

## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 27 September 1990

introducing interim measures relating to the unification of Germany

(Only the German text is authentic)

(90/481/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2684/90 of 17 September 1990 on interim measures applicable after the unification of Germany, in anticipation of the adoption of transitional measures by the Council either in cooperation with, or after consultation of, the European Parliament<sup>(1)</sup>, and in particular Article 2 thereof,

Having regard to Council Directive 90/476/EEC of 17 September 1990 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<sup>(2)</sup>, and in particular Article 2 thereof,

Whereas under these provisions the Commission may, under certain conditions, authorize Germany provisionally to keep in force in the territory of the former German Democratic Republic legislation which does not comply with a Community act pending the entry into force of the transitional measures proposed on 21 August 1990 by the Commission to the Council;

Whereas the Commission should make use of this possibility when the specific situation in that territory is such that it is not possible to wait for the entry into force of the transitional measures; whereas these measures must therefore enter into force with effect from 3 October 1990, the date of the unification of Germany;

Whereas the measures adopted in this Decision apply without prejudice to the decisions to be taken by the Council acting on the Commission's proposals on transitional measures and without prejudice to the measures taken or to be taken by the Commission under the other

provisions of the abovementioned Regulation and Directive,

HAS ADOPTED THIS DECISION:

*Article 1*

1. Germany is authorized provisionally to maintain in force in the territory of the former German Democratic Republic legislation which does not comply with the Community acts referred to in the Annex and as specified therein.

2. Germany shall take all the measures necessary to ensure that products which do not comply with the Community acts referred to in the Annex under II.2, III and IX.1.a are not placed on the market in the territory of the Community except in the territory of the former German Democratic Republic; these measures shall be compatible with the Treaty, in particular the objectives of Article 8a, and shall not give rise to controls and formalities at the frontiers between the Member States.

*Article 2*

This Decision shall take effect on 3 October 1990; it shall apply until the entry into force of the transitional measures to be adopted by the Council acting on the Commission's proposals, and until no later than 31 December 1990.

*Article 3*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 27 September 1990.

*For the Commission*

*The President*

Jacques DELORS

<sup>(1)</sup> OJ No L 263, 26. 9. 1990, p. 1.

<sup>(2)</sup> OJ No L 266, 28. 9. 1990, p. 1.

**ANNEX****I. EXTERNAL ASPECTS****Interim tariff measures for certain countries in Central and Eastern Europe**

Authorization not to apply the Common Customs Tariff duties and all other charges having equivalent effect, with the exception of anti-dumping duties, for goods originating in Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia within the limits and subject to the conditions specified in Articles 1 and 2 of the proposal for a Regulation on the introduction of transitional tariff measures for these countries and in the Annexes thereto and provided that the rules contained in Commission Regulation (EEC) No 4142/87 are applied.

**II. 2. INTERNAL MARKET****Technical rules**

1. Authorization not to apply in the territory of the former German Democratic Republic the Directives listed in Annexes A and B to the proposal for a Council Directive on transitional measures applicable in Germany in the context of technical harmonization as specified in Articles 1 and 2 of the proposal.
2. Authorization not to apply in the territory of the former German Democratic Republic the Directives listed in Annex to the proposal for a Directive on transitional measures applicable in Germany in the context of the harmonization of technical rules for certain products as specified in Articles 1 and 2 of the proposal for a Directive.

**II. 6. RECOGNITION OF DIPLOMAS**

Authorization not to apply in the territory of the former German Democratic Republic Articles 2 to 5 of Council Directive 75/363/EEC, as last amended by Directive 89/594/EEC.

**II. 9. CONSUMERS**

Authorization not to apply in the territory of the former German Democratic Republic Council Decision 89/45/EEC, to the extent and subject to the conditions specified in the proposal for a Decision set out in the Commission communication to the Council of 21 August 1990 on the Community and German unification.

