

**THE COMMUNITY AND GERMAN UNIFICATION
COM (90) 400, VOLUME I
21 August 1990**

Reproduced from the Bulletin of the European Communities
Supplement No. 4/90
Pages 27-112

Volume II containing the proposed technical regulations has not been reproduced.

The Community and German unification

I — General explanatory memorandum

Introduction

1. Background

1.1. In its communication of 19 April to the European Council, the Commission stated its view that the conditions had been met for a dynamic and orderly process of German unification to go ahead. It also felt that unification should take place under the Community roof and that it offered an opportunity for reinforcing and speeding up the process of European integration.

The Commission views the integration of the German Democratic Republic into a united Germany, and hence into the Community, as a special case. It will have to be done by stages. However, it does not necessarily require any amendment of the Treaties.

Working from these premises, the Commission considered the unification arrangements and put before the European Council a suggested scheme for the integration of the German Democratic Republic.

1.2. At its special meeting in Dublin on 28 April, the European Council gave a warm and unreserved welcome to the process of German unification taking place under the Community roof. It expressed the view that the integration of the territory of the German Democratic Republic into the Community should be accomplished in a smooth and harmonious way. In particular it stated that integration would become effective as soon as unification was legally established, subject to the necessary transitional arrangements, and confirmed that it would be carried out without revision of the Treaties.

As regards the transitional arrangements, the European Council noted that the Commission would, as soon as possible and within the context of an overall report, submit to the Council proposals for such measures as were deemed necessary. It went on to state: 'These measures, which will enter into force at the moment of unification, will permit a balanced integration based on the principles of cohesion and soli-

arity and on the need to take account of all the interests involved, including those resulting from the "acquis communautaire". The transitional measures will be confined to what is strictly necessary and aim at full integration as rapidly as possible.'

1.3. In its resolution of 17 May the European Parliament welcomed the conclusions of the European Council, in particular its unambiguous support for the German unification process and its recognition of the need for this to take place within the European Community context. Parliament also took note of the European Council's statement that the integration of the German Democratic Republic into the Community could take place without revision of the Treaties.

Since then Parliament and especially its Temporary Committee on German Unification, working in close consultation with the Commission and the German authorities, has looked carefully at the implications of German unification for the Community.

In the light of an interim report by the Temporary Committee, Parliament adopted a further resolution on 12 July, in which it particularly welcomed the efforts being made to bring about European integration in parallel with German unification. It believed that German unification must contribute to strengthening the Community politically and economically and considered that any derogations and transitional measures should not weaken central Community objectives, in particular completion of the single market and the achievement of economic and monetary union. It also set out its views on the substance of the measures required during the interim adjustment phase and after formal unification.

Parliament, then, has already spelled out its position on the nature and content of the transitional measures in advance of the Commission's presenting its proposals.

1.4. This communication sets out the Commission's entire package of proposals for legislation effecting the technical adjustments and transitional measures necessary to ensure the harmonious integration of the territory of the German Democratic Republic into the Community.

Following the European Council's special meeting in Dublin on 28 April the process of German unification gathered pace appreciably. This prompted the Commission to speed up its own preparations so as to be able to present proposals for transitional measures in September. With the recent further acceleration in the pace of unification the Commission has decided to bring forward presentation of its proposals to the month of August.

Since the integration of the German Democratic Republic into the Community is a special case, and in view of the planned timetable, these preparations have been conducted in close association with the German authorities, Parliament being kept constantly informed. In drawing up its proposals, the Commission has been especially grateful for the guidance offered by Parliament's resolution of 12 July.

This communication is in four parts:

- I: General explanatory memorandum;
- II: Sector-by-sector explanatory memorandum;
- III: Financial aspects;
- IV: Annex: proposals for legislation.

1.5. The communication confines itself to the direct consequences of German unification in terms of Community competence and secondary Community legislation.

The economic impact of the integration of the German Democratic Republic into the Community is assessed in the light of the first Staatsvertrag and on the assumption that Community law will be applied in full, subject to the necessary transitional measures.

The assessment of the financial implications covers both the overall impact of integration as well as its impact by sector (or group of sectors) and is accompanied by some indications regarding the financial perspective and the repercussions on the 1991 budget.

The communication does not consider how German unification will affect the internal and external development of the Community nor its geopolitical implications for the construction of a greater Europe.

The fact is, however, that it has already made a substantial contribution:

(i) internally the process of economic and monetary union has gained momentum, as testified by the latest European Council's decision to convene the two intergovernmental conferences;

(ii) on the international stage we are witnessing the end of the cold war and the laying of firm new foundations for peace, security and cooperation and for a strong Community that will play its full part in the process.

2. *Unification arrangements and integration scenario*

2.1. In its communication of 19 April to the European Council the Commission noted that Federal constitutional law offers several avenues towards unification. It pointed out, however, that the procedure in Article 23 of the Grundgesetz is simpler as far as the Community is concerned. It is now clear that German unification will proceed along these lines.

The accession of the new *Länder* under Article 23 will take effect with their declaration of accession (*Beitrittserklärung*). That, then, is the date on which the German Democratic Republic will become an integral part of the Community and on which Community law will begin to apply there.

2.2. The Commission's suggested scenario for the integration of the GDR into a unified Germany and the Community involved several stages, the first of which began on 1 July with the introduction of monetary, economic and social union on the basis of the Staatsvertrag.

The first chapter (p. 30) summarizes the main points of the Staatsvertrag and analyses the economic and monetary impact both on the German Democratic Republic and on the Community and the Federal Republic of Germany.

During the interim adjustment phase, the German Democratic Republic has been progressively introducing the legislation needed for its gradual integration into the Federal and Community system. Although formally the German Democratic Republic remains outside the Community until unification takes effect, its gradual integration with the Federal Republic of Germany in advance of formal unification gives it 'unofficial membership' of the Community already. The Community and the German authorities (Federal Republic of Germany and German Democratic Republic) have already acted accordingly, on trade and competition. The second chapter (p. 37) analyses the compatibility of the Staatsvertrag with Community law and summarizes the effects ahead of integration. It also takes stock of

the way the interim phase is being managed in this respect and of access by the German Democratic Republic to loan facilities prior to formal unification, as decided by the European Council. Lastly, it outlines the Commission's plans to provide information for people and firms in the German Democratic Republic, in line with Parliament's resolution of 12 July.

The gradual integration of the German Democratic Republic into a unified Germany will culminate in a Treaty of Union (Einigungsvertrag), which will have to lay down the constitutional and institutional provisions needed to effect the German Democratic Republic's transition and integration into a unified Germany. These provisions will also have to deal with the application and, where necessary, the incorporation of Community law in the new *Länder* following formal unification.

The third chapter (p. 42) summarizes the main points of the Einigungsvertrag, considering in particular the provisions affecting Community competence and those dealing with the application of Community law.

2.3. Formal unification will mark the beginning of the transitional phase. Community law, both primary and secondary, will then automatically apply in its entirety in the present territory of the German Democratic Republic.

Any technical adjustments or temporary derogations will therefore have to be decided by the appropriate institutions in good time so that they can take effect from the date of formal unification.

The fourth chapter (p. 44) sets out the general principles for adjustment to secondary legislation.

3. Timetable for the institutions

3.1. The package of legislative proposals which the Commission is putting before Parliament and the Council is the outcome of a major technical exercise on much the same scale as for the formal accession of a new Member State.

The Commission has carried out a detailed review of the entire body of existing Community law to identify where there are objective grounds warranting technical adjustments and/or transitional measures. This required the active assistance of the German authorities to enable it to compare their respective

legislation, to pinpoint the economic possibilities and constraints, and to verify the factual data. In carrying out its review the Commission also had the benefit of Parliament's active assistance and ideas.

Since the probable deadline for German unification has been brought forward, Parliament and the Council will both have to complete their second readings as soon as possible.

3.2. In its resolution of 12 July Parliament felt it essential to be consulted on all the transitional measures and derogations as well as other adjustments of secondary legislation. It considered itself entitled to give its opinion both on the package as a whole and on the detailed proposals contained in it. It therefore suggested that there should be an interinstitutional arrangement on the timetable and working method to ensure that no decision could be taken without the opinion of Parliament on the package as a whole.

3.3. The Commission shares Parliament's view that the proposed measures constitute a single comprehensive package.

It also believes that Parliament must be able to discuss and give its opinion on the proposed legislation as a whole. The logic of the procedure being followed dictates that Parliament should state its position both on the package as a whole — in other words on the integration of the German Democratic Republic into the Community — and on the individual proposals.

The Commission therefore backs Parliament's call for consultations between the institutions to settle practical arrangements on the timetable and working method to be followed so as to meet the need for swift and effective action and to ensure Parliament's full involvement in the legislative process for the integration of the territory of the German Democratic Republic into the Community. The fact that the Germans have decided to bring forward the date of unification makes this all the more vital.

