

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## EUROPEAN COMMUNITIES - TRANSITIONAL MEASURES TO TAKE ACCOUNT OF THE EXTERNAL ECONOMIC IMPACT OF GERMAN UNIFICATION

### Request for a waiver under Article XXV:5

### Communication from the European Communities

The following communication, dated 31 October 1990, has been received from the Commission of the European Communities with the request that it be circulated to contracting parties in connection with item 3 of the agenda of the Council meeting on 7 November 1990.

1. On 3 October 1990, the German Democratic Republic has been united with the Federal Republic of Germany on the basis of an accession of the former to the latter. Thus the territory of the Federal Republic of Germany, a member state of the European Communities, has been extended and, as a consequence, the territory to which the treaties establishing respectively the European Community for Coal and Steel, the European Economic Community and the European Atomic Energy Community apply, has also been extended to include the territory of the former German Democratic Republic and of Berlin (East).
2. The Commission on 21 August 1990 adopted proposals for a set of transitional measures to take account of German unification and the subsequent integration of the territory of the former GDR into the Community (COM(90)400, vol.I-III). These measures are currently discussed by the European Parliament and the Council of Ministers and their final adoption is envisaged to take place in early December 1990.

Since unification took place before the institutions of the Community had time to take the necessary decisions, the Commission has been authorized to apply provisional measures. They apply from unification until the end of 1990, while the transitional measures are designed to expire on 31 December 1992.

The European Community transmitted on 21 September 1990 a communication on the measures to the contracting parties, which was discussed at the GATT Council meeting on 3 October 1990.

3. Since German unification, the Common Customs Tariff is fully applicable to the territory of the former German Democratic Republic.

However, the Community has to take into account the fact that the former German Democratic Republic had concluded multi-annual agreements with its principal trade partners Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia which were elaborated in annual protocols on the exchange of specific goods up to maximum quantities or values at a zero rate of duty. Furthermore, the former German Democratic Republic had concluded long-term cooperation and investment agreements with the CSFR, Poland and the USSR which, according to the terms of these agreements, give rise to reciprocal deliveries of goods at zero rates of duty for many years to come. The agreements of the first type expire 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.

4. The maximum quantities and values mentioned in these agreements (listed in Annexes I and II to the proposals of the Commission) do not constitute by themselves legal obligations to export or import these quantities between the parties. The European Community has, therefore, no obligation to respect these maximum quantities or values, but it has a certain obligation to respect the conditions on which the traditional trade flows between the former GDR and its principal trading partners took place, i.e., absence of customs duties. In addition the European Community has to take into account the legitimate expectations of the GDR's traditional trading partners in Central and Eastern Europe that trade could continue on this basis for some time to come.

Therefore the Community opted for the suspension of import duties during a transitional period in order to soften the impact resulting from German unification on both types of agreements (mentioned under 3). The maximum quantities or values resulting from the annual Protocols are used to set the upper limit to this concession.

5. About two-thirds of total trade of the former GDR were with CMEA countries, the GDR being the most important trade partner of the USSR, which depends in several vital sectors on imports from specialized GDR industries. Since introduction of German Economic and Monetary Union on 1 July 1990 great problems in maintaining traditional trade flows of Eastern Germany with CMEA countries have arisen. This would have been aggravated by the immediate and full application of the common commercial policy of the Community vis-à-vis those countries.

Other structural changes also contribute to a sharp decline in intra-CMEA trade (introduction of market economies, switch to trade at world market prices and accounting in convertible currencies). Any additional strain on the main trading partners of the former GDR resulting from indiscriminate and immediate application of common commercial policy, possibly contributing to economic and social destabilization, should be avoided.

6. For these reasons the Community considered it appropriate to temporarily suspend import duties, including anti-dumping duties currently in force, as well as the application of a number of technical rules for products originating in Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia which are included in the above-mentioned agreements between the former German Democratic Republic and these countries. These products will be published in the Official Journal of the Communities.

The objective of these measures is

- to reconcile traditional trade patterns with the legal, political and economic integration of the GDR into the EC;
- to combine transitional exemptions with the necessity to rapidly transform the Eastern German economy into a fully integrated EC market economy;
- to implement fully all instruments of the common commercial policy after the end of a clearly defined transitional period;
- to allow for more time for the denunciation or renegotiation of foreign trade treaties of the GDR with the countries mentioned.

It is not the intention of these measures to create new trade flows. Therefore, any product exported beyond the maximum quantities or values established in the agreements as well as any product not covered by the above-mentioned agreements will be subject to the full application of the Common Customs Tariff and the technical rules of the EC.

7. Duty-free market access for those goods covered by the transitional tariff-quota system is conditional to the goods being released for free circulation on the territory of the former German Democratic Republic and consumed there or undergo processing conferring Community origin there. Furthermore, a licence issued by the relevant German authorities in support of the entry for release for free circulation is required. The ultimate time limit for any transitional measure coincides 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.

All agricultural products subject to customs duties are included in the transitional tariff measures except for beef meat and live animals other than cattle of pure bred for breeding purposes. However, Community provisions on levies and on minimum and reference prices are maintained.

Finally, the Community applies a two-year derogation period from the application of a certain number of technical rules in the sphere of the internal market. Parallel to a provision for an adaptation period for domestic (GDR) industries, a similar period is proposed for export products to the former GDR.

8. It should be noted, that the economic impact of the tariff concessions remains limited, since two countries concerned (Poland, Hungary) benefit already from the full inclusion into the Generalized System of Preferences of the Community for most of their industrial products. It is possible that other countries (Bulgaria, CSFR, Romania) may be included similarly from January 1991 on. Yugoslavia, due to its association agreement with the Community, benefits from even more favourable market-access conditions.

Furthermore, the former GDR had only a small share of world trade. Its overall volume of foreign trade accounted in 1988, at US\$58.7 bn, 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 US\$551.9 bn scored an average share of world trade of 10%.

Finally, all quantities covered by the transitional measures are potential maximum quantities or values. In reality, a substantial decline in trade between the GDR and its Eastern neighbours has already taken place in the first half of 1990. The introduction of hard currency in East Germany and unification is likely to decrease further the volume traded.

9. The European Community requests contracting parties to decide that the provisions of paragraph 1 of Article 1 of the General Agreement shall be waived as from 3 October 1990 and until 31 December 1992 to the extent necessary to permit the European Community to grant duty-free treatment and derogations from certain norms and standards to certain imports from Bulgaria, the Czech and Slovak Federative Republic, Hungary, Poland, Romania, the USSR and Yugoslavia within the limits of the maximum quantities and values foreseen in agreements between the former German Democratic Republic and the above-mentioned countries, without the European Community being obliged to extend the same duty-free treatment or derogations from norms and standards to like products of any other contracting party.
10. Such duty-free treatment shall be designed to allow to maintain the status quo in a sense that already existing trade facilities or trade flows may be continued and are not intended to raise barriers or create undue difficulties for the trade of other contracting parties.

The European Community is prepared, upon request, to enter into consultations with any interested contracting party with respect to any difficulty or matter that may arise as a result of the duty-free treatment and derogations from certain norms and standards for certain imports from the countries mentioned under 9) and covered by this waiver.