**III. COMMON AGRICULTURAL POLICY****1. Milk and milk products**

Authorization granted to Germany as specified below:

1. The German intervention agency shall continue to buy butter classed as 'Exportqualität' manufactured in the territory of the former German Democratic Republic.
2. The national arrangements for limiting milk production set up by the former German Democratic Republic shall continue to apply.
3. The national arrangements for collecting the coresponsibility levy shall continue to apply in the territory of the former German Democratic Republic.

(Proposal for a Council Regulation 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.)

- Article 9, 1st and 2nd paragraphs
- Annex III, point (II)

## 2. Agricultural structures

As regards Regulation (EEC) No 797/85 on improving the efficiency of agricultural structures, without prejudice to the granting of an EAGGF assistance for such measures, Germany is authorized:

1. not to apply the arrangements specified for in Title 01 and 02 in the territory of the former German Democratic Republic;
2. to apply the system of aid for holdings as specified below:
  - (a) when family holdings are 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.
  - (b) The conditions in the second subparagraph of Article 3 (3), in Article 3 (4) and in the first and second indents 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 and pig places on all the new or restructured holdings does not exceed the number of dairy cows and pig places previously held on the old holdings.
  - (c) 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.
  - (d) 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.
  - (e) A special system of aid for holdings in less-favoured areas defined according to criteria to be laid down by Germany may be applied. Until then, Title III shall not apply in the territory of the former German Democratic Republic.

(Proposal for a Council Regulation on the transitional measures and the adjustments required as a result of the integration of the territory of the former German Democratic Republic into the Community. Annex XII, point I.)

## 3. Agricultural harmonization

Authorization granted to Germany as specified below:

- (a) notwithstanding Council Directive 86/362/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on cereals: Annex I products whose hydrogen cyanide level exceeds that fixed in Annex II may be placed on the market in the territory of the former German Democratic Republic; this shall apply only to products originating in the territory of the former German Democratic Republic;

the permitted levels may under no circumstances exceed those applicable under the legislation of the former German Democratic Republic.

(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 former German Democratic Republic into the Community. Annex I, point I);

- (b) notwithstanding Articles 14, 15 and 16 and Article 26 of Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs:
  - (a) not to comply with the labelling provisions for additives, additive pre-mixtures and compound feedingstuffs to which additives produced in the territory in question have been added;
  - (b) to maintain the provisions applicable prior to unification under which the use of the following additives in feedingstuffs is authorized:
    - Olaquinox,
    - Nourseothricin,
    - Ergamur;

- (c) not to comply with the labelling provisions for straight feedingstuffs contained in Article 7 of Council Directive 77/101/EEC of 23 November 1976 on the marketing of straight feedingstuffs;
- (d) not to comply with the labelling provisions for compound feedingstuffs in Article 16 of Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs;
- (e) notwithstanding Articles 4 and 17 respectively of Council Directive 82/47/EEC of 30 June 1982 concerning certain products used in animal nutrition,
  - (a) to permit the use in feedingstuffs of protein products obtained from yeasts of the 'Candida' genus cultured on *n*-alkanes;
  - (b) not to comply with the labelling provisions for feedingstuffs produced in the territory of the former German Democratic Republic;

(For (b) — (e): 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 former German Democratic Republic into the Community. Annex III.)

- (f) Not to comply with the following provisions of Directive 66/400/EEC:
  - 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 traditional trade flows in order to meet the production requirements of undertakings in the former German Democratic Republic.
- (g) Not to comply with the following provisions of Directive 66/401/EEC:
  - 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. (*partim*) and *Vicia faba* L. (*partim*);
  - Article 16 in the case of traditional trade flows in order to meet the production requirements of undertakings in the former German Democratic Republic.
- (h) Not to comply with the following provisions of Directive 66/402/EEC:
  - 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';
  - Article 13 in the case of seed of *Hordeum vulgare* L.;
  - Article 16 in the case of traditional trade flows in order to meet the production requirements of undertakings in the former German Democratic Republic.
- (i) Not to comply with the following provisions of Directive 66/403/EEC:
  - 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';
  - Article 16 in the case of traditional trade flows in order to meet the production requirements of undertakings in the former German Democratic Republic.
- (j) Not to comply with the following provisions of Directive 69/208/EEC:
  - 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 traditional trade flows in order to meet the production requirements of undertakings in the former German Democratic Republic.