3.4. The German decision means that unification may take place before the institutions have had time to take the necessary final decisions. Hence the Commission proposal to the Council and the European Parliament for a decision-making procedure authorizing it to apply provisional measures. In this way a potential legal vacuum between German unification and final adoption by the Council of the necessary transitional and technical adaptation measures can be avoided. Details of the two proposals for legislation are to be found in the chapter on adjustment of secondary legislation (p. 44).

The economy of the German Democratic Republic: main features and possible impact of German economic, monetary and social union

1. Main features of the economy of the German Democratic Republic: an overview

1.1. The population

At the end of 1988, 16.6 million people were living in the German Democratic Republic. Since then 600 000 have emigrated to the Federal Republic of Germany. Although the average density of population is fairly low, its concentration is high. More than 50% of the population lives in East Berlin and in the centres of the South (Halle, Leipzig, Dresden and Chemnitz). Significantly, some of these centres are near the border of the Federal Republic.

The age pyramid shows that the proportion of the population below 18 years of age (24%) is larger than in the Federal Republic (19%), while all other age groups are somewhat lower — in particular the age group above 60 years (18% in the German Democratic Republic, 23% in the Federal Republic of Germany). Nevertheless, the German Democratic Republic is also faced with a growing number of elderly compared to working age groups. This problem is accentuated by emigration concentrated in the younger age groups.

Labour force participation is extremely high by international standards (almost 90% of the working age population compared to just over 60% in the Federal Republic of Germany) owing mainly to a much higher participation rate of women. Total employment amounts to almost 9 million (55% of the population) compared with 26 million (41% of population) in the Federal Republic.

The level of professional qualification is relatively high. Three quarters of the labour force have received professional training. However, to the extent that education has been ideologically influenced, in particular in the academic professions — economists, lawyers, general administration — shortcomings have to be expected. Engineers should, in general, be in a position to meet the new challenges. As for skilled workers, considerable adaptation to new Western technology will be necessary. Moreover, a crucial

condition for successful integration of the East German economy into the Western market economy will be the regeneration of entrepreneurship and market-oriented management methods.

The standard of living in the German Democratic Republic is undoubtedly the highest in Eastern Europe. Comparison with Western countries is fraught with uncertainty, but per capita income is probably higher in the German Democratic Republic than in Ireland, Greece and Portugal, though below that of Spain.

1.2. Industry: a sectoral overview

The orientation of the economy of the German Democratic Republic hitherto has been characterized by the lowest possible dependence on imports from Western countries. This was partly motivated by a permanent shortage of foreign currency. There is thus a low degree of specialization. Compared to Western industrialized countries, the structure of the East German economy has changed relatively little over the past few decades. Industry is by far the most important sector, while in Community countries the service sector is the largest.

Labour productivity in the German Democratic Republic is generally considered to be about one third of the level in the Federal Republic of Germany, depending, however, on the specific sector under consideration. Three main factors are held responsible for this productivity gap: organization (bureaucratic central planning), motivation (lack of incentives) and technology (outdated capital stock). The latter factor was accentuated during the 1980s as the share of investment in national income fell considerably. Integration in Comecon's static trade pattern, together with marginal integration in the world economy, contributed to the obvious inefficiency of the economy of the German Democratic Republic.

Energy production is mainly based on the only mineral resource available to the German Democratic Republic: lignite. With 310 million tonnes (25% of world production), the German Democratic Republic is by far the world's largest producer of lignite. 85% of electricity generation is lignite-based, as is most household heating. Consequently, over two thirds of primary energy inputs consist of brown coal. Nuclear energy currently provides about 10% of the German Democratic Republic's electricity requirements. However, security standards are below acceptable levels.

Energy consumption per head of population in the German Democratic Republic is very high relative to

international standards (15% above the level of the Federal Republic of Germany). High energy input in industry, low efficiency of power stations, absence of realistic energy pricing and of home insulation are the major reasons.

The German Democratic Republic developed its own steel production capacity after the war, mainly based on scrap iron. The prevailing Siemens Martin technique, abandoned completely in 1982 in the Federal Republic of Germany, makes for high production costs. High-quality steel cannot be produced and labour productivity is below 50% of the level in the Federal Republic of Germany.

The German Democratic Republic's chemical industry is largely based on coal-fired plants built before the Second World War. The synthetic materials industry is far behind Western standards. Production in this strongly growing sector is only 10% of production in the Federal Republic of Germany and there are quality problems. As regards fertilizers — generally a low profit area — the German Democratic Republic is an important net supplier on the world market. Modernization of existing firms is necessary to reinforce their market position but faces serious environmental constraints.

Mainly for quality reasons, statistics on the machine and car industries, the most important sectors after chemicals, are hardly comparable with those in Western countries. Almost 1 million persons are employed in this sector. The machine-tool industry is less important than in the Federal Republic of Germany. However, this is one area where the German Democratic Republic could be competitive on the world market. The machinery sector suffers from a lack of the electronic control mechanisms (Cocom list), which are becoming increasingly important in the production of machinery (industrial robots). Nevertheless, East German exports in this sector amount to 30% of all Comecon exports to Western countries. Despite the key position which the car industry has in Western countries, it is of minor importance in the German Democratic Republic. A symptom of the very low efficiency of the industry is that lorries can barely be exported even to Eastern countries.

Investment in microelectronics has been extraordinarily high. The aim was to build up a monopoly position in Eastern countries. Competition with Western countries will probably render these industries obsolete. Developments are much more favourable in the software sector because of highly skilled programmers. In the traditional industries of precision engineering and optics, East German industry is relatively well prepared for international competition.

The construction sector is mainly orientated towards large-scale housing construction. It employs 6.6% of the labour force. Although the technique of prefabricated housing construction is quite advanced, it is highly doubtful whether large blocks of flats will meet demand in this area. Instead, the modernization of the existing housing stock and the building of small housing units will require more craftsmen. So, although demand will certainly grow, restructuring is required.

The production of textiles (6% of total GDR production) is concentrated on the mass market, where there is strong competition with developing countries in markets abroad. Shortage of capital has prevented companies from introducing automatic and flexible production lines. Most of the capital stock still stems from the pre-war period.

The main problem for the food industry (15% of total GDR production) is lack of variety and low quality. High-quality products are not available as a consequence of self-reliance and import avoidance. Productivity is particularly low.

Agriculture contributes about 10% to GDR (employment 10.8%). However, given important price distortions, this figure is unreliable. About 95% of the agricultural sector is socialized. The ratio of agricultural acreage to population is twice as large as in the Federal Republic. Nevertheless, labour productivity (per head) is below 50% of the level in the Federal Republic of Germany. This is mainly the consequence of shorter working hours. Productivity of land is therefore much higher, i.e. about 75% of the level in the Federal Republic of Germany.

Before recent economic reforms, only 458 000 people (5.3% of the total working population) were employed in the private sector, producing 3.6% of the net national product. This figure excludes services. The private economy is concentrated in the trade and handicraft sector, i.e. repairing, trade and construction.

The German Democratic Republic has adopted the two-stage banking system. Nevertheless, some kind of specialization will prevail, mainly because of past experience and historically established relations. Within the banking sector, the Kreditbank is responsible for most credits to industry. The Kreditbank obtains most of its funds from Sparkassen which currently hold about 80% of all savings. Without some guarantee of loans to the industrial sector (e.g. by the Treuhandanstalt), the Kreditbank will probably go bankrupt, since many firms, once privatized, will not

be able to service debts in Deutschmarks. A further problem for the commercial banking system overall is that the capital base is very thin; at present the capital adequacy ratio for Sparkassen seems to be about 1% of total assets.

A major problem for the Sparkassen is staffing — 95% of the personnel have not even completed secondary education, their jobs limited to registering deposits. Initially, the Sparkassen will therefore not be equipped to provide loans on a commercial basis.

1.3. The trade pattern

Autarky having been a prime objective, the German Democratic Republic is poorly integrated into the international trade system for a country of its size. Despite the almost complete lack of reliable statistical information, estimates suggest that the German Democratic Republic's export share is in the order of 25% of GDP. This would indicate a comparatively small participation in the international division of labour for a country of its size (the Netherlands, for example, with a population of approximately the same size, has an export share of 55 to 60% of GDP). At present, about two thirds of the German Democratic Republic's trade is with other CMEA countries, notably with the Soviet Union (around 37% of total trade). The CMEA division of labour, however, has been characterized by non-economic considerations. As trade with developing countries plays a minor role, most of the remainder is with Western industrialized countries (of which one third is with the FRG).

In analysing the product profile of GDR trade, it is useful to distinguish between different destinations. GDR exports to other CMEA countries (especially the USSR) largely consist of machinery and equipment (two thirds of exports), while imports contain a high share of energy products and raw materials. This complementary trade pattern offers relatively small welfare gains (typically related to substitutable trade). Normally such trade patterns are found in relationships between (highly industrialized) core countries and (much less industrialized) peripheral zones. Exports to Western industrialized countries show a very underdeveloped pattern with a certain emphasis on simple consumer goods. Investment goods are exported to Western countries to a considerably lesser extent.

