

COUNCIL DIRECTIVE

of 4 December 1990

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

(90/654/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine ⁽¹⁾, as last amended by Directive 89/662/EEC ⁽²⁾, and in particular Article 4 b (1) (c) thereof,

Having regard to Council Directive 72/461/EEC of 12 December 1972 on health problems affecting intra-Community trade in fresh meat ⁽³⁾, as last amended by Directive 89/662/EEC ⁽⁴⁾, and in particular Article 13a (2) thereof,

Having regard to the proposal from the Commission ⁽⁵⁾,

Having regard to the opinion of the European Parliament ⁽⁶⁾,

Having regard to the opinion of the Economic and Social Committee ⁽⁷⁾,

Whereas the Community has adopted a body of rules implementing the common agricultural policy;

Whereas, from the date of German unification onwards, Community law will be fully applicable in the territory of the former German Democratic Republic;

Whereas to facilitate the integration of farming in the territory of the former German Democratic Republic into the common agricultural policy, the former German

Democratic Republic has been applying, in an autonomous capacity, some of the common agricultural rules since 1 July 1990;

Whereas, however, certain adjustments must be made to Community agricultural legislation in order to allow for the particular circumstances of the said territory;

Whereas the derogations provided for in this connection should as a general rule be temporary and cause the least possible disturbance to the functioning of the common agricultural policy and the pursuit of the objectives of Article 39 of the Treaty;

Whereas, given the current situation, certain Community provisions on quality and health cannot be applied immediately to the territory of the former German Democratic Republic; whereas any disturbance to the proper functioning of the internal market resulting from the application of derogations to this end must be avoided; whereas therefore products which do not conform to Community rules should not be marketed in the Community except in the territory of the former German Democratic Republic;

Whereas information about farming in the territory of the former German Democratic Republic is insufficient to permit the extent of the adjustments and derogations to be definitively established; whereas, to allow for changes in the situation, it is necessary to lay down a simplified procedure in accordance with the third indent of Article 145 of the Treaty so that the measures provided for in this Directive may be adjusted and supplemented where necessary;

Whereas the German authorities have undertaken to extend their eradication plan for classical swine fever to the territory of the former German Democratic Republic from the date of German unification; whereas they have given their assurance that the system for notifying diseases will be in operation for that territory on the same date; whereas, as a result, in the light of the animal health situation in that territory and the above undertakings, the territory should be accorded disease-free status with regard to classical swine fever from the date of German unification,

(1) OJ No 121, 29. 7. 1964, p. 1977/64.

(2) OJ No L 395, 30. 12. 1989, p. 13.

(3) OJ No L 302, 31. 12. 1972, p. 24.

(4) OJ No L 395, 30. 12. 1989, p. 13.

(5) OJ No L 263, 26. 9. 1990, p. 24, as amended on 25 October 1990.

(6) Opinion delivered on 21 November 1990 (not yet published in the Official Journal).

(7) Opinion delivered on 20 November 1990 (not yet published in the Official Journal).

HAS ADOPTED THIS DIRECTIVE:

Article 1

To ensure the harmonious integration of the territory of the former German Democratic Republic into the common agricultural policy, this Directive lays down transitional arrangements and the adjustments required to the Directives on plant health, seeds, plants and animal feedingstuffs and to veterinary and zootechnical legislation.

Article 2

The adjustments and transitional arrangements referred to in Article 1 are set out in the Annexes hereto.

Article 3

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

2. Such adjusting measures must be designed to ensure coherent application of Community rules in the sector covered by this Directive in the territory of the former German Democratic Republic, with due regard for the specific circumstances in that territory and the special difficulties involved in the application of those rules.

They must be consistent with the principles of those rules, and be closely related to one of the derogations provided for by this Directive.

3. The measures referred to in paragraph 1 may be taken until 31 December 1992. Their applicability shall be limited to the same period; however, where this Directive sets later time limits for derogations, those time limits shall apply.

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

Article 4

Where this Article is referred to, measures shall be adopted, in accordance with the procedure laid down in the Article

providing for the adoption of detailed rules of application, in an instrument falling within the scope of this Directive.

