.e. water, air and waste, periods of grace extending to 1995/96 have been allowed for, taking account of the need for integrated medium-term measures. It would be wrong to imagine that cleaning up the environment is merely a question of funding. The polluted air and especially the polluted water will take years to recover, and as for waste, it is obvious that all industrialized countries have trouble finding quick solutions.

However, wherever a period of more than three years is allowed, there is an obligation to submit an improvement plan within one to two years. It should be remembered, though, that the periods proposed are as a rule much shorter than those originally provided for in the directives, and that the Commission will conscientiously carry out its role of ensuring compliance with the time-limits laid down. This will be another opportunity to tighten control of the application of Community Directives by the Member States, also with a view to equal treatment and the harmonization of economic parameters.
Annex

Transitional measures in respect of the former territory of the German Democratic Republic concerning the environment

Summary table

**Directives based on Article 100a of the Treaty**

<table>
<thead>
<tr>
<th>Directives</th>
<th>Deadline</th>
<th>Reasons¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. 67/548/EEC + amendments up to 88/490 — Dangerous substances</td>
<td>31.12.1992</td>
<td>Technical adjustments and notifications required to take stock of and classify chemical substances in the German Democratic Republic not yet covered by the Community inventory. The sale of these substances, however, will be confined to the former territory of the German Democratic Republic alone. Period specified in the Directive (Article 25): 5 years</td>
</tr>
<tr>
<td>2. 75/442/EEC and 78/319/EEC — Waste</td>
<td>31.12.1991 (plans) and 31.12.1995 (authorizations)</td>
<td>It is estimated that over 90% of the rubbish dumps/waste disposal installations are not authorized and do not meet Community standards. An inventory is to be drawn up to enable them to be identified and to determine which of them can still be improved. Immediate, total closure is impossible due to the lack of alternatives at the moment. The improvement of existing facilities and the construction of new facilities will mean a considerable period of time before the requirements for authorization under the two Directives can be met (Articles 8 and 9 respectively). In the meantime, a programme is to be rapidly drafted and presented to the Commission. Period specified in the Directives (Articles 13 and 21 respectively): 2 years</td>
</tr>
</tbody>
</table>

¹ A general purpose clause will be added making it possible to adapt the regulation to new circumstances and developments.
Directives based on Article 130s of the Treaty

<table>
<thead>
<tr>
<th>Directives</th>
<th>Deadline</th>
<th>Reasons</th>
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</thead>
<tbody>
<tr>
<td>Directives concerning the reduction of water pollution</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Between 31.12.1992 and 31.12.1995 for the quality objectives and 31.12.1991 or 31.12.1992 for the improvement plans</td>
<td></td>
</tr>
<tr>
<td>1. 75/440/EEC — Surface water and 79/869/EEC — Methods of measurement</td>
<td>31.12.1995 (quality objectives) + improvement plan 31.12.1992</td>
<td>Less than 50% of the surface water is suitable for use. Major improvement plans and projects are required. Period allowed under the Directive: 2 years (administrative measures, 4 years in the case of Portugal), and 10 years (quality) (Articles 10 and 4(2))</td>
</tr>
<tr>
<td>2. 80/68/EEC — Groundwater</td>
<td>31.12.1992 (plans) 31.12.1995 (objectives)</td>
<td>Current situation: Industry and agriculture have to be restructured to reduce further waste: long-term work. Periods allowed under the Directive: 2 years, 4 years in the case of Greece (Article 21) (administrative measures) and a maximum of 6 years (objectives), Article 14</td>
</tr>
<tr>
<td>3. 80/778/EEC — Drinking water</td>
<td>31.12.1991 (notifications and plans) 31.12.1995 (objectives)</td>
<td>The situation in some areas is such that enormous investment will be required to ensure the supply of clean water to the public. To start with, administrative and technical monitoring measures are required. As far as quality standards are concerned, Germany will be able to grant derogations (Articles 9 and 20), which also have to be notified within one year. Period allowed under the Directive: 2 years (administrative measures) and 5 years (quality) (Articles 18 and 19)</td>
</tr>
</tbody>
</table>

1 A general purpose clause will be added making it possible to adapt the regulation to new circumstances and developments.
<table>
<thead>
<tr>
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<th>Deadline</th>
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</tr>
</thead>
</table>
Period allowed under the Directive: 2 years (administrative measures) and 10 years (quality standards) (Articles 12 and 4).  
The end of 1993 deadline covers the two types of obligation |
| 5. 76/464/EEC and subsequent Directives — Discharge of dangerous substances in water | 31.12.1992                    | Very little known about the waste disposal situation; assessment of the current situation, drawing up of programmes (normal period: 5 years) and measures to meet the limit values (normal period: 4 years) standard period of 2 years across-the-board |
Period allowed under the Directive: 2 years (administration and designation) and 5 years (quality standards) (Articles 17 and 5)  
The 31.12.1992 deadline concerns the two types of obligation |
| Directives on the reduction of air pollution                           |                               | The same catastrophic, unhealthy and complex situation as in the case of water. The restructuring necessary, in particular in energy and the chemical industry, inevitably means long deadlines though shorter than those laid down in the Directives when they were adopted.  
Improvement plans, however, have to be produced in a short period of time |
| 7. 80/779/EEC — SO₂ in the air                                          | 31.12.1991                    | The regions where the coalmining and chemical industries are concentrated are particularly polluted. For these reasons, Article 3(2) of the Directive specifies a longer maximum period for notification. Improvement plans also have to be communicated. The first deadline (1991) will be necessary to take stock of the situation, to prepare the plans and, at the same time, to achieve the quality objectives in the less severely affected regions. For the polluted regions notified, the restructuring required in the energy and chemical sectors will necessitate a later deadline of up to 1.4.1996. Period allowed under the Directive: 3 years (general objectives, plans) and 13 years (subsequent quality objectives) (Articles 3(1) and (2)) |

A general purpose clause will be added making it possible to adapt the regulation to new circumstances and developments.
<table>
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<tr>
<th>Directives</th>
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<tbody>
<tr>
<td>8. 82/884/EEC — Lead in the air</td>
<td>31.12.1992 (plans); 1.7.1994 (objectives)</td>
<td>Same as for Directive 80/779/EEC. Periods allowed under the Directive: 5 years (objectives in principle), 2 years (plans) and 7 years (subsequent quality objectives) (Article 3(1) and (3))</td>
</tr>
<tr>
<td>9. 84/360/EEC — Air pollution from industrial plants</td>
<td>Adaptation date</td>
<td>Article 2(3) defines existing plants. The date of 1.7.1987 will have to be replaced by the date of entry into force of the Regulation</td>
</tr>
<tr>
<td>10. 85/203/EEC — NO\textsubscript{x} in the air</td>
<td>31.12.1992 (objectives or plans); 1.1.1996 (final objectives)</td>
<td>Same as for 80/779/EEC and 82/884/EEC. Periods allowed under the Directive: 2 years (administrative measures) and 9 years (final objectives for the regions notified pursuant to Article 3(2)) (Articles 15 and 3(2))</td>
</tr>
<tr>
<td>11. 88/609/EEC — Large combustion plants</td>
<td>1.1.1996 (instead of 1.1.1993)</td>
<td>The Directive contains a calculation for the gradual reduction of emissions for each Member State. For Germany, it will be necessary to incorporate the values and reductions for the Federal Republic. Completion of phase 1 therefore has to be extended from 1993 to 1996. The timetable will be complied with from phase 2 on. Furthermore, for the definition of existing plants the date of 1.7.1987 has to be replaced by the date of unification</td>
</tr>
<tr>
<td>Other than those concerning air and water</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12. 79/409/EEC — Birds Directive</td>
<td>6 months for the identification of special protection areas to be classified and for the adaptation of public interventions likely to affect them. 31.12.1992 for the formal classification</td>
<td>Need to elaborate the statutory protection measures. Deadline for implementation of the Directive: 2 years (Article 18)</td>
</tr>
<tr>
<td>13. 87/101/EEC — Disposal of waste oils</td>
<td>Amendment to date defining existing plants</td>
<td>Since the initial date is that on which the Directive is notified, the date has to be replaced by that of the entry into force of this Directive</td>
</tr>
</tbody>
</table>

¹ A general purpose clause will be added making it possible to adapt the regulation to new circumstances and developments.
Directives

14. 82/501/EEC
87/216/EEC
88/610/EEC — Major accident hazards

15. 87/217/EEC — Asbestos

<table>
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<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>14. 82/501/EEC</td>
<td>1.6.1992 (inventory)</td>
<td>Germany will have to draw up an inventory of the plants falling under the Directives, including a risk analysis. Furthermore, the Directives specify an additional period to supplement the declarations.</td>
</tr>
<tr>
<td>87/216/EEC</td>
<td>1.7.1994 (supplementary declaration)</td>
<td></td>
</tr>
<tr>
<td>88/610/EEC — Major accident hazards</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15. 87/217/EEC — Asbestos</td>
<td>31.12.1991 and 30.6.1993 (limit values)</td>
<td>The deadlines distinguish between general application, in particular the substantive obligations, monitoring and notification to the Commission and the target date for the limit values. Periods allowed under the Directives (Article 14): 18 months (administrative measures) and 4 years (objectives)</td>
</tr>
</tbody>
</table>

¹ A general purpose clause will be added making it possible to adapt the regulation to new circumstances and developments.

Research, technology and telecommunications

1. Research and technology

1.1. Current situation

The GDR’s scientific research and development facilities and scientific equipment are outdated, in some cases by two or three generations.

On the staffing side, while research centres will need to become cost-effective by reducing staffing levels, there is already large-scale emigration of qualified scientists.

After unification, the R&TD potential of the former German Democratic Republic will represent 25% of the current level in the Federal Republic of Germany. Preparation for rapid exploitation of the potential is under way in the interim period through the encouragement of exchanges of scientific information and personnel, investment in new laboratory equipment and the setting up of technology centres.

1.2. Community policies

After unification, former GDR laboratories in universities, industry or research centres will be eligible to participate in Community R&TD programmes implementing the second and third framework programmes for Community research and technological development.

The six major action areas of the third framework programme cover priority Community industrial and scientific requirements, so there is no need to modify it, or to increase funding. If specific needs do arise, they can be discussed in the mid-term review planned for 1992.

2. Telecommunications

2.1. Current situation

The telecommunications infrastructure in the German Democratic Republic was installed in the 1930s
and 1940s and is largely obsolete. This is particularly true for transmission plant and switching equipment where only analogue systems exist.

There are 1.6 million telephone subscribers (out of a population of 16 million) and an annual waiting list for connections estimated at 1.2 million. The system is capable of accommodating a maximum of 10,000 new subscribers per year. Modern means of communication — mobile telephones, facsimile, packet switching — are almost non-existent.

Although the GDR telecommunications industry is not currently competitive, technology transfer through joint ventures will rapidly alter the situation. Service provision equal to that of the Federal Republic of Germany is planned for 1997. The investment involved amounts to an estimated total of ECU 25 billion or more.

### 2.2. Community policies

The principal legal instruments governing the telecommunications sector can apply immediately from unification, but there are two Community Directives requiring adaptation:

(i) A formal derogation from Directive 88/301/EEC (terminal liberalization — extension of monopoly for the first telephone set) is not necessary, but the Commission is proposing a transitional period until the end of 1991 for full application of the Directive.

(ii) For Directive 87/372/EEC (GSM frequencies) the Commission is proposing a transitional period until the end of 1992. The issue here is the occupancy of the relevant frequency bands by Warsaw Pact forces. The adaptation forms part of the proposals in the chapter on the internal market.

### 2.3. The production sector

The computing and telecommunications industry in the German Democratic Republic consisted in essence of two conglomerates (Kombinate) with about 100,000 employees and a turnover of about ECU 5.5 billion (11 billion East German marks) of which ECU 2.2 billion (4.5 billion East German marks) derived from exports. Imports amounted to about ECU 850 million (1.7 billion East German marks).

Unification and Community integration mean exposure to world competition, product obsolescence, application of DIN norms and a need to restructure industry. Since virtually all trade was with CMEA countries, there are potential effects on GDR's traditional trading relations with Eastern Europe, as set out in the first chapter.

**ECSC**

### 1. General situation

Integration of the East German steel industry into the Community system will certainly cause serious industrial, social and regional problems in the GDR territory. It will be possible to use the ECSC instruments, and in some cases possibly even before unification.

From a legal point of view there are unlikely to be any serious problems, apart from possible use of State aids in the ECSC industries. There would seem to be no need to change existing laws. After unification, ECSC secondary legislation will automatically apply, which means that the Commission will have to do some preparatory work.

The Commission will use the powers conferred upon it by Article 14 and Articles 49 to 51 of the ECSC Treaty to take a decision to adjust the reserve funds as it did in the context of new accessions in separate protocols.

### 1.1. Steel

In 1988 the GDR steel industry produced some 8 million tonnes of crude steel (compared with the 41 million tonnes produced in the Federal Republic of Germany and the 137 million tonnes produced in the EEC as a whole in 1988), which puts it more or less level with Belgium.

Unlike most of the other major steel producing countries of the Community, the East German steel industry cannot satisfy the demand for steel in its territory. Most imports come from the USSR. There is relatively little trade with the Community except for substantial processing traffic with undertakings in the Federal Republic of Germany.

The German Democratic Republic is very poor in raw materials for the steel industry and imports most
of them from the countries of Eastern Europe, particularly the USSR. It even imports wide hot strip and pig iron (which is very rare). It may well be in the interests of some undertakings in the German Democratic Republic to maintain these import arrangements despite being part of the customs union with the Community.

Production is centred primarily on three undertakings which have grown out of the old combines, the main centres of production being Brandenburg, Riesa and Eisenhüttenstadt, which specialize respectively in long products and special steels, tubes and flat products. The combines recently became stock companies, their stock being managed by the privatization institute 'Treuhandanstalt'.

The Commission has held discussions with the directors of these undertakings in order to identify the main problems to be tackled. The conclusion is that there is an urgent need for modernization, restructuring and rationalization of the industry. The inevitable consequence will be massive job losses and a need for extensive investment. At present, none of these undertakings seems to be economically viable.

Some 40% of crude steel production is in open-hearth furnaces, which are no longer used in the Community. They will have to be closed down as soon as possible because, apart from being uncompetitive, they cause considerable pollution. Continuous casting accounts for only 40% of production compared with 85% in the Community.

On the other hand, the outlook for expansion of local demand for steel seems promising, particularly in the car industry, in the building industry and for infrastructure.

In any case, there are likely to be massive job losses as a result of rationalization (including rationalization of activities which are not steel production as such and of the services provided by the combines) and as a result of restructuring.

There is only limited scope for adopting the usual solutions of early retirement and re-employing workers in other industries, particularly in the Eisenhüttenstadt region near the Oder, which depends almost exclusively on the steel industry.

2. Application of internal rules

2.1. So far, there appears to be no need for legal adjustments to the internal rules governing relations between steel undertakings and the Commission.

It should be remembered that measures to tackle the manifest crisis in the steel industry taken under Article 58 of the ECSC Treaty (production quotas) have not applied since 1 July 1988. Minimum prices were discontinued at the end of 1985 and the monitoring system expired on 30 June 1990.

It will be necessary to draw up a list of ECSC undertakings for the purposes of Articles 80 and 66 of the ECSC Treaty.

It will also be necessary, in conjunction with the undertakings concerned, to arrange for application of the provisions of Article 60 of the ECSC Treaty, particularly the publication of price lists and points of equivalence.

2.2. Redeployment aid

ECSC redeployment aid, under Article 56 of the ECSC Treaty, takes the form of financial participation in social measures to help workers affected by restructuring or modernization in the coal and steel industries. The conditions for EEC intervention are

Brown coal is the only solid fuel produced in the country. Total production is in the order of 300 million tonnes of crude lignite, 99 million tonnes of which are made into some 50 million tonnes of brown coal briquettes, of which approximately 11 million tonnes are made into 6 million tonnes of semi-coke. Although brown coal as such is not covered by the ECSC Treaty, brown-coal briquettes and semi-coke derived from brown coal are classed as ECSC products and as such are covered by the rules in the Treaty and are subject to the ECSC levy. In all, 39 million tonnes (50–11 million tonnes) of briquettes and 6 million tonnes of semi-coke are classed as ECSC products.

To give some idea, there are some 135,000 workers in the East German brown coal industry. However, 80,000 of these jobs will be lost following a decision to cut brown coal production to between 160 and 170 million tonnes by 1995 for environmental reasons.

1.2. Coal

There has been no production of hard coal (as defined in the ECSC Treaty) in East Germany since 1970 when reserves ran out.
laid down in the bilateral conventions between the Commission and the Member States. On unification, the terms of the bilateral conventions concluded with the Federal Republic of Germany for the granting of ECSC redeployment aid will apply to the former German Democratic Republic. No further decision from the Council is needed to extend the redeployment aid system to the German Democratic Republic.

The steel sector, with a workforce of some 67,000, is far more significant than the coal sector where only brown coal briquettes and brown coal semi-coke are ECSC products and production is effected by a workforce of only 20,000. It has been estimated that up to half of these 87,000 ECSC workers in the German Democratic Republic could be affected by restructuring measures.

Most of the social assistance required will be for measures already covered by existing bilateral agreements, namely early retirement, unemployment, internal transfer, external redeployment and vocational training. Until 30 June 1991, there will be special legislative arrangements for short-time working, accompanied by training.

2.3. Social housing implications

Under Article 54 of the ECSC Treaty, social housing programmes provide for financial participation in the cost of housing occupied by ECSC workers. The social housing programmes were launched largely to encourage permanent settlement of the workforce within the industry. ECSC participation is in the form of loans with a low interest rate of 1%, financed by a 'special reserve' from the ECSC. Under the current programme (the 11th) an amount of ECU 48 million is earmarked for the years 1989-92. These loans may be supplemented by normal loans at market interest rates. The ECSC social housing programme will be automatically extended to the former German Democratic Republic on unification.

2.4. Regional aid and loans

Assistance for the reconversion of steel and coal areas in the form of grants from the structural Funds will be dealt with under the overall arrangements for the Funds described on pages 95-96.

Conversion loans based on Article 56(2)(a) of the ECSC Treaty are still an operational instrument which can be used for regional purposes. The Commission is preparing to use the ECSC financial instruments for investment in the ECSC industries (particularly in order to reduce pollution) and for regional redevelopment. A decision based on Article 95 of the ECSC Treaty to grant these loans before unification has been adopted by the Council.

2.5. Aid schemes

The rules for aid to the steel industry established by Decision 322/89/ECSC, which allows aid for closures, research and development and environmental protection only under certain conditions and prohibits regional aid, will apply after unification. The rules do not allow authorization to cover operating losses or operational aid (even during the period of return to profitability), or investment aid, and they restrict environmental aid to a 15% net grant equivalent of the investment costs in this area. There are also relatively severe restrictions on aid for closures.

Under the abovementioned Decision 322/89/ECSC, it is possible to apply Article 5 of the German Democratic Republic. This allows regional aid for investment in the steel industry under certain conditions. It would require a Commission Decision based on Article 95 of the ECSC Treaty.

Should the German Government officially apply to grant investment aid to the former GDR steel industry, the Commission Decision in the framework of Article 95 is provided for in the draft proposal to this effect in Part IV.

Since East Germany does not produce hard coal, there should be no particular problems with regard to Decision 2064/86/ECSC establishing Community rules for State aid to the coal industry.

The coal provisions which apply in the Community and hence in the Federal Republic of Germany will be fully applicable in the former territory of the German Democratic Republic.

3. External arrangements

Application by the German Democratic Republic of Community customs legislation on steel means that the following measures will enter into force without the need for any technical adjustment (since the Ger-
man Democratic Republic is not mentioned in any of them as a non-member country):

(i) Recommendation 3979/89/ECSC of 20 December 1989 (OJ L 380, 29.12.1989) establishing a system of surveillance by automatic issuing of import documents, although these documents will no longer have to be granted or required by the other Member States for goods of East German origin;


(iii) suspension of imports of iron and steel products originating in South Africa (Decision 86/459/ECSC, OJ L 268, 19.9.1986);


For 1990 the Community has entered into arrangements with Bulgaria, Czechoslovakia, Romania, Poland, Hungary and Brazil to limit the quantities of steel imported into the 12 Member States of the Community. The quantities referred to in these arrangements are to be amended in 1991, if the arrangements are continued, in order to take account of customary imports from these countries by the German Democratic Republic. It is unlikely, in 1990, that the German Democratic Republic will attempt to get around these arrangements because of the checks being carried out by the German authorities since 1 July 1990 and the inter-Community surveillance system, on which an ECSC decision for 1990 is in preparation (since the previous Decision 29/89/ECSC has expired).

