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Working Party on German Unification - Transitional Measures Adopted by the European Communities

COMMUNICATION FROM THE EUROPEAN COMMUNITIES

(Replies to questionnaires from participants in the Working Party*)

*cf. GATT Council Decision of 13 December 1990 - L/6792.

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*Soon an OJ publication. Available in Office 1073, GATT.
**Also available in Office 1073, GATT.

I. INTRODUCTION

1) The Community would from the outset point out that the economic impact of the transitional measures after the first months of experience appear to be quite limited.

Participants will find in Annex I an overview of effective utilisation of duty free import possibilities into the territory of the former GDR, based on preliminary data.

These figures show that very low percentage utilisation has occurred of the duty free quotas in the fourth quarter of 1990 (overall average only 3.8%, and in trade with individual partners never higher than 10%). Even if all imports in that quarter from CMEA* partners are considered, it is clear that current trade levels are only about 30% of the levels envisaged for the tariff quotas (and in many cases substantially less than that).

The real additional impact of the specific transitional measures resulting from German unification is difficult to estimate. The fact that imports from the countries in question already benefit from the existing GSP facilities (Poland and Hungary: GSP from 1.1.1990, CFSR: GSP from 1.1.1991), as well as (in the case of Yugoslavia) the duty-free provisions of the Cooperation agreement, has to be taken into account.

It should be borne in mind that column 4 contains both products which are dutiable as well as those which are duty free under MFN provisions in the customs tariff.

2) A number of questions (see in particular U.S., Nos. 5, 6, 11-14) refer to the Commission's "Information to Contracting Parties" of 6 December 1990, which contained a "Survey on products from Central and Eastern European Countries benefiting from transitional exemption of tariffs due to German unification (frequently referred to as "summary survey"). This informal document was circulated by the Directorate-General of External Relations in order to provide interested Contracting Parties with more substantive information as to the general trade volume involved, before the decision on the Community's waiver request.

This summary survey did not provide detailed information regarding specific products and tariff lines affected. This information is contained in Annex II, which provides the Contracting Parties with all information required. However, it has to be stressed that the information on tariff lines contained therein has only indicative character, given that it has been in many cases impossible to relate products expressed in the nomenclature of the CMEA to an exactly equivalent item in the Harmonized System.

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* CMEA: Council of Mutual Economic Assistance.

The Community was unable to present this detailed information in January 1991, as had been expected. The transfer of nomenclature, its verification, as well as the editing of the present product lists and their translation, required much more time than had previously been envisaged. The enclosed revised product lists (Annex II) will shortly be published in the Official Journal of the European Communities. This publication will be made available to the Working Party.

3) Annex III contains the texts of the Community's legislative decisions implementing the transitional measures which are covered by the GATT waiver L/6792.

II. GENERAL OBSERVATIONS

1) The unification of Germany represents the integration of new territory into the Federal Republic of Germany and, therefore, also into the European Community. On 3 October 1990 German Federal legislation and European Community law were immediately applied to the territory of the former GDR. This includes treaties concluded by the Federal Republic and by the European Community. In former times the corollary of the extension of FRG and Community treaties to the former GDR-territory would have been the total extinction of all treaties concluded by the former GDR. Both the FRG and the EC believe that this is too draconian and not entirely compatible with the importance attached to the continuity of treaty relations by modern international law. Hence the openness of the FRG and the Community to discuss and, if necessary, renegotiate former GDR treaties. A renegotiation is always necessary, especially in the economic field, as the context of these agreements, with the disappearance of the socialist planning system, will no longer be the same. In the specific case of the yearly trade protocols with CMEA countries and of a number of selected long-term agreements of the former GDR, the EC has gone beyond its general willingness to discuss former GDR treaties and has taken certain autonomous measures in order to provide for a smooth transitional period during which trade flows can be adapted. This is presently covered by the waiver.

The Community wishes to emphasize that all this is fundamentally different from an accession to a customs union as foreseen in Article XXIV of the GATT. There is no accession but integration of two states, one of which was not even a Contracting Party. Therefore, other contracting parties held no GATT rights vis-à-vis the GDR and hence the integration of the GDR into the FRG has not led to the increase of any duty above its GATT-consolidated level. In this respect there cannot arise any GATT claims against the Community after German unification.

2) Since a number of contracting parties (and notably Australia, question no. 5) have raised questions linked to the management and the control of the transitional tariff measures the following observations give a somewhat detailed reply to these aspects.

For the application and effective control of the transitional tariff measures a number of special national provisions have been adopted in addition to the existing Community and national legislation. The procedure, which will ensure that consumption and/or the required processing will take place in the territory of the former GDR, is detailed below.

a) The goods must be listed in the agreements between the former GDR and the countries named in the above-mentioned Regulation. The limits regarding amounts or values contained therein must be observed.

b) The goods must be cleared as imports under a favourable tariff arrangement on the basis of their special end use. This clearance may be done only by Customs offices in the new federal states. Goods destined to the former GDR, for which benefit is claimed under the transitional measures and which enter the Community at another Customs office, must be transported under the normal Community transit procedure to a Customs office in the new federal states.

c) The goods must be consumed in the new federal states or processed there into originating products of the Community pursuant to Council regulation (EEC) No 802/68 (Official Journal of the European Communities No L 148 for 28 June 1968, p. 1).

d) Application must be made for authorization of the importation of goods which come under the tariff suspension. In the application for granting of authorization, the applicant must affirm that the prerequisites mentioned in para 1 above have been met and that he will fulfil the conditions mentioned in b) and c) above. Authorization for importation with tariff suspension is granted in the form of a certificate issued by the Federal Office for Food and Forestry, 6000 Frankfurt am Main 1, as regards goods of Chapters 1 to 24 of the Common Customs Tariff and by the Federal Office for Trade and Industry, Berlin Office, 0-1080 Berlin, as regards goods of Chapters 25 to 97 of the Common Customs Tariff.

e) The above mentioned certificate must be submitted to the Customs Office of clearance together with the declaration of the goods for importation under a favourable tariff arrangement on the basis of their special end issue. The Customs Office grants the authorization of special end use provided for under Commission Regulation (EEC) No 4142/87 (OJ of the EC No L 387 of 31 December 1987, p. 81) together with clearance (without collecting any security). The Customs Office of clearance imposes on the declarant in writing the obligations resulting from Article 3 of the above-mentioned Regulation, which insure the fulfilment of the prerequisites. In addition, the special

prerequisites of b) and c) above are repeated. Over and above that, attention is also drawn to the fact that customs duties will fall due under Article 2 para. 1(e) of Council Regulation (EEC) No 2144/87 (OJ of the EC No L 201 of 22 July 1987, p. 15) if the obligations are not met. Moreover, in this connection the declarant is also informed that the failure to meet the obligations constitutes a contravention of administrative regulations which is subject to an administrative fine under the Fiscal Code. Non-compliance with the requirements of Commission Regulation (EEC) No 4142/87 could also lead to a withdrawal of the importers end-use authorization.

f) The auditors or the Federal Customs Administration (external auditing offices at the Regional Finance Offices and the Main Customs Offices) are instructed, as regards goods imported with tariff suspension, to conduct the audits required under Commission Regulation (EEC) No 4142/87 within the periods (as a rule 3 years) prescribed by Council Regulation (EEC) No 1697/79 (OJ of the EC No L 197 of 3 August 1979, p. 1).

g) The above-mentioned auditors are officials who are specially trained to examine and evaluate commercial books and other records. The audits, which are conducted at the business premises of the importers and if necessary the recipients of the goods, are up to date and as complete as possible. The audit results are always incorporated in an official report and evaluated by the Main Customs Offices.

h) If in a specific case there is suspicion of irregularities in the prescribed end use of the goods, a special investigation service can immediately be assigned to the case as necessary.

i) As regards the transitional measures in the harmonization of technical regulations under Council Directives 90/650/EEC and 90/657/EEC (OJ of the EC No L 353 of 17 December 1990, pp. 59 and 65) the competent surveillance authorities in the new federal states are informed of the importation of the goods concerned.