Article 5

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

2. The Federal Republic of Germany shall, in accordance with the provisions of the Annexes, take measures to guarantee that products not complying with Community rules are not placed on the market in parts of the Community other than the territory of the former German Democratic Republic. Such measures shall be compatible with the Treaty, and in particular with the objectives of Article 8a, and shall not give rise to any additional controls or formalities at frontiers between Member States.

3. Any Member State may refer any difficulties to the Commission. The Commission shall, as a matter of urgency, examine the question and submit its conclusions, possibly accompanied by appropriate measures. These measures shall be adopted in accordance with the procedure laid down in Article 4.

Article 6

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

Upon expiry of the periods of application of the transitional measures the Federal Republic of Germany shall draw up a report on their application. The report shall be forwarded to the Commission, which shall communicate it to the other member States.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 4 December 1990.

For the Council

The President

G. DE MICHELIS

ANNEX I

PLANT HEALTH LEGISLATION

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

The following paragraphs are added to Article 16:

'However, the Federal Republic of Germany is hereby authorized to place on the market in the territory of the former German Democratic Republic, until 31 December 1992 at the latest, Annex I products whose hydrogen cyanide level exceeds that fixed in Annex II; this derogation shall apply only to products originating in the territory of the former German Democratic Republic.

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

The Federal Republic of Germany shall ensure that the products in question are not introduced into parts of the Community other than the territory of the former German Democratic Republic.'

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

The following paragraph 6 is added to Article 20:

'6. Within the limits of the traditional trade flows and in response to the production needs of undertakings in the former German Democratic Republic, the Federal Republic of Germany may be authorized, at its own request and in accordance with the procedure laid down in Article 16a, to comply with Article 4 (1), Article 5 (1) and the relevant provisions of Article 12 in respect of the territory of the former German Democratic Republic at a date later than that referred to in paragraph 1 (b), but not later than 31 December 1992. The corresponding requests shall specify the product and the quantities thereof concerned. Authorization shall not be given until any resultant plant health risks have been analysed.

The Federal Republic of Germany shall ensure that the products in question are not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

ANNEX II

Breeding or propagating material

I. Agricultural and vegetable species

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

(a) The following paragraph 4 is added to Article 16:

'4. Paragraph 1 shall also apply to the territory of the former German Democratic Republic until 31 December 1991. Detailed rules for application may be adopted in accordance with the procedure laid down in Article 21.'

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

'The Federal Republic of Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:

— Article 3 (1), in the case of:

— seed harvested prior to German unification or after unification insofar as the seed production fields had been sown before that date,

- other seed if it is certified in accordance with Article 2 (2),
- Article 16, within the limits of the traditional trade flows and in response to the production needs of undertakings in the former German Democratic Republic,

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

The Federal Republic of Germany shall ensure that seed in respect of which it applies this authorization, other than seed specified in the second sub-indent of the first indent, is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

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

- (a) The following paragraph 4 is added to Article 16:

'4. Paragraph 1 shall also apply to the territory of the former German Democratic Republic until 31 December 1991. Detailed rules for application may be adopted in accordance with the procedure laid down in Article 21.'

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

'The Federal Republic of Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:

- Article 3 (1), in the case of:
 - seed harvested prior to German unification or after unification insofar as the seed production fields had been sown before that date,
 - other seed if it is certified in accordance with Article 2 (2);
- Article 8 (2), in the case of the restriction to "small quantities" for seed of *Pisum sativum* L. (*partim*) and *Vicia faba* L. (*partim*);
- Article 16, within the limits of the traditional trade flows and in response to the production needs of undertakings in the former German Democratic Republic,

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

The Federal Republic of Germany shall ensure that seed in respect of which it applies this authorization, other than seed specified in the second sub-indent of the first indent, is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

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

- (a) The following paragraph 4 is added to Article 16:

'4. Paragraph 1 shall also apply to the territory of the former German Democratic Republic until 31 December 1991. Detailed rules may be adopted in accordance with the procedure laid down in Article 21.'