III — Financial aspects

Introduction

The financial implications of German unification have to be assessed from three viewpoints: (i) estimate of the overall financial impact; (ii) revision of the financial perspective; (iii) incorporation in the 1991 budget.

It has to be stressed that the figures given here are provisional estimates, some of which are based on very uncertain assumptions. These estimates will therefore have to be continuously refined right up until the procedure for amending the financial perspective and incorporating it into the budget is launched.

It should also be noted that the figures relate to the overall impact of German unification on the Community budget and not just the financial consequences of the adjustment measures discussed in Part IV.

The financial implications of unification for the ECSC are set out in the Annex.

The entire financial repercussions of German unification will be dealt with following the procedures laid down for the establishment of the EEC and ECSC budgets, in other words they will not fall under the legislative procedure required for the measures set out in Part IV.

Estimate of the overall financial impact

1. The budgetary impact of unification, which is only one factor in the overall economic equation for the Community, falls under four main headings.

(i) First and foremost is the immediate automatic impact resulting from the application of the existing financial rules to a Community whose population will be 5% larger (+16.7 million) and which will cover a wider area, with a GNP that is roughly 2% higher (some ECU 110 billion) and an agricultural area almost 5% greater (+62 000 km²).

This principally affects Community guarantee intervention for agriculture, the net additional cost of which, assuming there is no policy change, will be determined by applying the existing regulations to the new overall economic situation in that sector. The same is also true as regards Community revenue, since the base will automatically increase by virtue of unification.

(ii) Secondly, there is the impact of extending the scope of structural measures to the territory of the German Democratic Republic — though not at the expense of the others — since the Community policy pursued through the structural Funds must obviously be applied to this new part of the Community. Furthermore the principle of solidarity dictates that the
new beneficiaries must be given a guarantee that the financial assistance made available through structural operations will be on a scale and on terms as near as possible as that accorded to the regions already receiving aid in a similar situation. On the other hand, a clear signal needs to be given that structural operations to assist the German Democratic Republic will not work to the detriment of those regions. Since structural Fund resources up to 1993 have already been earmarked by country, type of operation and objective, integration of the German Democratic Republic will have to involve special arrangements and appropriations for the years 1991–93.

(iii) The third aspect is the impact of applying the other Community policies. Here allowance will have to be made not only for some degree of proportional increase (e.g. administrative expenditure) but also for certain specific problems or potential developments in the East German economy, in particular in the areas of the environment, energy, telecommunications, transport, fisheries, training and research. Here too the essential question, in view of the budgetary constraints, is to ensure that the additional financial effort is commensurate with the weight of the former German Democratic Republic. This will obviate the risk of integration being accomplished at the expense of the others.

(iv) Besides the financial impact of the automatic or deliberate application of Community policies, the positive or negative effect of temporary changes to the ‘acquis communautaire’ warranted by the need to afford the new Länder a breathing space to adapt their economy will be felt for some time. The list of special measures with significant financial implications, which is unlikely to be long in any case, has not yet been adopted. This could, for instance, involve financing special set-aside measures.

2. The budgetary estimate of the impact of unification in the coming year is heavily clouded by uncertainty and further economic and sectoral analyses are still needed. However, it is already possible to put forward some figures for 1991 and 1992. Although clearly only provisional and very approximate, they give an idea of the likely scale of the impact. These estimates are based on the assumption that unification will take effect from 1 January 1991. Even if the date is moved forward to 14 October 1990, given the nature of agricultural expenditure, the need to make the necessary legislative adjustments beforehand and the implementation schedules involved, almost all the additional budgetary outlay will not actually enter the costing process until the beginning of 1991.

On the expenditure side the bulk of the cost will be accounted for by agriculture (between ECU 550 million and 1 050 million in 1991, and between ECU 1 000 and 1 200 million in 1992) and structural Fund operations (an average of around ECU 1 billion per year, over three years).

The rather wide expenditure margin for agriculture is due to uncertainty about how quickly the German Democratic Republic will manage to adjust its level and structure of consumption and production. The estimate covers all sectors of intervention (cereals, sugar, milk, butter, pigmeat, and beef and veal).

Treating the regions of the German Democratic Republic on a par with areas elsewhere in the Community that are comparable in terms of objectives and given the limited data currently available the figure that emerged for the financing of all structural operations under the various objectives was ECU 3 billion over three years.

The expenditure involved in other areas (research, environment, energy, telecommunications, fisheries, transport and training) is far more modest (roughly ECU 150 million per year in 1991 and 1992). However, this is fully in line with the relative importance of these policies in the budget and the weight of the German Democratic Republic.

The amount of revenue that would have to be called in will obviously depend on the size of the budget. For a full year, assuming an increase in 1991 of ECU 2 billion in the 1991 budget (preliminary draft: ECU 53 billion in commitment appropriations), the increase in resources due to the larger revenue base would amount to some ECU 1.5 billion (portion of own resources from former German Democratic Republic). This calculation — making allowance, of course, for the loss in revenue due to the elimination of duties and levies in trade between the German Democratic Republic and the Member States (some ECU 150 million) — is based on full application of the CCT to trade between a unified Germany and non-member countries.

Slightly more than a third of the total (ECU 580 million) would come from traditional own resources (customs duties, agricultural and sugar levies — with

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1 This figure is for eight and a half months, assuming entry into force on 1 January 1991 (nine and a half months) and allowing for the estimated one-month administrative time lag involved in paying out aid. If the CAP were to be applied from 14 October 1990 (11 months, given administrative time lags) the cost would be between ECU 700 and 1 250 million.
extra-Community and intra-Community trade accounting for 30% and 70% of total imports respectively) while VAT (ECU 740 million) and the GNP-based resource would make up the remainder.

In 1990, the increase in resources due to the larger revenue base would be at most around ECU 200 million.

3. The scale of actual expenditure will, of course, rise only gradually, whatever the administrative capacity of the German authorities. The same also applies to the increase in resources resulting from the broadening of the revenue base.

Thus it is quite possible that the net cost to the budget of the GDR's integration will be relatively low in the first year (1991), since full take-up of Community support and assistance is unlikely in view of the time it will take for administrative structures to be set up in the new Länder and for the Community dimension to filter through. By the following year, when the German Democratic Republic has reached its full absorption capacity, the net cost to the budget — allowing for a comparable contribution to own resources — should level off at around ECU 1 billion. From the third year onwards the extra cost should begin to drop, with a steady rise in the contribution to own resources in wake of the expected economic upturn in the former German Democratic Republic.

How long it will take for additional revenue to balance expenditure will depend essentially on the dynamics of the economy there. The extra burden on the Member States (including a unified Germany) as a result of the GDR's integration into the Community will, then, be only temporary.

Revision of the financial perspective

Implementation of the Community budget in the territory of the former German Democratic Republic does not necessarily require any change to the budget rules. Since German unification should not make a significant impact on expenditure in the current budgetary period, revision of the financial perspective for 1990 is not necessary. This will however be essential for 1991 and 1992, though the agricultural guideline should suffice, at least for 1991.

The current assessment of additional financing requirements suggests that the projected increase in the expenditure ceilings should be somewhere in the region of 3% of the overall ceiling in the financial perspective. On the other hand this will result in only a marginal increase in the own resources call-in rate, so that there would be no need, given the margin available, to amend the Decision of 24 June 1988.

But the volume of additional expenditure, in terms of both commitment and payment appropriations, is certain to come very close to its projected level — at least in 1992 — and the necessary increase in the ceilings will exceed 0.03% of Community GNP. It will not, therefore, be possible to rely on paragraph 12 of the Interinstitutional Agreement. Consequently the Commission will have to propose applying paragraph 4 of the Agreement (which relates to the procedure for its amendment); this, at all events, is the implication of any change to the reference framework of the financial perspective that applied when the Agreement was signed. Paragraph 4 of the Interinstitutional Agreement requires the consent of all three institutions and hence a unanimous Council decision.

Incorporation in the 1990 and 1991 budgets

At this stage introduction of a supplementary and amending budget would not seem necessary following German unification. If it did turn out to be necessary, it would be done within the existing financial perspective framework.

The procedure for revision of the financial perspective for 1991 and 1992 should be launched as soon as the financial implications of the German Democratic Republic's integration into the Community become more definite. However, if the special Council meeting in October were to adopt decisions involving an increase in Community expenditure, this would provide yet another argument for a revision and the negotiations for an agreement between the three institutions on the new ceilings could be extended.

Assuming that agreement on revision of the financial perspective were reached quickly enough and that the budgetary authority were prepared to speed up the procedure, it might be possible to incorporate the budgetary implications of German unification into the budget adopted in December. In this case, the Commission would immediately present a letter of amendment provided, as appears likely, that unifica-
tion of the two Germanys is established legally as well as politically.

However, if revision of the financial perspective were to take place during the final stage of the normal budget procedure, it is worth considering — given the circumstances and in order not to jeopardize completion of the normal budget procedure — whether the budgetary consequences of German unification ought not to be covered by a supplementary and amending budget rather than a letter of amendment.

The argument in favour of allowing the budget procedure to run its normal course is the fact that the budget approved for 1991 will apply to the whole of Germany from 1 January 1991 in any case; a letter of amendment is not, therefore, a budgetary requirement. At all events, if the negotiations on revision of the financial perspective were to run on, the institutions would have to set themselves the target of signing both the decision amending the financial perspective and the 1991 budget on the same day in December. The Commission would then produce a preliminary draft supplementary and amending budget as soon as possible, for discussion early in 1991.

Annex

Financial implications of German unification for the ECSC

The draft ECSC operating budget for 1991 was approved by the Commission on 25 July 1990. It amounts to ECU 407 million at the established levy rate of 0.31%.

From the point of view of resources, integration of the German Democratic Republic into the Community will yield an estimated ECU 10 million in extra levy revenue in 1991. It is, however, uncertain whether this level, based on production, will be maintained for the years after 1991.

A preliminary estimate of additional social expenditure under Article 56 has been made, based on planned restructuring of the coal and steel industries over a period of six years, with a peak rate of ECU 20 million a year in commitments for ECSC redeployment aid. Approximately half this amount might be claimed and paid in 1991. Other forms of aid (research, interest-rate subsidies) might amount to between ECU 5 and 10 million.

It should be noted that, subject to other claims, the Commission should be able to cope with all foreseeable and unexpected budgetary implications of German unification, among other things by mobilizing a part of the budget contingency reserve. This reserve stands at ECU 70 million in the balance sheet as at 31 December 1989. ECU 20 million from this reserve has been earmarked to cover possible short-term increases/decreases in forecast commitments/resources and 50 'long-term operations'.

The Commission intends to adjust the figures in the draft budget to cover the effect of unification during consultation with Parliament.

In the past, every new Member State has, on accession, paid a contribution to the ECSC reserve funds (Guarantee Fund, Special Reserve, the former ECSC Pension Fund). Similarly, a unified Germany will be required to pay on behalf of the former German Democratic Republic.

The procedure for fixing the contribution would be a Commission Decision based on Article 14 of the ECSC Treaty.
IV — Annex: proposals for legislation

INTERIM MEASURES

Proposal for a Council Directive on interim measures applicable after the unification of Germany, in anticipation of the adoption of transitional measures by the Council in cooperation with the European Parliament

Proposal for a Council Regulation on interim measures applicable after the unification of Germany, in anticipation of the adoption of transitional measures by the Council in consultation with the European Parliament

EXTERNAL ASPECTS

Proposal for a Council Regulation on the introduction of transitional tariff measures for Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia from 1 December 1990 to 31 December 1991 to take account of German unification

Recommendation for a Council Decision authorizing the Commission to open negotiations with third countries having textile agreements with the Community with a view to adapting those agreements to take account of the German unification

INTERNAL MARKET

Technical rules
Proposal for a Council Directive on transitional measures applicable in Germany in the context of the harmonization of technical rules (Article 100a)

Proposal for a Council Directive on transitional measures applicable in Germany in the context of the harmonization of technical rules for certain products (Article 43)

Recognition of diplomas
Proposal for a Council Directive amending certain Directives on the recognition of professional qualifications with a view to the unification of Germany

Consumer protection
Proposal for a Council Decision on the adaptations necessary in the context of German unification to the Community system for the rapid exchange of information on dangers arising from the use of consumer products

Competition
Proposal amending the proposal for a Seventh Directive on aid to shipbuilding currently under discussion in the Council


Statistics
Draft Council Directive laying down amendments for the purpose of implementing in Germany certain Community Directives relating to statistics on the carriage of goods and statistics on gas and electricity prices

Proposal for a Council Regulation (EEC) on derogations in respect of statistical surveys in Germany in connection with the unification of Germany

COMMON AGRICULTURAL POLICY

Proposal for a Council Regulation (EEC) on the transitional measures and adjustments required in the agricultural sector as a result of the integration of the territory of the former German Democratic Republic into the Community

Proposal for a Council Directive on the transitional measures and the adjustments required to the Directives on plant products, seeds, plants and animal feedingstuffs and to the veterinary and zootechnical legislation as a result of the integration of the territory of the former German Democratic Republic into the Community

COMMON FISHERIES POLICY

Draft proposal for a Council Regulation (EEC) introducing various measures concerning the implementation of the common fisheries policy in the former German Democratic Republic

Proposal for a Council Decision amending Decision 87/277/EEC on the allocation of the catch possibilities for cod in the Spitsbergen and Bear Island area and in division 3 M as defined in the NAFO Convention

TRANSPORT

Draft proposal for a Council Regulation (EEC) amending, as a result of German unification, certain Directives, Decisions and Regulations relating to transport by road, rail and inland waterway

Proposal for a Council Regulation (EEC) amending, as a result of German unification, Regulation (EEC) No 4055/86 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries

ENERGY

Proposal for a Council Regulation introducing a transitional period for the implementation of certain Community acts in the energy sector

STRUCTURAL POLICIES

Draft proposal for a Council Regulation concerning the activities of the structural Funds in the territory of the former German Democratic Republic

SOCIAL AFFAIRS, EDUCATION AND TRAINING

Proposal for a Council Directive relating to the transitional measures applicable in Germany in the field of workers' health and safety
ENVIRONMENT

Proposal for a Council Directive on the transitional measures applicable in Germany with regard to certain Community provisions relating to the protection of the environment, in connection with the internal market 187

Proposal for a Council Directive on the transitional measures applicable in Germany with regard to certain Community provisions relating to the protection of the environment 189
THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57, 66, 100a and 118a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas, to take account of the special situation obtaining in these territories, provision must be made for transitional measures for the implementation of a number of Community acts;

Whereas, in its communication of 21 August 1990, the Commission presented a number of proposals for directives to be adopted by the Council in cooperation with the European Parliament;

Whereas, interim measures should be adopted to cover the case that the Council fails to adopt these Directives in advance of unification,

HAS ADOPTED THIS DIRECTIVE:

Article 2

1. The Commission may authorize Germany to provisionally keep in force in the territory of the former German Democratic Republic legislation which does not comply with a Community act as referred to in Article 1.

The legislation thus kept in force must conform to a transitional measure provided for in one of the Commission proposals listed in the Annex to the present Directive.

2. This authorization shall remain in force until the date on which the Council takes a final decision on the Commission proposals referred to in Article 1 or, where appropriate, until the date on which the transitional measure in question enters into force.

3. Germany shall notify the Commission without delay of the use made of this authorization. The Commission in turn shall notify the European Parliament, the Council and the Economic and Social Committee without delay.

Article 3

1. The Commission and Germany shall consult each other on the measures to be taken to ensure that no difficulties arise from the fact that legislation kept in force under this Directive does not comply with Community law.

2. The measures to be taken at Community level must conform to a transitional measure provided for in one of the Commission proposals listed in the Annex to the present Directive.

Such measures shall be adopted in accordance with the procedure laid down in Article 4.

They may not be adopted after the date referred to in Article 2 (2) and shall not apply beyond that date.

Article 4

The measures provided for in Article 3 and any other necessary implementing arrangements shall be adopted in accordance with the following procedure.

The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.
The representative of the Commission shall submit to the committee a draft of measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on expiry of a period of two weeks from the date on which the matter is referred to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 5

This Directive is addressed to the Member States.

ANNEX

List of proposals for Directives setting out the transitional measures or technical adaptations to be adopted under the cooperation procedure

II. INTERNAL MARKET

Technical rules
— proposals for transitional measures based on Article 100a

Recognition of diplomas
— proposals for transitional measures concerning the recognition of professional qualifications

VIII. SOCIAL AFFAIRS, EDUCATION AND TRAINING

Transitional measures in the field of workers' health and safety, based on Article 118a

IX. ENVIRONMENT

Measures relating to the protection of the environment in connection with the internal market
Proposal for a Council Regulation on interim measures applicable after the unification of Germany, in anticipation of the adoption of transitional measures by the Council after consultation of the European Parliament

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 42, 43, 75, 103, 113, 130a and 235 thereof;

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas, to take account of the special situation obtaining in these territories, provision must be made for transitional measures for the implementation of a number of Community acts;

Whereas, in its communication of 21 August 1990, the Commission presented a number of proposals for acts to be adopted by the Council in consultation with the European Parliament;

Whereas interim measures should be adopted to cover the case that the Council fails to adopt these acts in advance of unification,

HAS ADOPTED THIS REGULATION:

Article 1

Should it prove impossible, in advance of the date of German unification, to adopt some or all of the transitional measures for the application of Community legislation to the territory of the former German Democratic Republic as provided for in the proposals presented to the Council in the Commission's communication of 21 August 1990 and annexed to this Regulation, interim measures shall apply by way of derogation from the Community acts covered by these proposals, subject to the limits and conditions laid down in this Regulation.

Article 2

1. The Commission may authorize Germany to provisionally keep in force in the territory of the former German Democratic Republic legislation which does not comply with a Community act as referred to in Article 1.

The legislation thus kept in force must conform to a transitional measure provided for in one of the Commission proposals listed in the Annex to the present Regulation.

2. This authorization shall remain in force until the date on which the Council takes a final decision on the Commission proposals referred to in Article 1 or, where appropriate, until the date on which the transitional measures in question enters into force.

3. Germany shall notify the Commission without delay of the use made of this authorization. The Commission in turn shall notify the European Parliament, the Council and the Economic and Social Committee without delay.

Article 3

A decision may be taken in accordance with the procedure laid down in Article 5 to supplement or adapt Community rules on commercial, agricultural and fisheries policy to bring them into line with the authorization provided for in Article 2 and to lay down any other implementing rules which may be necessary.

Article 4

1. The Commission and Germany shall consult each other on the measures to be taken to ensure that no difficulties arise from the fact that legislation kept in force under this Regulation does not comply with Community law.

2. The measures to be taken at Community level must conform to a transitional measures provided for in one of the Commission proposals listed in the Annex to the present Regulation.

Such measures shall be adopted in accordance with the procedure laid down in Article 5

The may not be adopted after the date referred to in Article 2 (2) and shall not apply beyond that date.
Article 5

1. The implementing rules provided for in Articles 3 and 4 shall be adopted in accordance with the procedure laid down in Article 4 of Council Directive ... on interim measures applicable after the unification of Germany, in anticipation of the adoption of transitional measures by the Council in cooperation with the European Parliament.

2. However, the implementing rules relating to the markets in agricultural and fisheries products shall be adopted in accordance with the procedure laid down in Article 5 of Council Regulation (EEC) No 2060/90 of 16 July 1990 on transitional measures concerning trade with the German Democratic Republic in the agriculture and fisheries sector (')

Article 6

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.