An analysis of GDR trade flows with the Community reveals that the German Democratic Republic is a net exporter of energy and labour-intensive products (the

production of which also causes a high level of pollution) and a net importer of products with a high raw materials, R&D and technology content. In light of the fact that the German Democratic Republic has little fossil fuel deposits except lignite and given the alleged high quality of GDR employees, it is unlikely that this trade pattern is to East Germany's comparative advantage.

Overall, it is noticeable that GDR trade is still dominated by inter-industry trade (i.e. imports and exports belong to different product groups) while Community countries are characterized by a high degree of intra-industry trade.

1.4. Infrastructural and environmental characteristics

Infrastructural and environmental problems could prove a major impediment to private investment in the German Democratic Republic. Rail is the most important means of transport. Although the network is only half as dense as in the Federal Republic, the railways achieve roughly the same transportation performance. About one third of all rail transport is devoted to the carriage of lignite. Preferential treatment of the railways was not based on environmental considerations or on reasons of economic efficiency, but on the need to save crude oil. Repair and modernization of the existing rail network will be a high priority.

In terms of coverage, the road network is fairly good by European standards. However, the state of the road network is far below West German standards. Road transport is thus very slow — not least because of the many railway crossings! In future, bottlenecks will increase as private traffic intensifies through increased tourism from the West and more cars per inhabitant. Public transport within cities is provided mainly by tramways.

With the exception of East Berlin, telecommunications systems are very bad. The telephone system is overburdened despite the very low number of connections. Modernization will probably mean the complete rebuilding of the communications system. On the positive side this will prove an opportunity to introduce the most advanced technology. Private investment will doubtless produce a higher level of efficiency in the new system.

In other areas of vital public infrastructure, investment needs are also substantial. This is particularly the case for sewerage facilities as only 50% of house-

holds are connected to purification plants. Although the German Democratic Republic is only half the size of the Federal Republic of Germany (25% of the population) sulphur-dioxide emission is more than twice as large. Many rivers are polluted and the availability of drinking water is a problem. Forests have suffered severe damage. Deforestation is very advanced, particularly in the south.

2. *Economic, monetary and social union: main elements of the Staatsvertrag and accompanying measures*

2.1. Economic union

The German Democratic Republic has introduced the basic rules governing market economies, e.g. contract freedom between economic agents, abolition of administered prices, wage autonomy on both sides of industry, introduction of private property rights.

The conditions of German-German trade in goods of German origin have been normalized and treated as interregional trade. There are no border and customs controls for goods of German origin. Exports to other parts of Germany do not initiate special VAT procedures. Goods of non-German origin are treated as normal imports.

Special quantitative rules were introduced with limited success in agricultural trade with the Federal Republic of Germany. Now, however, the German Democratic Republic is introducing Community regulations, including the producer price support system.

Financial support by the East German Government for the structural adjustment of companies during a transition period is possible. Support is, however, dependent on the state of the German Democratic Republic's budget and the consent of the Government of the Federal Republic of Germany.

2.2. Monetary union

The main points of the monetary union part of the Staatsvertrag concern the conversion rate, the treatment of enterprise debt and restrictions on public finances.

Since 1 July 1990, the Deutschmark has become the only means of payment in the German Democratic Republic. Sovereignty in the conduct of monetary policy has been taken over by the Bundesbank. The prevailing regulations on bank supervision in the Federal Republic of Germany also apply in the German Democratic Republic. Wage and pension levels at 1 May were converted at a rate of 1:1. In general, debts and claims were converted at a rate of 2:1. However, for residents of the German Democratic Republic, the conversion rate for savings including cash was 1:1 within the following limits: children (age group 0 to 14) DM 2 000; adults (age group 15 to 60) DM 4 000; elderly (age group over 60) DM 6 000. Remaining money in circulation and savings — with some macroeconomically minor exceptions — have been converted at a rate of 2:1.

2.3. Public finance

Regulations affecting public finances in the budgets of both the Federal Republic of Germany and the German Democratic Republic concern (1) transfer payments from West to East, (2) budget and borrowing rules for the German Democratic Republic's budget, (3) the German Democratic Republic's public debt after unification, (4) revenue and expenditure structure of the budget of the German Democratic Republic.

Public transfers in particular have to balance the German Democratic Republic's budget and finance the State pension and unemployment insurance schemes (Anschubfinanzierung).

As regards budget procedures, the German Democratic Republic has generally introduced West German methods, including the tax system. Strict borrowing requirements prevail for the various budgets, excluding social security. Approval by the West German Minister for Finance is required for a budget deficit.

Public debt still existing at the time of political unification will become public debt of the GDR-Länder to be created. This will relieve the Federal budget of any additional debt burden associated with a unified Germany.

On the revenue side the German Democratic Republic has introduced the West German tax system. On the expenditure side subsidies for private households, industrial products, public transport, energy used by private households and rents will have to be reconsidered or abolished. However, in

agriculture, CAP regulations have been introduced. Salaries for civil servants will take account of general economic and financial conditions in the German Democratic Republic.

2.4. Social union

Pension, health, accident and unemployment insurance are administered by self-governing bodies under the legal supervision of the State. These are mainly financed through contributions by employers and employees (normally 50% each). The German Democratic Republic has introduced an unemployment insurance scheme comparable to that of the Federal Republic of Germany. A health insurance scheme has been established. In the case of sickness, wages are paid by employers in accordance with West German rules. Pensioners contribute to the health insurance system.

Pensions are fixed at a level representing 70% of the average net wages in the German Democratic Republic (after 45 years of contributions to the pension system). If the pension should fall below the previous East German pension, the amount of the previous pension would be paid in DM. Pensions are adjusted according to the development of net wages. If, during a transitional phase, regular contributions to the pension and unemployment schemes do not fully cover expenditure, the Federal Republic of Germany will make special contributions (*Anschubfinanzierung*).

West German labour market rules and laws have also been copied — bar some important modifications, namely in the Labour Promotion Act. These modifications allow the classification of unemployed workers as short-time workers attending training courses. Consequently, registered unemployment will not rise as fast and as obviously as predicted.

2.5. Accompanying measures of the Federal Republic of Germany

The central government's Finance Minister and the *Länder* agreed to set up a German Unity Fund (*Fonds Deutsche Einheit*) to help finance the German Democratic Republic's budget. The total amount of DM 115 billion in financial aid is to be spread over the next four and a half years as follows:

<i>billion DM</i>				
1990	1991	1992	1993	1994
22	35	28	20	10

DM 20 billion will be met by cuts in some lines of the central government's budget, while the major part of DM 95 billion is to be raised on capital markets by issuing bonds. Liabilities are shared 50:50 by Bonn and the *Länder* governments.

The Fund's aim is to balance the German Democratic Republic's budget. Financial aid to launch a Western social security system is to be financed directly by the central government's budget.

As regards trade, the Federal Government will subsidize imports of goods from the German Democratic Republic to the Federal Republic of Germany during the interim stage. Firms in the Federal Republic of Germany will be allowed to deduct from the invoiced price of goods imported from the German Democratic Republic — in addition to the normal VAT rate (14 or 7%) — 11 or 5.5% respect respectively.

2.6. Accompanying measures of the German Democratic Republic

In order to foster new investment in the German Democratic Republic, an investment allowance of 12% is granted for new investment in equipment during the period from 1 July 1990 to 30 June 1991. Thereafter, the investment premium will be reduced to 8% for the following 12 months. Special regulations in favour of East German enterprises (special depreciation allowances, favourable tax treatment of reinvested profits, tax-free periods for new companies) have been announced.

Several sectors in the German Democratic Republic will still be eligible for subsidies, in particular energy, transport and housing. The amount of these subsidies is estimated at more than DM 12 billion for the second half of 1990.

3. Macroeconomic impact on the economy of the Federal Republic of Germany and Europe

The economic unification of Germany will trigger a positive growth effect on the economy of the Federal Republic (about 1% of GDP). This is mainly the result of a shift of internal demand in the German Democratic Republic towards imports from Western

countries and the way in which fiscal policy in the whole German public sector will be handled. All Community countries will participate in the import pull of the East German economy, given the high rate of capacity utilization in the Federal Republic and the potential for all EC countries to establish a similar market share to that held in other EC countries. Thus, the overall German current account surplus may shrink considerably, while the current account balances of the other EC countries may improve. This will contribute to more convergence in the external balances of Community countries.

The labour market in the Federal Republic of Germany has been influenced by significant emigration from the German Democratic Republic and other East European countries. Integration of these new workers into the labour force may lead to new kinds of working patterns. Despite the obvious difficulties of finding accommodation in the Federal Republic of Germany, the shortage of qualified labour in the Federal Republic of Germany will continue to attract people from the German Democratic Republic. In these circumstances short-term working contracts during seasonal or holiday periods should prove attractive to residents of the German Democratic Republic. Cross-border contracts will also become attractive to GDR residents, as they can combine high salaries in the Federal Republic of Germany with low rents in the German Democratic Republic. In the long term, the impact on the labour market of the Federal Republic of Germany should be positive, with the regional and sectoral mobility of labour improving considerably and downward pressure on wage costs.