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

'The Federal Republic of Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:

- Article 3 (1), in the case of:
 - seed harvested prior to German unification or after unification insofar as the seed production fields had been sown before that date,
 - other seed if it is certified in accordance with Article 2 (2) (c);

- Article 8 (2), in the case of the restriction to “small quantities”;
- Article 13 (1), in the case of seed of “*Hordeum vulgare* L.”;
- Article 16, within the limits of the traditional trade flows and in response to the production needs of undertakings in the former German Democratic Republic,

at a date later than referred to above, but not later than 31 December 1992 in respect of the first and fourth indents and not later than 31 December 1994 in respect of the second and third indents.

The Federal Republic of Germany shall ensure that seed in respect of which it applies this authorization, other than seed specified in the second sub-indent of the first indent, is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.’

4. Council Directive 66/403/EEC of 14 June 1966 (OJ No 125, 11. 7. 1966, p. 2320/66), as last amended by Directive 90/403/EEC (OJ No L 208, 7. 8. 1990, p. 30).

The following paragraphs are added to Article 21:

‘The Federal Republic of Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:

- Article 3 (1), in the case of:
 - seed potatoes harvested prior to German unification, or
 - seed potatoes harvested after that date if they are certified in accordance with Article 2 (2);
- Article 8 (2), in the case of the restriction to “small quantities”;
- Article 15, within the limits of the traditional trade flows and in response to the production needs of undertakings in the former German Democratic Republic,

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

The Federal Republic of Germany shall ensure that seed potatoes in respect of which it applies this authorization, other than seed potatoes specified in the second sub-indent of the first indent, are not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.’

5. Council Directive 69/208/EEC of 30 June 1969 (OJ No L 169, 10. 7. 1969, p. 3), as last amended by Directive 88/380/EEC (OJ No L 187, 16. 7. 1988, p. 31).

(a) The following paragraph 4 is added to Article 15:

‘4. Paragraph 1 shall also apply to the territory of the former German Democratic Republic until 31 December 1991. Detailed rules may be adopted in accordance with the procedure laid down in Article 20.’

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

‘The Federal Republic of Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:

- Article 3 (1), in the case of:
 - seed harvested prior to German unification or after unification insofar as the seed production fields had been sown before that date,
 - other seed if it is certified in accordance with Article 2 (2);
- Article 16, within the limits of the traditional trade flows and in response to the production needs of undertakings in the former German Democratic Republic,

at a date later than that referred to above, but not later than 31 December 1992.

The Federal Republic of Germany shall ensure that seed in respect of which it applies this authorization, other than seed specified in the second sub-indent of the first indent, is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

6. Council Directive 70/457/EEC of 29 September 1970 (OJ No L 225, 12. 10. 1970, p. 1), as last amended by Directive 88/380/EEC (OJ No L 187, 16. 7. 1988, p. 31).

- (a) The following subparagraph is added to Article 3 (3):

'With regard to the territory of the former German Democratic Republic, the dates 1 July 1972 and 30 June 1980 respectively referred to in the first sentence of the first paragraph are replaced by those of 3 October 1990 and 31 December 1994 in respect of the varieties accepted by the authorities of the former German Democratic Republic. This provision shall apply *mutatis mutandis* to varieties which have not been officially accepted but whose seed had been marketed or sown in the territories prior to German unification.'

- (b) The following subparagraph is added to Article 12 (1):

'Acceptance of the varieties by the authorities of the former German Democratic Republic prior to German unification shall be valid until the end of the 10th calendar year at the latest following their entry in the catalogue of varieties drawn up by the Federal Republic of Germany in accordance with Article 3 (1).'

- (c) The following paragraph is added to Article 16:

'With regard to Germany, the date 1 July 1972 referred to in the introductory sentence in the first paragraph is replaced by that of 3 October 1990 in respect of varieties accepted by the authorities of the former German Democratic Republic. All the areas used for multiplication of the variety, as referred to in subparagraph (c) of the first paragraph, shall be situated in the territory of the former German Democratic Republic.'

- (d) The following paragraph is added to Article 17:

'In the cases referred to in the last paragraph of Article 16, the date 1 July 1972 referred to in the introductory sentence of the first paragraph shall be replaced by the date 3 October 1990.'

7. Council Directive 70/458/EEC of 29 September 1970 (OJ No L 225, 12. 10. 1970, p. 7), as last amended by Directive 88/380/EEC (OJ No L 187, 16. 7. 1988, p. 31).