ANNEX

List of proposals for transitional measures and technical adaptations to be adopted under the consultation procedure

I. EXTERNAL ASPECTS

Transitional measures, valid from 1 December 1990 to 31 December 1991, to assist the countries of Eastern Europe

II. INTERNAL MARKET

Technical rules

— proposals for transitional measures based on Article 43;

Consumer protection

— adjustments to the Community system for the rapid exchange of information on dangers arising from the use of consumer products

III. COMMON AGRICULTURAL POLICY

— Transitional measures and adjustments required in the agricultural sector

— Adjustments to the Directives on seds and seedlings and animal feedingsuffs and to veterinary and zootechnical legislation

IV. COMMON FISHERIES POLICY

— Measures concerning implementation of the common fisheries policy

V. TRANSPORT

— Proposal for a regulation relating to transport by road, rail and inland waterway

VI. ENERGY

— Introduction of a transitional period for the implementation of certain Community acts.

IX. ENVIRONMENT

— Other environmental protection measures
Proposal for a
COUNCIL REGULATION (EEC) No . . .
of . . .
on the introduction of transitional tariff measures for Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia from 1 December 1990 to 31 December 1991 to take account of
German unification

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 43 and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas, from the date of German unification onwards, the Common Customs Tariff will be fully applicable to the territory of the former German Democratic Republic;

Whereas the former German Democratic Republic had concluded numerous agreements with Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia which provided for a yearly exchange of specific goods in maximum quantities or to maximum values at a zero rate of duty; whereas the former German Democratic Republic has concluded long-term cooperation and investment agreements with Czechoslovakia, Poland and the USSR which, according to the terms of these agreements, will give rise to reciprocal deliveries of goods at zero rates of duty for many years to come;

Whereas agreements of the first type will not be renewed after 31 December 1990 and agreements of the second type will be renegotiated at Community, German or private enterprise level, but this process of renegotiation will take some time;

Whereas it is necessary, therefore, during a transitional period to smooth the impact resulting from German unification on both types of agreement as otherwise very serious repercussions on enterprises in the territory of the former German Democratic Republic and in Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia will result and indeed the stability of the economies of these countries might be affected thereby;

Whereas for these reasons it is appropriate to suspend temporarily the duties of the Common Customs Tariff for products originating in Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia which are covered by the abovementioned agreements between the former German Democratic Republic and these countries, up to the maximum quantities or values referred to therein;

Whereas the objectives of the common agricultural policy which are referred to in Article 39 of the Treaty allow for the application of the principles which underlie the present Regulation only to the products which are subject both to a customs duty and a system of reference prices or minimum prices;

Whereas it is appropriate, in view of the special circumstances of German unification, for the abovementioned suspension of duties to be applicable to the products concerned only in so far as they are put into free circulation in the territory of the former German Democratic Republic;

Whereas it is necessary to make provision for determining the origin of the goods which will be covered by the suspension of duties;

Whereas it is appropriate, in order to emphasize the transitional character of these measures, to restrict their duration until 31 December 1991 with a possibility of renewal for one further year;

Whereas it is appropriate to provide for special measures and a procedure to put them in place, in case the temporary suspension of duties causes or threatens to cause serious injury to a branch of Community industry,

HAS ADOPTED THIS REGULATION:

Article 1

1. From the date of German unification to 31 December 1991 the Common Customs Tariff duties and all other charges having equivalent effect, with the exception of anti-dumping duties, shall be suspended for goods originating in Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia covered by the agreements listed in Annexes I and II, concluded between those countries and the former German Democratic Republic, and entailing obligations or recommendations for the latter to buy goods in quantities or at a price established by the said agreements.
However, as far as agricultural products which are referred to in Annex II to the Treaty are concerned, the first subparagraph applies only to products which are subject to a customs duty and a system of reference prices or minimum prices; this system must be adhered to in practice.

2. The provisions of paragraph 1 shall be applicable only if:

— the goods in question are released for free circulation on the territory of the former German Democratic Republic and are consumed there or undergo processing conferring Community origin there,

— a licence issued by the relevant German authorities stating that the goods in question fall within the scope of the provisions contained in paragraph 1 is submitted in support of the entry for release for free circulation.

**Article 2**

To determine the origin of the goods referred to in Article 1, Council Regulation (EEC) No 802/68 of 27 June 1968 on the common definition of the concept of the origin of goods (1) shall be applicable.

**Article 3**

1. If the suspension of the Common Customs Tariff duties referred to in Article 1 causes substantial injury to Community producers of like or directly competitive products, the Commission may reimpose the normal duty rate for the product concerned.

2. The procedure set out in Article 11 of Council Regulation (EEC) No 1765/82 (2) shall be followed.

**Article 4**

The arrangements introduced by this Regulation shall be reviewed in good time before 31 December 1991.

**Article 5**

This Regulation shall enter into force on the third day following 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, . . .

*For the Council*

*The President*

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ANNEX I


ANNEX II

— Agreement of 20 January 1986 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the exploitation of the Jamburg natural gas deposits

— Agreement of 28 October 1987 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction of mining and processing combines for oxidic ores including the Agreement of 28 October 1987 on residence and employment conditions for the contracting organizations

— Agreement of 15 April 1983 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in shipbuilding and the mutual supply of ships and ship's fittings

— Agreement of 21 July 1976 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction of a 750 kV electricity transfer network


— Agreement of 16 November 1973 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on joint investment in asbestos (Kijembai plant) (annual take-up of 40 000 tonnes until 1991)

— Agreement of 21 June 1973 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on joint investment in pulp (Ust-Ilimsk plant) (annual take-up of 56 000 tonnes until 1992)

— Agreement of 14 July 1965 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the construction of nuclear power stations (Nord and Stendal I)

— Agreement of 3 June 1987 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the rehabilitation of 210 mW thermal power units
— Ministerial Agreement of 6 June 1980 concerning specialization and cooperation in the manufacture of, and trade in, types of paper and cardboard and cooperation in science and technology

— Ministerial Agreement of 24 May 1989 concerning cooperation in the development and production of computerized scanning machines

— Agreement of 23 December 1976 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the manufacture of products of rubber technology

— Agreement of 27 June 1977 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in developing the production and ensuring the supply of roller bearings

— Ministerial Agreement of 14 December 1985 concerning specialization and cooperation in the manufacture of type 1532 cotton-combing machinery

— Agreement of 14 December 1984 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the manufacture of patented colour formers

— Agreement of 28 June 1979 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the manufacture of feeding yeasts in Mosyr

— Ministerial Agreement of 17 December 1986 concerning specialization and cooperation in the field of catalytic reactors

— Agreement of 9 December 1975 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the further development of integration in the chemical industry

— Agreement of 18 June 1982 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in developing production and user technology in the field of nitrification inhibitors for nitrogenous fertilizers

— Agreement of 15 June 1973 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the foundation of an international economic body for the photochemical industry (Assofoto)

— Agreement of 30 October 1986 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction of the Stendal II nuclear power-station

— Agreement of 9 December 1983 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction and rehabilitation of cold storage depots for potatoes, fruit and vegetables

— Agreement of 9 December 1983 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the production of lucerne seed

— Agreement of 14 December 1984 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in expanding the production of kieselguhr (filter powder) for the food-processing industry

— Agreement of 22 December 1977 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the improvement, development and establishment of new technological processes and installations for the treatment of waste water from cities and industrial plants

— Agreement of 18 December 1959 between the Government of the German Democratic Republic, the Government of the Polish People's Republic and the Government of the USSR on the construction of an oil pipeline from the USSR to the GDR via Poland

— Agreement of 18 January 1961, amended on 12 November 1972, between the Government of the German Democratic Republic and the Government of the Polish People's Republic on the construction and financing of the oil pipeline from the USSR to Poland and the GDR
— Agreement of 18 October 1969 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on the construction and financing of a second pipeline for transporting oil from the USSR to Poland and across Polish territory to the GDR

— Agreement of 17 August 1983 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on the construction and financing of a crossing of the Vistula at Płock for the first and second strands of the ‘Friendship’ oil pipeline

— Agreement of 12 June 1972 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on the joint construction, management and running of a cotton-spinning mill on the territory of the latter

— Agreement of 28 November 1973 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on cooperation in the construction of a feeding yeast production plant in the GDR and the supply of feeding yeast to Poland

— Agreement of 6 September 1985 between the Government of the German Democratic Republic and the Government of the Polish People’s Republic on the supply of sulphur with deferment of the GDR’s credit balance

— Agreement of 2 July 1971 between the Government of the German Democratic Republic and the Government of the Czechoslovak Socialist Republic on the transport of natural gas from the USSR to the GDR across the territory of the CSSR, and the Protocols to this Agreement of 12 January 1973 and 31 May 1989
Recommendation for a
COUNCIL DECISION

of . . .

authorizing the Commission to open negotiations with third countries having textile agreements with
the Community with a view to adapting those agreements to take account of the German
unification

(90/C 248/01)

Introduction

1. The recently signed Treaty (Staatsvertrag) between the Federal Republic of Germany and the German Democratic Republic deals, inter alia, with the progressive integration of the former German Democratic Republic into the legal system of the Community in advance of the formal unification of the two German States.

In pursuit of the objectives outlined in the aforementioned Treaty, the Council of the European Communities has adopted Regulation (EEC) No 1794/90 of 28 June 1990 dealing with transitional measures concerning trade with the German Democratic Republic (1). Article 2(1)(a) of that Regulation provides that the German Democratic Republic shall introduce into its trade with third countries the Common Customs Tariff, Community customs legislation and other common commercial policy measures. These measures are to be applied as from 1 July 1990.

The Commission services have agreed with the authorities of the German Democratic Republic and the Federal Republic of Germany by means of an Exchange of Letters which measures were to be introduced by the former German Democratic Republic for the second half of 1990 to ensure that the Community commercial policy in the textile sector is not circumvented.

2. Following the unification of the two Germanies, the unified Germany is expected to apply the acquis communautaire on textiles. However, in order to take account of the new situation for textile and clothing imports in the unified Germany, all bilateral agreements with third countries and arrangements with preferential countries, concluded under the 1986 textile negotiating Directives or under subsequent specific negotiating Directives (China and USSR) will be amended. The Commission, therefore, needs negotiating directives which will authorize the Commission to negotiate such adaptations with all the countries concerned.

3. The amendments could be effected by increasing the Community quotas by a certain percentage and by allocating this increase to the German share of the quota. The formula for such increases would be similar to the one used following the accession of Spain and Portugal to the Community, whilst taking into account traditional trade flows and bona fide agreements the former German Democratic Republic has concluded with its trading partners by 30 June 1990.

4. Amendments will be necessary for 1991 for the majority of the bilateral agreements, because the expiring date of these bilateral agreements is 31 December 1991, except for two agreements (USSR and China) which expire on 31 December 1992.

5. Concurrently with these amendments, the Community should update the Community global ceilings for 1991.

6. The Commission accordingly recommends the Council to decide that:

— the Commission be authorized to open negotiations with all third countries having bilateral textile agreements or arrangements with the Community containing quantitative restrictions so that the necessary adjustments can be made to take account of the German unification,

— the Commission conduct the negotiations in accordance with the Directives annexed hereto and in consultation with the Article 113 Committee.

NEGOTIATING DIRECTIVES

1. Principles

— Adjustments designed to take account of the unification of the two Germanies must conform to the textile trade policy adopted by the Council in December 1977 and confirmed in February 1982 and March 1986 with the conclusion of textile agreements with third countries.

— The adjustments will be applicable up to the expiry of the bilateral textile agreements, which is at the end of 1991, except for the China and USSR agreements which run until the end of 1992.

2. Countries concerned

The exercise will involve all those countries having bilateral agreements or arrangements with the Community containing quantitative restrictions (see point 4 of this Annex).

3. Substantive provisions

A. MFA COUNTRIES

(a) Fixing the quantitative levels

Levels will be adjusted for Germany wherever the agreements or arrangements currently provide for a Community level allocated among all Member States or a regional quota for Germany.

Those increases will be based on existing trade flows. However, they may not be lower than a level calculated according to the formula which had been used following the accession of Spain and Portugal to the Community, which consists of a certain percentage of the EEC basket exit threshold. In accordance with this formula of calculation, the percentage of increase in this case should be 4.5%.

(b) Community basket exit for 1991

Basket exit levels for 1991 should be calculated by applying the percentages fixed in the bilateral agreements to total imports in 1990 (for the German Democratic Republic in 1989) into the enlarged customs territory of the Community. If this reference base turns out to be lower than that used prior to German unification, then, exceptionally, the latter shall be retained.

(c) Regional basket exit

In order to avoid a generalized readaptation of the burden-sharing and the regional basket exit for all Member States, it is proposed to continue applying in 1991 the same formula as previously.

B. PREFERENTIAL COUNTRIES

Only the provisions of paragraph A (a) above will apply. These countries will be granted more favourable arrangements.
4. Countries which have agreements or arrangements with the Community with quantitative levels

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<tr>
<th>Bilateral agreements MFA-type</th>
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<td>Hungary</td>
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NB: The autonomous arrangement for Taiwan will also need to be adapted according to the same formula.
Likewise the quotas for the State-trading countries under the autonomous regime should be adapted.
Proposal for a

COUNCIL DIRECTIVE

of . . .

on transitional measures applicable in Germany in the context of the harmonization of technical rules

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the European Community has adopted, with regard to the placing on the market and utilization of products, a set of rules which are binding on all the Member States and on all economic operators;

Whereas from the date of German unification Community law will be automatically applicable in the territory of the former German Democratic Republic; whereas such application may give rise to difficulties owing to the level of development of the local economy;

Whereas Article 8c of the Treaty calls on the Commission to take into account the extent of the effort that certain economies showing differences in development will have to sustain during the period of establishment of the internal market;

Whereas such derogations must be temporary and must cause the least possible disturbance to the functioning of the common market;

Whereas the information available on the situation regarding the rules and regulations in force in the territory of the former German Democratic Republic the existing rules and regulations in respect of products which have been or which are manufactured there, on condition that this does not affect the placing on the market and the free movement in that territory of products complying with Community Directives.

2. This authorization shall be applicable to the Community Directives listed in Annex A until 31 December 1992; in the case of the Directives listed in Annex B, it shall apply under the conditions laid down in that Annex.

3. The German authorities may extend the derogations provided for in paragraphs 1 and 2 to include products originating in and coming from third countries within the limits of traditional trade patterns.

Article 1

1. By way of derogation from the Directives listed in Annexes A and B, Germany is authorized to maintain in force in the territory of the former German Democratic Republic the existing rules and regulations in respect of products which have been or which are manufactured there, on condition that this does not affect the placing on the market and the free movement in that territory of products complying with Community Directives.

Article 2

Germany shall take all measures necessary to ensure that products not complying with the Community Directives referred to in Article 1 are not placed on the market in the territory of the Community other than the territory of the former German Democratic Republic; such measures shall be compatible with the Treaty, and in particular with the objectives of Article 8a, and shall not give rise to any controls or formalities at frontiers between Member States.

Article 3

1. The rules and regulations whose maintenance in force is authorized under Article 1 and the control measures taken pursuant to Article 2 shall be notified to the Commission not later than on the date of German unification.

2. Germany shall report on the application of the measures taken pursuant to this Directive on 31 December 1991 and 31 December 1992, and, as regards the application of the measures taken pursuant to Article 1, in conjunction with Annex B, on 31 December 1995. The report shall be transmitted to the Community, which shall communicate it to the other Member States.

Article 4

1. A decision may be made in accordance with the procedure laid down in Article 5 to take measures involving additions and amendments to the measures taken pursuant to this Directive.

(1) OJ No C . . .
(2) OJ No C . . .
(3) OJ No C . . .
2. Such additions and amendments shall be designed to ensure the consistent application of the Community legislation in the sector covered by the present Directive in the territory of the former German Democratic Republic, taken into account the specific situation obtaining in that territory and the particular difficulties attending implementation of this legislation.

They shall respect the principles underlying this legislation.

3. The measures referred to in paragraph 1 may be taken until 31 December 1991. They shall cease to be operative on that date.

Article 5

For the purposes of Article 4, the Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of one month from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, . . .

For the Council

The President
ANNEX A

1. FOODSTUFFS

Colouring matters
  Date of adoption: 23. 10. 1962
  OJ No 115, 11. 11. 1962, p. 2645/62

First amendment of the Directive of 23. 10. 1962
  Date of adoption: 25. 10. 1965
  OJ No 178, 26. 10. 1965, p. 2793/65

Seventh amendment of the Directive of 23. 10. 1962
  Date of adoption: 20. 1. 1981
  OJ No L 43, 14. 2. 1981, p. 11

Preservatives
  Date of adoption: 5. 11. 1963
  OJ No 12, 27. 1. 1964, p. 161/64

Amendment of Directive 64/54/EEC
  Date of adoption: 30. 3. 1971
  OJ No L 87, 17. 4. 1971, p. 12

Ninth amendment of Directive 64/54/EEC
  Date of adoption: 17. 12. 1973
  OJ No L 38, 11. 2. 1974, p. 29

Tenth amendment of Directive 64/54/EEC
  Date of adoption: 22. 7. 1974
  OJ No L 208, 30. 7. 1974, p. 25

Eleventh amendment of Directive 64/54/EEC
  Date of adoption: 4. 5. 1976
  OJ No L 126, 14. 5. 1976, p. 31

Preservatives — criteria of purity
  Date of adoption: 26. 1. 1965
  OJ No 2, 9. 2. 1965, p. 373/65

Amendment of Directive 65/66/EEC
  Date of adoption: 27. 6. 1967
  OJ No L 148, 11. 7. 1967, p. 10

Second amendment of Directive 65/66/EEC
  Date of adoption: 4. 5. 1976
  OJ No L 126, 14. 5. 1976, p. 33

Amendment of Directive 65/66/EEC
  Date of adoption: 8. 12. 1986
  OJ No L 352, 13. 12. 1986, p. 45

Use of certain preservatives for the surface treatment of citrus fruit
  and the control measures to be used for the qualitative and
  quantitative analysis of preservatives in and on citrus fruit
  Date of adoption: 27. 6. 1967
  OJ No L 148, 11. 7. 1967, p. 1

Antioxidants
  Date of adoption: 13. 7. 1970
  OJ No L 157, 18. 7. 1970, p. 31

Antioxidants — criteria of purity
  Date of adoption: 25. 7. 1978
  OJ No L 223, 14. 8. 1978, p. 30

Amendment of Directive 78/664/EEC
  Date of adoption: 18. 10. 1982
  OJ No L 297, 23. 10. 1982, p. 31

Cocoa and chocolate products
  Date of adoption: 24. 7. 1973
  OJ No L 228, 16. 8. 1973, p. 23

Third amendment of Directive 73/241/EEC
  Date of adoption: 4. 3. 1975
  OJ No L 64, 11. 3. 1975, p. 21
|------------------|-----------------------|-----------------|---------|------|
Migration of the constituents of plastic materials and articles
Date of adoption: 18. 10. 1982
OJ No L 297, 23. 10. 1982, p. 26

List of stimulants to be used for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs
Date of adoption: 19. 12. 1985

Lactoproteins — caseins and caseinates
Date of adoption: 25. 7. 1983
OJ No L 237, 26. 8. 1983, p. 25

Ceramic articles
Date of adoption: 15. 10. 1984

Methods of sampling and analysis
Date of adoption: 20. 12. 1985

Materials and articles made of regenerated cellulose film
Date of adoption: 25. 4. 1983
OJ No L 123, 14. 8. 1986, p. 31

Amendment of Directive 83/229/EEC
Date of adoption: 23. 7. 1986
OJ No L 228, 14. 8. 1986, p. 32

Extraction solvents
Date of adoption: 13. 6. 1988
OJ No L 157, 24. 6. 1988, p. 28

Flavourings
Date of adoption: 22. 6. 1988
OJ No L 184, 15. 7. 1988, p. 61

Quick-frozen foodstuffs
Date of adoption: 21. 12. 1988
OJ No L 40, 11. 2. 1989, p. 34

Indications or marks identifying the lot to which a foodstuff belongs
Date of adoption: 14. 6. 1989
OJ No L 186, 30. 6. 1989, p. 21

Foodstuffs intended for particular nutritional uses
Date of adoption: 3. 5. 1989
OJ No L 186, 30. 6. 1989, p. 21

2. CHEMICAL SUBSTANCES AND PREPARATIONS

Classification, packaging and labelling of dangerous substances (solvents)
Date of adoption: 4. 6. 1973

Amendment of Directive 73/173/EEC
Date of adoption: 22. 7. 1980
OJ No L 229, 30. 8. 1980, p. 57

Adaptation to technical progress of Directive 73/173/EEC
Date of adoption: 10. 6. 1982
OJ No L 213, 21. 7. 1982, p. 17