III. SPECIFIC OBSERVATIONS IN REPLY TO QUESTIONS FROM CONTRACTING PARTIES

Australia

Australia 1

In the EC's request for a waiver under Article XXV:5 (L/6759) it is stated that the maximum quantities and values mentioned in the agreements between the former GDR and its CMEA partners do not constitute legal obligations to export or import these quantities (paragraph 4). It is also stated that some of the agreements are to be renegotiated at the Community, German or private level (paragraph 3). In these renegotiations, what criteria will the Community and Germany be adopting in deciding what levels of trade are to apply in the future? Will they attempt to assess the levels of trade that would have obtained in the absence of the trade distortions resulting from the waiver provisions and use these as a target?

The Member States of CMEA had concluded between them five-year trade arrangements (1986-1990) which were an integral part of their five year planning cycle. These agreements were given greater precision in so-called yearly protocols (see Annex I to Reg. 3568/90). Nevertheless the quantities laid down in these yearly protocols were not legally binding on the States concerned; they needed to be complemented by agreements and contracts between state trading enterprises of both parties. These yearly Protocols have run out on 31.12.1990 and will not be renewed.

Some of the longer-term agreements listed in Annex II to Reg. 3568/90, however, may be renegotiated either between private enterprises or at government level. Such renegotiation, if it takes place, will need to take account of the disappearance of the socialist planning system; in fact the adaptation to market conditions will be the major object of such renegotiations. Therefore, neither the Community, nor Germany, nor European industry, will attempt to establish theoretical levels of trade (long-term arrangements on individual projects of industrial cooperation are currently being reviewed and might, in case of their continuation, eventually require Community action regarding the trade policy framework). It is the Community's avowed goal to have the distortions resulting from the CMEA trade system disappear.The waiver, far from itself creating such trade distortions, provides the former GDR and its traditional trading partners with a breathing space during which a somewhat "softer landing" can be managed than would otherwise be the case.

Australia 2

How will deliveries of EC agricultural products to former CMEA countries under aid programs, sales under derogation, or barter or counter-trade arrangements affect the EC's obligation to fulfil the requirements of the agreements between the former GDR and former CMEA countries?

The delivery of EC agricultural products to former CMEA countries under aid programmes, sales, exempted sales, or barter or counter-trade arrangements is not affected by the suspension of import duties as provided for in Council Regulation No 3568/90.

Australia 3

Will the EC notify all counter-trade and barter agreements entered into with former CMEA countries that affect or could potentially affect trade in the goods covered by the transitional system?

The European Communities have not entered into any counter-trade or barter agreements with member countries of the CMEA. Therefore, there is no need for any notification.

The goods covered by the transitional scheme are those included in the annual trade protocols 1990 (Poland: 1989), concluded between the seven beneficiary countries and the former GDR, as well as those covered by three long-term agreements on industrial cooperation concluded with the USSR. The latter provide for quantities in 1991 and 1992, in addition to those already contained in the annual protocols (for details, see introduction of Annex II). These protocols and long-term agreements served as a reference to determine precisely the volume and the value of the products concerned (i.e. the tariff-free quota).

Australia 4

Will the transitional measures adopted by the EC be consistent with Article XV:4 of the General Agreement?

Yes. Since all transactions between East Germany and CMEA Member States now take place in hard currency, it is impossible to see how there could be a possible infringement of Article XV:4.

Australia 5

What measures will the EC or German authorities take to ensure that goods covered by the transitional system are consumed in the territory of the former GDR and do not move into the rest of the EC? Will these measures have the same trade effect (vis-à-vis the territory of the EC without the former GDR) as did the former trade measures (import duties, including anti-dumping duties and the technical rules) that are now suspended? How will the new trade controls on goods originating in the CMEA countries affect third country trade with the EC?

See general observations II 2).

Australia 6

Paragraph 10 of the EC's request for a waiver (L/6759) states that, "such duty free treatment shall be designed ... 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". In the light of this stated intention, what measures will the EC take to ensure that rising agricultural surpluses in the GDR as a consequence of the application of the CAP and the continued duty free access of agricultural commodities from former CMEA countries into the territory of the GDR, does not result in

A) displacement of agricultural products from the territory of the former GDR into the territory of the EC as it stood before german unification

B) reduction in export opportunities of third countries to the EC as a result of rising EC surpluses

C) increased EC exports displacing third country exports to third markets?

See general observations II 1).

Agricultural products:

Before unification the Government of the GDR had already taken steps to adapt its agricultural production to the conditions of the Common Agricultural Policy (CAP). Since 3 October 1990 further steps have been taken in order to set up the mechanisms of the CAP in this territory. On a medium term basis this will not lead to rising surpluses but to a significant reduction of agricultural production of milk (introduction of milk quotas), cereals and potatoes (set aside of 600 000 ha), pigmeat and beef.

The agricultural surpluses existing on the day of unification on the territory of the former GDR will be removed by exports following agreements concluded by the GDR government before 3 October 1990 with different Eastern European and other third countries (see reply to question 7 of New Zealand).

As a consequence of the setting up of the economic and social union between the GDR and the FRG free trade in goods between the GDR and the Community was established. Due to the preference given to products not originating from the GDR by its consumers, imports from market economy countries into the GDR increased significantly. The problems resulting from this

situation for East German producers led to considerable exports of live animals to the EC in the second half of 1990. Economically these exports were counterbalanced by increased imports into the GDR. This territory will remain an interesting and growing market for products originating from the EC and third countries. It will improve rather than reduce the possibilities for third countries to market their products within the EC. It can also be stated that as a result of the measures indicated above the agricultural production on the territory of the former GDR will not reduce the export opportunities of third countries on the world market in general.

Australia 7

What quantitative effect does the EC expect the waiver to have on exports from and imports to the EC of:

- **meat and edible offals (particularly beef and sheepmeat)**
- **vegetables, FCF and preserved**
- **cereals**
- **dairy products**
- **sugar**
- **wine**
- **hides and skins**
- **oil seeds and oleaginous fruit**
- **base metals ores and concentrates**
- **coal, coke and briquettes**
- **machinery and transport equipment**
- **internal combustion piston engines and parts**
- **ADP and office machinery and parts**
- **electronic machinery and apparatus**
- **motor vehicle parts and accessories**

Given the very feeble degree of utilisation of import quotas the Community does not expect (cf. Annex I) any negative effects to exports from other third countries.