- (a) The following subparagraph is added to Article 9 (2):

'With regard to the territory of the former German Democratic Republic, the dates 1 July 1972 and 30 June 1980 referred to in the first sentence are replaced by those of 3 October 1990 and 31 December 1994 respectively in respect of the varieties accepted by the authorities of the former German Democratic Republic.

This provision shall apply *mutatis mutandis* to varieties which have not been officially accepted but whose seed had been marketed or sown in that territory prior to German unification.'

- (b) The following subparagraph is added to Article 13 (1):

'Acceptance of the varieties by the authorities of the former German Democratic Republic prior to German unification shall be valid until the end of the 10th calendar year at the latest following their entry in the catalogue of varieties drawn up by the Federal Republic of Germany in accordance with Article 3 (1).'

- (c) The following subparagraph is added to Article 16 (4):

'With regard to Germany, the date 1 July 1972 referred to in the first sentence of the first subparagraph is replaced by that of 3 October 1990 in respect of the varieties accepted by the authorities of the former German Democratic Republic.'

- (d) The following paragraphs are added to Article 43:

'The Federal Republic of Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the following:

- Article 20 (1), in the case of seed harvested prior to German unification or after unification insofar as the seed production fields had been sown before that date,

— Article 32 (1) (d), within the limits of the traditional trade flows and in response to the production needs of undertakings in the former German Democratic Republic, at a date later than that referred to above, but not later than 31 December 1992.

The Federal Republic of Germany shall ensure that seed in respect of which it applies this authorization is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

8. Council Decision 78/476/EEC of 30 May 1978 (OJ No L 152, 8. 6. 1978, p. 17), as last amended by Decision 88/574/EEC (OJ No L 313, 19. 11. 1988, p. 45), Council Decision 85/355/EEC of 27 June 1985 (OJ No L 195, 26. 7. 1985, p. 1) and Council Decision 85/356/EEC of 27 June 1985 (OJ No L 195, 26. 7. 1985, p. 20), the latter two as last amended by Decision 90/402/EEC (OJ No L 208, 7. 8. 1990, p. 27).

References in the Annexes to the German Democratic Republic are hereby deleted.

II. Other provisions

1. Council Directive 68/193/EEC of 9 April 1968 (OJ No L 93, 17. 4. 1968, p. 15), as last amended by Directive 88/332/EEC (OJ No L 151, 17. 6. 1988, p. 82).

The following paragraphs are added to Article 19:

'The Federal Republic of Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with Article 3 (1) at a date later than that referred to above, but not later than 1 January 1995.

The Federal Republic of Germany shall ensure that the material in respect of which it applies this authorization is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

2. Council Directive 66/404/EEC of 14 June 1966 (OJ No L 125, 11. 7. 1966, p. 2326/66), as last amended by Directive 88/332/EEC (OJ No L 151, 17. 6. 1988, p. 82).

(a) The following sentence is added to Article 5e:

'With regard to the former German Democratic Republic, the date 1 July 1977 shall be replaced by that of 1 July 1990 and the expiry of the transitional period is fixed at 31 December 1994.'

(b) The following paragraph is added to Article 18:

'3a. The Federal Republic of Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with Article 4 (1) at a date later than referred to above, but not later than 1 January 1995.

The Federal Republic of Germany shall ensure that the material in respect of which it applies this authorization is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

3. Council Directive 71/161/EEC of 30 March 1971 (OJ No L 87, 17. 4. 1971, p. 14), as last amended by Regulation (EEC) No 3768/85 (OJ No L 362, 31. 12. 1985, p. 8).

The following paragraphs are added to Article 19:

'The Federal Republic of Germany is hereby authorized to comply, in respect of the territory of the former German Democratic Republic, with the provisions of Article 5 (1) at a date later than that referred to above, but not later than 1 January 1995.

The Federal Republic of Germany shall ensure that the material in respect of which it applies this authorization is not introduced into parts of the Community other than the territory of the former German Democratic Republic unless it is established that the provisions of this Directive are complied with.'