Detergents
Date of adoption: 22. 11. 1973

First amendment of Directive 73/404/EEC relating to methods of testing the biodegradability of non-ionic surfactants
Date of adoption: 31. 3. 1982
OJ No L 109, 22. 4. 1982, p. 1
Methods of testing the biodegradability of anionic surfactants
Date of adoption: 22. 11. 1973

Amendment of Directive 73/405/EEC
Date of adoption: 31. 3. 1982
OJ No L 109, 22. 4. 1982, p. 18

Restrictions on the marketing and use of certain dangerous substances and preparations
Date of adoption: 27. 7. 1976
OJ No L 262, 27. 9. 1976, p. 201

Supplement to the first amendment of Directive 76/769/EEC (extension of the list of restrictions)
Date of adoption: 24. 7. 1979
OJ No L 197, 3. 8. 1979, p. 37

Second amendment (benzene) of Directive 76/769/EEC
Date of adoption: 22. 11. 1982

Third amendment (PCT) of Directive 76/769/EEC
Date of adoption: 3. 12. 1982
OJ No L 330, 10. 12. 1982, p. 34

Fourth amendment of Directive 76/769/EEC
Date of adoption: 16. 5. 1983
OJ No L 147, 6. 6. 1983, p. 9

Fifth amendment (asbestos) of Directive 76/769/EEC
Date of adoption: 19. 9. 1983
OJ No L 263, 24. 9. 1983, p. 33

Sixth amendment (PCBS/PCTS) of Directive 76/769/EEC
Date of adoption: 1. 10. 1985
OJ No L 269, 1. 10. 1985, p. 56

Seventh amendment (asbestos) of Directive 76/769/EEC
Date of adoption: 20. 12. 1985

Eighth amendment of Directive 81/677/EEC
Date of adoption: 21. 12. 1989

Classification, packaging and labelling of paints, varnishes, printing inks, adhesives and similar products
Date of adoption: 7. 11. 1977
OJ No L 303, 28. 11. 1977, p. 23

Classification, packaging and labelling of dangerous substances (pesticides)
Date of adoption: 7. 10. 1986
OJ No L 295, 18. 10. 1986, p. 31

Classification, packaging and labelling of dangerous substances
Date of adoption: 26. 6. 1978
OJ No L 206, 29. 7. 1978, p. 13

Amendment of Directive 78/631/EEC
Date of adoption: 26. 3. 1981
OJ No L 88, 2. 4. 1981, p. 29

Approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations
Date of adoption: 7. 6. 1988
OJ No L 187, 16. 7. 1988, p. 14
3. PHARMACEUTICAL PRODUCTS

Approximation of the provisions laid down by law, regulation, or administrative action relating to proprietary medicinal products
Date of adoption: 20.5.1975
OJ No L 147, 9.6.1975, p. 13

Approximation of the laws of the Member States relating to veterinary medicinal products
Date of adoption: 28.9.1981

4. COSMETICS

Cosmetic products
Date of adoption: 27.7.1976
OJ No L 262, 27.9.1976

First amendment of Directive 76/768/EEC
Date of adoption: 24.7.1979
OJ No L 192, 31.7.1979

Second amendment of Directive 76/768/EEC
Date of adoption: 17.5.1982
OJ No L 167, 15.6.1982

Third amendment of Directive 76/768/EEC
Date of adoption: 26.10.1983
OJ No L 332, 28.11.1983

Fourth amendment of Directive 76/768/EEC
Date of adoption: 21.12.1988
OJ No L 382, 31.12.1988

Fifth amendment of Directive 76/768/EEC
Date of adoption: 21.12.1989
OJ No L 398, 30.12.1989

5. TELECOMMUNICATIONS

Public pan-European cellular digital land-based mobile communications — frequency bands
Date of adoption: 25.6.1987
OJ No L 196, 17.7.1987

6. MACHINERY AND ELECTRICAL EQUIPMENT

Roll-over protective structures (ROPS) for certain construction plant
Date of adoption: 25.5.1986
OJ No L 186, 8.7.1986

Falling-object protective structures (FOPS) for certain construction plant
Date of adoption: 26.5.1986
OJ No L 186, 8.7.1986

Self-propelled industrial trucks
Date of adoption: 22.12.1986
OJ No L 384, 31.12.1986

Electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp
Date of adoption: 15.2.1982
OJ No L 59, 2.3.1982

7. TEXTILES

Textiles names
Date of adoption: 26.7.1971
OJ No L 185, 16.8.1971

First amendment of Directive 71/307/EEC
Date of adoption: 17.12.1974
OJ No L 14, 20.1.1975

Date of adoption: 25.11.1983
OJ No L 353, 15.12.1983
Methods for the quantitative analysis of binary textile fibre mixtures
Date of adoption: 17. 7. 1972
OJ No L 173, 31. 7. 1972

Amendment of Directive 72/276/EEC
Date of adoption: 17. 2. 1981
OJ No L 57, 4. 3. 1981

Methods for the quantitative analysis of ternary textile fibre mixtures
Date of adoption: 26. 2. 1973
OJ No L 83, 30. 3. 1973

8. PREPACKAGES
Making-up by volume of certain prepackaged liquids
Date of adoption: 19. 12. 1974
OJ No L 42, 15. 2. 1975, p. 1

9. CRYSTAL GLASS
Crystal glass
Date of adoption: 15. 12. 1969
OJ No L 326, 29. 12. 1969

10. TOBACCO PRODUCTS
Labelling of tobacco products
Date of adoption: 13. 11. 1989
OJ No L 357, 8. 12. 1989

Maximum tar yield of cigarettes
Date of adoption: 17. 5. 1990
OJ No L 137, 30. 5. 1990

ANNEX B
Approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products
Date of adoption: 20. 5. 1975
OJ No L 147, 9. 6. 1975, p. 13

Approximation of the laws of the Member States relating to veterinary medicinal products
Date of adoption: 28. 9. 1981
OJ No L 317, 6. 11. 1981

The provisions of this Directive, other than those of Chapter IV, are being applied progressively to medicinal products placed on the market by virtue of previous provisions, to the effect that all products will have been reviewed by 31 December 1995.

and as regards the 0,70 cl packages referred to at points 1(a) and 2(a) of Annex III.
Date of adoption: 21. 12. 1989
OJ No L 398, 30. 12. 1989, p. 18
Proposal for a
COUNCIL DIRECTIVE

of . . .
on transitional measures applicable in Germany in the context of the harmonization of technical rules for certain products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the European Community has adopted, with regard to the placing on the market and utilization of products, a set of rules which are binding on all the Member States and on all economic operators;

Whereas from the date of German unification Community law will be automatically applicable in the territory of the former German Democratic Republic; whereas such application may give rise to difficulties owing to the level of development of the local economy;

Whereas Article 8c of the Treaty calls on the Commission to take into account the extent of the effort that certain economies showing differences in development will have to sustain during the period of establishment of the internal market;

Whereas such derogations must be temporary and must cause the least possible disturbance to the functioning of the common market;

Whereas the information available on the situation regarding the rules and regulations in force and regarding industry in the territory of the former German Democratic Republic is such that it is not possible to establish definitively the extent of the derogations; whereas, so that account can be taken of developments in that situation, a simplified procedure must be set up in accordance with the third indent of Article 145 of the Treaty for the purpose of adopting and administering the derogations,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. By way of derogation from the Directives listed in the Annex, Germany is authorized to maintain in force in the territory of the former German Democratic Republic the existing rules and regulations in respect of products which have been or which are manufactured there, on condition that this does not affect the placing on the market and the free movement in that territory of products complying with Community Directives.

2. This authorization shall be applicable to the Community Directives listed in the Annex until 31 December 1992.

3. The German authorities may extend the derogations provided for in the preceding paragraph to include products originating in and coming from third countries within the limits of traditional trade patterns.

Article 2

Germany shall take all measures necessary to ensure that products not complying with the Community Directives referred to in Article 1 are not placed on the market in the territory of the Community other than the territory of the former German Democratic Republic; such measures shall be compatible with the Treaty, and in particular with the objectives of Article 8a, and shall not give rise to any controls or formalities at frontiers between Member States.

Article 3

1. The rules and regulations whose maintenance in force is authorized under Article 1 and the control measures taken pursuant to Article 2 shall be notified to the Commission not later than on the date of German unification.

2. Germany shall report on the application of the measures taken pursuant to this Directive on 31 December 1991 and 31 December 1992. The report shall be transmitted to the Commission, which shall communicate it to the other Member States.

(1) OJ No C . . .
(2) OJ No C . . .
(3) OJ No C . . .
Article 4

1. A decision may be made in accordance with the procedure laid down in Article 5 to take measures involving additions and amendments to the measures taken pursuant to this Directive.

2. Such additions and amendments shall be designed to ensure the consistent application of the Community legislation in the sector covered by the present Directive in the territory of the former German Democratic Republic, taking into account the specific situation obtaining in that territory and the particular difficulties attending implementation of this legislation.

3. The measures referred to in paragraph 1 may be taken until 31 December 1992. They shall cease to be operative on that date.

Article 5

For the purpose of Article 4, the Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of one month from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, ...

For the Council

The President
   Sugars
   Date of adoption: 11. 12. 1973

   Honey
   Date of adoption: 22. 7. 1974
   OJ No L 221, 12. 8. 1974, p. 10

   Fruit juices
   Date of adoption: 17. 11. 1975
   OJ No L 311, 1. 12. 1975, p. 40

   Amendment of Directive 75/726/EEC
   Date of adoption: 5. 2. 1979
   OJ No L 37, 13. 2. 1979, p. 27

   Second amendment of Directive 75/726/EEC
   Date of adoption: 30. 6. 1981
   OJ No L 189, 11. 7. 1981, p. 43

   Amendment of Directive 75/726/EEC
   Date of adoption: 14. 6. 1989
   OJ No L 186, 30. 5. 1989, p. 14

   Partly or wholly dehydrated preserved milk
   Date of adoption: 18. 12. 1975
   OJ No L 24, 30. 1. 1976, p. 49

   Second amendment of Directive 76/118/EEC
   Date of adoption: 13. 12. 1983

   Erucic acid in oils and fats
   Date of adoption: 20. 7. 1976
   OJ No L 202, 28. 7. 1976, p. 35

   Fruit jams, jellies and marmalades and chestnut purée
   Date of adoption: 24. 7. 1979
   OJ No L 205, 13. 8. 1979, p. 5

   Amendment of Directive 79/693/EEC
   Date of adoption: 18. 11. 1988
   OJ No L 318, 25. 11. 1988, p. 44
Proposal for a

COUNCIL DIRECTIVE

of . . .

amending certain Directives on the recognition of professional qualifications with a view to the unification of Germany

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57 (1) and (2), first and third sentences, and 66 thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),


Whereas from the date of German unification Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas it is necessary to make changes to the abovementioned Directives to take account of the specific situation in that territory;

Whereas, in accordance with the principle of acquired rights, the diplomas, certificates or other evidence of formal qualifications held by German nationals in that territory who are pursuing their professional activities on the basis of training which began before unification and does not conform to Community rules on training should be granted recognition under similar conditions to those applied to other nationals of Member States at the time of the adoption of the Directives or enlargement of the Community;

Whereas it is necessary to protect at Community level the rights acquired by the holders of former qualifications which are no longer awarded as a result of changes which have taken place in the rules of the Member States which awarded the qualification to them; whereas such a provision was introduced by Directive 89/594/EEC into most Directives on the mutual recognition of diplomas, certificates and other evidence of formal qualifications; whereas it could also be applied, unamended, to German nationals from the territory of the former German Democratic Republic; whereas a similar provision should also be incorporated into Directive 85/433/EEC relating to the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy;

Whereas most of the specific provisions relating to the recognition of diplomas, certificates or other evidence of formal qualifications awarded by the former German Democratic Republic cease to be relevant as a result of German unification; whereas they should be repealed.

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 3 of Directive 75/362/EEC, point 3 under heading 'a' in Germany is hereby deleted.

Article 2

The following Article 9a is hereby inserted in Directive 75/362/EEC:

[Further details and references are provided in the document.]
1. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications in medicine attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 75/363/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

- they attest to training commenced before German unification,

- they entitle the holder to pursue the activities of a doctor throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in points 1 and 2 of Article 3 (a), and

- they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least three consecutive years during the five years prior to the date of issue of the certificate.

2. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications in specialized medicine attest to training received on the territory of the former German Democratic Republic which does not satisfy the minimum training requirements laid down in Articles 2 to 5 of Directive 75/363/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

- they attest to training commenced before the expiry of the time limit laid down in Article 9 (1), second subparagraph, of Directive 75/363/EEC, and

- they permit the pursuit, as a specialist, of the activity in question throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Articles 5 and 7.

They may, however, require that these diplomas, certificates or other evidence of formal qualifications be accompanied by a certificate issued by the competent German authorities or bodies stating that the holders have, as specialists, been engaged in the activity in question for a period equivalent to twice the difference between the period of specialized training received on German territory and the minimum duration of training laid down in Directive 75/363/EEC, where they do not satisfy the minimum requirements regarding the duration of training laid down in Articles 4 and 5 of Directive 75/363/EEC.

The following second subparagraph is hereby added to Article 9 (1) of Directive 75/363/EEC:

'For the territory of the former German Democratic Republic, however, Germany shall take the measures necessary to comply with Articles 2 to 5 within 18 months of unification.'

Article 4

In Article 3 of Directive 77/452/EEC, the second indent under heading '(a) in Germany' is hereby deleted.

Article 5

The following Article 4a is hereby inserted in Directive 77/452/EEC:

'Article 4a

In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as nurses responsible for general care attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 77/453/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

- they attest to training commenced before German unification,

- they entitle the holder to pursue the activities of a nurse responsible for general care throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and

- they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities of nurse responsible for general care in Germany for at least three years during the five years prior to the date of issue of the certificate.

These activities have included taking full responsibility for the planning, organization and carrying-out of the nursing care of the patient.'

Article 6

In Article 3 of Directive 78/686/EEC, the following shall be deleted in heading '(a) in Germany':
— presentation in the form of two numbered points,
— the text of point 2.

Article 7

The following Article 7a is hereby inserted in Directive 78/686/EEC:

"Article 7a

1. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as dental practitioner attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 78/687/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:
— they attest to training commenced before German unification,
— they entitle the holder to pursue the activities of a dental practitioner throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and
— they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least three consecutive years during the five years prior to the date of issue of the certificate.

2. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as specialist dental practitioners attest to training received in the territory of the former German Democratic Republic which does not satisfy the minimum training requirements laid down in Articles 2 and 3 of Directive 78/687/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:
— they attest to training commenced before German unification, and
— they entitle the holder to pursue, as a specialist dental practitioner, the activity in question throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 5 (1) and (2).

They may, however, require that these diplomas, certificates or other evidence of formal qualifications be accompanied by a certificate issued by the competent German authorities or bodies stating that the holder has, as a specialist dental practitioner, been engaged in the activity in question for a period equivalent to twice the difference between the period of specialized training received on German territory and the minimum duration of training laid down in Directive 78/687/EEC, where they do not satisfy the minimum requirements regarding the duration of training laid down in Article 2 of Directive 78/687/EEC.

Article 8

In Article 3 of Directive 78/1026/EEC, the following shall be deleted under heading '(a) in Germany':
— presentation in the form of two numbered points;
— the text of point 2.

Article 9

The following Article 4a is hereby inserted in Directive 78/1026/EEC:

"Article 4a

In the case of nationals of Member State whose diplomas, certificates and other evidence of formal qualifications as veterinary surgeons attest to training received in the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 78/1027/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications, as being sufficient proof if:
— they attest to training commenced before German unification,
— they entitle the holder to pursue the activities of a veterinary surgeon throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and
— they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least three consecutive years during the five years prior to the date of issue of the certificate.

Article 10

In Article 3 of Directive 80/154/EEC, the following shall be deleted in heading '(a) in Germany':
— presentation in the form of two indents,
— the text of the second indent.
The following Article 5 a is hereby added in Directive 80/154/EEC

'Article 5 a

1. In the case of Member States whose diplomas, certificates and other evidence of formal qualifications as midwife attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 80/155/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:
   — they attest to training commenced before German unification,
   — they entitle the holder to pursue the activities of a midwife throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and
   — they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least three years during the five years prior to the date of issue of the certificate.

2. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as midwives attest to training received in the territory of the former German Democratic Republic which satisfies all the minimum training requirements laid down in Article 1 of Directive 80/155/EEC but which, pursuant to Article 2, has to be recognized only if it is complemented by the professional practice referred to in Article 4, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:
   — they attest to training commenced before German unification, and
   — they are accompanied by a certificate stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least two years during the five years prior to the date of issue of the certificate.'

Article 6 of Directive 85/433/EEC is hereby amended as follows:

— the present text of Article 6 becomes paragraph 1 of the said Article,

— the following paragraph 2 is added:

'2. Diplomas, certificates and other university or equivalent qualifications in pharmacy which were awarded to nationals of Member States by Member States and which satisfy all the minimum training requirements laid down in Article 2 of Directive 85/432/EEC but which do not conform to the designations set out in Article 4 shall be treated, for the purpose of the Directive, as the diplomas set out in that Article if they are accompanied by a certificate stating that they attest to training conforming to the provisions of Directive 85/432/EEC referred to in Article 2 of this Directive and shall be treated by the Member States which awarded them as those whose designations are set out in Article 4 of this Directive.'

The following Article 6 a is hereby inserted in Directive 85/433/EEC:

'Article 6 a

Diplomas, certificates and other university or equivalent qualifications in pharmacy which attest to training received by nationals of the Member States on the territory of the former German Democratic Republic and which do not satisfy all the minimum training requirements laid down in Article 2 of Directive 85/432/EEC shall be treated as diplomas satisfying these requirements if:
   — they attest to training commenced before German unification,
   — they entitle the holder to pursue the activities of pharmacist throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 4 (c), and
   — they are accompanied by a certificate stating that their holders have effectively and lawfully been engaged in Germany in one of the activities referred to in Article 1 (2) of Directive 85/432/EEC for at least three consecutive years during the five years prior to the date of issue of the certificate, provided that such activity is regulated in the State in question.'
Article 15

Article 6 of Directive 85/384/EEC is hereby deleted.

Article 17

This Directive is addressed to the Member States.

Article 16

Member States shall take the necessary measures to comply with this Directive by 1 July 1991. They shall forthwith inform the Commission thereof.

Done at Brussels, ...

For the Council

The President
Proposal for a
COUNCIL DECISION
of . . .
on the adaptations necessary in the context of German unification to the Community system for the rapid exchange of information on dangers arising from the use of consumer products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas such application is liable to give rise to difficulties owing to the absence of suitable administrative structures;

Whereas this is the case with regard to Council Decision 89/45/EEC (4), as amended by Decision 90/352/EEC (5), whose purpose is to provide means for the rapid exchange at Community level of information concerning consumer products where it is established that such products marketed in the European Economic Community may endanger the health and safety of users in such a way that the rapid implementation of appropriate measures is called for; whereas, to that end, a system organized at Community and at national level has been established;

Whereas it is necessary, therefore, to make allowance for these difficulties by giving Germany the opportunity to administer the aforesaid rapid information system differently;

Whereas this derogation must be of a temporary nature and cause the least possible disruption to the functioning of the common market; whereas Germany must make every effort to achieve the objectives of the Decision throughout its territory;

Whereas the Treaty does not provide the powers for the action concerned,

HAS ADOPTED THIS DECISION

Article 1

1. Germany is authorized to provide, in respect of the territory of the former German Democratic Republic, that its obligations arising out of the application of Decision 89/45/EEC, may be complied with during a period expiring not later than 31 December 1992, using means other than those already established pursuant to the aforesaid Decision.

2. Germany shall, during that period, see that existing structures are used, wherever possible, to attain the objectives of Decision 89/45/EEC and shall ensure, in particular, that information received by the information system established by this Decision is transmitted appropriately throughout its territory.

Article 2

Germany shall report regularly, within the framework of consultations within the committee set up by Article 7 of Decision 89/45/EEC, on the measures taken pursuant to Article 1 above.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, . . .

