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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1794/90

of 28 June 1990

on transitional measures concerning trade with the German Democratic Republic

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28 and 113 thereof,

Having regard to the proposal from the Commission,

Whereas the Federal Republic of Germany and the German Democratic Republic have concluded a Treaty (Staatsvertrag) for the immediate establishment of a monetary union and for the progressive integration of the German Democratic Republic into the economic and social system of the Federal Republic of Germany and into the legal system of the Community in advance of the formal unification of the two Germanies;

Whereas the Staatsvertrag states that the German Democratic Republic shall align its policies on the laws and objectives of the European Communities;

Whereas, during the period preceding unification, rules governing trade between the German Democratic Republic, on the one hand, and the Federal Republic of Germany and other Member States of the Community, on the other, should be geared towards the free access of Community products to the German Democratic Republic and towards equivalent access to the Community for the latter's products; whereas such free access for products from the German Democratic Republic may, however, be granted only if the latter provides suitable protection at its frontier with third countries;

Whereas it appears appropriate, in order to enable the Community's external arrangements to be adapted rapidly to developments in the German Democratic Republic, to confer upon the Commission the relevant implementing powers in accordance with the management committee procedure;

Whereas, as regards trade between the German Democratic Republic, on the one hand, and Spain and Portugal,

on the other, this Regulation shall apply with due regard to the relevant Articles of the Act of Accession,

HAS ADOPTED THIS REGULATION:

Article 1

In so far as the Commission establishes, under the procedure laid down in Article 4, that the conditions of Article 2 are met, the application of customs duties and any charges having equivalent effect and also of quantitative restrictions and any restrictive measures resulting from the instruments of the common commercial policy shall be suspended, taking into account the relevant provisions of the Act of Accession of Spain and Portugal, in Community trade with the German Democratic Republic.

However, Spain and Portugal may maintain, with regard to the German Democratic Republic, the quantitative restrictions which concern the products listed in Annex I to Regulation (EEC) No 288/82⁽¹⁾.

This Regulation shall not apply to the agricultural products referred to in Annex II to the Treaty nor to goods resulting from the processing of agricultural products and referred to in Regulation (EEC) No 3033/80⁽²⁾, as last amended by Regulation (EEC) No 1436/90⁽³⁾.

Article 2

1. The Commission is hereby empowered, under the procedure laid down in Article 4, to take the implementing measures with regard to Article 1, to the extent that:

- (a) the German Democratic Republic introduces into its trade with third countries the Common Customs Tariff, Community customs legislation and the other common commercial policy measures or, particularly in the cases provided for under paragraph 2, measures ensuring that the provisions laid down by the Community with regard to third countries are not circumvented;

⁽¹⁾ OJ No L 35, 9. 2. 1982, p. 1.

⁽²⁾ OJ No L 323, 29. 11. 1980, p. 1.

⁽³⁾ OJ No L 138, 31. 5. 1990, p. 9.

(b) the German Democratic Republic takes, or is making preparations to take, measures guaranteeing free access for Community goods.

2. The condition set out in paragraph 1 (a) shall apply without prejudice to the German Democratic Republic's obligations under agreements concluded with third countries.

Article 3

1. Notwithstanding the procedure laid down in Article 4, the measures suspended pursuant to Article 1 may be reintroduced by the Commission, acting either on its own initiative or at the request of a Member State, in so far as the application of Article 1 gives rise to serious economic difficulties in a sector of activity in one or more Member States of the Community.

2. If the German Democratic Republic is led to take protective measures in order to avoid the free access of Community goods giving rise to serious difficulties in a sector of its economic activities, this will not prevent the applications of Article 1 provided that such measures are applied in a uniform way to one or more categories of Community goods.

Article 4

The measures provided for under this Regulation together with any other necessary implementing rules shall be adopted in accordance with the following procedure:

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 28 June 1990.

The Commission shall be assisted by a Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith.

In that event, the Commission may defer application of the measures which it has decided for one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph.

Article 5

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

The suspension measures taken pursuant to Article 1 may be made applicable with effect from 1 July 1990.