Australia 8

What residual effects does the Commission expect will remain after the transitional period has expired on 31 December 1992, both in general and for each of the products listed in Question 7?

The Commission of the European Communities expects that there will be no residual effects after the transitional period has expired on 31 December 1992. As can be concluded from the first experience with the use of this scheme (see annex I), the dramatic shift of consumer preferences has greatly diminished East German demand for products originating in the beneficiary countries. While there exist no studies, it is probable, that this tendency will be reinforced, once the transitional measures have expired.

Canada

Canada 1

Although the EC has provided a large amount of material to GATT members on measures being put into place during the transitional period relating to the unification of Germany, we are still left in a somewhat deficient position with regard to clear and specific information about access for individual products at the tariff item level of detail. In this context, would the EC please provide the Working Party with information in a more readily usable form, for example, a table or list which would show:

(a) HS number of the item;
(b) product description;
(c) type of measure involved (e.g.: tariff quota or QR);
(d) specific treaty/agreement involved;
(e) amount/value of allowable imports;
(f) countries which are allowed access to the quota;
(g) value of imports of each product into the former GDR from beneficiaries and other GATT contracting parties over the three-year period 1987-1989.

See introduction I 2) and in particular Annex II.

Canada 2

What measures do the EC and/or German authorities have in place in order to ensure that the final consumption and/or substantial further processing of the goods imported under waiver takes place in the territory of the former GDR? (i.e.: that products imported under waiver do not pass out of the territory of the former GDR without being consumed or undergoing the required transformation).

See general observations II 2).

Canada 3

What degree of transformation is being required (on a product basis) for goods to be allowed out of the former GDR territory?

Council Regulation (EEC) No 802/68, in particular Article 5, (see Annex) contains the provisions describing the requirements for processing goods to confer Community origin.

The procedure for the control of end-use provisions is set out in Regulation (EEC) No 4142/87 (see general observations II 2)), which contains the requirements to ensure that goods enter into free circulation of the Community only after sufficient transformation.

Canada 4

Please give details of the "plan" referred to in Article 2 of Council Regulation No. 3575/90, covering structural fund operations in the territory of the former GDR.

Council Regulation (EEC) No 3575/90 has no relationship to the waiver decision of the Contracting Parties of 13 December 1990. The Community considers therefore that it is not relevant to the work of the Working Party.

Canada 5

Has the EC (or any part of it) become the legal successor with respect to the receipt of any benefits contained in trade or commercial agreements formerly in existence between the former GDR and its trading partners in Eastern Europe? If so, please provide details (on a tariff item basis).

In theory the EC could be the legal successor with respect to the receipt of any benefits contained in trade or commercial agreements between the former GDR and its trading partners. In practice, however, the EC has itself subjected such succession to renegotiation because of the special character of the agreements concluded between state trading countries. Therefore, the Community has not succeeded to any such benefit, as the agreements concerned are de facto suspended until negotiations for their replacement will have been concluded.

Canada 6

Please give details of the policy which is being followed with respect to the completion of outstanding purchase commitments which were made by responsible state trading agencies of the former GDR government. In cases where the terms of access for such imports have been impaired by the fact that EC policies now apply to them, are derogations being made available in order to make the fulfilment of such purchase commitments economically feasible?

At present there are no longer any outstanding purchase commitments by state trading agencies of the former GDR. It bears repetition that the quantities laid down in the yearly trade protocols and other trade agreements with the CMEA partners of the former GDR do not create legal obligations for the delivery or purchase of the quantities listed.

Canada 7

Could Council Regulation No. 3570/90 (derogations with respect to agricultural statistical survey) have the effect of impairing the accuracy of the EC's international trade statistics for agricultural products? Please provide comments.

Council Regulation (EEC) No 3570/90 is not relevant to the waiver decision of the Contracting Parties of 13 December 1990. The Community considers therefore that it is not relevant to the work of the Working Party.

Canada 8

With reference to Article 3 of EC Regulation No. 3568/90 (transitional tariff measures for Eastern European countries), has the suspension of Common Customs Tariff duties to date created any situations of substantial injury to EC producers which have resulted in any actions being taken to "restore the normal duty rate"? If so, please give details (on a tariff item basis).

No cases of "substantial injury to Community producers of like or directly competitive products" have been brought to the attention of the Commission.

Finland on behalf of Norway

Based on a long-term trade agreement with the GDR Norway exported an annual quantity of 10.000 tonnes hardened marine fats free of duty to this country. With the German unification, the Common Customs Tariff of the European Community became applicable, and hardened marine fats (HS 15.16), which are not included in the Free Trade Agreement Norway-EC, had to face a customs tariff of 17% which acted prohibitively.

The above problem has been raised with German authorities. Norwegian authorities have asked for a duty free quota in order to continue exports of hardened marine fats. The matter is still under consideration.

It would be appreciated if the EC could comment on the possibility of setting up an arrangement allowing annual exports of 10.000 tonnes hardened marine fats from Norway free of duty into the territory of the former GDR.

The European Community is not aware of any agreement which allowed Norway to export 10,000 tonnes of hardened marine fats free of duty to the former GDR.

On possible Norwegian GATT rights, the Community would like to refer to the reply to general observations point 1). As to possible rights of Norway under treaty succession, it is not open to Norway to rely on such rights after having formally rejected the Community's viewpoint on treaty succession and having opted for automatic extinction of the treaties of the former GDR on 3 October 1990.

Hong Kong

Hong Kong A

In respect of textiles and clothing imports benefiting from the transitional tariff exemption, can the EC please provide, if possible, details of the import tariff lines, values and/or volumes of such imports. If information on the basis of tariff lines is not available, can information then be provided which is at least sufficiently detailed to give other contracting parties a more precise picture of the nature and product coverage of textiles and clothing imports under the waiver?

See Annex II

Hong Kong B

How are such textiles and clothing imports identified and distinguished from other imports from the beneficiary countries, and how is the level of such trade monitored to enforce the limits set out in the relevant trade protocols?

See general observations II 2)

Hong Kong C

How will the EC ensure that products - particularly textiles and clothing products - entering the EC from beneficiary countries are consumed or sufficiently processed in the territory of the former GDR and not transported into another member state?

See general observations II 2)

Hong Kong D

What precisely are the derogations from "certain standards and norms" contemplated under the preferential arrangements subject to the waiver. What is the relation of such derogations to the EC's obligations under the Agreement on Technical Barriers to Trade?

These derogations would be an exception to the obligation stipulated in Article 2.1 of the Agreement on Technical Barriers to Trade that "products imported from the territory of any Party shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country in relation to such technical regulations or standards". The Community considers that this exception is covered by the waiver which it has requested.

New Zealand

New Zealand 1

Could the Community please supply tariff line data on a 10 digit level on the products affected by the waiver as the Community promised to do, by January 1991 at the latest, in its communication of 6 December in connection with the waiver request?

See introduction I 1) and Annex II

New Zealand 2

If this data is still not available, would the EC please explain how in practice it has been implementing effectively tariff quotas since 3 October 1990 and how it will implement these measures in future?