For the Council

The President

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(1) OJ No C . . .
(2) OJ No C . . .
(3) OJ No C . . .
(5) OJ No L 173, 6. 7. 1990, p. 49.
Proposal amending the proposal for a Seventh Directive on aid to shipbuilding currently under discussion in the Council

(90/C 248/02)

Pursuant to Article 149 (3) of the EEC Treaty the Commission amends its proposal of ... as follows:

Whereas, from the date of German unification onwards, the present Directive will apply in the territory of the united Germany;

Whereas the shipbuilding industry in the German Democratic Republic will require an urgent restructuring process; whereas the immediate application of the common maximum ceiling for production aid may not facilitate this process; whereas particular arrangements should be allowed to enable the German Democratic Republic's shipbuilding industry to restructure gradually and to comply with the aid regime applicable to the Community as a whole.

Article . . .

1. Chapter II of this Directive shall not be applicable in the German Democratic Republic.

2. Operating aid for shipbuilding and ship conversion in the German Democratic Republic may be considered compatible with the common market provided that:

   — the industry has undertaken a systematic and specific restructuring programme, including capacity reduction, which can be considered capable of allowing it to operate competitively after the end of 1992,

   — the aid is progressively reduced.
Proposal for a
COUNCIL DIRECTIVE
of . . .
amending Directive 87/167/EEC on aid to shipbuilding
(90/C 248/03)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 92 (3) (d) and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas from the date of German unification onwards Council Directive 87/167/EEC (1) will apply in the territory of the united Germany;

Whereas the shipbuilding industry in the former German Democratic Republic will require an urgent restructuring process; whereas the immediate application of the common maximum ceiling for production aid may not facilitate this process, and particular arrangements should be allowed to enable the shipbuilding industry of the former German Democratic Republic gradually to complete restructuring and comply with the aid regime applicable to the Community as a whole,

'SPAIN, PORTUGAL, AND THE TERRITORY OF THE FORMER GERMAN DEMOCRATIC REPUBLIC'.

2. The following is added to Article 9 (1):

'not in the territory of the former German Democratic Republic. '

3. The following paragraph 4 is added to Article 9:

'4. Operating aid for shipbuilding and ship conversion in the former German Democratic Republic may be considered compatible with the common market provided that:

— the shipbuilding industry has undertaken a systematic and specific restructuring programme, including capacity reductions, which can be considered capable of allowing it to operate competitively,
— the aid is being progressively reduced.'

Article 2

This Directive shall apply from the day of German unification.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, . . .

For the Council
The President

(1) OJ No L 69, 12. 3. 1987, p. 55.
Draft

COUNCIL DIRECTIVE

of ..., laying down amendments for the purpose of implementing in Germany certain Community Directives relating to statistics on the carriage of goods and statistics on gas and electricity prices (90/C 248/04)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 213 thereof,

Having regard to the draft of the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the Council has adopted Directives 78/546/EEC (4), as last amended by Directive 89/462/EEC (5), 80/1119/EEC (6) and 80/1177/EEC (7), both as amended by the Act of Accession of Spain and Portugal, on statistics on the carriage of goods;

Whereas the Council has adopted Directive 90/377/EEC (8) concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas, the regional breakdown for carriage statistics should be extended to include the territory of the former German Democratic Republic;

Whereas the list of administrations managing the main railway networks should be amended for the purpose of statistics on the carriage of goods by rail;

Whereas the breakdown by region and locality of statistics on gas and electricity prices should be extended to include those of the territory of the former German Democratic Republic;

Whereas the current situation does not allow the regions and localities in question to be defined precisely,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. For the regional breakdown of statistics on the carriage of goods covered by Directives 78/546/EEC, 80/1177/EEC and 80/1119/EEC, Germany shall define prior to the date of unification the regions in the territory of the former German Democratic Republic and communicate them to the Commission.

2. For the regional statistics on the carriage of goods by rail covered by Directive 80/1177/EEC, Germany shall communicate prior to the date of unification the names of the administrations managing railway lines and installations in the united Germany.

Article 2

For the breakdown by region and locality of statistics on gas and electricity prices covered by Directive 90/377/EEC, Germany shall define prior to the date of unification the regions and localities in the territory of the former German Democratic Republic and communicate them to the Commission.

Article 3

The Commission shall be authorized to amend the following:

— Annex II to the Directives referred to in Article 1 (1),
— Article 1 (2) (a) of the Directive referred to in Article 1 (2),
— Annexes I and II to the Directive referred to in Article 2, after consulting the competent committee in accordance with the procedure laid down in Article 7 of that Directive.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, ...
COUNCIL REGULATION (EEC) No . . .


(90/C 248/05)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 213 thereof,

Having regard to the draft of the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the Council has adopted Regulation (EEC) No 3044/89 (1) relating to the organization of a labour force sample survey in the spring of 1990 and 1991;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas, for the spring of 1991, the sample of households for the labour force sample survey in the united Germany should be extended,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3 of Regulation (EEC) No 3044/89 is replaced by the following:

‘Article 3

In the spring of 1991, the sample shall comprise between 120 000 and 130 000 households in Germany, between 60 000 and 100 000 in France, Italy, the United Kingdom and Spain, between 30 000 and 50 000 in Belgium, the Netherlands, Ireland, Greece and Portugal, between 15 000 and 30 000 in Denmark and approximately 10 000 in Luxembourg.’

Article 2

This Regulation shall enter into force on the third day following 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, . . .

For the Council
The President

Proposal for a
COUNCIL REGULATION (EEC) No . . .
of . . .
on derogations in respect of statistical surveys in Germany in connection with the unification of
Germany
(90/C 248/06)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the requirements laid down in Community legislation on agricultural statistics cannot be fulfilled immediately in the territory of the former German Democratic Republic because extensive changes and adjustments will have to be made in that territory;

Whereas it also appears advisable to raise the estimate of expenditure contained in Council Regulation (EEC) No 837/90 of 26 March 1990 concerning statistical information to be supplied by the Member States on cereals production (1);

HAS ADOPTED THIS REGULATION:

Article 1

1. Until 31 December 1992 at the latest, agricultural statistics in the territory of the former German Democratic Republic may depart from the provisions set out in the legislative acts listed in the Annex as regards reporting periods, reference dates, survey deadlines, transmission deadlines and coverage.

2. The derogations provided for in Article 1 shall be determined in accordance with the procedure set out in Article 4.

Article 2

The following subparagraph shall be added to Article 1 (1) of Council Regulation (EEC) No 357/79 of 5 February 1979 on statistical surveys of areas under vines (2):

'The first intermediate survey to be carried out in the territory of the former German Democratic Republic shall take place not later than two years after the first basic survey.'

Article 3

The amount of 'ECU 3 200 000' specified in Article 10 of Regulation (EEC) No 837/90 shall be replaced by 'ECU 3 520 000'.

Article 4

1. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the Standing Committee on Agricultural Statistics, hereinafter called 'the Committee', either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall give its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 5

This Regulation shall enter into force on the third day following 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, . . .

For the Council
The President

ANNEX

List of legislative acts referred to in Article 1

Council Regulations

(EEC) No 2782/75 of 29 October 1975
(EEC) No 357/79 of 5 February 1979
(EEC) No 571/88 of 29 February 1990
(EEC) No 837/90 of 26 March 1990

Council Directives

72/280/EEC of 31 July 1972
76/625/EEC of 20 July 1976
76/630/EEC of 20 July 1976
78/53/EEC of 19 December 1977
82/177/EEC of 22 March 1982
Proposal for a

COUNCIL REGULATION (EEC) No . . .

of . . .

on the transitional measures and adjustments required in the agricultural sector as a result of the integration of the territory of the former German Democratic Republic into the Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 3879/89 (2), and in particular Articles 5c (6), 6 (6) and 7 (4) thereof,


Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine (5), as last amended by Regulation (EEC) No 1325/90 (6), and in particular Articles 13 (1) and (4), 16 (7) and 80 thereof,

Having regard to the proposal from the Commission (7),

Having regard to the opinion of the European Parliament (8),

Having regard to the opinion of the Economic and Social Committee (9),

Whereas the European Economic Community has adopted rules implementing the common agricultural policy;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas to facilitate the integration of farming in the territory of the former German Democratic Republic into the common agricultural policy, the former German Democratic Republic has been applying, in an autonomous capacity, some of the common agricultural rules since 1 July 1990;

Whereas certain adjustments must however be made to Community agricultural legislation in order to allow for the particular circumstances of the said territory;

Whereas the derogations provided for in this connection should as a general rule be temporary and cause the least possible disturbance to the operation of the common agricultural policy and the pursuit of the objectives of Article 39 of the Treaty;

Whereas measures are applied in several sectors to stabilize the markets for products in surplus; whereas the extent to which such arrangements apply to the territory of the former German Democratic Republic should be specified;

Whereas the maximum guaranteed quantities applicable in most of the sectors concerned expire not later than the end of the 1991/92 marketing year; whereas, as the figures currently available for actual consumption in the territory of the former German Democratic Republic are incomplete, the maximum guaranteed quantities should be left unchanged for the remaining period of applicability; whereas, therefore, no account should be taken of East German production when Community production is being determined; whereas, however, total German production in each sector concerned must be subject to the specific rules applicable in the case of an overrun of the maximum guaranteed quantity laid down for the said sector;

Whereas certain conditions of intervention must be adjusted temporarily to take account of the conditions of production and farm structure in the territory of the former German Democratic Republic;

Whereas the application of the arrangements to control milk production must not jeopardize the restructuring of holdings in the territory of the former German Democratic Republic; whereas some flexibility should be introduced into the said arrangements; whereas, however, such flexibility must apply solely to holdings in that territory; whereas, similarly, steps must be taken to ensure that the additional sugar quotas allocated to Germany apply solely to East German agriculture;

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(7) OJ No C . . .
(8) OJ No C . . .
(9) OJ No C . . .
Whereas, when the guaranteed total quantities for milk for the territory of the former German Democratic Republic are fixed, provision must be made for a 3% reduction similar to that effected in the Community in 1986 to take account of the trend of the milk market; whereas the producers concerned must be granted compensation for such a reduction similar to that granted to the other Community producers by Council Regulation (EEC) No 1336/86 of 6 May 1986 fixing compensation for the definitive discontinuation of milk production (1), as last amended by Regulation (EEC) No 841/88 (2);

Whereas Council Regulation (EEC) No 775/87 (3) provides for the temporary suspension of part of the reference quantities referred to in Article 5c (1) of Regulation (EEC) No 804/68; whereas, when the compensation was fixed in this connection in the Community, allowance was made for the fact that the suspension was to take effect after three years of operation of the system and over a period of two years; whereas producers in the territory of the former German Democratic Republic must be subjected to a corresponding suspension of reference quantities; whereas, however, such suspension will take effect in that territory in a single step in the first year of application of the system in order to prevent additional milk product disposal expenditure; whereas this major saving should be taken into consideration when the level of compensation for suspension of the reference quantities in the territory of the former German Democratic Republic is fixed;

Whereas to facilitate structural change in the agricultural sector in the territory of the former German Democratic Republic, involving both the creation of family farms and the reorganization of cooperative farms, provision must be made for some temporary adjustments to the rules on the acceleration of structural adjustment in the context of the reform of the common agricultural policy (objective 5a); whereas the necessary adjustments to the rules on other structural objectives are provided for in a separate Regulation;

Whereas the adoption of the principles of the common agricultural policy in the territory of the former German Democratic Republic has had the effect of reducing sharply and severely the incomes of the producers concerned; whereas Germany should be authorized, temporarily, to implement a system of national aid to partially offset the income losses;

Whereas, pursuant to Council Regulation (EEC) No 855/84 of 31 March 1984 on the calculation and the dismantlement of the monetary compensatory amounts applying to certain agricultural products (4), Germany is authorized to award special aid to German producers to compensate for a fall in income due to the adjustment of the representative rate in 1984;

Whereas the rules applicable to stocks of products existing in the territory of the former German Democratic Republic on the day of German unification should be laid down; whereas it is appropriate that the Community should take over public intervention stocks at a value depreciated in accordance with the principles set out in Article 8 of Council Regulation (EEC) No 1883/78 of 2 August 1978 laying down general rules for the financing of interventions by the European Agricultural Guidance and Guarantee Fund, Guarantee Section (5), as last amended by Regulation (EEC) No 787/89 (6); whereas the cost of such depreciation will be borne by Germany; whereas, as regards private stocks, any stock exceeding the normal quantity of stock must be disposed of by Germany at its own expense;

Whereas information about farming in the territory of the former German Democratic Republic is insufficient to permit the extent of the adjustments and derogations to be laid down definitively; whereas, to allow for changes in the situation, provision should be made for a simplified procedure in accordance with the third indent of Article 145 of the Treaty so that the measures provided for herein may be adjusted and supplemented where necessary;

Whereas safeguard measures may have to be taken in the event of serious difficulties liable to jeopardize the objectives of Article 39 of the Treaty; whereas the conditions in which such measures may be taken should be specified;

Whereas this Regulation does not cover legislation on plant products, animal feedingstuffs, veterinary and zootechnical matters, directives on the harmonization of agricultural legislation or fisheries rules, whereas these will form the subject of a separate legislation,

HAS ADOPTED THIS REGULATION:

Article 1

1. To ensure the harmonious integration of farming in the territory of the former German Democratic Republic into the common agricultural policy, this Regulation lays down transitional arrangements and the adjustments required to the common agricultural legislation.

2. This Regulation shall apply to:
   — agricultural products listed in Annex II to the Treaty,
   — goods derived from the processing of agricultural products and referred to in Council Regulations (EEC) No 3033/80 (7) and (EEC) No 2783/75 (8).

(1) OJ No L 119, 8. 5. 1986, p. 21.
(2) OJ No L 87, 31. 3. 1988, p. 3.
(3) OJ No L 78, 20. 3. 1987, p. 5.

(8) OJ No L 282, 1. 11. 1975, p. 104
It does not cover
— the Directives on plant health, seeds, propagating material and animal feedingstuffs, and the veterinary and zootechnical legislation covered by Council Directive 90/.../EEC (1),

Article 2

The adjustments and transitional measures referred to in Article 1 are set out in the Annexes hereto.

Article 3

1. In order to achieve the purpose of Article 1 (1), measures to supplement and adjust those provided for in this Regulation may be adopted in accordance with the procedure laid down in Article 8.

2. Supplementing and adjusting measures must be designed to ensure coherent application of the agricultural rules in the territory of the former German Democratic Republic, with due regard for the specific circumstances and the special difficulties which are encountered in practice. They must be consistent with the general scheme and basic principles of the agricultural rules and this Regulation.

3. The measures referred to in paragraph 1 may be taken until 31 December 1992. Their applicability shall be limited to the same period except where they entail permanent technical adjustments.

Article 4

The Commission may authorize Germany to introduce in the territory of the former German Democratic Republic a system of aid to compensate for agricultural income losses in that territory as a result of the changeover to the common agricultural policy.

The rules of procedure laid down in Article 93 (3) of the Treaty shall apply to aid introduced pursuant to the first subparagraph. In appraising such aid, the Commission will ensure that its effect on trade is minimal and that a harmonious transition to the common agricultural policy is assured.

This Article shall apply solely to aid notified to the Commission before 30 June 1992.

Article 5

1. Until 31 December 1992, in the event of serious difficulties liable to jeopardize the objectives of Article 39 of the Treaty or difficulties liable to cause a serious deterioration in a regional economic situation as a result of the integration of the territory of the former German Democratic Republic into the Community, any Member State may apply for authorization to adopt safeguard measures in order to restore stability to the situation or to adjust the sector concerned.

2. If a situation as referred to in paragraph 1 should arise, the Commission, at the request of a Member State or on its own initiative, may decide, subject to compliance with the Treaty, to take the necessary measures, which shall be notified to the Member States and shall be applicable forthwith. If the Commission receives a request from a Member State which is suffering or likely to suffer serious disturbances it shall take a decision thereon within 24 hours of receipt of the request.

3. Any Member State may refer to the Council the measure taken by the Commission within three working days after the date of notification. The Council shall meet without delay. It may, by a qualified majority, amend or revoke the measure in question.

Article 6

1. The Community shall take over the stocks held by the intervention agency of the former German Democratic Republic on the day of unification at the value determined in accordance with Article 8 of Regulation (EEC) No 1883/78.

2. The said stocks shall be taken over only on condition that public intervention for the products in question is provided for in the Community rules and that the stocks meet the Community quality requirements as amended by this Regulation.

3. Detailed rules for applying this Article shall be adopted in accordance with the procedure laid down in Article 8.

Article 7

1. Any private stock of a product which is covered by a regulation on a common market organization for agricultural products, which is in free circulation in the territory of the former German Democratic Republic on the day of German unification and which exceeds the quantity which may be regarded as representing a normal carry-over...
stock, must be disposed of by Germany at its own expense in accordance with provisions to be laid down in accordance with the procedure referred to in paragraph 2. The concept of a normal carry-over stock shall be defined for each product in the light of the criteria and objectives specific to each market organization.

2. Detailed rules for applying this Article shall be adopted in accordance with the procedure laid down in Article 8.

**Article 8**

Where this Article is referred to, measures shall be adopted in accordance with the procedure laid down in:

- Article 38 of Council Regulation No 136/66/EEC (1) or, as appropriate, the corresponding Articles of the other regulations on the common organization of agricultural markets,

- the Article providing for the adoption of detailed rules of application in another common agricultural provision,

- Article 13 of Council Regulation (EEC) No 729/70 (2) for the case referred to in Article 6 (3).

**Article 9**

Article 5c of Regulation (EEC) No 804/68 shall not apply to the territory of the former German Democratic Republic until 1 April 1991. The national arrangements for limiting milk production adopted by the former German Democratic Republic must be maintained until 31 March 1991.

Regulation (EEC) No 1079/77 (3) shall not apply to the territory of the former German Democratic Republic during the 1990/91 marketing year. The national system of collection of the co-responsibility levy set up by the former German Democratic Republic must be maintained during the said marketing year.

**Article 10**

Germany shall notify to the Commission, at the earliest opportunity, the measures taken pursuant to the authorizations provided for in this Regulation.

On the expiry of the periods of application of the transitional measures Germany shall draw up a report on their application, which shall be submitted to the Commission which shall forward it to the other Member States.

**Article 11**

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, . . .

*For the Council*

*The President*

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ANNEX I

CEREALS


The following paragraph 4a is added to Article 4c:

'4a. When production is established as provided for in this Article, the quantities harvested in the territory of the former German Democratic Republic shall not be taken into account.'

ANNEX II

SUGAR


1. The following Article 24a is inserted:

'Article 24a
1. Without prejudice to Article 24 (2), in the case of Germany an additional region shall be constituted for the purposes of applying the quota system to sugar-producing undertakings in the said region which produced sugar before 1 July 1991 and continue to do so thereafter.

The region corresponds, for the purposes of this Regulation, to the territory of the former German Democratic Republic.

2. For the allocation of A and B quotas to the undertakings referred to in paragraph 1, the basic quantities shall be as follows:

(a) basic quantity A: 665 290 tonnes of white sugar;

(b) basic quantity B: 204 710 tonnes of white sugar.

3. The A quota of each sugar-producing undertaking referred to in paragraph 1 shall be determined by applying to the average annual quantity of sugar produced by the undertaking concerned during the 1984/85 to 1988/89 marketing years within the meaning of Article 2(1), hereinafter referred to as the reference production, a coefficient representing the ratio between the basic quantity A referred to in paragraph 2 and the sum of the reference production quantities of the undertakings in the region defined in paragraph 1.

4. The B quota of each sugar-producing undertaking referred to in paragraph 1 shall be equal to 30,77 % of its A quota determined in accordance with paragraph 3.

5. Article 25 shall apply only to transfers between the sugar-producing undertakings referred to in paragraph 1.

6. Detailed rules for applying this Article shall, where necessary, be adopted in accordance with the procedure laid down in Article 41.'

2. The following paragraph 7 is added to Article 46:

'7. During the 1990/91, 1991/92 and 1992/93 marketing years, Germany is authorized to grant adaptation aid to producers of sugar under the following conditions.

The aid may be granted only in respect of the quantity of A and B beet as defined in Article 5 (4) and processed into A and B quota sugar by the undertakings referred to in Article 24a (1).