All in all, the overall macroeconomic impact of economic, monetary and social union on the economy of the Federal Republic of Germany will be enhanced by capital mobility, a single currency and labour mobility, which will probably be larger than elsewhere in the Community in the foreseeable future. It will therefore be more and more difficult to disentangle the economic interrelationships of the two German economies. In particular, macroeconomic performance within German monetary union will have to be looked at in a whole German context. A number of likely features of macroeconomic policy in German economic, monetary and social union are clear:

(i) overall fiscal policy will be less tight; given that the credibility of German fiscal policy in controlling future trends in public finances is to be maintained, this fiscal loosening will have only conventional demand-expansionary effects;

(ii) for Germany as a whole, there will be a period in which the pace of increase in demand outstrips that of supply; at a later stage, supply will accelerate;

(iii) in short, the overall German economy is likely to be subject to successive periods of excess demand. These problems can be eased by immediate measures to increase foreign supplies. The East German market should be open to all Community countries and measures should be taken to promote imports, thereby reducing the gap between demand and supply. Nevertheless, the likely pattern of supply and demand may pose difficulties for monetary policy, in particular with regard to preserving the goal of price stability.

The macroeconomic impact of German economic, monetary and social union on the rest of Europe will be significant and positive. The changing balance between demand and supply within the union will affect trade flows and savings in partner countries. The significant reduction of the current account surplus of unified Germany will stimulate demand in the whole Community. Thus, GDP in the whole Community may be stimulated by half a percentage point during the first two years.

In the longer run, it can be expected that the beneficial effects anticipated from the single market will be reinforced. Moreover, to the extent that the other East European economies progress towards a market economy, the advantages of a progressive division of labour within Europe may increase further. Given the relatively high integration of the GDR economy into the East European economies, the German Democratic Republic can act as a bridge between the Community and Eastern Europe.

Nevertheless, fears have been expressed as to whether rapid economic developments in Germany might displace the catching-up process in other, relatively poor, Community countries, notably Spain, Portugal and Ireland, by reducing investment in those countries. However, investment in these countries is based on an expected high real rate of return. So, because German economic, monetary and social union will not change this and because of the integration of world financial markets, financial constraints should not be overemphasized.

Integration of the German Democratic Republic into the European Communities will also raise some questions regarding external trade and market access. In general, problems exist only for those products where East European countries are very competitive on world markets and where access to the Community market is restricted, while access to the East

German market has not been affected by quotas or tariffs. For other products, affected by tariffs or quantitative restrictions, it is doubtful whether there will remain demand for East German goods at all. For sub-EC-standard products from East European countries, demand from East Germany will shrink considerably. Trade relations between the German Democratic Republic and East European countries could decline significantly in the short run, while the potential for EC countries to export to the former territory of the German Democratic Republic will significantly increase.

4. *Implications for the economy of the German Democratic Republic*

The introduction of the DM and economic and social union have triggered an important adjustment process in the economy of the German Democratic Republic. The pressure for adjustment may be higher than in other countries moving from a planned economy to a market economy because the German Democratic Republic has to compete immediately on the world market. However, the consequences are cushioned by important financial support from the Federal Republic. Nevertheless, it is important for the GDR economy rapidly to transform its economic structures and the behaviour of economic agents. Adopting market economy rules will facilitate the catching-up process in the medium term and minimize the danger of long-lasting economic instability. However, the short-term implications for the GDR economy will be significant.

In the short term German economic, monetary and social union has important macroeconomic consequences for economic development in the German Democratic Republic. Providing GDR residents with hard currency has led to an important shift towards consumption of imports. Consumption is generated not only by additional transfers and foreign investment, but also by the convertible currency income of GDR residents. Price competitiveness is only one factor attracting GDR residents to consume imported products. There are two others. First, the inappropriate product-mix provided by GDR suppliers may prove even more important. Second, the modernization of GDR industry requires Western technology, so increased foreign investment and investment by viable GDR enterprises will further boost imports.

The conditions for external trade are fundamentally altered by the introduction of the DM. This holds especially for trade with East European countries. As demand in the German Democratic Republic shifts to Western products, special trade structures with Comecon countries will disappear. Comecon exports to the German Democratic Republic will soon begin to follow the pattern of trade with other West European countries. GDR exports to both West and East European countries may diminish quite considerably. This holds especially for exports to East European countries in hard currency payments.

The effective fusion of the labour markets of the German Democratic Republic and the Federal Republic of Germany, and by extension integration into the Community's, will have a profound impact on wages in the German Democratic Republic. The agreed conversion rate of 1:1 may be consistent with prevailing levels of productivity. However, the price reform and newly-introduced indirect taxes have already led to upward pressure on wages. The need for wage differentiation to provide greater incentives for certain sections of the labour force will push average wages further upwards. To the extent that GDR workers will have the choice between working in the German Democratic Republic or in the Federal Republic of Germany, cross-border work contracts will have spill-over effects on GDR wage levels. Lower rents in the German Democratic Republic will not, in principle, exert a dampening effect on wages as both the advantages of high wages and low rents can be combined. Productivity of new investment will be similar to West European levels. Thus, wages will probably have to be higher than current GDR levels in order to attract the most qualified labour. Sooner or later this will affect the general wage level. Moreover, to the extent that top and middle management comes from West Germany and receives West German wages, perhaps even with a supplement, wage differentials between the various sectors of the labour force may ultimately prove unacceptably wide. Finally, trade unions in both regions may seek to promote wage parity between the Federal Republic of Germany and the German Democratic Republic.

However, two factors may reduce the mismatch of wage level and labour productivity. First, high unemployment will have a dampening effect on wages both in the German Democratic Republic and to the extent that labour markets are integrating, in the Federal Republic of Germany as well. Second, considerable room exists to increase labour productivity in the short term. Reducing labour hoarding, improving the organization of the production process and a more flexible use of capital stock are ways to increase productivity even in the short term.

Company investment will, in future, be undertaken in an integrated German or European context in anticipation of the single market. Although the effect on net investment will probably be positive, it is uncertain whether new investment will shift from the Federal Republic of Germany to the German Democratic Republic or, alternatively, if production capacities will simply be enlarged in the Federal Republic of Germany with a view to exploiting the GDR market. So, if capital is to be attracted to the German Democratic Republic, it is important to create a positive investment climate in the German Democratic Republic relative to the Federal Republic of Germany.

Prospects for public finance in the German Democratic Republic are very uncertain as the entire structure of expenditure and revenue will be changed. On the one hand, the abolition of major price subsidies together with taxes on consumer goods will lead to higher net revenues. On the other, the abolition of production levies together with the introduction of a new tax system will inevitably lead to a substantial deficit, at least temporarily.

Given these short-term problems, it is important to create a positive climate for new investment as soon as possible. This could be done, for example, by a regional development plan for the German Democratic Republic aimed at fostering investment, new business creation and greater labour market flexibility. It is of crucial importance to strengthen the productive capacity of the German Democratic Republic. Infrastructure investment is a major precondition for such a strategy but the whole framework of subsidies in the Federal Republic of Germany basically works to the detriment of the German Democratic Republic. Moreover, likely temporary, regionally unfavourable developments in the former German Democratic Republic will necessitate a general review of regional policies. Finally, the revival of private entrepreneurship and rapid privatization of existing industries will be preconditions for the promotion of the efficient allocation of factors of production and thus a successful catching-up process in the GDR economy.

Interim adjustment stage

1. *Staatsvertrag: compatibility with Community law*

The Treaty of 18 May 1990 establishing a monetary, economic and social union between the Federal

Republic of Germany and the German Democratic Republic is compatible with Community law. This was noted by the Commission in its communication of 14 June entitled 'The Community and German unification: implications of the Staatsvertrag'.¹ Parliament came to the same conclusion in its resolution of 12 July on the implications of the unification of Germany for the European Communities.²

This compatibility is explained by the fact that Community law already made allowance for the special situation of Germany and that the objective of the Staatsvertrag is gradual alignment of the law and policy of the German Democratic Republic to ensure application of Community law after unification. This objective is reflected in the preamble and a number of provisions of the Staatsvertrag. It is given substance, in particular, by application of the principle of equal treatment to Community nationals and firms in areas of the Staatsvertrag within the Community's jurisdiction.³

2. *Staatsvertrag: effects ahead of integration*

Under the Staatsvertrag the German Democratic Republic undertakes to carry out far-reaching legislative reform to underpin the creation of monetary, economic and social union. This legislative reform will have major consequences for the gradual integration of the German Democratic Republic into the Community's legal order. The Commission analysed these consequences in its communication of 14 June.⁴

First, it should be noted that the German Democratic Republic has given Community goods free access to its territory on a reciprocal basis since 1 July. GDR trade in both industrial and agricultural products with non-member countries is treated in the same way as regards customs rules and procedures as trade between the Federal Republic of Germany and non-member countries, subject to observance of the German Democratic Republic's obligations under agreements concluded with non-member countries. In the case of imports into the German Democratic

¹ SEC(90) 1138 final, points 8 to 12.