See reply to US n? 6.

New Zealand 3 and 4

3. Would the EC please supply a breakdown into the categories listed below by value and/or by volume of the aggregates listed in the summary survey annexed to the Community's communication of 6 December for: live animals, raw materials for the manufacture of food and allied products, and food and allied products of:

-WMP
-SMP
-Other milk and cream, concentrated
-Butter
-Cheese and curd
-Casein, caseinates and other casein derivatives; casein glue
-Apples
-Other fresh fruit
-Bovine meat
-Sheepmeat
-Hides, skins and leather
-Wool
-Vegetables

4. Please provide a table for 1988, 1989 and 1990 comparing actual imports into the former GDR from these third countries, on the same basis as the categories in question 3, with the maximum values and/or volumes contained in the trade protocols relevant for each year.

Annex II specifies the products and the amounts which are relevant in respect of the suspension of tariff duties.

In view of the profound changes which have taken place as a result of the integration of the territory of the former GDR into the EC, the imports in 1988, 1989 and in 1990 before 3 October cannot be taken as the basis of the estimation of GDR imports from CMEA member states and Yugoslavia under the preferential conditions established by Council Regulation (EEC) no. 3568/90.

New Zealand 5

With respect to Council Regulation 3568/90 Article 1 para 3, please specify and describe the measures that the Commission and the competent German authorities have taken and will take to ensure that the final consumption of the products in question, or the processing by which they acquire Community origin, takes place in the territory of the former GDR.

See general observations II 2)

New Zealand 6

Do all products (except beef, veal and live animals which are not pure-bred bovine breeding animals) covered by the annual protocols between the former GDR and the third countries mentioned in the GATT waiver enjoy duty free access to the territory of the former GDR? If not, please specify which products do and which do not (to the same level of detail as question 3 above) and the reasons for duty free status exclusion/inclusion in respect of each product category.

See Annex II

New Zealand 7

We note that Commission Regulation 3775/90 P4 refers to the need to guarantee performance of agreements concluded by the former GDR with third countries prior to unification, and authorises Germany to supplement or grant in its entirety export refunds for, among other things, milk and milk products, beef and veal and sheepmeat. Could the Community please list the 'third countries' in respect of which these agreements or arrangements have applied or do apply, the volumes and/or values of products covered, the number of these agreements or arrangements honoured since 3 October 1990 and the products affected, and the number of agreements or arrangements outstanding and the products affected?

Countries:

The agreements concluded by the GDR before 3 October 1990 concern mainly exports to the USSR and to Romania; but other third countries, including other Eastern European Countries are also involved.

Products:

Cereals:	1.391.000 t
Flour:	117.800 t
Butter:	94.000 t
Whole milk powder:	6.000 t
Pigs:	45.000 t
Pigmeat:	145.000 t 190.000 t
Cows:	4.540 t
Beef:	178.300 t 192.840 t
Sheep:	6.680 t
Sheepmeat:	10.000 t 16.680 t
Poultry meat:	10.000 t
Potatoes	200.550 t
Apples	20.000 t

The competent authorities in the German Ministry for Agriculture will try to provide for more detailed information on the value of the treaties and all the countries concerned as soon as possible.

Further details, especially on the quantities which have already been exported, can also be given by Germany (a significant quantity of beef and cereals has not yet left the EC; the situation is different for pigmeat and butter).

New Zealand 8

What if any consumption aids were previously available in the former GDR which would have promoted imports/domestic consumption? What, if any, consumption aids still exist?

On the consumption aids granted in the former GDR one has to ask Germany. At present, no consumption aid exists on the former GDR territory.

New Zealand 9

What was the level of milk and milk product production in the former GDR in 1990? What is the expected level of production for 1991 and 1992 from the former GDR?

Milk deliveries to dairies in 1990: 7.742.700 t

Milk deliveries to dairies in 1991: The deliveries may amount to estimated 6.600.000 t.

New Zealand 10

Please provide a breakdown of this production into the relevant categories listed in Question 3 above.

Only estimated figures for 1990 production are available:

Cheese: 154.100 t
Butter: 255.000 t
Condensed milk: 46.800 t
Skimmed milk powder: 125.500 t

New Zealand 11

What stocks existed in the former GDR at 3 October 1990? What stocks currently remain? To the extent that stocks have been reduced, what are the 'detailed rules' mentioned in Council Regulation 3577/90 Article 7 which have been applied for reducing these stocks? How is it proposed to deal with remaining stocks?

Stocks existing in the former GDR territory on 3 October 1990:

1. Butter:
   Private stocks: 46.620,050 t

2. Skimmed milk powder:
   Private stocks: 5.182 t

3. Cheese:
   Private stocks: 8.424 t

4. Beef and animals:
   Private stocks: 1.256 t
   Animals: 5.348.300 (3.10.1990), 4.926.800 (3.12.1990)

5. Pigmeat and animals:
   Private stocks: 861 t

   Animals: 8.839.700 (3.10.1990), 8.742.200 (3.12.1990)

6. Sheepmeat and animals:
   Private stocks: 27 t
   Animals: 1.865.400 (3.10.1990), 1.448.300 (3.12.1990)
   (essentially, GDR production was based on wool)

The Commission is at present preparing a regulation in order to determine the stock exceeding the normal carry-over stock and the quantities which have to be disposed of by Germany at its own expense. Detailed figures have not yet been adopted.

It can, however, be expected that the quantities mentioned in the export agreements concluded by the GDR before 3 October 1990 concerning deliveries of products to a number of Eastern European countries are generally higher than the excess stocks.

New Zealand 12

How is it proposed to dispose of current production from the former GDR: Within the former GDR, within the EC, exported? If this is to be exported, will this be to central European markets or other, new markets?

As indicated above the excess stocks existing on the day of unification has been exported. The current production, which has been heavily reduced, will be mostly disposed of in Germany: Consumption in the former GDR has stabilized on a level equivalent to the EC in general.

New Zealand 13

Please answer questions 9-12 in respect also of meat products.

On the production:

	Sheepmeat	Beefmeat	Pigs
1990	31.000 t	513.000 t	13.773.000 heads
estimate 1991	[26.000 t]	[430.000 t]	[10.000.000 heads]
estimate 1992	[20.000 t]	[400.000 t]	[10.000.000 heads]

A more detailed breakdown is not possible.

On exports see reply to question 7.

On the disposal of the current production:

Sheepmeat: Germany was authorised to export up to 10.000 t sheepmeat from former GDR with the aid of national export refunds provided contracts were agreed before end June 1991. Other than above exports will be within EC.

Beefmeat: The current production is still high due to the adaptation of the agriculture on the territory of the former GDR to the system of the CAP (f. ex. slaughtering of cows as a result of the introduction of the milk quota system). The production will mainly be exported to the USSR.

Pigmeat: The current production is below consumption. Therefore it is used in Germany.

New Zealand 14

Please provide a table comparing exports of live sheep from the former GDR to the EC (under Commission Regulation No. 19/82 on imports of sheepmeat and goatmeat from certain non-member countries) in 1988, 1989 and 1990 with total sheep flock numbers in the former GDR for those years and with total production of sheepmeat in the former GDR for those years.