The aid shall be limited to DM 320 million for the period referred to in the first subparagraph and may not exceed, per undertaking, 20% of the investment made.'
ANNEX III

MILK AND MILK PRODUCTS


In Article 5c (3):

1. The first subparagraph is replaced by the following:

   'The sum of the reference quantities referred to in paragraph 1, subject to paragraph 4, may not exceed the guaranteed total quantity specified in the second subparagraph.'

2. The line 'Germany 23 423' in the second subparagraph is replaced by the following:

   'Germany 30 227
   (of which 6 804 for the territory of the former German Democratic Republic)*.

3. In the third subparagraph, point (d) the following sentence is added:

   'However, in the case of Germany for the period between 1 April 1991 to 31 March 1992, the guaranteed total quantity is hereby fixed as follows in thousands of tonnes:
   Germany 29 118 960
   (of which 6 599,880 for the territory of the former German Democratic Republic)*.'


The third indent of point (b) of Article 1 (3) is replaced by the following:

   '— graded “Markenbutter” as regards German butter, or, until 31 December 1992, “Export Qualität” as regards butter produced in the territory of the former German Democratic Republic.'


In Article 1 (1):

— ‘and, during the 1968/69 and 1969/70 milk years, by the roller processes’ is deleted,

— the following subparagraph is added:

   'However, until the end of the 1992/93 milk year, the German intervention agency shall buy in first-quality skimmed-milk powder manufactured by the roller processes provided it has been produced in the territory of the former German Democratic Republic and complies with the requirements specified in (a) and (b) of the first subparagraph. During the 1990/91 marketing year, the intervention price for skimmed-milk powder manufactured by the roller processes shall be ECU 163,81 per 100 kilograms.*


1. In the second subparagraph of Article 2 (1):

   — in point (a), ‘Member States other than Spain’ is replaced by 'Member States other than Spain and, from 1 April 1991, Germany as regards the territory of the former German Democratic Republic',

   — the following point (c) is added:

     'c) for the territory of the former German Democratic Republic, the reference quantity referred to in the first subparagraph shall be equal to the quantity of milk delivered or purchased during the 1989 calendar year, weighted by a percentage established so as not to exceed the guaranteed quantity defined in Article 5c of Regulation (EEC) No 804/68.*'

2. In the first subparagraph of Article 3 (3), the following sentence is added:

   'In the territory of the former German Democratic Republic, such producers shall, at their request, obtain the taking into account of another calendar reference year within the period 1987 to 1989.*'
3. The following subparagraph is added to Article 7 (1):

'To allow restructuring of milk production in the territory of the former German Democratic Republic and notwithstanding the preceding subparagraphs, Germany may authorize, during the eighth 12-month period, within the limits of a framework programme to be drawn up for the said territory, the transfer of reference quantities without the transfer of the corresponding land. Such a transfer may take place no more than once. In this connection, Germany shall notify to the Commission the framework programme for the said territory. The programme shall be appraised in accordance with the procedure laid down in Article 31 of Regulation (EEC) No 804/68.'

4. In the table in the Annex, the entry for Germany is replaced by the following:

<table>
<thead>
<tr>
<th>Date Range</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.4.1984 - 31.3.1985</td>
<td>305</td>
</tr>
<tr>
<td>1.4.1985 - 31.3.1986</td>
<td>130</td>
</tr>
<tr>
<td>Of which (*)</td>
<td></td>
</tr>
<tr>
<td>2.4.1985 - 31.3.1986</td>
<td>130</td>
</tr>
<tr>
<td>1.4.1985 - 31.3.1986</td>
<td>94,400</td>
</tr>
<tr>
<td>1.4.1986 - 31.3.1987</td>
<td>93,100</td>
</tr>
<tr>
<td>1.4.1987 - 31.3.1988</td>
<td>93,100</td>
</tr>
<tr>
<td>1.4.1988 - 31.3.1989</td>
<td>93,100</td>
</tr>
<tr>
<td>1.4.1989 - 31.3.1990</td>
<td>93,100</td>
</tr>
<tr>
<td>1.4.1990 - 31.3.1991</td>
<td>93,100</td>
</tr>
<tr>
<td>1.4.1991 - 31.3.1992</td>
<td>153,100</td>
</tr>
<tr>
<td>1.4.1991 - 31.3.1992</td>
<td>60,000</td>
</tr>
</tbody>
</table>

(*) For the territory of the former German Democratic Republic.


The following Article 4a is added:

'Article 4a

Articles 1, 2 and 3 shall apply to producers in the territory of the former German Democratic Republic subject to the following provisions:

(a) the reduction in milk production must be 204 102 tonnes and must be effective by 31 March 1991 at the latest;

(b) Germany is authorized to pay compensation of a single amount not exceeding ECU 42 per 100 kilograms;

(c) Germany is authorized to grant compensation for the cessation of all or part of the production of each party concerned in relation to previous production.

Germany shall communicate to the Commission not later than 31 May 1991 all the information necessary for an appraisal of the effectiveness of the aid provided for in this Regulation.'


1. In the second subparagraph of Article 1 (1), 'of Regulation (EEC) No 804/68 for the third 12-month period' is replaced by 'second subparagraph of Regulation (EEC) No 804/68.'

2. The following paragraph 1a is inserted in Article 2:

'1a. For producers in the territory of the former German Democratic Republic and for the eight 12-month period, the compensation is hereby fixed at ECU 21 per 100 kilograms. This compensation shall be paid to the beneficiaries as to 50 % in the first quarter and as to the remainder in the last quarter of the period in question.'
ANNEX IV

BEEF/VEAL

   In the last sentence of Article 6 (1), '220 000 tonnes' is replaced by '235 000 tonnes'.

   In the Annex, the following is added to the fifth indent:
   'Schwarzbunte Milchrasse (SMR)'.

ANNEX V

SHEEPMEAT AND GOATMEAT

The following subparagraph is added to Article 8 (2):
‘When the ewe herd is estimated no account shall be taken of the number of ewes in the territory of the former German Democratic Republic.’

ANNEX VI

PIGMEAT

The following paragraph is added to Article 6:
‘The Commission, in accordance with the procedure laid down in Article 24 of Regulation (EEC) No 2759/75, shall lay down the conditions for establishing prices for pigs slaughtered in the territory of the former German Democratic Republic until 31 December 1992.’
ANNEX VII

FRUIT AND VEGETABLES


1. The following paragraph 3 is added to Article 13:

'3. The Commission, in accordance with the procedure laid down in Article 33, shall lay down, as necessary, the conditions under which Germany may grant temporary recognition, until 31 December 1992, to producers' organizations in the territory of the former German Democratic Republic which comply with the objectives specified in paragraph 1 (a) without complying with other provisions.

This temporary recognition shall not confer on the said producers' organizations any entitlement to the launching aid provided for in Article 14.'

2. The following Article 18b is added:

'Article 18b

1. For each of the products subject to the intervention arrangements, the financial compensation provided for in Article 18 shall be paid for each recognized producers' organization in the territory of the former German Democratic Republic only in respect of a volume of withdrawals of products meeting the common quality standards not exceeding 10% of production marketed, inclusive of withdrawals, during the period up to the end of the 1990/91 marketing year and during the 1991/92 marketing year of each of the products.

2. The harvest and withdrawals of each of the products in the territory of the German Democratic Republic during the periods specified in paragraph 1 shall not be taken into consideration for establishing the intervention thresholds or for establishing any overrun thereof.'


The following subparagraph is added to Article 2 (1):

'However, notwithstanding point (a), for beneficiaries in the territory of the former German Democratic Republic, until the end of the 1991/92 marketing year, granting of the premium for orchards exceeding 99 hectares shall be subject to an undertaking by the beneficiary to grub or have grubbed before 1 April of a specified year all apple trees over an area of 50 hectares and 20% of the remaining area of the orchard.'

ANNEX VIII

PRODUCTS PROCESSED FROM FRUIT AND VEGETABLES


In Article 1 (1), the table is replaced by the following:

<table>
<thead>
<tr>
<th>'All undertakings located in'</th>
<th>Tomato concentrate</th>
<th>Tinned whole peeled tomatoes</th>
<th>Other tomato products</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spain</td>
<td>500 000</td>
<td>550 000</td>
<td>219 000</td>
</tr>
<tr>
<td>France</td>
<td>278 691</td>
<td>278 691</td>
<td>73 628</td>
</tr>
<tr>
<td>Greece</td>
<td>967 003</td>
<td>967 003</td>
<td>25 000</td>
</tr>
<tr>
<td>Italy</td>
<td>1 655 000</td>
<td>1 655 000</td>
<td>1 185 000</td>
</tr>
<tr>
<td>Portugal</td>
<td>747 945</td>
<td>832 945</td>
<td>14 800</td>
</tr>
<tr>
<td>Germany</td>
<td>—</td>
<td>33 700</td>
<td>—</td>
</tr>
</tbody>
</table>

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ANNEX IX

WINE


The following indent is added to Article 10:

— 'as appropriate, those relating to special conditions for establishing the register in the territory of the former German Democratic Republic.'


The following subparagraph is added to Article 13 (4):

'In the case of the territory of the former German Democratic Republic the products referred to in the first subparagraph derived from wine varieties not included in the classification may circulate until 31 August 1992 on condition that they are derived from varieties traditionally grown in that territory and of the species Vitis vinifera.'

The following subparagraph is added to Article 16 (7):

'However, wine obtained by coupage before 31 August 1990 of a wine originating in a third country with a wine derived from grapes harvested in the territory of the former German Democratic Republic may be held for sale or marketed as table wine until stocks are depleted.'

The following sentence is added to point (e) of Annex V:

'In the territory of the former German Democratic Republic, the period of time shall run from the date of German unification for areas grubbed after 1 September 1970.'


In Article 4:

(a) The following subparagraph is added to paragraph 1:

'For the wine-growing regions of the territory of the former German Democratic Republic, Germany shall establish the list of varieties referred to in the first subparagraph until 31 August 1992.'

(b) The following subparagraph is added to paragraph 4:

'Until the list of varieties referred to in the second subparagraph of paragraph 1 is established, wines produced in the territory of the former German Democratic Republic, derived from varieties traditionally grown in that territory and of the species Vitis vinifera, shall be regarded as suitable for processing into quality wines psr.'


The first indent in Article 3 (1) is replaced by the following:

'— the Regierungsbezirk or, where there is no such unit, the Land in Germany,'.
ANNEX X

TOBACCO


1. The following subparagraph is inserted as sixth subparagraph in Article 4 (5):
   'For the 1991 harvest, subject to application of the reduction and the correction referred to in the third subparagraph, the quantities of tobacco produced in the territory of the former German Democratic Republic shall not be taken into consideration for the calculation of the extent of overrun of the maximum guaranteed quantity for a variety or group of varieties.'

2. The following subparagraph is added to Article 7a (1):
   'The first subparagraph shall not apply to tobacco varieties of the 1991 harvest grown in the territory of the former German Democratic Republic.'

ANNEX XI

HOPS


The following subparagraph is added to Article 17 (6):
   'For the territory of the former German Democratic Republic, the duration for implementation of the measure referred to in Article 8 shall be five years from the date of German unification.'

ANNEX XII

AGRICULTURAL STRUCTURE (OBJECTIVE 5(a))


The following Article 32b is inserted:
   'Article 32b
   1. The following special provisions shall apply to the territory of the former German Democratic Republic:
   (a) The arrangements provided for in Titles 01 and 02 shall be applied from the 1991/92 marketing year onwards.
   (b) Land planted with potatoes may qualify for set-aside assistance notwithstanding Article 1a (2).
   (c) Where the area of arable land of a holding, including, as appropriate, land planted with potatoes, as referred to in Article 1a (2), exceeds 750 hectares, the condition that not less than 20 % of the land shall be set aside as laid down in Article 1a (3) is replaced by a condition that not less than 150 hectares shall be set aside.'
(d) When family holdings are being set up
— the condition in the first indent of Article 2 (2) shall not apply,
— Germany may grant the aid referred to in Articles 7 and 7a to farmers below the age of 55 years. But aid granted to farmers over the age of 40 years is not eligible under the Fund.

(e) The conditions in the second subparagraph of Article 3 (3) and the first indent of Article 6 (4) shall not apply to aid granted in the context of the creation of new family holdings or the restructuring of cooperative holdings if the number of dairy cows on all the new or restructured holdings does not exceed the number of dairy cows held previously on the old holdings.

If the Council has not adopted, by 31 December 1990, the arrangements for applications submitted from 1 January 1991 for investment aid in the pig production sector, the conditions in Article 3 (4) and the second indent of the second subparagraph of Article 6 (4) shall not apply to aid granted in the context of the creation of new family holdings or the restructuring of cooperative holdings if the number of pig places on all the new or restructured holdings does not exceed the number of pig places previously held on the old holdings.

(f) The volume of investment referred to in the first subparagraph of Article 4 (2) shall be ECU 140 000 per man work unit and ECU 280 000 per holding.

(g) In the context of the restructuring of cooperative holdings, Article 6 (5) shall also apply to associations which do not adopt the legal form of a cooperative.

(h) A special system of aid for holdings in less-favoured areas defined according to criteria to be laid down by Germany may be applied during 1991. During this period, Title III shall not apply to the territory of the former German Democratic Republic.

Expenditure under this special system shall not be eligible under the Fund.

2. The provisions in points (b) to (g) of paragraph 1 shall apply until 31 December 1993.


The following Article 19a is inserted:

"Article 19a
Transition period for the territory of the former German Democratic Republic
Until 31 December 1991, the Commission may decide to grant assistance for operational programmes providing for investments in the territory of the former German Democratic Republic in accordance with the selection criteria referred to in Article 8 without prior establishment for that territory of sectoral plans and Community support frameworks as referred to in Articles 2 to 7."

ANNEX XIII

FARM ACCOUNTANCY DATA NETWORK


The following is added to the section 'Germany' in the Annex:

'12. Mecklenburg-Vorpommern
13. Brandenburg
14. Sachsen-Anhalt
15. Sachsen
16. Thüringen'
Proposal for a
COUNCIL DIRECTIVE
of . . .
on the transitional measures and the adjustments required to the Directives on plant products, seeds, plants and animal feedingstuffs and to the veterinary and zootechnical legislation as a result of the integration of the territory of the former German Democratic Republic into the Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine (1), as last amended by Directive 89/662/EEC (2), and in particular Article 4b (1) (c) thereof,


Having regard to the proposal from the Commission (5),

Having regard to the opinion of the European Parliament (6),

Having regard to the opinion of the Economic and Social Committee (7),

Whereas the European Economic Community has adopted a body of rules implementing the common agricultural policy;

Whereas, from the date of German unification onwards, Community law will be fully applicable in the territory of the former German Democratic Republic;

Whereas to facilitate the integration of farming in the territory of the former German Democratic Republic into the common agricultural policy, the German Democratic Republic has been applying, in an autonomous capacity, some of the common agricultural rules since 1 July 1990;

Whereas certain adjustments must however be made to Community agricultural legislation in order to allow for the particular circumstances of the said territory;

Whereas the derogations provided for in this connection should as a general rule be temporary and cause the least possible disturbance to the functioning of the common agricultural policy and the pursuit of the objectives of Article 39 of the Treaty;

Whereas, given the current situation, certain Community provisions on quality and health cannot be applied immediately to the territory of the former German Democratic Republic; whereas any disturbance to the proper functioning of the internal market resulting from the application of derogations to this end must be avoided; whereas therefore products which do not conform to Community rules should not be marketed in the Community except in the said territory;

Whereas information about farming in the territory of the former German Democratic Republic is insufficient to permit the extent of the adjustments and derogations to be definitively established; whereas, to allow for changes in the situation, it is necessary to lay down a simplified procedure in accordance with the third indent of Article 145 of the Treaty so that the measures provided for herein may be amended and supplemented where necessary;

Whereas the German authorities have undertaken to extend their eradication plan for classical swine fever to the territory of the former German Democratic Republic from the date of German unification; whereas they have given their assurance that the system for notifying diseases will be in operation for that territory on the same date; whereas, as a result, in light of the animal health situation in that territory and the above undertakings, the territory should be accorded disease-free status with regard to classical swine fever from the date of unification,

HAS ADOPTED THIS DIRECTIVE:

Article 1

To ensure the harmonious integration of the territory of the former German Democratic Republic into the common
agricultural policy, this Directive lays down transitional arrangements and the adjustments required to the Directives on plant health, seeds, plants and animal feedingstuffs and to the veterinary and zootechnical legislation.

Article 2

The adjustments and transitional arrangements referred to in Article 1 are set out in the Annexes hereto.

Article 3

1. In order to achieve the purpose of Article 1, measures to supplement and adjust those provided for in this Directive may be adopted in accordance with the procedure laid down in Article 4.

2. Supplementing and adjusting measures must be designed to ensure coherent application of the agricultural rules in the territory of the former German Democratic Republic, with due regard for the specific circumstances of that territory and the special difficulties involved in the application of the agricultural rules.

They must be consistent with the general scheme and basic principles of the agricultural rules and this Directive.

3. The measures referred to in paragraph 1 may be taken until 31 December 1992. Their applicability shall be limited to the same period except where they entail permanent technical adjustments.

Article 4

Where this Article is referred to, measures shall be adopted in accordance with the procedure laid down in the Article providing for the adoption of detailed rules in an instrument falling within the scope of this Directive.

Article 5

Where Germany takes measures, in accordance with the provisions of the Annexes, to guarantee that products which do not conform to Community rules are not introduced into parts of the Community other than the territory of the former German Democratic Republic, such measures must be compatible with the Treaty, in particular the aims of Article 8a, and must not create controls and formalities at frontiers between the Member States.

Article 6

Germany shall notify to the Commission, at the earliest opportunity, the measures taken pursuant to the authorizations provided for in this Directive.

On the expiry of the periods of application of the transitional measures Germany shall draw up a report of their application. The Report shall be submitted to the Commission which shall communicate it to the other Member States.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, . . .

For the Council
The President
ANNEX I

PLANT HEALTH LEGISLATION


The following is added to Article 16:

'However, Germany is hereby authorized to place on the market in the territory of the former German Democratic Republic, until 31 December 1992 at the latest, Annex I products whose hydrogen cyanide level exceeds that fixed in Annex II; this derogation shall apply only to products originating in that territory. The permitted levels may under no circumstances exceed those applicable under the legislation of the former German Democratic Republic. Germany shall ensure that the products in question are not introduced into parts of the Community other than the territory of the former German Democratic Republic.'


The following paragraph 6 is added to Article 20:

'6. In order to ensure that the international undertakings of the former German Democratic Republic are met, Germany may be authorized, in accordance with the procedure laid down in Article 16a, to comply with Articles 4 (1), 5 (1) and 12 in respect of the territory of the former German Democratic Republic at a date later than that referred to in paragraph 1 (b), but not later than 1 January 1995. Germany shall ensure that the products in question are not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

ANNEX II

BREEDING OR PROPAGATING MATERIAL

1. Agricultural and vegetable species


(a) The following paragraph 4 is added to Article 16:

'4. Paragraph 1 shall also apply to the territory of the former German Democratic Republic until 31 December 1991. Detailed rules may be adopted in accordance with the procedure laid down in Article 21.'

(b) The following paragraphs are added to Article 23:

'Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:

— Article 3 (1), in the case of:
  — seed harvested prior to German unification, or
  — seed harvested after that date if it is certified in accordance with Article 2 (2),
— Article 16, in the case of seed referred to in provisions adopted pursuant to international undertakings of the former German Democratic Republic,
at a date later than that referred to above, but not later than 1 January 1995.

Germany shall ensure that seed in respect of which it applies this authorization, other than seed specified in the second sub-indent of the first indent, is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

(a) The following paragraph 4 is added to Article 16:

'4. Paragraph 1 shall also apply to the territory of the former German Democratic Republic until 31 December 1991. Detailed rules may be adopted in accordance with the procedure laid down in Article 21.'

(b) The following paragraphs are added to Article 23:

'Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic with the following:

— Article 3 (1), in the case of:
  — seed harvested prior to German unification, or
  — seed harvested after that date if it is certified in accordance with Article 2 (2),
— Article 8 (2), in the case of the restriction to "small quantities" for seed of *Pisum sativum* L. (*parim*) and *Vicia faba* L. (*parim*),
— Article 16, in the case of seed referred to in provisions adopted pursuant to international undertakings of the former German Democratic Republic,

at a date later than that referred to above, but not later than 1 January 1995.

