COUNCIL DIRECTIVE

of 4 December 1990

on the transitional measures and the adjustments required to the Directives on plant health, seeds, plants and animal feedingstuffs and to the veterinary and zootechnical legislation as a result of German unification

(90/654/EEC)

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 4 b (1) (c) thereof,

Having regard to Council Directive 72/461/EEC of 12 December 1972 on health problems affecting intra-Community trade in fresh meat [3], as last amended by Directive 89/662/EEC [4], and in particular Article 13a (2) 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 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 former German Democratic Republic has been applying, in an autonomous capacity, some of the common agricultural rules since 1 July 1990;

Whereas, however, certain adjustments must 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 territory of the former German Democratic Republic;

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 in this Directive may be adjusted 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 the 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 German unification,

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(1) OJ No 121, 29. 7. 1964, p. 1977/64.
(2) OJ No L 395, 30. 12. 1989, p. 13.
(3) OJ No L 302, 31. 12. 1972, p. 24.
(4) OJ No L 395, 30. 12. 1989, p. 13.
(5) OJ No L 263, 26. 9. 1990, p. 24, as amended on 25 October 1990.
(6) Opinion delivered on 21 November 1990 (not yet published in the Official Journal).
(7) Opinion delivered on 20 November 1990 (not yet published in the Official Journal).

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 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. Adjusting measures to fill obvious loopholes and to make technical adjustments to the measures provided for in this Directive may be adopted in accordance with the procedure laid down in Article 4.

2. Such adjusting measures must be designed to ensure coherent application of Community rules in the sector covered by this Directive 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 rules.

They must be consistent with the principles of those rules, and be closely related to one of the derogations provided for by 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; however, where this Directive sets later time limits for derogations, those time limits shall apply.

4. Where it proves essential to postpone a time limit laid down in this Directive for application of a derogation, the date in question may be postponed in accordance with the procedure laid down in Article 4, but not beyond 31 December 1992.

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 of application, in an instrument falling within the scope of this Directive.

Article 5

1. Without prejudice to paragraph 2, as part of the procedures for checking product conformity, the Member States shall ensure that products not complying with Community rules are not placed on the market in parts of the Community other than the territory of the former German Democratic Republic.

2. The Federal Republic of Germany shall, in accordance with the provisions of the Annexes, take measures to guarantee that products not complying with Community rules are not placed on the market in parts 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 additional controls or formalities at frontiers between Member States.

3. 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. These measures shall be adopted in accordance with the procedure laid down in Article 4.

Article 6

The Federal Republic of Germany shall notify to the Commission, at the earliest opportunity, the measures taken pursuant to the authorizations provided for in this Directive.

Upon expiry of the periods of application of the transitional measures the Federal Republic of Germany shall draw up a report on their application. The report shall be forwarded 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, 4 December 1990.

For the Council

The President

G. DE MICHELIS

ANNEX I

PLANT HEALTH LEGISLATION

1. Council Directive 86/362/EEC of 24 July 1986 (OJ No L 221, 7. 8. 1986, p. 37), as amended by Directive 88/298/EEC (OJ No L 126, 20. 5. 1988, p. 53).

   The following paragraphs are added to Article 16:

   'However, the Federal Republic of 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 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.

   The Federal Republic of 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.'

2. Council Directive 77/93/EEC of 21 December 1976 (OJ No L 26, 31. 1. 1977, p. 20), as last amended by Directive 90/490/EEC (OJ No L 271, 3. 10. 1990, p. 28).

   The following paragraph 6 is added to Article 20:

   '6. Within the limits of the traditional trade flows and in response to the production needs of undertakings in the former German Democratic Republic, the Federal Republic of Germany may be authorized, at its own request and in accordance with the procedure laid down in Article 16a, to comply with Article 4 (1), Article 5 (1) and the relevant provisions of Article 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 31 December 1992. The corresponding requests shall specify the product and the quantities thereof concerned. Authorization shall not be given until any resultant plant health risks have been analysed.

   The Federal Republic of 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

I. Agricultural and vegetable species

1. Council Directive 66/400/EEC of 14 June 1966 (OJ No L 125, 11. 7. 1966, p. 2290/66), as last amended by Directive 88/380/EEC (OJ No L 187, 16. 7. 1988, p. 31).

   (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 for application may be adopted in accordance with the procedure laid down in Article 21.'

   (b) The following paragraphs are added to Article 23:

   'The Federal Republic of 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 after unification insofar as the seed production fields had been sown before that date,

— other seed if it is certified in accordance with Article 2 (2),

— Article 16, within the limits of the traditional trade flows and in response to the production needs of undertakings in the former German Democratic Republic,

at a date later than that referred to above, but not later than 31 December 1992 in respect of the second indent and not later than 31 December 1993 in respect of the first indent.

The Federal Republic of 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.'

2. Council Directive 66/401/EEC of 14 June 1966 (OJ No 125, 11. 7. 1966, p. 2298/66), as last amended by Directive 89/100/EEC (OJ No L 38, 10. 2. 1989, p. 36).

(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 for application may be adopted in accordance with the procedure laid down in Article 21.'

(b) The following paragraphs are added to Article 23:

'The Federal Republic of 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 after unification insofar as the seed production fields had been sown before that date,

— other seed 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, within the limits of the traditional trade flows and in response to the production needs of undertakings in the former German Democratic Republic,

at a date later than that referred to above, but not later than 31 December 1992 in respect of the third indent and not later than 31 December 1994 in respect of the other indents.

The Federal Republic of 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.'

3. Council Directive 66/402/EEC of 14 June 1966 (OJ No 125, 11. 7. 1966, p. 2309/66), as last amended by Directive 89/2/EEC (OJ No L 5, 7. 1. 1989, p. 31).

(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:

'The Federal Republic of 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 after unification insofar as the seed production fields had been sown before that date,

— other seed if it is certified in accordance with Article 2 (2) (c);