² Minutes of 12. 7.1990, Part II, p. 3, point 12.

³ SEC(90) 1138 final, point 11.

⁴ SEC(90) 1138 final, points 16 to 20.

Republic under such agreements, the Federal Republic of Germany is cooperating closely with the Commission, to devise, with the German Democratic Republic, measures to ensure that Community provisions relating to non-member countries are not evaded.

In addition, on 1 July the main features of the common agricultural policy came into effect in the German Democratic Republic in accordance with Article 15 of the Staatsvertrag. The agricultural policy measures adopted are described in Section 3, pp. 80 and 81.

Secondly, the Staatsvertrag ensures the introduction of private ownership and freedom of establishment for all Community nationals and firms. These provisions are supplemented by measures adopted by the German Democratic Republic pursuant to Annex IX to the Staatsvertrag to enable foreign investors to acquire the land necessary to exercise the right of establishment.

The key provisions of the commercial code, the law on public limited liability companies (Aktiengesetz) and the law on private limited liability companies (GmbH-Gesetz) of the Federal Republic of Germany have been put into effect in the German Democratic Republic. This means that investors can operate in the German Democratic Republic using legal forms consistent with company law directives adopted by the Community to protect members and others.

Thirdly, the German Democratic Republic has taken over the Federal German law on restrictions of competition. The German Democratic Republic authorities have undertaken to apply this in the light of Community competition policy.

3. Trade arrangements

3.1. The Community has adopted legal instruments to allow the rapid adjustment of Community external trade arrangements to the gradual integration of the German Democratic Republic into the customs system of the Federal Republic of Germany and the Community legal order in advance of formal unification.

Council Regulation No 1794/90 of 28 June 1990 on transitional measures concerning trade with the Ger-

man Democratic Republic¹ gives goods other than agricultural products and products covered by the ECSC Treaty free access to the Community on condition that the German Democratic Republic allows free access to Community goods, aligns its legislation governing trade with non-member countries on Community regulations and adopts measures to ensure that Community law is not circumvented.

Commission Decision No 1796/90 ECSC contains parallel provisions for products covered by the ECSC Treaty.¹

Commission Regulation (EEC) No 1795/90 of 29 June 1990¹ was adopted in application of these two instruments. The Commission noted that the conditions for free access for non-agricultural goods from the German Democratic Republic to the Community had been met and adopted the appropriate implementing measures with effect from 1 July.

Agricultural and fisheries products are subject to similar arrangements under Council Regulation (EEC) No 2060/90 of 16 July 1990.² This gives East German products free access to the Community provided the Community is satisfied that the German Democratic Republic is giving free access to Community goods and has introduced mechanisms similar to those of the common agricultural policy.

By Regulation (EEC) No 2252/90,³ the Commission noted that these conditions had been met and adopted the appropriate implementing measures. The Regulation came into force on 1 August 1990.

Since then, all GDR goods have had free access to the Community. It can therefore be said that a *de facto* customs union has existed between the Community and the German Democratic Republic since 1 August 1990.

The Community Regulations adopted include appropriate safeguard clauses to ensure that liberalization does not create serious difficulties in any economic sector in the Member States.

3.2. The introduction of a *de facto* customs union has made the provisions of the Protocol on German internal trade redundant. It was achieved thanks to considerable assistance from the Federal customs authorities and joint management by the Commis-

¹ OJ L 166, 29.6.1990.

² OJ L 188, 20.7.1990.

³ OJ L 203, 31.7.1990.

sion following practical administrative cooperation with all the Member States.

3.3. The abolition of frontier controls inside Germany does not have the effect of leaving a 'gap' at the external borders of the Community for such trade. The German Democratic Republic applies the same measures as the Federal Republic, i.e. Community trade measures, to industrial and agricultural trade with third countries.

The German Democratic Republic applies import and export formalities on behalf of the Federal Republic both to third-country goods destined for the Community (and thus not put into free circulation in the German Democratic Republic) and to Community goods exported via the German Democratic Republic to these countries (i.e. one could already speak of a *de facto* extension of the Community border as far as formalities go). The EC rules on the *de facto* customs union with the German Democratic Republic provide that industrial imports in free circulation in the German Democratic Republic may move freely within the entire Community.

4. Indirect taxation

4.1. By the Staatsvertrag, VAT and excise duties were introduced in the German Democratic Republic on 1 July 1990 in accordance with the tax legislation of the Federal Republic of Germany. This implies not only identical legal texts (with minor modifications) but also identical tax rates, as well as application of the principles of the common customs regulations for the application and calculation of VAT on GDR imports.

Furthermore, a customs and tax administration similar to the Federal administration was created and — as a logical consequence of German economic and monetary union — fiscal frontiers between the Federal Republic of Germany and the German Democratic Republic were abolished (tobacco and tobacco products excepted as the fiscal stamps (*banderoles*) will continue to be different during the transitional period). Abolition of fiscal frontiers meant introducing a clearing system for indirect tax revenues.

The German Democratic Republic adopted Community legislation in the fields of harmonized indirect taxation before German unification, while remaining for the other Member States, as far as in-

direct taxation is concerned, a third country. For this reason, there will be some divergences in the relations between the German Democratic Republic and the other Member States (the Federal Republic of Germany excepted) in the area of indirect taxation in the transitional period. These divergences, which are of minor importance, concern the application of the principles of the Sixth Directive and travellers' allowances.

4.2. As far as the Sixth Directive is concerned, there will be such divergence on the supply of services (Article 9.2a). Supplies of services from a Member State to non-taxable persons established in the German Democratic Republic will not be taxed (in compliance with the Directive) either in the Member State supplying these services or in the German Democratic Republic. Supplies of the German Democratic Republic to non-taxable persons established in a Member State will be taxed in the German Democratic Republic. However, in accordance with Article 9.3b of the Directive, the Member State, for reasons of competition, could also impose VAT. To avoid double taxation it has been suggested in discussions with the Federal Ministry of Finance that GDR VAT should be refunded on a case-by-case basis.

Travel agencies in the German Democratic Republic are to be taxed. Services of travel agencies established in a Member State are — in compliance with the Directive — not to be taxed (Article 26.3).

4.3. As far as travellers' allowances are concerned, purchases of goods by GDR residents visiting a Member State and returning to the German Democratic Republic are to be 'detaxed' in the Member State of export, according to the common provisions for residents of third countries. However, for importation of such purchases into the German Democratic Republic, the GDR resident will not have to pay VAT if these purchases do not exceed the amount of DM 810 (intra-Community limit). In other words, during the transitional period there is a possibility for GDR residents to make some tax-free purchases in other Member States.

On the other hand, purchases by residents of a Member State effected in the German Democratic Republic and imported by the traveller into the Member State will be taxed in the Member State if they exceed the amount of ECU 45 (third-country limit). However, tax refunds for exports will be granted in the German Democratic Republic only for purchases exceeding the amount of DM 810 (ECU

390). Therefore, for purchases less than DM 810 double taxation will be possible. To avoid this, the GDR fiscal authorities will refund the GDR VAT, if the traveller provides evidence of taxation in his/her Member State.

4.4. As far as VAT relations between the Federal Republic of Germany and the German Democratic Republic are concerned, the following changes in West-German VAT law are worth mentioning, most of them being necessary because of the abolition of fiscal frontiers:

(i) *Special provisions*: the existing provisions (taxation of supplies to the German Democratic Republic without tax refund, VAT reductions for East German supplies to West German taxable persons) based on the 'Berliner Abkommen' were abolished by the end of June 1990.

(ii) *Supplies to the German Democratic Republic*: these supplies are to be taxed at the existing rates of 7 and 14%.

(iii) *VAT deduction*: GDR VAT on purchases and imports by West German taxable persons is deductible in the Federal Republic of Germany. Correspondingly, West German VAT is deductible in the German Democratic Republic. For this reason, tax refunds to taxable persons in the German Democratic Republic by virtue of the Eighth or Thirteenth Directive are no longer allowed.

(iv) *Place of supply of services*: by derogation from Article 9(2) of the Sixth Directive, the place of supply is now the place where the taxable person is established (in the Federal Republic of Germany or in the German Democratic Republic). As far as passenger transport is concerned, in cases of taxable persons established outside the two territories, VAT is imposed once at the relevant border, even if transport extends over East and West German territory (or vice versa).

(v) *Travel agencies*: West German travel agencies using supplies of goods and services in the German Democratic Republic when providing travel facilities are now to be taxed.

(vi) *Travellers' allowances*: no limits to be applied between the Federal Republic of Germany and the German Democratic Republic.