	Flock size (000) on the territory of the former GDR	Production	Exports to EC(*)
1988	2.700	19.000 t	2.250 t
1989	2.603	20.400 t	2.400 t
1990	2.448	31.000 t	[2.400 t]

(*) excluding inter German Trade
(All tonnages are in carcass weight equivalent)

Thailand

Thailand 1

What are the plans and/or measures that the European Communities intend to execute in bringing the waiver and derogations envisaged in the transitional measures into conformity with the General Agreement by 31 December 1992?

Due to the very nature of the GATT waiver decision of 13 December 1991, the measures covered by this waiver are in conformity with the General Agreement. These measures will expire on 31 December 1992. Thus the common customs tariff will automatically apply from 1 January 1993 without any need for further action regarding conformity with the General Agreement.

Thailand 2

Please explain current arrangements on agricultural trade, if any, between East Germany and Eastern European Countries. What would happen to these arrangements after 31 December 1992?

There are no arrangements on agricultural trade between the former GDR and Eastern European countries.

United States

US 1 and 2

1) The waiver contained in L/6792 does not specify the final EC legislation on tariffs and standards matters to be covered by the waiver. Please list the Council regulations that are, in the EC view, covered by the terms of the waiver in L/6792.

2) When were the trade preferences and relaxation of standards requirements referred to in L/6792 implemented?

1. Community legislative measures covered by GATT Decision L/6792 of 13 December 1990:

a) on tariffs:

- Council Regulation (EEC) No 3568/90 of 4 December 1990 (OJ L 353, vol. 33, 17 December 1990, pp. 1-6)

- Council Decision No 3788/90/ECSC of 19 December 1990 (OJ L 364, vol. 33, 28 December 1990, pp. 27-28)

b) on technical rules:

- Council Directive 90/650/EEC of 4 December 1990 (OJ L 353, vol. 33, 17 December 1990, pp. 39-42)

- Council Directive 90/657/EEC of 4 December 1990 (OJ L 353, vol. 33, 17 December 1990, pp. 65-72)

Copies of the texts can be found in Annex III. The waiver further covers interim measures adopted in September 1990, which were later replaced by the above measures.

2. The trade preferences and the relaxation of technical rules referred to in GATT waiver decision L/6792 of 13 December 1990 has been implemented since 3 October 1990.

US 3

Please provide data, at least at the one-digit level of description, on the third country trade with the former GDR since unification, including trade with the former CMEA countries and Yugoslavia.

See Annexes I and IV

US 4

Will the reports to be made to the EC Council and Parliament concerning the operation of the Council Regulations and Directives and Commission Decisions required in the EC legislation provided to the Contracting Parties be made available to the Contracting Parties and to this Working Party when they are issued?

A report on the operation of the system established, the quantities of the products which have benefited from it and the stage reached in the renegotiation of outstanding arrangements (Art. 4 of Council Regulation (EEC) No 3568/90), has to be submitted by the Commission by 1 October 1991 to the European Parliament and the Council, will constitute the basis for the Community's Report to the Contracting Parties in December 1991.

US 5

In information provided to the Contracting Parties on 6 December 1990, the EC Commission indicated that Germany would draw up a "detailed list of products which will contain explanatory indications with regard to the tariff positions of the goods in question" and that this list would be forwarded to the GATT Secretariat "at the latest in the course of January 1991." Has such a list been produced? Please specify the EC import tariff lines for which the tariff preferences covered by the waiver in L/6792 apply and the values and/or volumes of goods to be entered at zero rates of duty and which may be excused from certain EC standards regulations.

Yes, such a list has been produced (see already introductory remark No I.2 and Annex II). It contains the volume/value of all products benefiting form the transitional suspension of import duties.

Concerning the temporary exemption from the application of certain technical rules, a comparison should be made between the product lists of Annex II and the products covered by the annexes to the Council Directives 90/650/EEC and 90/657/EEC.

US 6:

If this is not possible, i.e., the preferential trade is not monitored by tariff line, how do German customs authorities, and the customs authorities of other EC Member States, determine what trade should receive the preferential treatment (when entering the former GDR) or be excluded from Community preference (when entering any other part of the EC from the former GDR)?

See general observations I 2) and II 2).

Furthermore, in the period between German unification and the publication of the product lists (of Annex II), the tariff quotas are being administered by referring to the items contained in the annual trade protocols listed in Annex I of Regulation 3568/90. The product lists of these protocols have been published in early October 1990 in their original form by the German "Bundesstelle für Aussenhandelsinformation" in Cologne.

US 7:

How do the relevant German and other EC Member State authorities administer the preferences, i.e., how are these imports identified and distinguished from other imports from Yugoslavia and the former CMEA countries, and how is the level of such trade tracked to enforce the limits described in L/6792? What trade has entered under the tariff and standards preferences to date?

See general observations II 2).

US 8

What procedures are being employed to convert the nomenclature of the former CMEA countries into the EC combined nomenclature for purposes of monitoring trade flows of products under the GATT waiver? Please provide a copy of the approximate concordance being used to convert the respective nomenclatures.

For the conversion of the schedules of the former CMEA countries into the EC Combined Nomenclature best efforts of customs officials with the aid of a conversion key supplied by CMEA countries have been used.

US 9

The summary data in Annex I are listed in DM, which have been converted from "Transferable Rubles (TRs)" at the rate of 1:2.34. Are TRs still being used as the basis of valuation for trade that was previously conducted under the agreements covered by the waiver? Are TRs used to value balances of previous trade? What are the current rates of exchange between TRs, DMs, and the currencies of the former CMEA countries, e.g., the rate of exchange of the Polish Zloty with the DM and the TR?

Based on the rate 1 TRbl = 2.34 DM, the basis of valuation for trade contained in the product list is 1 TRbl = 1.13389 ECU. The European Community does not value balances of previous trade.

US 10

Approximately what portion of total GDR imports, prior to unification, with the countries listed in the overall Summary Survey of Annex I is accounted for by the totals listed for each country on this page?

While the Commission considers that this question has no relationship to the waiver decision of Contracting Parties of 13 December 1990, it would nevertheless like to provide contracting parties with some general information regarding the importance of trade of the former GDR with CMEA countries. The following estimates are based on the annual trade protocols for 1990:

Breakdown of GDR-CMEA trade volume for 1990
(CMEA trade represented about 65% of total trade of the former GDR)

TRADE PARTNERS	Total trade volume (mio TRbl)	%
USSR	13 200	55.4
Czechoslovakia	2 900	12.2
Poland	2 500	10.5
Hungary	2 000	8.4
Bulgaria	1 400	5.8
Romania	1 100	4.6
Cuba	568	2.4
Vietnam	140	0.6
Mongolia	30	0.1
TOTAL	23 838	100.0

(Source: "The European Community and German Unification, Commission of the EC, Bulletin of the EC, Supplement 4/90, 1990, p. 52)

US 11

Do CMEA Nomenclature Categories 7 and 8 of the overall Summary Survey, i.e., "raw materials for the manufacture of food and allied products" and "food and allied products" include import data for agricultural goods not covered by the tariff and standards preferences, e.g., beef and grain and other imports subject to CAP levies and minimum import prices? Are there any other categories of goods previously exported by the former CMEA countries and Yugoslavia to the former GDR which may not be listed in Annex I?