- (k) To market varieties of seed covered by Directives 66/400/EEC, 66/401/EEC, 66/402/EEC and 69/208/EEC that have been harvested in the territory of the former German Democratic Republic without having certified them or carried out controls as required by those Directives, if the conditions laid down in the Annexes to Decisions 85/355/EEC and 85/356/EEC relating to the former German Democratic Republic are satisfied.
- (l) Notwithstanding Directives 70/457/EEC and 70/458/EEC, to allow the certification and marketing in the territory of the former German Democratic Republic of the varieties accepted by the authorities of the former German Democratic Republic prior to unification on the basis of criteria other than those specified in the above Directives. This shall also apply to varieties which have not been officially accepted but had been marketed or sown in that territory prior to unification.
- (m) Not to comply with the following provisions of Directive 70/458/EEC :
- Article 20 (1), in respect of seeds harvested before the unification of Germany ;
  - Article 32 (1) (d) in the case of traditional trade flows in order to meet the production requirements of undertakings in the former German Democratic Republic.
- (n) Not to comply with Article 3 (1) of Directive 68/193/EEC.
- (o) Not to comply with Article 4 (1) of Directive 66/404/EEC.
- (p) Not to comply with Article 5 (1) of Directive 71/161/EEC.

(For (f) — (p) : Proposal for a Council Directive on the transitional measures and adjustments required to the Directives on plant health, 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, Annex II.)

#### IV. FISHERIES

Authorization granted to Germany as specified below :

1. To pay advances to producers' organizations as stipulated in Article 1 of the proposal for a Council Regulation introducing various measures concerning the implementation of the common fisheries policy in the former German Democratic Republic.
2. To insert the 'Mecklenburg-Vorpommern' coastal region of Germany in points I.1 and II.1 of Annex II to Regulation (EEC) No 4028/86 of 18 December 1986 (Article 2 of the abovementioned proposal).

#### V. TRANSPORT

Authorization not to apply in the territory of the former German Democratic Republic :

1. (a) Council Regulation (EEC) No 3821/85 <sup>(1)</sup>
  - (b) Council Regulation (EEC) No 1101/89 <sup>(2)</sup>
- to the extent and subject to the conditions stipulated in the proposal for a Regulation amending, as a result to Germany unification, certain Directives, Decisions and Regulations relating to transport by road, rail and inland waterway <sup>(3)</sup>
2. (a) Council Directive 74/561/EEC <sup>(4)</sup>, as last amended by Directive 89/438/EEC <sup>(5)</sup>, and
  - (b) Council Directive 74/562/EEC as last amended by Directive 89/438/EEC

provided that the authorization applies only to undertakings established in the territory of the former German Democratic Republic before the date of unification of Germany.

<sup>(1)</sup> OJ No L 370, 31. 12. 1985, p. 8.

<sup>(2)</sup> OJ No L 116, 28. 4. 1989, p. 25.

<sup>(3)</sup> OJ No L 308, 19. 11. 1974, p. 18.

<sup>(4)</sup> OJ No L 212, 22. 7. 1989, p. 101.

<sup>(5)</sup> OJ No L 308, 19. 11. 1974, p. 23.

## VIII. SOCIAL AFFAIRS

## Workers' health and safety

Authorization not to apply in the territory of the former German Democratic Republic the Directives listed in the Annex to the proposal for a Directive relating to the transitional measures applicable in Germany in the field of workers' health and safety.