For the period ending with German unification these changes in West German VAT law are covered by the German declaration to Article 3 of the Sixth Directive and do not necessitate Community legal action.

5. Competition

5.1. State aid

There is a clear need for State aids in order to support the adaptation and restructuring of the East German economy, while at the same time the potentially distortive effects of such aids must not be ignored.

The Commission took the view that the Community State aid rules had to apply from an early date in order to guarantee a balance between the needs of the German Democratic Republic's economic conversion and established policies.

The Commission therefore agreed with the Federal authorities that they inform the Commission of any measures taken to develop the East German economy. Where such measures constitute or contain State aids the Commission examines them for their compatibility with Article 92 of the EEC Treaty. A series of such schemes, including the extension of the interest subsidies available under the European recovery programme to activities in the German Democratic Republic, have already been approved. This allows the Commission to ensure that all aid measures are in conformity with Community objectives and do not unfairly distort competition.

Article 14 of the Staatsvertrag requires coordination between the Governments of the Federal Republic and the German Democratic Republic on the content of certain structural measures proposed by the German Democratic Republic, and Article 28 provides for financial grants from the Federal budget to compensate for budget deficits in the German Democratic Republic. In so far as the application of these Articles leads to aid measures in the German Democratic Republic which can only be implemented after the agreement of the Federal authorities and will be directly or indirectly funded from the Federal budget, the Commission considers that these aids must also be assessed under Articles 92 and 93 of the EEC Treaty. The Commission is in contact with the Federal authorities to agree on the appropriate practical implementing arrangements to ensure control by the Commission of State aids granted by both German authorities.

5.2. Agreements/mergers

A large number of operations have taken place in the German Democratic Republic, particularly cooperation agreements and proposed West German acquisi-

tions of holdings in East German firms. There is a danger that some of these may lead to the strengthening or the abuse of dominant positions on the German market and affect intra-Community trade. For this purpose the Commission has kept a close eye on developments from the outset. It has initiated one formal proceeding which is being actively pursued and will not hesitate to initiate others should the situation warrant this.

As to the application of competition rules in the German Democratic Republic, the East German authorities have assured the Commission that the German Democratic Republic would be prepared to deal with competition policy as if the Treaty were already in force. Moreover, the German Democratic Republic Government would ensure non-discrimination against non-German companies while specific complaints about mergers or acquisitions which appeared anti-competitive would be looked at carefully in the light of the first point above. Commission officials will keep in close touch with officials of the German Democratic Republic.

6. Access to borrowing facilities and operation Phare

6.1. On 11 June 1990, in the wake of the special European Council on 28 April 1990, the Council requested the European Investment Bank (EIB) to provide the German Democratic Republic with loans for investment projects which satisfy the usual conditions governing the operations it finances from its own resources.

Since then, the EIB has begun work by assessing a number of projects and giving the German Democratic Republic access, with immediate effect, to global loans currently being managed by various German, Spanish, Dutch and British financial institutions.

6.2. Again in line with the European Council's conclusions, the Council has adopted decisions giving the German Democratic Republic access to borrowing instruments under the ECSC and Euratom Treaties.

Borrowing requirements for restructuring the German Democratic Republic's steel industry are considerable. Substantial recourse to ECSC loans can therefore be expected. There are likely to be similar heavy

financial requirements for the energy sector in the German Democratic Republic.

Talks are in progress with the East German authorities to identify the projects and financing needs under these financial instruments.

6.3. The Council has not yet adopted a decision extending economic aid to the German Democratic Republic under operation Phare. The Commission has however initiated exploratory talks to identify projects that could be completed in a short time. These tend to be concentrated in the area of the environment and transfrontier regional development.

As soon as the Regulation extending economic aid is adopted by the Council, the Commission will notify the Management Committee of its programme for the German Democratic Republic. Decisions on projects and necessary financial commitments should be made before unification.

The Commission would point out that the German Democratic Republic would be eligible prior to unification under the Tempus programme and European Training Foundation operations. Projects initiated under this heading would have to be incorporated into Community programmes (Erasmus, Comett and Lingua) at a later stage.

7. Information

7.1. As far as general information policy is concerned, the Commission has adopted a specific action programme concerning the German Democratic Republic.

Priority themes in the Commission's information effort in the German Democratic Republic include general information on the purpose, scope and function of the Community. Information on key policy areas, such as the common agricultural policy, the internal market, the environment, the social dimension and the financial support programmes will form part of a major information drive. This will target key sectors of the media, the new administration in the *Länder*, the social partners and institutions of education and training.

In practice, this means strengthening existing methods of information. The Commission's Office in Berlin is being expanded and preparation is under way for the extension of the Euro-Info-Centres network

and European Documentation Centres. Publicizing Community policy priorities will involve the provision of material to public libraries, contributions to television, radio and the print media, the organization of information visits to Brussels, speaker panels and touring events, exhibitions and seminars. A special brochure on the impact of German unification is being prepared.

7.2. The Euro-Info-Centres project is specifically designed to provide enterprises, and particularly small and medium-sized enterprises, with access to information relating to the European Community. The establishment of such Centres in the German Democratic Republic will therefore play an important part in the integration of the territory into the Community. In particular, they will provide information relating to Community legislation and standards, participation in Community programmes, and a network permitting the exchange of information with other regions of the Community.

It is intended to establish progressively eight to ten Euro-Info-Centres in the German Democratic Republic. In accordance with the philosophy of the project, the Centres will be distributed geographically and based in existing organizations already providing services to local businesses. Initial steps have already been taken to identify such organizations and to prepare for the establishment of the Euro-Info-Centres.

7.3. More generally, the Commission is in favour of the development of small and medium-sized enterprises (SMEs) in the new *Länder* of the German Democratic Republic just as in the Community as a whole. Support for SME development must come in three forms: establishing a favourable legal and administrative environment for business, developing the services required to support SME development and providing resources to encourage investment and to improve the physical environment in which SMEs operate.

Einigungsvertrag

1. General outline

1.1. The Commission welcomed the opportunity to participate directly in the negotiations between the two Germanys on the second Staatsvertrag (Einigungsvertrag). This enabled it to play a part in formulating provisions which could have a bearing on the

Community's powers and others governing the transposition of Community law into the legislation of the new *Länder* of the unified Germany. On a number of occasions the Commission was able to report on the negotiations between the two Germanys to Parliament's Temporary Committee on German Unification and the Chairmen of the Standing Committees. As far as the Community aspects are concerned, discussions on the Einigungsvertrag were thus conducted in a transparent manner and in full consultation with the Commission.

1.2. Negotiations on the Einigungsvertrag are still under way at government level.¹

The purpose of the Einigungsvertrag is to lay down the constitutional, technical and organizational conditions in which the process of unification is to take place with due regard for the objectives already reached by the first Staatsvertrag.

After unification, the Vertrag will continue to operate as Federal law. The rights of the German Democratic Republic under the Vertrag will devolve upon the newly formed *Länder* after the German Democratic Republic has disappeared.

The main provisions concern:

- (i) the newly formed *Länder* and their interim status;
- (ii) the entry into force of the Basic Law of the Federal Republic of Germany in the territory of the former German Democratic Republic;
- (iii) the changeover to the Federal Republic of Germany's public finance system in the former German Democratic Republic;
- (iv) the general adaptation of the law (transition to Federal law, continued operation of GDR law, European Community law);
- (v) international treaties of which the two countries are signatories (including references to Community legislation);
- (vi) public administration and the administration of justice in the former German Democratic Republic;
- (vii) the treatment of the public property and debts of the German Democratic Republic including the powers of the Treuhandstelle;
- (viii) economic development (in particular the setting up of a special programme for the entire territory of

¹ The particulars given below refer to the draft at 21 August 1990.

the former German Democratic Republic involving preferential treatment);

(ix) the existing foreign trade relations of the German Democratic Republic (see details below);

(x) a section on labour, social affairs, the family, health and the protection of the environment;

(xi) a section on culture, science and education;

(xii) arrangements (to apply until elections are held) for seating members of the Volkskammer in the Bundestag.

2. Application and transposition of Community law

2.1. The draft Einigungsvertrag contains provisions referring to Community law and to German law adopted (or to be adopted) in application of Community law.

The principle of succession means that Community law as a whole — whether based on unilateral measures or treaties, directly applicable or not — will apply to the territory of the former German Democratic Republic from the date on which unification takes effect provided that the Community institutions do not adopt specific provisions affecting secondary legislation (primary legislation being unaffected by unification; see the following chapter on adjustment of secondary legislation). Since this principle derives from Community law itself, it should not be necessary on purely legal grounds to reaffirm it in the Einigungsvertrag (or any other national legal act). It seemed advisable nevertheless to clarify this principle in the Einigungsvertrag, which will include the following provision:

'The Treaties establishing the European Communities, amendments and additions thereto and international agreements and treaties which have been brought into effect in connection with these Treaties shall apply in the area referred to in Article 3 with effect from the date of accession.