ANNEX III

LEGISLATION ON ANIMAL FEEDINGSTUFFS

1. Council Directive 70/524/EEC of 23 November 1970 (OJ No L 270, 14. 12. 1970, p. 1), as last amended by Directive 90/412/EEC (OJ No L 209, 8. 8. 1990, p. 25).

The following paragraph is added to Article 26:

'However, in the case of the territory of the former German Democratic Republic, the Federal Republic of Germany may:

- maintain the provisions applicable prior to unification under which the use of the following additives in feedingstuffs is authorized:
 - Olaquinox,
 - Nourseothricine,
 - Ergambur.

This derogation shall expire on the date of the Decision to be taken, in accordance with Article 7, on the authorization or prohibition of the use of the additives listed above, and by 31 December 1992 at the latest. The Federal Republic of Germany shall ensure that those additives and any feedingstuffs into which they are incorporated are not dispatched to other parts of the Community;

- derogate, until 31 December 1991, from the labelling provisions in Articles 14, 15 and 16 for the additives, additive pre-mixtures and compound feedingstuffs to which additives have been added, produced in the territory in question.'

2. Council Directive 77/101/EEC of 23 November 1976 (OJ No L 32, 3. 2. 1977, p. 1), as last amended by Directive 87/234/EEC (OJ No L 102, 14. 4. 1987, p. 31).

The following paragraph is added to Article 15:

'However, the Federal Republic of Germany may until 31 December 1991 derogate from the labelling provisions in Article 7 for straight feedingstuffs produced in the territory of the former German Democratic Republic.'

3. Council Directive 79/373/EEC of 2 April 1979 (OJ No L 86, 6. 4. 1979, p. 30), as last amended by Directive 90/44/EEC (OJ No L 27, 31. 1. 1990, p. 25).

The following paragraph is added to Article 16:

'However, the Federal Republic of Germany may until 21 January 1992 derogate from the labelling provisions in Article 5 for compound feedingstuffs produced in the territory of the former German Democratic Republic.'

4. Council Directive 82/471/EEC of 30 June 1982 (OJ No L 213, 21. 7. 1982, p. 8), as last amended by Directive 90/439/EEC (OJ No L 227, 21. 8. 1990, p. 33).

The following paragraph 3 is added to Article 4:

'3. In the territory of the former German Democratic Republic, the use in feedingstuffs of protein products obtained from yeast of the *Candida* genus cultured on n-alkanes shall not be prohibited until 31 December 1991. The Federal Republic of Germany shall ensure that the products in question are not dispatched to other parts of the Community.'

The following paragraph is added to Article 17:

'However, the Federal Republic of Germany may until 31 December 1991 derogate from the labelling provisions in Article 5 for feedingstuffs produced in the territory of the former German Democratic Republic.'

ANNEX IV

VETERINARY LEGISLATION

1. Council Decision 88/303/EEC of 24 May 1988 (OJ No L 132, 28. 5. 1988, p. 76), as last amended by Decision 90/63/EEC (OJ No L 43, 17. 2. 1990, p. 32).

The following territories are added to Chapter 1 of Annex II:

'Bezirke Rostock, Schwerin, Neubrandenburg, Potsdam, Frankfurt, Cottbus, Magdeburg, Halle, Erfurt, Gera, Suhl, Dresden, Leipzig, Chemnitz and Berlin.'

2. Council Directive 71/118/EEC of 15 February 1971 (OJ No L 55, 8. 3. 1971, p. 23), as last amended by Directive 89/662/EEC (OJ No L 395, 30. 12. 1989, p. 13).

The following text is inserted as Article 15d:

'Article 15d

1. Until 31 December 1992 the Federal Republic of Germany may derogate, in the territory of the former German Democratic Republic, from the following provisions:

- Article 3 (1) A. (a) and (e).
- Article 3 (1) A. (c) regarding the requirements referred to in Annex I to Chapter V 28a to 28b,
- Article 3 (1) B. (a),
- Article 3 (1) B. (e) regarding the requirements in A. (e).

2. Products from the establishments referred to in paragraph 1 shall be reserved exclusively for consumption in the territory of the former German Democratic Republic.

3. The establishments referred to in this Article shall be entered on a special list and allocated a special veterinary approval number which cannot be confused with the approval number laid down for intra-Community trade within the meaning of Article 5 (1).'