For the Council

The President

M. GEOGHEGAN-QUINN

COMMISSION REGULATION (EEC) No 1795/90**of 29 June 1990****concerning the methods of implementation of Council Regulation (EEC) No 1794/90 on the transitional measures for trade with the German Democratic Republic**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1794/90 of 28 June 1990 on the transitional measures for trade with the German Democratic Republic⁽¹⁾, and in particular Article 2 thereof,

Having regard to Commission Decision No 1792/90/ECSC of 29 June 1990 on the abolition of customs duties and quantitative restrictions for goods covered by the ECSC Treaty and originating in the German Democratic Republic⁽²⁾, and in particular Article 2 thereof,

Whereas it was announced in a joint statement issued by the customs authorities of the Federal Republic of Germany and of the German Democratic Republic that, with effect from 1 July 1990, trade in non-agricultural products between the German Democratic Republic and third countries would be subject to the same customs rules and procedures which apply to trade between the Federal Republic of Germany and third countries;

Whereas the Common Customs Tariff as well as Community customs legislation is to be applied by the German Democratic Republic which is to grant free access to its territory to Community goods on a reciprocal basis; whereas the said administrations have undertaken to work closely together and have made provision to apply systematically the Community transit regime (external procedure) to all goods coming from third countries and destined for the Federal Republic of Germany or for other Member States of the Community; whereas in applying this Regulation the Federal Republic of Germany will maintain a close liaison with the Commission in order to be able to take, in concert with the German Democratic Republic, such measures as may be necessary to ensure that the provisions of the common commercial policy relating to certain products from third countries are not circumvented;

Whereas the conditions set out in Article 2 of Regulation (EEC) No 1794/90 are fulfilled;

Whereas in order to allow the free access of Community goods to the German Democratic Republic as well as equivalent access of the latter's goods to the Community,

it is necessary to make the Community Regulations on Community transit applicable to trade between the Community and the German Democratic Republic;

Whereas, it is necessary to take into account the specific provisions applicable to trade between the Community as constituted on 31 December 1985 on the one hand and Spain and Portugal on the other;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee composed of Representatives of the Member States,

HAS ADOPTED THIS REGULATION:

Article 1

It is agreed that the conditions specified in Article 2 of Regulation (EEC) No 1794/90 and in Article 2 of Commission Decision No 1796/90/ECSC have been met.

Article 2

1. The Community transit procedure shall apply to the movement of goods between the Community and the German Democratic Republic.
2. For the implementation of this procedure and without prejudice to the implementation of Article 3, the 'German Democratic Republic' shall be considered as forming part of the Community.
3. Within the meaning of this Article the movement of goods between the Federal Republic of Germany and the German Democratic Republic shall be considered to be carried out within the territory of a single Member State.

Article 3

Goods to which the provisions of Regulation (EEC) No 1794/90 and Decision No 1796/90/ECSC apply and which originate in the German Democratic Republic where they are in free circulation, shall move between the Community and the German Democratic Republic, under the internal Community transit procedure or shall benefit from the application of the provisions on proof of Community status of goods.

⁽¹⁾ See page 1 of this Official Journal.

⁽²⁾ See page 5 of this Official Journal.

Article 4

1. The list of countries appearing at point I, 1 in the guarantee undertakings reproduced in specimens I, II and III, appearing in the Annex to Council Regulation (EEC) No 222/77⁽¹⁾ shall be completed, where appropriate by the letters 'GDR'.

2. The list of countries appearing in the guarantee certificates reproduced in the specimen in Annex IV to Commission Regulation (EEC) No 1062/87⁽²⁾ shall be completed, where appropriate, by the letters 'GDR'.

Article 5

The provisions of Commission Regulation (EEC) No 409/86 of 20 February 1986 on methods of administrative

cooperation to safeguard during the transitional period the free movement of goods between the Community as constituted on 31 December 1985 on the one hand and Spain and Portugal on the other and between those two new Member States⁽³⁾, shall apply to trade between Spain and Portugal on the one hand and the German Democratic Republic on the other.

Article 7

This Regulation shall enter into force on 1 July 1990.

It shall be applicable to goods for which dispatch or transit formalities are commenced on or after this date.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 June 1990.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 38, 9. 2. 1977, p. 1.

⁽²⁾ OJ No L 107, 22. 4. 1987, p. 1.