The legal acts based on the Treaties establishing the European Communities shall apply with effect from the date of accession in the area referred to in Article 3, save where exceptions are made by the relevant institutions of the European Communities. The purpose of such exceptions may be to take account of administrative requirements or to help avoid economic difficulties.'

2.2. As regards the introduction of Federal law in the territory of the former German Democratic Republic, the draft Einigungsvertrag proceeds on the principle that Federal law will come into effect in the said territory save where otherwise provided in the Einigungsvertrag itself. Adjustments will be laid down in the Einigungsvertrag and its annexes (negative list). Provisions of Community law (including amendments and adaptations) do not need to be annexed to the Einigungsvertrag, since they will be introduced *ipso jure* into the territory of the former German Democratic Republic on the grounds of the principles of Community law itself mentioned above.

The draft Einigungsvertrag also contains provisions on the continued application of GDR law. This will continue in operation either as Federal law or as law of the *Länder*, only where this is expressly provided in the Einigungsvertrag and its annex (Article 9 of the draft; positive list). It is expressly stated that GDR law will continue to operate where it is consistent with directly applicable Community law.

2.3. It should be pointed out that the term 'Rechtsakte' (legal acts) in paragraph 2.1 above includes all the Community's international agreements, whether bilateral or multilateral.

There is no need to refer in this context to decisions and agreements of the Representatives of the Governments of the Member States meeting within the Council, agreements concluded under Article 220 of the EEC Treaty and those relating to the Community's legal order, or declarations, resolutions and other positions adopted by the Council. Since these decisions and other acts apply automatically as a result of the transposition of Federal law into the law of the former German Democratic Republic or via commitments entered into by the German Democratic Republic *vis-à-vis* the Community or the other Member States, a clause similar to those found in Acts of Accession (Article 3, identical) is unnecessary.

2.4. Legal acts adopted or to be adopted by the Federal Republic of Germany to transpose or implement Community law (notably directives) apply in former GDR territory too, in accordance with the principle set out in the draft Einigungsvertrag.

The Federal Government is to be empowered, in accordance with Community law, to make the adjustments needed for accession by statutory instruments. Such instruments will require the assent of the Bundesrat where they refer to laws which require the assent of the Bundesrat.

Despite these procedural arrangements, practical difficulties could arise in the case of Community provisions which need to be amended/adapted by the Community's institutions. Even if matters progress quickly, the German legislator will have very little time to amend national transposition/implementation legislation in advance of unification. Close cooperation between the German authorities and the Community's institutions will be required if a satisfactory outcome is to be guaranteed within the time allowed.

There is a particular problem here as regards the adoption of legislation which falls within the jurisdiction of the *Länder*, because the new *Länder* will presumably not be constituted until 14 October 1990. Special efforts will be needed here to prevent the emergence of gaps at national level.

2.5. The Einigungsvertrag is to contain a reference to the issue of 'Vertrauensschutz' (legitimate expectations) with regard to the German Democratic Republic's 'gewachsenen aussenwirtschaftlichen Beziehungen', with similar wording to that of the (first) Staatsvertrag (Article 13.2). It will probably read as follows:

'The existing foreign trade relations of the former German Democratic Republic, in particular its contractual obligations towards the countries of the Council for Mutual Economic Assistance, shall be respected. They shall be further developed and extended, taking into account the interests of all involved and with due regard for free-market principles and for the jurisdiction of the European Community.'

The Federal Government and, where appropriate, the Government of a united Germany shall agree with the relevant institutions of the European Communities on the transitional exceptions which are necessary in the field of foreign trade for the purposes of the first paragraph.'

As it stands, this provision is only binding on the contracting parties, that is to say, the Federal Republic of Germany and the German Democratic Republic. The second paragraph emphasizes their concern that the Community should adopt a number of transitional exceptions in the area of commercial policy to take account of this principle. However, the paragraph is drafted in such a way as to avoid any interference in an area of exclusive Community competence.

2.6. The draft Einigungsvertrag contains other references to the European Communities as well — to the effect that their powers and legislation have to be

taken into account. Note in particular the Article in the draft concerning GDR treaties, which requires the powers of the Communities to be taken into account in discussions regarding the continued operation, adjustment or termination of such treaties. These references usefully reinforce the principle that Community law will apply *ipso jure*.

Adjustment of secondary legislation

1. Adjustment criteria

The unification of Germany entails the incorporation of the German Democratic Republic *ipso jure* into the Community legal order. In other words, the entire panoply of Community law will automatically apply in the territory of the former German Democratic Republic as soon as unification takes place. This legal integration will not involve any amendment of the Treaties or other acts which constitute primary law. By contrast, the immediate, across-the-board application of secondary legislation is not feasible. As with any accession, various technical adjustments will first be needed on account of the specific features of the former German Democratic Republic's socioeconomic and legal system. Equally, the particular difficulties in some sectors mean that there will have to be transitional arrangements to allow the former German Democratic Republic's legislation to be gradually adapted to the Community system, especially in such areas as safety and quality standards, environmental legislation and structural policy. These adjustments and transitional arrangements will have to be in line with the Treaties. However, their legal basis need not differ from that of secondary legislation involved, providing a certain number of conditions are met:

- (i) acceptance of the 'acquis communautaire' must be both the starting point and the ultimate objective;
- (ii) any transitional arrangements must be warranted on objective economic, social, or legal grounds;
- (iii) any exceptions or derogations must be temporary and cause as little disturbance as possible to the functioning of the common market (proportionality).

These were the criteria applied by the Commission when framing the accompanying legislative proposals. The Commission believes that the adjustment of secondary legislation can be achieved without departing in any way from Community law, relying in particular on the principle of equality, so often held up by

the Court of Justice as a general principle of Community law. Thus Community rules can — and indeed should — be modulated to take account of objective differences between economies. However, since the Single European Act, the principle is now enshrined in Article 8c of the EEC Treaty.

2. *Horizontal problems*

In preparing the package of measures contained in Part IV of this report, the Commission aimed for a simple but comprehensive and coherent presentation, containing uniform solutions for horizontal problems.

2.1. The required technical adjustments and transitional arrangements have, as far as possible, been grouped by sector and by legal basis. For example, although there are a hundred or so directives on the harmonization of technical rules whose implementation will require transitional arrangements of some sort, only one legislative instrument has been proposed on the basis of Article 100a of the Treaty.

2.2. The adjustment arrangements fall into two broad categories:

(i) *technical adjustments*: these take account of the former German Democratic Republic's particular economic, legal and other circumstances; since much of the German Democratic Republic's economic legislation has already been brought into line with that of the Federal Republic of Germany, mainly in the wake of the Staatsvertrag, this category is less important than the second;

(ii) *transitional arrangements*: this category is by far the more important of the two; as a general rule, the application of Community rules in the territory of the former German Democratic Republic will need to be phased in by 31 December 1992, although some sectors, such as the environment, will require a longer time-scale; in other sectors, provision has been made for extending the initial transitional period should this be necessary.

2.3. Delegation of powers to the Commission to adapt legislation (flexibility clauses)

The proposed legislation for adjustments and transitional arrangements in the various sectors should also include provision for the delegation of implementing powers so that any adjustments needed in the light of

new information or developments in the former German Democratic Republic can be made promptly.

The delegation arrangements may vary depending on each sector's needs.

Most of the acts proposed in this communication confer implementing powers on the Commission using the regulatory committee formula (procedure IIIa of Council Decision No 87/373 of 13 July 1987¹). However, where management committees (procedure II) already exist, the Commission has proposed that formula instead.

Purely technical adjustments (additions to the lists of national authorities responsible for a given sector, for example) do not, in the Commission's opinion, require recourse to a committee.

In each case the scope of the powers delegated is limited to what is required to ensure the consistent application of all the Community rules covered by the proposed act, taking into account the situation in the former German Democratic Republic and the particular problems of the sector in question.

Any measures taken under these delegated powers must, of course, comply with the basic principles of Community law and will not apply beyond 31 December 1992, except in the case of ongoing technical adaptation. Any derogations extending the time-limit will therefore be decided following the normal legislative procedure.

2.4. In some sectors (e.g. the environment and technical standards), the application of transitional measures will result in products being marketed which do not meet the conditions laid down by Community law. Although the German Democratic Republic's present situation does not permit the immediate wholesale application of Community rules, it is neither necessary nor in the public interest to allow the marketing of sub-standard products outside the region concerned. Consequently, under the transitional scheme envisaged, the German authorities would have to take steps to ensure that such products did not reach other parts of the Community, while at the same time respecting the rules of the Treaty and in particular the restrictions imposed by Article 36 and the 'Cassis de Dijon' ruling. Appropriate arrangements will be needed to ensure that Community standards are met outside the former German Democratic Republic when such products are sold

¹ OJ L 197, 18.7.1987, p. 33.

and that penalties are imposed in cases of non-compliance (end-use control).