CMEA nomenclature categories 7 and 8 of the summary survey included import data for agricultural goods not covered by the transitional tariff suspension since this summary was established on the basis of the annual protocols, and could not yet reflect the final decisions on the exact wording of Council Regulation (EEC) No 3568/90, adopted on 4 December 1990. Positions not covered by this legislation are marked with a "?" in the revised product lists contained in Annex II. These are the only goods exported by CMEA countries and Yugoslavia to the former GDR in 1990 (Poland: 1989), which are not listed in Annex II.

US 12

In the view of the EC, do the import values listed on the overall Summary Survey and in the individual lists (the summary surveys attached to the individual Protocols) that follow it account for the maximum value of trade that will be exempted from import duties and standards regulations, as contemplated in the waiver in L/6792? Do the totals of the individual lists match the totals listed on the overall Summary Survey? Will these total values be converted to ECU for the purpose of administering the zero-duty tariff quotas?

As stated already above (see Introduction), the product lists contained in Annex II are the lists relevant for establishing the exact maximum value or volume for each individual product benefiting from the transitional tariff measures.

US 13

Are the data contained in parentheses of the individual country lists to be interpreted as negative imports, i.e., exports, or are they subcategories of the other numbers that immediately precede them?

See introduction I 2)

US 14

In the individual lists of Annex I which follow the overall Summary Survey (the summary surveys attached to the individual Protocols), there are categories listed as "patents, licenses, know-how;" "assembly works;" "major overhaul;" various forms of "job-processing;" "exchange of consumer goods;" "domestic trade's exchange of consumer goods;" "unspecified items;" "special imports;" "services" in various fields; and "ship repair." Does trade in these categories "benefit from the transitional exemption of tariffs" and standards regulations referred to in L/6792? If not, will the EC provide new data on the amount of trade subject to the preferences?

Services have traditionally constituted an important part of counter-trade clearing agreements and protocols, which was accordingly reflected in the summary survey. However, since services as such are not subject to any tariffs or technical rules, they are not included in the product lists contained in Annex II (marked with a "?").

US 15

[Regarding Council Regulation (EEC) No. 3568/90 of 4 December 1990] Are the products described in this Council Regulation, i.e., the maximum quantities and values foreseen in the agreements listed in Annexes I and II, the only products for which such transitional tariff preferences have been established?

Yes.

US 16

The Regulation indicates that long-term cooperation and investment agreements between the former GDR and Czechoslovakia, Poland, and the USSR will be renegotiated at various administrative levels. The regulation notes that this renegotiation will take "some time." Can a more specific timeframe for the renegotiation of these long-term agreements be given? Have such negotiations commenced? What new time limits are contemplated for the implementation of the agreements and the completion of the projects contained in the agreements? If these agreements call for government-guaranteed exchanges of lists of goods at zero rates of duty, how can the provisions of such new agreements be reconciled with the General Agreement?

See reply to Australia 1. It is not possible to give a specific time-table for the renegotiation of the long-term agreements. Some discussions between German and Soviet authorities have started, but it is not yet possible to forecast any results. As has been said in the reply to Australia 1, new agreements, whether renegotiated at the Community, government or at the industry level, will have to work in a market economy context and therefore will not provide for government guaranteed exchanges of goods. This does not preclude Community action regarding the trade policy framework necessary for the continuation of these agreements within their previously agreed time period of validity.

US 17

Both the annual Protocols and the longer term agreements call for "reciprocal deliveries" of goods at zero rates of duty. The waiver from GATT obligations contained in L/6792 does not cover exports from the former GDR to former CMEA countries. Is the expectation of the EC or of Germany that exports from the former GDR will continue to enter Eastern European import markets on a duty free basis, notwithstanding that the legal basis for such treatment ceased to operate with unification? Does the EC contemplate expanding the terms of this waiver to cover such trade as well? Could the EC and Germany report on the current tariff treatment accorded exports from the former GDR to the former CMEA countries and Yugoslavia?

See reply to Canada 5. Trade from the former GDR to its former CMEA partners will be regarded and treated as trade originating in or coming from the Community. There will thus be no special duty free treatment. The EC does not contemplate to expand the terms of the waiver.

US 18

The Council Regulation states that the "maximum quantities or values mentioned in these agreements do not entail legally binding obligations between the parties." The waiver in L/6792 states, however, that "granting temporary preferential treatment to the above mentioned countries by the European Communities is necessary to take account...of the legal obligations of the former German Democratic Republic (GDR) vis-a-vis these trading partners...". Please explain the apparent contradiction of these two statements.

The nature of the obligations of the former GDR vis-à-vis its traditional trading partners of the CMEA in the context of the annual trade protocols is explained in reply to Australia 1. These obligations did not relate to the precise maximum quantities or values mentioned in the agreements with these partners, but to the conditions under which this trade took place, viz. absence of customs duties. This absence was inherent of the whole CMEA trade system. For the agreements listed in Annex I to Regulation (EEC) No 3568/90 these obligations lasted until 31.12.90; for those listed in Annex II they last until a date specified in the agreement or until its expiry. There is, therefore, no contradiction between the statements quoted in this question.

US 19

Article 1, paragraph 1 states that the "essential elements" of the agreements listed in Annexes I and II, i.e., the agreements on products covered by the tariff and standards preferences, "shall be published in the Official Journal of the European Communities." Has the EC published these yet? Are they available to the Contracting Parties for their review in the context of this Working Party?

See introduction I, 2

US 20

Article 1, paragraph 2 of the Regulation provides that the preferential tariff treatment may be granted only to those goods imported for consumption within the former GDR or "undergo processing conferring Community origin there." Please describe the process by which Community origin could be conferred. Please explain how "Community origin" conferred after importation through processing could be determined at the time of importation, i.e., in time to allow the product entry on a duty-free basis.

See reply to Canada 3.

US 21

Also concerning Article 1, paragraph 2, the Regulation specifies that a license must be issued by relevant German authorities to certify that goods are eligible for preferential tariff treatment as provided in the Regulation. Could the EC further specify the procedures and criteria used for granting such a license, and identify the relevant German authorities? How will the relevant authorities determine that the import is a good covered by one of the agreements listed in Annexes I and II. How will the value/volume limits of the duty-free treatment be enforced? Does the EC envision that such licenses could be granted for products falling outside the scope of the trade contemplated by the agreements in Annexes I and II to Council Regulation No. 3568/90?

See general observations II.2.

US 22

Article 1, paragraph 3 of the Commission decision notes that appropriate authorities may take "whatever measures are needed" to ensure that the products covered by the decision are either consumed or sufficiently processed on the territory of the former GDR. Please describe the nature of possible measures to be taken including any monitoring procedures that will be employed.

Idem.

US 23

How will the EC ensure that goods are not being imported duty-free into the territory of the former GDR and then transhipped into another EC member state? In addition, how will goods which are first shipped into another EC member state and then sent into the territory of the former GDR be handled for the purposes of qualifying for the tariff and standards preferences?