⁽³⁾ OJ No L 46, 25. 2. 1986, p. 5.

COMMISSION DECISION No 1796/90/ECSC

of 29 June 1990

on the suspension of customs duties and quantitative restrictions for products falling within the ECSC Treaty coming from the German Democratic Republic

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular the first paragraph of Article 95 thereof,

Whereas the Federal Republic of Germany and the German Democratic Republic have concluded a treaty (Staatsvertrag) for the immediate establishment of a monetary union and for the progressive integration of the German Democratic Republic into the economic and social system of the Federal Republic of Germany and into the economic and social system of the Federal Republic of Germany and into the legal system of the Community in advance of the formal unification of the two Germanies;

Whereas the Staatsvertrag states that the German Democratic Republic shall align its policies on the laws and objectives of the European Communities;

Whereas, during the period preceding unification, rules governing trade between the German Democratic Republic, on the one hand, and the Federal Republic of Germany and other Member States of the Community, on the other, should be geared towards the free access of Community products to the German Democratic Republic and towards equivalent access to the Community for the latter's products; whereas such free access for products from the German Democratic Republic may, however, be granted only if the latter provides suitable protection at its frontier with third countries;

Whereas it appears necessary, in view of the objectives set out in Articles 2 and 3 of the Treaty, that goods coming from the German Democratic Republic into the Community should, on a basis of reciprocity, be uniformly treated, both as regards goods falling within the Treaty establishing the European Coal and Steel Community (ECSC) and goods falling within the Treaty establishing the European Economic Community (EEC); whereas the Commission must be in a position to take, at the same time and for all goods, the decisions necessary to that end which are directly applicable in all the Member States;

Whereas this Decision does not otherwise affect the powers of the Member States with regard to commercial policy referred to in Article 71 of the Treaty;

Whereas, as regards trade between the German Democratic Republic, on the one hand, and Spain and Portugal, on the other, this Decision shall apply with due regard to the relevant Articles of the Act of Accession;

After consulting the Consultative Committee and with the unanimous assent of the Council,

HAS ADOPTED THIS DECISION:

Article 1

Insofar as the Commission establishes, under the procedure laid down in Article 4, that the conditions of Article 2 are met, the application of customs duties and any charges having equivalent effect and also of quantitative restrictions and any restrictive measure resulting from the instruments of the commercial policy shall be suspended, taking into account the relevant provisions of the Act of Accession of Spain and Portugal, in Community trade with the German Democratic Republic.

Article 2

1. The Commission shall, under the procedure laid down in Article 4, take the implementing measures with regard to Article 1, to the extent that:

- (a) the German Democratic Republic introduces into its trade with third countries the ECSC Tariff applicable in the Federal Republic of Germany, Community customs legislation, as well as the other commercial policy measures applicable in the Federal Republic of Germany or, particularly in the cases provided for under paragraph 2, measures ensuring that the provisions applicable in the Federal Republic of Germany or in the other Member States of the Community with regard to third countries are not circumvented; and
- (b) the German Democratic Republic takes, or is making preparations to take, measures guaranteeing free access for Community goods.

The condition set out in paragraph 1 (a) shall apply without prejudice to the German Democratic Republic's obligations under agreements concluded with third countries.

Article 3

1. Notwithstanding the procedure laid down in Article 4, the measures suspended pursuant to Article 1 may be reintroduced by the Commission, acting either on its own initiative or at the request of a Member State insofar as the application of Article 1 gives rise to serious economic difficulties, in a sector of activity, in one or more Member States of the Community.

2. If the German Democratic Republic is led to take protective measures in order to avoid the free access of Community goods giving rise to serious difficulties in a sector of its economic activities, this will not prevent the application of Article 1 provided that such measures are applied in a uniform way to one or more categories of Community goods.

Article 4

The measures set out in this Decision and any other necessary implementing rules shall be adopted according to the procedure provided for in Article 4 of Commission Regulation (EEC) No 1795/90⁽¹⁾.

Article 5

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

The suspension measures taken pursuant to Article 1 may be made applicable with effect from 1 July 1990.

This Decision shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 June 1990.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ See page 3 of this Official Journal.