

COUNCIL DIRECTIVE

of 4 December 1990

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

(90/660/EEC)

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 specific situation existing in that territory, it is necessary to allow the Federal Republic of 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 also in the case of the sulphur content of certain combustible liquids;

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 in accordance with the third indent of Article 145 of the Treaty,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. By way of derogation from Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances ⁽¹⁾ as last amended by Directive 90/517/EEC ⁽²⁾, the Federal Republic of 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. The Federal Republic of Germany shall take the measures necessary to ensure that substances and preparations which do not comply with Directive 67/548/EEC are not placed on 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 Eines list provided for in Article 13 of Directive 67/548/EEC must be notified in accordance with the provisions of that 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 Eines list shall be laid down by the Commission.

Article 2

1. By way of derogation from Article 2 (1) of Council Directive 75/716/EEC of 24 November 1975 on the

(1) OJ No L 263, 26. 9. 1990, p. 40, as amended on 25 October 1990 and on 28 November 1990.

(2) Opinion delivered on 24 October 1990 (not yet published in the Official Journal) and Decision of 21 November 1990 (not yet published in the Official Journal).

(3) Opinion delivered on 20 November 1990 (not yet published in the Official Journal).

(4) OJ No 196, 16. 8. 1967, p. 1.

(5) OJ No L 289, 19. 10. 1990, p. 32.

approximation of the laws of the Member States relating to the sulphur content of certain liquid fuels ⁽¹⁾, as amended by Directive 87/219/EEC ⁽²⁾, the Federal Republic of Germany shall be authorized, in respect of the territory of the former German Democratic Republic, to exempt producers established in that territory on the date of unification from the obligation to comply with the limit value for the sulphur content of gas oil.

The German authorities may grant such authorization only in cases where compliance with the limit value for the sulphur content of gas oil would be an unreasonable requirement for the producer concerned. Authorization can not be granted for values exceeding the limit of 0,5 % sulphur content limit. All such authorizations must have a cut-off date and terminate by 31 December 1994 at the latest.

2. The Federal Republic of Germany shall take the necessary measures to ensure that gas oil which does not comply with Directive 75/716/EEC is excluded from Community territory other than the territory referred to in paragraph 1. 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.

Article 3

The Federal Republic of Germany shall forthwith inform the Commission of the measures taken pursuant to Articles 1 and 2, which the Commission shall communicate to the other Member States and to the European Parliament.

Article 4

1. Adjusting measures to fill obvious loopholes and to make technical adjustments to those provided for in this

Directive may be adopted in accordance with the procedure laid down in Article 21 of Directive 67/548/EEC.

2. Adjusting measures must be designed to ensure coherent application of the Directives referred to in Articles 1 and 2 in the territory of the former German Democratic Republic, with due regard for the specific circumstances in that territory and the special difficulties involved in the application of those Directives.

They must be consistent with the principles of those Directives and be closely related to one of the derogations provided for by this Directive.

3. The measures referred to in paragraph 1 may be adopted not later than 31 December 1992. Their applicability shall be limited to the same date; however, as regards the Directive referred to in Article 2, that date shall be 31 December 1994.

4. Any Member State may refer any difficulties to the Commission. The Commission shall, as a matter of urgency, examine the question and submit its conclusions, possibly accompanied by appropriate measures.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 4 December 1990.

For the Council

The President

G. DE MICHELIS

⁽¹⁾ OJ No L 307, 27. 11. 1975, p. 22.

⁽²⁾ OJ No L 91, 3. 4. 1987, p. 19.