Idem.

US 24

Does the Regulation or any other EC legislation provide for expanding the tariff preferences established in this Regulation? What other transitional preferential trade measures are provided for in EC legislation?

No and no other.

US 25

[Regarding the Commission Decision No. 3788/90/ESCS of 19 December 1990] What products from what former CMEA countries or Yugoslavia are covered by the anti-dumping duty suspension provided for in Article 1. How will the suspended anti-dumping duties be reinstated at the end of the transitional period, e.g., will the cases be reviewed?

Participants will find in Annex V a provisional list of Anti-dumping duties. These duties have been suspended during the transitional period.

US 26

Will the licenses referred to in Article 2 be issued by the same relevant German authorities as those issued to trade the tariff preference granted in Council Regulation (EEC) No. 3568/90?

Yes.

US 27

How will German authorities ensure that final consumption of the products covered by this Decision occurs only in the former GDR. How will eventual sufficient processing to confer Community origin be established at the time the tariffs and anti-dumping duties are exempted, i.e., at the time of initial importation?

See general observations II.2.

US 28

To the extent that they differ from the rules applied in the case of products subject to Council Regulation (EEC) No. 3568/90, please describe the rules of origin to be applied to these imports.

The rules are not different. See for the rest reply to Canada 3.

US 29

[Regarding the Council Regulation (EEC) No. 3571/90 of 4 December 1990] Please describe the trade provisions, if any, of this Regulation, which concerns the extension of the Common Fisheries Policy to the former GDR.

This Regulation does not contain any trade provisions. It is not covered by the waiver granted by the CONTRACTING PARTIES on 13 December 1990 and is not relevant to the work of the Working Party.

US 30

[Regarding the Council Regulation (EEC) No. 3577/90 of 4 December 1990 concerning the transitional measures required in the agricultural sector] Article 4 of this Regulation permits Germany to grant compensatory aid to agricultural incomes in the former GDR through 31 December 1993. Please describe the scope and nature of the aid contemplated in this Regulation, for what products, and at what level.

Not covered by the waiver (not relevant).

US 31

Regarding Council Directive of 4 December 1990 on the transitional measures and the adjustments required to the Directives on plant health, seeds, plants and animal feeding stuffs and to the veterinary and zootechnical legislation as a result of German Unification (90/654/EEC); and regarding Council Directive of 4 December 1990 on transitional measures applicable in Germany in the context of the harmonization of technical rules (90/657/EEC),

Please elaborate on the provisions in these Directives that relax Community health and safety or other standards for production in the former GDR or in trade between the former GDR and its CMEA trading partners, e.g., what products are covered, and what is the nature, in general, of the differences between EC regulations and those currently in force in the former GDR?

According to Articles 1 of the Directives 90/650/EEC and 90/657/EEC the Community has authorized the German authorities to allow for the relaxation of Community standards for those products which fall under the scope of the directives contained in the annexes of the above cited directives (see Annex III).

The main differences between EC regulations and those currently in force in the former GDR concern the design, composition, labelling and marketing of industrial products. Adjustment periods have been considered necessary for those East German products which do not comply with EC regulations but the withdrawal of which from the markets of the new Länder would impose an excessive burden on those concerned.

As far as Directive 90/654/EEC is concerned only two possible exemptions concern imports from the CMEA trading partners of the former GDR:

- A derogation of Council Directive 77/93/EEC (harmful organisms) may be accepted by the Commission and after consultation of the Member States in order to fulfil possible contractual obligations of the former GDR concerning the imports of products which do not meet the requirements of this Directive. Until the present no request has been submitted to the Commission.

- Further derogations may concern the marketing conditions laid down in the Community directives for plant propagating material. They have been accepted in order to respect the production needs of undertakings in the former GDR. Germany has admitted the importations of seeds of maize (corn) and sunflowers which are not certified according to EEC rules into the territory of the former GDR and ensures that the seed is not introduced into parts of the Community other than this territory (on controls see reply to US 37: plant propagating material).

US 32

Does this preference cover the same trade as the tariff preferences or does it cover additional imports into the former GDR from its CMEA trading partners?

According to Articles 1 para. 3 of Directives 90/650/EEC and 90/657/EEC German authorities may extend derogations to products imported into the territory of the former German Democratic Republic only to those which are covered by the tariff preferences.

US 33

Is it the intent of the EC and Germany that the extension of these Council Directives to imports into the former GDR covered by Council Regulation (EEC) No. 3568/90 be covered by the terms of L/6792? Is there any additional similar EC legislation that provides for "the derogation from certain standards and norms" currently in effect? Does the EC believe it to be covered by the waiver in L/6792?

In answer to first question see reply to US 1. No additional similar EC legislation exists.

US 34

Which German authorities may extend the derogations of these directives to products covered by Council Regulation (EEC) No. 3568/90? Have such derogations been granted thus far, and if so, to what extent?

German authorities which may extend derogations from EC Directives to products covered by Council Regulation (EEC) No. 3568/90 are the same as those which may extend derogations under Article 1 of Directive 90/650/EEC.

According to Articles 3 para. 2 of the Directives 90/650/EEC and 90/657/EEC the Federal Republic of Germany shall first report on the application of the measures taken pursuant to these Directives on 31 December 1991; this report shall include information on the granting of derogations.

US 35

How does the EC justify under the provisions of the General Agreement the exemption provided for in these Directives of German production in the former GDR from the standards requirements applied to imports from third countries not subject to Council Regulation (EEC) No. 3568/90?

To the extent that this matter may be outside the scope of the waiver the Community would be willing to consult on any specific problems that might arise.

US 36

Under what circumstances can products produced in the former GDR or imported under the terms of L/6792 which benefit from the relaxation of Community standards provided for in these Directives be exported from Germany with a "made in Germany" label and without reference to the fact that they are not fully subject to EC standards regulations and directives?

According to Articles 2 para. 2 of the Directives 90/650/EEC and 90/657/EEC the German authorities shall take all measures necessary to ensure that products which qualify for derogations under Article 1 are not placed on the market in the territory of the Community other than the territory of the former German Democratic Republic.

US 37

How can Germany "take all measures necessary to ensure that products not complying with the Community Directives...are not placed on the market" elsewhere in the Community, as provided for in Article 2 paragraph 2 of 90/650/EEC and 90/657/EEC, and Article 5, paragraph 1 of 90/654/EEC, if such measures "shall not give rise to any additional controls or formalities at frontiers between Member States?

Controls are exercised on the market (see EC Directive 90/650/EEC and 90/657/EEC). As far as Directive 90/654/EEC is concerned:

- Only minor derogations have been accepted in the veterinary sector, for animal feedingstuffs, plant propagating material and plant health.

Veterinary sector: A provisional measure permits East-German slaughterhouses not to meet the requirements for a licence according to Community standards as laid down in Council Directive 71/118/EEC.

However, no control problem exists, since each product has to bear a specific mark referring to the East German slaughterhouse. The mark is different from the mark attributed by licensed slaughterhouses. The national supervision authorities can therefore easily identify chicken slaughtered in East German slaughterhouses not complying with EC-standards, should an attempt be made to market them outside former GDR territory.