## IX. ENVIRONMENT

Authorization not to apply in the territory of the former German Democratic Republic:

1. (a) Council Directive 67/548/EEC<sup>(1)</sup>
- (b) Council Directive 74/442/EEC<sup>(2)</sup>
- (c) Council Directive 75/440/EEC<sup>(3)</sup> and Council Directive 79/869/EEC<sup>(4)</sup>
- (d) Council Directive 76/160/EEC<sup>(5)</sup>
- (e) Council Directives 76/464/EEC<sup>(6)</sup>, 82/176/EEC<sup>(7)</sup>, 83/513/EEC<sup>(8)</sup>, 84/156/EEC<sup>(9)</sup>, 84/491/EEC<sup>(10)</sup>, 86/280/EEC<sup>(11)</sup> and 88/347/EEC<sup>(12)</sup>
- (f) Council Directive 78/659/EEC<sup>(13)</sup>
- (g) Council Directive 79/409/EEC<sup>(14)</sup>
- (h) Council Directive 80/68/EEC<sup>(15)</sup>
- (i) Council Directive 80/778/EEC<sup>(16)</sup>
- (j) Council Directive 80/779/EEC<sup>(17)</sup>
- (k) Council Directive 82/501/EEC<sup>(18)</sup>
- (l) Council Directive 82/884/EEC<sup>(19)</sup>
- (m) Council Directive 85/203/EEC<sup>(20)</sup>
- (n) Council Directive 87/217/EEC<sup>(21)</sup>

to the extent and subject to the conditions specified in the proposals for a 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 and for a Directive on the transitional measures applicable in Germany with regard to certain Community provisions relating to the protection of the environment.

2. (a) Council Directive 84/360/EEC<sup>(22)</sup> as regards the application of the provisions concerning new plants to the plants which have been built or authorized on the territory of the former German Democratic Republic prior to the date of the unification of Germany,
- (b) Council Directive 87/101/EEC<sup>(23)</sup> as regards the application of the measures provided for in that Directive to the undertakings referred to in Article 6 of Directive 75/439/EEC existing before the date of the unification of Germany,
- (c) Council Directive 88/609/EEC<sup>(24)</sup> as regards the application of the provisions concerning new plants to plants for which the original construction licence or, in the absence of such a procedure, the original operating licence was granted before 1 July 1990.

<sup>(1)</sup> OJ No L 169, 16. 8. 1967, p. 1.  
<sup>(2)</sup> OJ No L 194, 25. 7. 1975, p. 39.  
<sup>(3)</sup> OJ No L 194, 25. 7. 1975, p. 34.  
<sup>(4)</sup> OJ No L 271, 29. 10. 1979, p. 44.  
<sup>(5)</sup> OJ No L 31, 5. 2. 1976, p. 1.  
<sup>(6)</sup> OJ No L 129, 18. 5. 1976, p. 23.  
<sup>(7)</sup> OJ No L 81, 27. 3. 1982, p. 29.  
<sup>(8)</sup> OJ No L 291, 24. 10. 1983, p. 1.  
<sup>(9)</sup> OJ No L 74, 17. 3. 1984, p. 49.  
<sup>(10)</sup> OJ No L 274, 17. 10. 1984, p. 11.  
<sup>(11)</sup> OJ No L 181, 4. 7. 1986, p. 16.  
<sup>(12)</sup> OJ No L 158, 25. 5. 1988, p. 35.  
<sup>(13)</sup> OJ No L 222, 14. 8. 1978, p. 1.  
<sup>(14)</sup> OJ No L 103, 25. 4. 1979, p. 1.  
<sup>(15)</sup> OJ No L 20, 26. 1. 1980, p. 43.  
<sup>(16)</sup> OJ No L 229, 30. 8. 1980, p. 11.  
<sup>(17)</sup> OJ No L 229, 30. 8. 1980, p. 30.  
<sup>(18)</sup> OJ No L 230, 5. 8. 1982, p. 1.  
<sup>(19)</sup> OJ No L 378, 21. 12. 1982, p. 15.  
<sup>(20)</sup> OJ No L 87, 27. 3. 1985, p. 1.  
<sup>(21)</sup> OJ No L 85, 28. 3. 1987, p. 40.  
<sup>(22)</sup> OJ No L 188, 16. 7. 1984, p. 20.  
<sup>(23)</sup> OJ No L 42, 12. 2. 1987, p. 43.  
<sup>(24)</sup> OJ No L 336, 7. 12. 1988, p. 1.