Germany shall ensure that seed in respect of which it applies this authorization, other than seed specified in the second sub-indent of the first indent, is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'


(a) The following paragraph 4 is added to Article 16:

'4. Paragraph 1 shall also apply to the territory of the former German Democratic Republic until 31 December 1991. Detailed rules may be adopted in accordance with the procedure laid down in Article 21.'

(b) The following paragraphs are added to Article 23:

'Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:

— Article 3 (1), in the case of:
  — seed harvested prior to German unification, or
  — seed harvested after that date if it is certified in accordance with Article 2 (2) (c),
— Article 8 (2), in the case of the restriction to "small quantities",
— Article 13 (1), in the case of seed of *Hordeum vulgare* L.,
— Article 16, in the case of seed referred to in provisions adopted pursuant to international undertakings of the former German Democratic Republic,

at a date later than that referred to above, but not later than 1 January 1995.

Germany shall ensure that seed in respect of which it applies this authorization, other than seed specified in the second sub-indent of the first indent, is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'


The following paragraphs are added to Article 21:

'Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:

— Article 3 (1), in the case of:
  — seed potatoes harvested prior to German unification, or
  — seed potatoes harvested after that date if they are certified in accordance with Article 2 (2),
— Article 8 (2), in the case of the restriction to "small quantities",

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— Article 16, in the case of seed potatoes referred to in provisions adopted pursuant to international undertakings of the former German Democratic Republic, at a date later than that referred to above, but not later than 1 January 1995.

Germany shall ensure that seed potatoes in respect of which it applies this authorization, other than seed potatoes specified in the second sub-indent of the first indent, are not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with."


(a) The following paragraph 4 is added to Article 15:

'4. Paragraph 1 shall also apply to the territory of the former German Democratic Republic until 31 December 1991. Detailed rules may be adopted in accordance with the procedure laid down in Article 20.'

(b) The following paragraphs are added to Article 23:

'Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:
— Article 3 (1), in the case of:
— seed harvested prior to German unification, or
— seed harvested after that date if it is certified in accordance with Article 2 (2),
— Article 16, in the case of seed referred to in provisions adopted pursuant to international undertakings of the former German Democratic Republic, at a date later than that referred to above, but not later than 1 January 1995.

Germany shall ensure that seed in respect of which it applies this authorization, other than seed specified in the second sub-indent of the first indent, is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with."


(a) The following subparagraph is added to Article 3 (3):

'With regard to the territory of the former German Democratic Republic, the dates 1 July 1972 and 30 June 1980 respectively referred to in the first sentence are replaced by those of . . . (*) and 31 December 1994 in respect of the varieties accepted by the authorities of the former German Democratic Republic. This provision shall apply mutatis mutandis to varieties which have not been officially accepted but whose seed had been marketed or sown in the territories prior to German unification.'

(b) The following subparagraph is added to Article 12 (1):

'Acceptance of the varieties by the authorities of the former German Democratic Republic prior to German unification shall be valid until the end of the 10th calendar year at the latest following their entry in the catalogue of varieties drawn up by Germany in accordance with Article 3 (1).'

(c) The following paragraph is added to Article 16:

'With regard to Germany, the date 1 July 1972 referred to in the first sentence is replaced by that of . . . (*) in respect of varieties accepted by the authorities of the former German Democratic Republic. All the areas used for multiplication of the variety, as referred to in subparagraph (c) of the first paragraph, shall be situated in the territory of the former German Democratic Republic."

(d) The following paragraph is added to Article 17:

'In the cases referred to in the last paragraph of Article 16, the date 1 July 1972 referred to in the first sentence is replaced by the date . . . (*)'"


(a) The following subparagraph is added to Article 9 (2):

'With regard to the territory of the former German Democratic Republic, the dates 1 July 1972 and 30 June 1980 referred to in the first sentence are replaced by those of . . . (*) and 31 December 1994 respectively in respect of the varieties accepted by the authorities of the former German Democratic Republic. This provision shall apply mutatis mutandis to varieties which have not been officially accepted but whose seed had been marketed or sown in that territory prior to German unification.'

(*) The date of German unification.
(b) The following subparagraph is added to Article 13 (1):

'Acceptance of the varieties by the authorities of the former German Democratic Republic prior to German unification shall be valid until the end of the tenth calendar year at the latest following their entry in the catalogue of varieties drawn up by Germany in accordance with Article 3 (1).'

(c) The following subparagraph is added to Article 16 (4):

'With regard to Germany, the date 1 July 1972 referred to in the first sentence is replaced by that of . . . (*) in respect of varieties accepted by the authorities of the former German Democratic Republic.'

(d) The following paragraphs are added to Article 43:

'Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:

— Article 20 (1), in the case of seed harvested prior to German unification,
— Article 32 (1) (d), in the case of seed referred to in provisions adopted pursuant to international undertakings of the former German Democratic Republic,

at a date later than that referred to above, but not later than 1 January 1995.

Germany shall ensure that seed in respect of which it applies this authorization is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'


References in the Annexes to the German Democratic Republic are hereby deleted.

II. Other provisions


The following paragraph is added to Article 19:

'Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic with Article 3 (1) at a date later than that referred to above, but not later than 1 January 1995.

Germany shall ensure that the material in respect of which it applies this authorization is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'


The following paragraph 3a is added after Article 18 (3):

'3a. Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with Article 4 (1) at a date later than that referred to above, but not later than 1 January 1995.

Germany shall ensure that the material in respect of which it applies this authorization is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'


The following paragraphs are added to Article 19:

'Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the provisions of Article 5 (1) at a date later than that referred to above, but not later than 1 January 1995.

Germany shall ensure that the material in respect of which it applies this authorization is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

(*) The date of German unification.

The following paragraph is added to Article 26:

'However, in the case of the territory of the former German Democratic Republic, Germany may:
— maintain the provisions applicable prior to unification under which the use of the following additives in feedingstuffs is authorized:
  — Olaquindox,
  — Nourseothricin,
  — Ergambur.

This derogation shall expire on 31 December 1992 unless the Annexes are amended in accordance with Article 7. Germany shall ensure that the additives and any feedingstuffs into which they are incorporated are not dispatched to other parts of the Community,
— derogate, until 31 December 1991, from the labelling provisions in Articles 14, 15 and 16 for the additives, additive pre-mixtures and compound feedingstuffs to which additives have been added, produced in the territory in question.'


The following paragraph is added to Article 15:

'However, Germany may until 31 December 1991 derogate from the labelling provisions in Article 7 for straight feedingstuffs produced in the territory of the former German Democratic Republic.'


The following paragraph is added to Article 16:

'However, Germany may until 21 January 1992 derogate from the labelling provisions in Article 5 for compound feedingstuffs produced in the territory of the former German Democratic Republic.'


The following paragraph 3 is added to Article 4:

'3. In the territory of the former German Democratic Republic use in feedingstuffs of protein products obtained from yeasts of the Candida genus cultured on n-alkanes shall not be prohibited until 31 December 1991. Germany shall ensure that the products in question are not dispatched to other parts of the Community.'

The following paragraph is added to Article 17:

'However, Germany may until 31 December 1991 derogate from the labelling provisions in Article 5 for feedingstuffs produced in the territory of the former German Democratic Republic.'

(¹) A further amendment is in the course of adoption.
ANNEX IV

VETERINARY LEGISLATION


The following territories are added to Chapter 1 of Annex II:

'...'(wording to be decided on the basis of a communication from Germany).


The following paragraph is added to Article 11:

'However, Germany shall be allowed until 31 December 1992 to comply with this Directive in the territory of the former German Democratic Republic.'
THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, from the date of German unification onwards, Community law will be fully applicable in the territory of the former German Democratic Republic;

Whereas measures should be introduced to facilitate the implementation of the common fisheries policy in the former German Democratic Republic;

Whereas the Community will succeed to the former German Democratic Republic in respect of the fishery agreements concluded by the latter with non-Community countries; whereas the rights and obligations for the Community contained in these agreements will remain unaffected during the period for which these agreements are allowed to continue provisionally in their present form, until such time, at the latest, as they expire unless they are renegotiated;

Whereas Article 6 of Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products (1), as last amended by Regulation (EEC) No 2886/89 (2), authorizes the Member States to grant aid to producers' organizations to encourage their formation and support their operation; whereas, in view of the special situation in the territory of the former German Democratic Republic, Germany should be authorized to grant such aid at more flexible rates and on a more flexible basis to all organizations set up on or after 1 July 1990 and recognized within a period of three years from the date of German unification;

Whereas, in order to take account of measures covered by Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector (3) which are to be carried out in the territory of the former German Democratic Republic in 1991, it is necessary both to increase the estimate of overall expenditure from the Community budget to ECU 830 million and to extend the list of less-developed regions to include those in the territory of the former German Democratic Republic, given that some areas of the former German Democratic Republic meet the criteria for Community regions of the said kind,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from Article 6 (1) and (2) (b) of Regulation (EEC) No 3796/81, Germany is hereby authorized to grant the aid referred to in the said Article 6 (1) to producers' organizations formed in the territory of the former German Democratic Republic on or after 1 July 1990 and recognized within a period of three years from the date of German unification, in line with the following rules:

— the amount of aid in the first, second and third years shall not exceed 5, 3 and 1% respectively of the value of production marketed through the producers' organization,

— the aid shall not exceed 80, 70 and 60% of the cost of managing the producers' organization in the first, second and third years respectively,

— flat-rate advances on the amount of such aid may be paid at the start of each year following recognition of the producers' organization concerned,

— payment of the final amount of such aid shall be made during the five years following the date of recognition.

**Article 2**

Regulation (EEC) No 4028/86 is hereby amended as follows:

1. In Article 40 (2), 'ECU 800 million' is replaced by 'ECU 830 million'.

2. In Annex II, in points I.A and II.1, 'and Veneto' is replaced, in each case, by 'Veneto and Mecklenburg — Vorpommern'.

**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, . . .

*For the Council*

*The President*
Proposal for a
COUNCIL DECISION

of . . .
amending Decision 87/277/EEC on the allocation of the catch possibilities for cod in the Spitsbergen
and Bear Island area and in division 3 M as defined in the NAFO Convention

(90/C 248/07)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources (1), as amended by the Act of Accession of Spain and Portugal, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas the unification of Germany has changed the historic catches on which Council Decision 87/277/EEC of 18 May 1987 on the allocation of the catch possibilities for cod in the Spitsbergen and Bear Island area and in division 3 M as defined in the NAFO Convention (2) was based; whereas that Decision should therefore be amended in order to take account of catches made by the former German Democratic Republic during the reference periods used in calculating the percentage allocations in the Annex to that Decision,

HAS DECIDED AS FOLLOWS:

Sole Article

The Annex to Decision 87/277/EEC is replaced by the Annex to this Decision.

Done at Brussels, . . .

For the Council

The President

(2) OJ No L 135, 23. 5. 1987, p. 29.
## Spitsbergen — Bear Island cod (ICES division II b)

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<th>Germany (%)</th>
<th>Spain (%)</th>
<th>France (%)</th>
<th>Portugal (%)</th>
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Draft proposal for a

COUNCIL REGULATION (EEC) No . . .

of . . .
amending, as a result of German unification, certain Directives, Decisions and Regulations relating to transport by road, rail and inland waterway

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the European Economic Community has adopted a set of rules on transport by road, rail and inland waterway;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas certain Community legislation on transport by road, rail and inland waterway must be amended to take account of the special situation in that territory;

Whereas a specific time limit needs to be set for bringing the rules into force in the territory of the former German Democratic Republic into line with Community legislation;

Whereas the derogations provided for in this connection should be temporary and cause the least possible disturbance to the functioning of the common market;

Whereas the information on the situation of transport by road, rail and inland waterway in the territory of the former German Democratic Republic and on the rules governing such transport is insufficient to permit the type of adjustment or the extent of the derogations to be definitively established, and whereas a simplified procedure must be laid down to allow for changes in the situation;

Whereas the provisions of Council Directives 74/561/EEC (4) and 74/562/EEC (5), as last amended, in both cases, by Directive 89/438/EEC (6) should be applied in such a way as to respect both the established rights of operators already working in the territory of the former German Democratic Republic and to allow recently established operators time in which to meet some of the provisions concerning financial standing and professional competence;

Whereas, from the date of German unification, road vehicles registered in the territory of the former German Democratic Republic have the same legal status as road vehicles registered in the other Member States; whereas Council Regulation (EEC) No 3821/85 (7) lays down certain provisions in respect of recording equipment installed in road vehicles; whereas such equipment is installed in new vehicles at the time of manufacture and thus presents no problem, while a reasonable transitional period must be provided to enable such equipment to be fitted to vehicles registered in the territory of the former German Democratic Republic before unification, account being taken of the additional cost and of the technical capacity of approved workshops;

Whereas the name 'Deutsche Reichsbahn (DR)' should be inserted into all Community legislation which expressly mentions the names of railway undertakings; whereas a date should be set on which the rules in question become applicable;

Whereas Community legislation on structural improvements in inland waterway transport must be amended to take account of the special situation of inland waterway transport operators established in the territory of the former German Democratic Republic,

HAS ADOPTED THIS REGULATION:

Article 1

The following Article 5a is inserted in Directive 74/561/EEC:

(1) OJ No C . . .
(2) OJ No C . . .
(3) OJ No C . . .
1. Road haulage operators who have been established in the territory of the former German Democratic Republic for at least two years prior to the unification of Germany shall be exempt from the requirement to furnish proof that they satisfy the provisions laid down in Article 3.

2. Road haulage operators who have become established in the territory of the former German Democratic Republic in the course of the two years preceding the unification of Germany shall comply with the provisions of Article 3 (3) (c) and (4) before 1 January 1992.

The following Article 4a is inserted in Directive 74/562/EEC:

1. Road passenger transport operators who have been established in the territory of the former German Democratic Republic for at least two years prior to the unification of Germany shall be exempt from the requirement to furnish proof that they satisfy the provisions laid down in Article 2.

2. Road passenger transport operators who have become established in the territory of the former German Democratic Republic in the course of the two years preceding the unification of Germany shall comply with the provisions of Article 2 (3) (c) and (4) before 1 January 1992.

The following Article 20a is inserted in Regulation (EEC) No 3821/85:

This Regulation does not apply to vehicles registered in the territory of the former German Democratic Republic before 1 January 1991 until 1 January 1994.

The following is added at the end of Article 8 (1) of Council Directive 80/1263/EEC of 4 December 1980 on the introduction of a Community driving licence (1):

'The provisions of this paragraph apply also to the driving licences issued by the former German Democratic Republic.'

The list of railway undertakings which appears in:

- Article 19 (1) of Council Regulation (EEC) No 1191/69 of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway (1),
- Article 3 (1) of Council Regulation (EEC) No 1192/69 of 26 June 1969 on common rules for the normalization of the accounts of railway undertakings (1),
- Annex II point A.1 'Rail — Main networks' to Council Regulation (EEC) No 1108/70 of 4 June 1970 introducing an accounting system for expenditure on infrastructure in respect of transport by rail, road and inland waterway (1),
- Article 2 of Council Regulation (EEC) No 2830/77 of 12 December 1977 on the measures necessary to achieve comparability between the accounting systems and annual accounts of railway undertakings (1),
- Article 1 (1) of Council Decision 75/327/EEC of 20 May 1975 on the improvement of the situation of railway undertakings and the harmonization of rules governing financial relations between such undertakings and States (1),
- Article 1 (1) of Council Decision 83/418/EEC of 25 July 1983 on the commercial independence of the railways in the management of their international passenger and luggage traffic (1),

is hereby replaced by the following list:

- Société Nationale des Chemins de Fer Belges (SNCB)/Nationale Maatschappij der Belgische Spoorwegen (NMBS),
- Danse Statsbaner (DSB),
- Deutsche Bundesbahn (DB),
- Deutsche Reichsbahn (DR),
- Greek Railway Company,
- Red Nacional de los Ferrocarriles Españoles (RENFE),

(6) OJ No L 152, 12. 6. 1975, p. 3.
Council Regulation (EEC) No 1101/89 of 27 April 1989 on structural improvements in the inland waterway transport (1) is hereby amended as follows:

1. The following paragraph is added to Article 6 (4):

'For German vessels registered in the territory of the former German Democratic Republic at the date of German unification the first year for the payment of the contribution shall be 1991.'

2. The following paragraph 8 is added to Article 6:

'8. If within six months following German unification the German Government proposes that a scrapping action be organized for vessels in its fleet that were, prior to unification, registered in the former German Democratic Republic it shall communicate this request to the Commission. The Commission shall lay down the rules for the scrapping action based upon the same principles as applied in Commission Regulation (EEC) No 1102/89 (1).

(1) OJ No L 116, 28. 4. 1989, p. 30.'

3. The following paragraph is added to Article 8 (3) (a):

'The conditions set out in paragraphs 1 and 2 shall also not apply to vessels which have been under construction in the territory of the former German Democratic Republic at the date of 1 September 1990, if the date of their delivery and commissioning is not later than 31 January 1991.'

4. The following paragraph is added to Article 8 (3) (b):

'The conditions set out in paragraphs 1 and 2 shall apply to vessels which become part of the German fleet upon German unification and which were not registered in the former German Democratic Republic on 1 September 1990.'

5. The following paragraph 5 is added to Article 10:

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'5. The Member States shall adopt the measures necessary to ensure compliance with the provisions of the

(1) OJ No L 116, 28. 4. 1989, p. 25.'
This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, ...  

For the Council  
The President
Proposal for a
COUNCIL REGULATION (EEC) No . . .

of . . .
amending, as a result of German unification, Regulation (EEC) No 4055/86 applying the principle of
freedom to provide services to maritime transport between Member States and between Member
States and third countries

(90/C 248/08)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 84 (2)
thereof,

Having regard to the proposal from the Commission (')

Having regard to the opinion of the European Parliament (2)

Having regard to the opinion of the Economic and Social Committee (3)

Whereas the European Economic Community has adopted a set of rules governing maritime transport;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas Council Regulation (EEC) No 4055/86 (4) must be amended to take account of the special situation arising from German unification in respect of bilateral agreements concluded between the former German Democratic Republic and third countries;

Whereas the agreements concluded by the former German Democratic Republic relate only to cargoes originating in that country; whereas, therefore, the rights which may be enjoyed by third countries as a result of cargo-sharing arrangements relate only to cargoes originating in the territory of the former German Democratic Republic;

Whereas the time allowed for Member States to adjust agreements relating to trades not governed by the United Nations Code of Conduct for Liner Conferences must be extended in the case of bilateral agreements concluded with third countries by the former German Democratic Republic to enable Germany to complete the necessary negotiations for adjusting those agreements,

HAS ADOPTED THIS REGULATION:

Article 1

The following subparagraph is hereby added to Article 4 (1) (b) of Regulation (EEC) No 4055/86:

'Agreements concluded by the former German Democratic Republic shall be adjusted as soon as possible and in any event not later than 1 January 1995.'

Article 2

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, . . .

For the Council

The President

(1) OJ No C . . .
(2) OJ No C . . .
(3) OJ No C . . .
Proposal for a
COUNCIL REGULATION

of . . .

introducing a transitional period for the implementation of certain Community acts in the energy sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 103 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, under the various regulations relating to the energy sector the Member States are required to provide the Commission with specific information in accordance with defined procedures;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic; whereas such full application may cause difficulties owing to the level of regional economic development;

Whereas Article 8c of the Treaty invites the Commission to take into account the extent of the effort that certain economies showing differences in development will have to sustain during the period of establishment of the internal market;

Whereas derogations of this type must be temporary and cause the least possible disturbance to the functioning of the common market;

Whereas the information on the situation regarding the rules applicable on the territory of the former German Democratic Republic and on the situation regarding the energy industry in that territory is insufficient to permit the scope of those derogations to be definitively established, and whereas, to allow for changes in the situation, a simplified procedure must be provided for in accordance with the third indent of Article 145 of the Treaty for the adoption and management of those derogations,

HAS ADOPTED THIS REGULATION:

Article 1

Germany shall not be required to pass on the information covered by the Regulations and Decisions referred to in the Annex, in respect of the territory of the former German Democratic Republic.

Article 2

The exemption referred to in Article 1 is valid for a period of 12 months dating from the date of German unification.

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, . . .