Animal feedingstuffs: Germany is authorised to maintain former GDR regulations permitting the use of a limited number of additives in animal feedingstuffs (Directive 70/524/EEC) as well as the use of protein products obtained from yeast of the Candida Genus (directive 82/471/EEC). It may also admit derogations from the labelling provisions for the above mentioned additives and yeast of Candida Genus as well as for compound and straight feedingstuffs (directives 70/524/EEC, 77/101/EEC, 79/373/EEC, 82/471/EEC). Effective control can be ensured by the national supervision authorities. The producer, the additives and in many cases the ingredients have to be indicated on the labelling. Derogation and origin can therefore easily be identified.

Plant propagating material: Germany is authorised to allow a number of derogations from the marketing conditions laid down in the Community directives.

There is no control problem, since products not complying with Community standards cannot be "EEC"-certified. They consequently cannot bear a reference to "EEC rules and standards" and must be labelled differently. Such products would be easily identifiable if an attempt were made to market them outside the ex-GDR territory.

Plant health legislation: Germany is authorised to allow derogations from Council Directive 88/362/EEC (pesticides).

The control is effected by national authorities, who regularly take samples of products before their transformation. The specific measures taken by Germany enable the national German authorities to verify on the territory of the Federal Republic of Germany that no product, whose commercialisation is limited to the former GDR is marketed elsewhere.

US 38

Article 3, paragraph 1 of 90/650/EEC and 90/657/EEC states that the rules, regulations, and control measures to be taken in this regard should have been notified to the EC Commission by 31 December 1990 and "immediately" published in the Official Journal. Will the EC provide the published texts to the Contracting Parties in the context of this Working Party review? Is there any such provision for publication in the case of 90/654/EEC?

Council Directive 90/654/EEC does not provide for publication of notification in the Official Journal. Nevertheless the information of the Member States and the European Parliament is provided for. The Commission is preparing a report which shall be presented in the near future.

US 39

Article 3, paragraph 2 of 90/650/EEC and 90/657/EEC refers to reports on the application of these measures to be provided through 31 December 1995. In addition, the time limits for the derogations provided for in the Annex to 90/654/EEC in some cases go beyond December 1992. Is it the intent of the EC to continue to exempt the imports into the former GDR contemplated in Council Regulation (EEC) No. 3568/90 from normal EC standards requirements after the expiration of the waiver contained in L/6792 in December 1992?

The answer is negative.

US 40

Does the authority granted in Article 4, paragraph 1 of 90/650/EEC and 90/657/EEC, and Article 3, paragraph 1 of 90/654/EEC to "take measures involving adjustments to fill obvious loopholes and technical adjustments" include authority to expand the scope of the relaxation of standards regulations provided for in these Directives?

Reply as far as Directive 90/654/EEC is concerned:

If necessary the scope of the relaxation of standards may be expanded, but only within the limits of Article 3(2) of Council Directive 90/654/EEC.

As far as Council Directives 90/650/EEC and 90/657/EEC no such authority is provided for.

US 41

What access will the Community's trading partners have to the committee described in Article 5 of 90/650/EEC and 90/657/EEC to ensure that their rights under the General Agreement and other multilateral instruments and institutions are protected in the course of its deliberations?

The general rules of access to Commission committees apply.

ANNEX I

Overview of Effective Utilization of Duty Free Import Possibilities
in Former GDR from European CMEA Countries and Yugoslavia
Covered by GATT Waiver
IV/1990 in Mio ECU

Duty free import quotas IV/1990[1] (1)	Total duty free imports IV/1990 (preliminary) (2)	Percentage utilization (col 2 as % of col 1) (3)	For information: total imports (duty free and duty paid) (4)	Col (4) as % of Col (1) (5)
3,170.3	118.9	3.8 %	905.9	28.6 %
1,734.6	40.4	2.3 %	577.4	33.3 %
362.8	36.9	10.2 %	95.6	26.3 %
370.8	11.9	3.2 %	120.5	32.5 %
261.9	17.5	6.7 %	69.9	26.7 %
187.9	5.1	2.7 %	12.7	6.8 %
151.9	4.9	3.2 %	10.0	6.6 %
100.4	2.2	2.2 %	19.8	19.7 %

[1]Tariff quotas are expressed in quantities; their values have been calculated on the basis of past import prices.

ANNEX IV

Imports from Third Countries Into the New Federal Länder
During the Year 1990

(Million DM)

	Total 1990	3.10.-31.12. 1990	% of annual imports
Total imports	20,174.3	2,458.3	12.2
Of which:			
USSR	9,106.9	1,191.5	13.1
Poland	1,800.4	248.6	13.8
CSFR	1,719.8	197.4	11.5
Hungary	1,233.4	144.2	11.7
Austria	805.3	124.6	15.5
Switzerland	779.4	64.4	8.3
Bulgaria	545.1	20.6	3.8
China	428.4	31.7	7.4
Romania	406.7	26.3	6.5
Yugoslavia	376.6	40.9	10.9
Sweden	254.0	45.3	17.8
Cuba	237.7	12.2	5.1
USA	225.9	25.4	11.2
Finland	208.6	16.2	7.8
India	160.7	21.2	13.2
Japan	128.5	22.7	17.7
Brazil	120.3	14.2	11.8
Chile	81.8	17.6	21.5
Norway	80.3	16.1	20.0
Vietnam	79.6	3.1	3.8
Peru	56.3	13.7	24.3
Taiwan	55.2	40.3	73.0
Canada	54.9	1.9	3.5
Colombia	48.5	9.5	18.6
Egypt	44.9	1.8	4.0
Republic of Korea	43.1	15.5	35.8
Singapore	40.3	18.7	46.4
Thailand	39.5	9.5	24.1
Australia	37.7	.	.
Argentina	32.3	2.7	8.4
Angola	29.6	-	.
Syria	25.4	11.3	44.5
Iraq	24.5	-	.

ANNEX V

List of Anti-Dumping Duties Currently in Force Against East European Countries

Product	Date of Duty
USSR	
Electric motors	27.3.1987
Copper sulphate	27.1.1989
Deep freezers	8.1.1987
Mercury	10.12.1987
Calcium metal	20.9.1989
USSR	
Copper sulphate	20.8.1987
Electric motors	27.3.1987
Potassium permanganate	15.2.1990
Hungary	
Electric motors	27.3.1987
Copper sulphate	20.8.1987
Romania	
Soda ash	13.5.1989
Synthetic textile fibres of polyester	17.12.1988
Welded tubes	6.4.1990
Bulgaria	
Soda ash [light]	13.5.1989
Electric motors	27.3.1987
Copper sulphate	27.1.1989
Poland	
Light soda ash	13.5.1989
Electric motors	27.3.1987
Yugoslavia	
Copper sulphate	30.4.1988
Flat rolled products	19.7.1988
Electric motors	7.8.1987
Sheets and plates, hot rolled, flat rolled	19.7.1988
Synthetic fibres of polyester	17.12.1988
Sheets of iron or non-alloy steel [cold rolled]	8.7.1989
Welded tubes of iron or non-alloy steel	6.4.1990