For the Council

The President

(1) OJ No C . . .
(2) OJ No C . . .
(3) OJ No C . . .
ANNEX

1. Formation of prices and information and consultation on prices


81/883/EEC: Commission Decision of 14 October 1981 (OJ No L 324, 12.11.1981, p. 19) amending Decision 77/190/EEC as regards the information to be provided as to the prices of crude oil and petroleum products in the Community

2. Communication on imports of hydrocarbons


3. Communication on exports of hydrocarbons


Draft proposal for a
COUNCIL REGULATION

of . . .

concerning the activities of the Structural Funds in the territory of the former German Democratic Republic

(90/C 248/09)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43, 127, 130d, 130e and 153 thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas any derogations adopted for that purpose must be temporary and cause the least possible disturbance to the functioning of the common market;

Whereas the necessary adjustments to the Community rules concerning objective 5a are the subject of Regulation (EEC) No . . ./90 (4);

Whereas, pursuant to Article 19 of Regulation (EEC) No 2052/88, the Council must, on a proposal from the Commission, re-examine the said Regulation not later than 31 December 1993,

HAS ADOPTED THIS REGULATION:

Article 1


Article 2

1. Not later than 31 January 1991, Germany shall submit to the Commission a plan covering all structural operations envisaged under Article 1 of Regulation (EEC) No 2052/88 in the territory of the former German Democratic Republic for the period ending on 31 December 1993.

(1) OJ No C . . .
(2) OJ No C . . .
(3) OJ No C . . .
The plan shall contain:
— an analysis of the socio-economic situation based on the available data,
— a description of the main priorities adopted for Community assistance,
— the information concerning measures under objective 5a,
— indications of how the envisaged assistance from the Funds, the European Investment Bank and the other financial instruments is to be used to realize the plan.

2. The plan may also provide for measures to be taken in pursuit of the objectives envisaged by the Community initiatives provided for in Article 11 of Regulation (EEC) No 4253/88.

3. A Community support framework for the structural operations, covering the period ending on 31 December 1993, shall be drawn up within a period of three months starting on the date of submission of the plan.

4. The Community support framework shall be drawn up in accordance with Article 8 (5) of Regulation (EEC) No 2052/88 and Articles 8 (3) and 11 of Regulation (EEC) No 4253/88.

5. By way of exception, given the absence of adequate statistical information on the territory in question, the Community support framework shall determine the regions and areas covered by structural measures falling within objectives 1, 2 and 5b.

Article 4

1. The Community expenditure considered necessary to finance the action which is the subject of this Regulation through the ERDF, the ESF and the EAGGF Guidance Section shall amount to ECU 3 000 million (1991 prices) for 1991 to 1993.

To this amount shall be added, for the EAGGF Guidance Section, the amount of ECU 25 million (1991 prices) considered necessary for the set-aside scheme.

2. The commitment appropriations corresponding to the amount referred to in paragraph 1 shall be in addition to the amounts referred to in Article 12 (2) of Regulation (EEC) No 2052/88.

They shall not be taken into account for the application of paragraphs 3 to 6 of that Article.

Article 5

Verification of compliance with Article 7 (1) of Regulation (EEC) No 2052/88 shall be carried out on the basis of the amendments made to Community provisions to take account of the special situation in the territory of the former German Democratic Republic.

Article 6

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, . . .

For the Council
The President
Proposal for a
COUNCIL DIRECTIVE
of...
relating to the transitional measures applicable in Germany in the field of workers' health and safety

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118 thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the European Economic Community has adopted a number of rules on the health and safety of workers;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas a special period must be provided for bringing the rules in force in the territory of the former German Democratic Republic into line with Community acts;

Whereas the information on the rules applicable and the social and industrial situation in the former German Democratic Republic is insufficient to permit the extent of the derogations to be definitively established; whereas, to allow for changes in the situation, a simplified procedure must be laid down pursuant to the third indent of Article 145 of the Treaty for adopting and administering such derogations,

HAS ADOPTED THIS DIRECTIVE:

Article 1
Germany shall adopt, in respect of the territory of the former German Democratic Republic, the laws, regulations and administrative provisions necessary to comply with the Directives referred to in the Annex before 31 December 1992. It shall immediately inform the Commission thereof, which shall inform the other Member States.

Article 2
The Commission may, in accordance with the procedure set out in Article 3, make any technical amendments necessary to the derogations from Community rules referred to in this Directive in order to ensure that all the Community rules in the field covered by this Directive are applied in the territory of the former German Democratic Republic. The aim of such amendments must be to ensure consistency in taking account of the special circumstances of that territory as regards complying with the basic principles contained in this Directive.

Article 3
For the purposes of Article 2, the Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.
Article 4


Its reports shall be forwarded to the Commission which shall communicate them to the other Member States.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, . . .

For the Council
The President
ANNEX

Directives to which a derogation applies until 31 December 1992 on the territory of the former German Democratic Republic


Proposal for a
COUNCIL DIRECTIVE

of . . .

on the transitional measures applicable in Germany with regard to certain Community provisions
relating to the protection of the environment, in connection with the internal market

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the European Economic Community has adopted a set of rules concerning the protection of the environment;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas, however, with regard to the particular situation existing in that territory, it is necessary to allow Germany to lay down a specific time limit within which certain rules in force in that territory must be brought into conformity with Community law;

Whereas this applies more especially in the case of the Community system established by the Directives on the classification, packaging and labelling of dangerous substances and in the case of certain Community provisions on waste;

Whereas any derogations provided for in that connection must be temporary and cause the least possible disturbance to the functioning of the common market;

Whereas information on the rules in force in the former German Democratic Republic and on the state of the environment is insufficient to permit the extent of the derogations to be definitively established; whereas, in order to allow for changes in the situation, a simplified procedure must be laid down,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. By way of derogation from Council Directive 67/548/EEC (4) Germany is authorized to take the measures necessary to ensure compliance with the provisions of that Directive in the territory of the former German Democratic Republic by 31 December 1992 at the latest.

2. Germany shall take the measures necessary to ensure that substances and preparations which do not comply with Directive 67/548/EEC are not introduced into the territory of the Community other than the territory of the former German Democratic Republic. These measures must be compatible with the Treaty, and in particular with the objectives of Article 8a thereof, and must not create checks and formalities at the borders between the Member States.

Any substance which does not appear on the list provided for in Article 13 of Directive 67/548/EEC (Einens) must be notified in accordance with the provisions of the abovementioned Directive. The conditions governing the notification of substances existing on the market of the former German Democratic Republic prior to 18 September 1981 which do not appear on the Einens list shall be laid down by the Commission.

Article 2

1. By way of derogation from the provisions of Article 8 of Council Directive 75/442/EEC (5) and Article 9 of Council Directive 78/319/EEC (6) Germany is authorized to take the measures necessary to ensure compliance with these obligations in the territory of the former German Democratic Republic by 31 December 1995 at the latest.

2. Germany shall submit to the Commission not later than 31 December 1991 improvement plans which conform to the requirements laid down in Article 6 of Directive

(2) OJ No L 84, 31. 3. 1978, p. 43.

(*) OJ No C . . .
(1) OJ No C . . .
(2) OJ No C . . .
Article 3

Germany shall forthwith inform the Commission of the measures taken pursuant to Articles 1 and 2 and the Commission shall communicate them to the other Member States.

They must respect the principles laid down in those Directives.

3. The measures referred to in paragraph 1 may be taken up to 31 December 1992 or 31 December 1995 respectively. They shall not apply after that date, as the case may be.

Article 4

1. It may be decided, in accordance with the procedure provided for in Article 21 of Directive 67/548/EEC or with that provided for in Article 19 of Directive 78/319/EEC, to take measures which supplement or adapt the measures which are the subject of this Directive.

2. The purpose of such supplements or adaptations must be to ensure that the Directives referred to in Articles 1 and 2 are implemented in a consistent manner in the territory of the former German Democratic Republic taking into account the specific circumstances prevailing in that territory and the particular difficulties encountered in connection with the implementation of those Directives.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, . . .

For the Council

The President
Proposal for a
COUNCIL DIRECTIVE

of . . .
on the transition measures applicable in Germany with regard to certain Community provisions
relating to the protection of the environment

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130s thereof,

Having regard to the proposal from the Commission ('),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the European Economic Community has adopted a set of rules concerning the protection of the environment;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas, however, it is necessary to take account of the particular situation in that territory as regards the state of the environment;

Whereas, to this end, it is necessary to allow Germany to lay down a specific time limit within which certain rules in force in that territory must be brought into conformity with Community law;

Whereas the derogations provided for in that connection must be temporary and cause the least possible disturbance to the functioning of the common market;

Whereas the state of the environment in the territory of the former German Democratic Republic calls for considerable improvement in order to comply with the quality standards, limit values and other environmental protection requirements laid down in Community legislation;

Whereas the time needed for adaptation depends both on the situation in that territory and on the measures required in order to comply with the Community requirements; whereas the time limits cannot therefore be determined in a uniform manner;

Whereas the measures to be taken in the various fields covered by this Directive often call not only for changes in production but also for the construction of new installations; whereas these measures presuppose the existence of an appropriate administrative structure and the establishment of networks for measuring and monitoring; whereas, as a result, a period of several years must be envisaged in order to arrive at a situation which complies with Community law in the environmental field;

Whereas information on the rules in force in the territory of the former German Democratic Republic and on the state of the environment is insufficient to permit the extent of the derogations to be definitively established; whereas, in order to allow for changes in the situation, a simplified procedure must be laid down,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Quality of surface water


2. Germany shall submit to the Commission, not later than 31 December 1992, an improvement plan describing how the objectives in the Directives referred to in paragraph 1 are to be achieved within the prescribed time limit.

Article 2

Quality of bathing water

By way of derogation from Council Directive 76/160/EEC (6) Germany is authorized to provide, in respect of the territory of the former German Democratic Republic, that the obligations arising out of that Directive must be complied with by 31 December 1993 at the latest.

(') OJ No C . . .
(2) OJ No C . . .
(3) OJ No C . . .
(4) OJ No L 194, 25. 7. 1975, p. 34.
(5) OJ No L 271, 29. 10. 1979, p. 44.

S. 4/90
Article 3
Discharges of dangerous substances

1. By way of derogation from Council Directives 76/464/EEC (1), 82/176/EEC (2), 83/513/EEC (3), 84/156/EEC (4), 84/491/EEC (5), 86/280/EEC (6) and 88/347/EEC (7), Germany is authorized to apply, in respect of the territory of the former German Democratic Republic, the provisions laid down in those Directives to industrial installations which, on the date of German unification, are located in that territory, from 31 December 1992 at the latest.

2. An existing plant whose capacity for handling the substances is significantly increased is considered to be a new plant within the meaning of Article 2 (g) of Directive 86/280/EEC.

3. As regards Directive 86/280/EEC, paragraphs 1 and 2 above apply only in respect of the substances listed in Annex II thereto.


Article 4
Quality of fish-farming waters

By way of derogation from Council Directive 78/659/EEC (8) Germany is authorized to provide, in respect of the territory of the former German Democratic Republic, that the obligations arising out of that Directive must be complied with as from 31 December 1992 at the latest.

Article 5
Wild birds

By way of derogation from Council Directive 79/409/EEC (9) Germany is authorized to undertake, for the territory of the former German Democratic Republic, the protection measures resulting from the obligations of Articles 3 and 4 of this Directive, by 31 December 1992 at the latest.

Within six months of the date of German unification, Germany will identify those territories which are envisaged to be classified as Special Protection Areas.

In anticipation of the entry into force of the protection measures under Articles 3 and 4 of the said Directive, Germany shall ensure that the conservation value of these territories will not be affected by the intervention of public authorities.

Article 6
Protection of groundwater against pollution

1. By way of derogation from Council Directive 80/68/EEC (10) Germany is authorized to provide, in respect of the territory of the former German Democratic Republic, that the obligations arising out of that Directive concerning the discharge of substances in Lists I and II as they stand on the date of unification must be complied with by 31 December 1995 at the latest.

2. The inventories of authorizations referred to in Article 15 of Directive 80/68/EEC must be completed as soon as possible and in any event by the end of the period provided for in paragraph 1 above.

3. Germany shall submit to the Commission, not later than 31 December 1992, a plan to prevent the introduction of substances in List I and to limit the introduction of substances in List II of Directive 80/68/EEC into the groundwaters referred to in this Article.

Article 7
Quality of water intended for human consumption

By way of derogation from Council Directive 80/778/EEC (11) Germany is authorized to provide, in respect of the territory of the former German Democratic Republic, that the obligations arising out of that Directive must be complied with by 31 December 1995 at the latest. However, Germany will endeavour to attain this objective from 31 December 1991. If the quality standards provided for in Directive 80/778/EEC have not been met by that date, Germany shall immediately submit to the Commission all the relevant information together with an improvement plan describing how compliance with the standards in the Directive is to be ensured by 31 December 1995 at the latest.

Article 8
Air quality values for sulphur dioxide and suspended particulates

By way of derogation from Council Directive 80/779/EEC (12) Germany is authorized to provide, in respect of the territory of the former German Democratic Republic, with regard to that Directive, that:

(1) OJ No L 129, 18. 5. 1976, p. 23.
(2) OJ No L 81, 27. 3. 1982, p. 29.
(4) OJ No L 74, 17. 3. 1984, p. 49.
(5) OJ No L 274, 17. 10. 1984, p. 11.
(6) OJ No L 181, 4. 7. 1986, p. 16.
(7) OJ No L 158, 25. 5. 1988, p. 35.
(10) OJ No L 20, 26. 1. 1980, p. 43.
— the obligations laid down in Article 3 (1) must be 
complied with by 31 December 1991 at the latest,
— the obligations laid down in Article 3 (2) to be 
met by 1 October 1982 and 1 April 1986 respectively 
must be complied with by 31 December 1991 and 31 December 
1995 at the latest.

Article 9

Major-accident hazards
82/501/EEC (1) Germany is authorized to provide, in 
respect of the territory of the former German Democratic 
Republic, that the obligations arising out of that Directive 
must be complied with, as regards the industrial activities 
which are performed there on the date of German 
unification, by 1 July 1992 at the latest.
2. As regards the industrial activities referred to in 
paragraph 1 above, Germany is authorized to provide that 
the supplementary declaration referred to in Article 9 (4) of 
Directive 82/501/EEC and in Article 2 (2) of Council 
Directive 87/216/EEC (2) must be submitted to the 
competent authority not later than 1 July 1994.

Article 10

Lead in the air
By way of derogation from Council Directive 
82/884/EEC (3) Germany is authorized to provide, in 
respect of the territory of the former German Democratic 
Republic, with regard to that Directive, that:
— the obligation laid down in Article 3 (1) must be 
complied with by 31 December 1991 at the latest,
— the obligation to inform the Commission laid down in 
Article 3 (2) must be complied with by 31 December 
1991 at the latest,
— the obligation laid down in the first sentence of 
Article 3 (3) to forward to the Commission plans for the 
progressive improvement of air quality must be complied 
with by 31 December 1992 at the latest,
— the obligation to achieve the limit values fixed in the 
Directive laid down in the third sentence of Article 3 (3) 
must be complied with by 1 July 1994 at the latest.

Article 11

Air pollution from industrial plants
By way of derogation from Council Directive 
84/360/EEC (4) Germany is authorized to lay down, in 
respect of the territory of the former German Democratic 
Republic, that the date taken into consideration in 
Article 2 (3) of that Directive for the definition of existing 
plants should be the date of German unification.

Article 12

Air quality standards for nitrogen dioxide
By way of derogation from Council Directive 
85/203/EEC (5) Germany is authorized to provide, in 
respect of the territory of the former German Democratic 
Republic, with regard to that Directive, that:
— the obligation to achieve the limit value for 
concentrations of nitrogen dioxide in the air laid down in 
Article 3 (1) must be complied with by 31 December 
1991 at the latest,
— the deadlines laid down in Article 3 (2) shall be extended 
to 31 December 1991 at the latest,
— the deadline for forwarding the improvement plans 
provided for in the first sentence of the second 
subparagraph of Article 3 (2) shall be fixed at 31 
December 1992 at the latest,
— the maximum period set out at the end of Article 3 (2) 
shall be extended to 31 December 1995 at the latest.

Article 13

Disposal of waste oils
By way of derogation from Council Directive 
87/101/EEC (6) Germany is authorized to provide, in 
respect of the territory of the former German Democratic 
Republic, with regard to that Directive, that the date taken 
into consideration in Article 3 for the definition of existing 
plants should be the date of German unification.

Article 14

Pollution by asbestos
By way of derogation from Council Directive 
87/217/EEC (7) Germany is authorized to provide, in 
respect of the territory of the former German Democratic 
Republic, with regard to that Directive, that:
— the obligations laid down in Article 14 (1) must be 
complied with by 31 December 1991 at the latest,
— the obligations laid down in Article 14 (2) must be 
complied with by 30 June 1993 at the latest.

(2) OJ No L 85, 28. 3. 1987, p. 36.
Article 15

Limitation of pollution from large combustion plants

1. By way of derogation from Council Directive 88/609/EEC (1) Germany is authorized to provide, in respect of the territory of the former German Democratic Republic, with regard to that Directive, that:

— in Article 2 (9) and (10) the date of 1 July 1987 shall be replaced by 1 July 1990,

— in Article 3 (1) the date of 1 July 1990 for drawing up programmes for reducing emissions shall be replaced by 1 July 1992.

2. In Annex I to Directive 88/609/EEC the reference to Germany is amended as follows:

<table>
<thead>
<tr>
<th>Member State</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany</td>
<td>5 000</td>
<td>2 000</td>
<td>1 500</td>
<td>—40</td>
<td>—60</td>
<td>—70</td>
<td>(1)</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
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</table>

(1) Germany must comply with the value shown under this heading from 1 January 1996 onwards.

3. In Annex II to Directive 88/609/EEC the reference to Germany is amended as follows:

<table>
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<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany</td>
<td>1 090</td>
<td>872</td>
<td>654</td>
<td>—20</td>
<td>—40</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

(1) Germany must comply with the value shown under this heading from 1 January 1996 onwards.

Article 16

Information

Germany shall forthwith inform the Commission of the measures taken pursuant to Articles 1 to 15 and the Commission shall communicate them to the other Member States.

Article 17

Adaptation

1. Measures which supplement or adapt the measures which are the subject of this Directive may be adopted as follows:

— as regards Article 5, in accordance with the procedure provided for in Article 17 of Directive 79/409/EEC,

— as regards Article 7, in accordance with the procedure provided for in Article 15 of Directive 80/778/EEC,

— as regards Article 8, in accordance with the procedure provided for in Directive 80/779/EEC,

— as regards Article 9, in accordance with the procedure provided for in Article 16 of Directive 82/501/EEC,

— as regards Article 10, in accordance with the procedure provided for in Article 11 of Directive 82/884/EEC,

— as regards Article 12, in accordance with the procedure provided for in Article 14 of Directive 85/203/EEC,

— as regards Article 14, in accordance with the procedure provided for in Article 12 of Directive 87/217/EEC.

2. For cases not covered by the procedures referred to in paragraph 1 the supplementing measures and adaptations to the measures which are the subject of this Directive may be adopted in accordance with the following procedure after convening an ad hoc committee composed of representatives of the Member States and chaired by a representative of the Commission:

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

3. The purpose of the supplementary measures or adaptations referred to in paragraphs 1 and 2 shall be to ensure that the Directives in question are implemented in a consistent manner in the territory of the former German Democratic Republic taking into account the specific situation in that territory and the particular difficulties encountered in connection with the implementation of these Directives. They must respect the principles laid down in these Directives.

4. The measures referred to in paragraphs 1 and 2 may not be adopted after the deadline laid down in the respective Directives. They shall not apply beyond that date.

Article 18

This Directive is addressed to the Member States.

Done at Brussels, . . .

For the Council
The President
The declaration by the Commission on the occasion of German unification on 3 October 1990 completes the Commission’s communications and proposals concerning the extension of Community membership to the former German Democratic Republic.

Two communications from the Commission cover respectively the Commission’s views on the general implications for the Community of German unification (SEC/90/751) and the specific implications of the German State Treaty introducing economic, monetary and social union in the two Germanys (SEC/90/1138).

The Commission’s proposals for transitional measures are contained in the package of measures (COM(90) 400), of which the first part constitutes the explanatory memorandum, the second sector-by-sector explanatory memorandum, the third the financial aspects and the fourth part the proposals for legislation.