The external relations sector is a case in point. The transitional system proposed is designed to avoid sudden disruption to trade with East European countries ('Vertrauensschutz') and only grants tariff concessions to products released for free circulation in the former German Democratic Republic. Such products will enjoy all the advantages of the internal market, notably free movement. However, the tariff concession will only be granted if they are consumed (or processed before re-export) in the former German Democratic Republic, so that the scope of the measure is limited to what is needed to achieve the objective in question ('Vertrauensschutz').

2.5. The package of legislative measures set out in this report only covers those requiring adoption by the Council. In some cases, technical adaptations and transitional arrangements will be decided by the Commission alone, in so far as the powers conferred on or delegated to it allow. The Commission will act as necessary before the official date for German unification.

3. *Provisional measures*

3.1. As indicated in the introduction, in case unification takes place before the institutions have had time to take the necessary final decisions the Commission is proposing two legal instruments authorizing it to apply provisional measures, thereby avoiding a potential legal vacuum between German unification and final adoption by the Council of the necessary transitional and technical adaptation measures.

3.2. From a legal point of view, this authorization should take the form of two texts, to be adopted in accordance with different procedures. The first text would be a proposal for a Directive on interim measures to be applied in anticipation of the transitional measures laid down in the proposals for Directives to be adopted by the Council under the cooperation procedure. The aim would be to grant a temporary derogation from the Directives to be covered by the transitional measures proposed on 21 August. The legal basis would be the bases chosen for the four proposals for Directives laying down transitional measures to be adopted under the cooperation procedure, namely Articles 49, 57 and 66 on the one hand and Articles 100a and 118a on the other.

The second text would be a proposal for a Regulation on interim measures to be applied in anticipa-

tion of the transitional measures to be taken by the Council under the consultation procedure. The aim would be to grant a temporary derogation from the Regulations, Directives and Decisions covered by the other transitional measures presented on 21 August. The legal basis would be the legal bases chosen for each of these proposals.

3.3. The substance of the two texts would be broadly similar. The Commission would be empowered to authorize the German authorities, on a provisional basis, to retain existing legislation applicable in the territory of the former German Democratic Republic which did not conform to Community law but which would be covered by transitional measures proposed by the Commission.

A safeguard clause would make it possible to surmount any difficulties arising from the retention of such legislation. It would also make it possible to adapt Community law, where appropriate, to bring it into line with this provisional authorization. This would be particularly necessary in the case of legislation relating to agriculture and fisheries. It is proposed that the Commission be empowered to make these adjustments under the regulatory committee procedure (procedure IIIa) except in the case of rules and regulations affecting the markets in agricultural and fisheries products where the management committee procedure would apply.

3.4. The two texts would not cover transitional measures or technical adaptations for any granting of aid to the ECSC sector nor planned structural Fund operations. Interim measures do not appear to be necessary in these fields, given the long-term effects of the measures to be introduced.

II — Sector-by-sector explanatory memorandum

External aspects

The external aspects of German unification pose the Community a number of problems:

- (i) the applicability of treaties concluded by the Community to the new Community territory,
- (ii) the extent to which the Community is a legal successor to the international rights and obligations of

the German Democratic Republic (GDR) in the areas of Community competence,

(iii) the economic impact on the German Democratic Republic's neighbours and major trading partners,

(iv) legitimate trade expectations of these trading partners ('Vertrauensschutz', an explicit principle contained in the two State treaties between the two German States).

These and related questions are analysed below in terms of legal, economic and political implications.

Finally, the adoption of specific measures is suggested, providing for a transitional period allowing both East German and East European businesses to adapt to the new framework of external economic relations.

1. *Legal implications*

1.1. **Succession to GDR treaties**

There is no reason why the applicability of Community treaties to the territory of the former German Democratic Republic should be approached differently from the applicability of Community law in general. Thus all Community treaties apply immediately on unification, unless specific exemptions are granted by Community legal acts. At present no such exemptions from the full effect of Community treaties are foreseen for the territory of the former German Democratic Republic. However, some Community treaties may need to be adapted to the new situation, e.g. the Community textile agreements.

The preceding paragraph describes one aspect of the rule of moving treaty boundaries, a rule of international law applied in the field of succession of States to treaties. This field of public international law is in a state of flux. There is no inherent reason, however, why the basic rules of succession to treaty rights and obligations should not apply to an entity having international personality and having been granted extensive treaty-making power, such as the Community, in so far as the treaties concerned fall within its recognized sphere of competence.

The Commission rejects the application of the so-called negative aspect of the abovementioned rule of moving treaty boundaries, which would lead to the automatic extinction of all GDR treaties with third States. The Community is bound by the legal princi-

ple of the continuity of treaty rights and obligations. A fundamental exception is to be made for so-called personal treaties, i.e. those which are inextricably linked with the political 'persona' of the former German Democratic Republic. Moreover, as it is likely that inherited treaty rights and obligations will conflict with Community law, including Community treaties, it is clear that their continuity must be subject to (re)negotiation.

If the subject-matter of a GDR treaty is within the exclusive competence of the European Community, the Community succeeds directly. It alone should carry out any necessary renegotiation with the third country concerned, in accordance with normal Community procedures.

In cases of treaties of mixed competence, the Community and the united Germany each succeed in respect of their own competence. (Re)negotiation should be carried out jointly, subject of course to careful coordination.

Both in cases of mixed and of exclusive competence the possibility of a temporary authorization to a united Germany to exercise rights and obligations under the inherited treaty should not be excluded. This may, indeed, provide a practical solution to difficult situations in practice. Such authorization should clearly be subject to safeguards, for example Commission supervision.

An alternative, relatively simple, way to avoid conflict between GDR treaties in the area of Community competence and Community law, is to request the German Democratic Republic, where possible, to denounce such treaties.

The fact that the present law of succession in respect of treaties may open the possibility of restricting inherited treaty rights and obligations to the territory to which they formerly applied, is noteworthy. This may well be reasonable, and be perceived as such by former GDR treaty partners, in the case of economic obligations of a limited duration and of economic rights specifically geared to GDR capacities (e.g. fishing rights). Thus, a solution to a treaty succession problem could only be the result of an understanding with the treaty partner concerned. It should only be suitable for a brief period, since the former GDR territory could not be effectively isolated from the rest of the common market for any length of time.

Finally, the technique of autonomous adaptation of Community law may also reconcile incompatibilities of inherited treaty obligations with Community law.

Moreover, this may be the most convenient legal technique where the Community wishes to meet justified economic or political requests from third States, outside the realm of legal obligation.

To sum up, therefore, where the German Democratic Republic does not unilaterally rescind treaties, the Community has the following instruments at its disposal with regard to legal rights and obligations inherited from the German Democratic Republic:

- (a) renegotiation of the relevant treaty, according to normal Community procedures;
- (b) temporary authorization of a united Germany to exercise the rights and fulfil the duties under the relevant inherited treaty;
- (c) restriction of the territorial scope of an inherited treaty to the former German Democratic Republic;
- (d) autonomous adaptation of Community law.

The choice of which instrument or combination of instruments will depend on the nature and scope of the treaties concerned. The following analytical inventory of GDR treaties potentially affecting Community law, including Community treaties, gives an indication of which instruments to use in which cases.

1.2. Analytic inventory of GDR treaties

The following inventory contains only those GDR treaties which affect Community competence. A distinction is made between multilateral and bilateral treaties and these are each divided into a number of separate categories, each with specific problems and solutions.

(a) Multilateral treaties

This group of treaties includes multilateral treaties which establish international organizations.

(aa) Multilateral treaties to which the Federal Republic of Germany, the German Democratic Republic and the Community are parties

This category of treaty (which includes international organizations in which the Community is an observer) poses no particular problems. In mutual agreement and depending on the Community's status in such treaties or organizations, Germany or the

Community will notify the fact of unification to the depositary of the treaty or to the organization concerned.

(ab) Multilateral treaties to which the Community and the German Democratic Republic are parties, but the Federal Republic of Germany is not

In these cases the Community will notify the treaty depositary or the organization concerned that the territory to which the Community treaties apply has been extended as a result of German unification. This applies to multilateral fisheries organizations, such as NAFO, and to the international Sugar Agreement. In accordance with the internal rules of these organizations, this will have consequences for the Community's voting rights and financial contribution.

(ac) Multilateral treaties to which the German Democratic Republic is a party, but the Community and the Federal Republic of Germany are not

These are treaties concluded within the framework of the CMEA but independent from membership in the organization. There are 64 such agreements between governments. Only 14 of these affect Community competence. Seven of these are normative agreements, of which four are in the field of standards and certification. It would be logical to allow continued application of these treaties to the former GDR territory for as long as exemptions are granted from Community standards and certification. Concrete proposals for a Community view with respect to these treaties are contained in Annex I. There are 76 such agreements concluded at ministerial level. It is hoped that the large majority of these can be maintained by private firms. Proposals for the eight remaining agreements are also contained in Annex I. Finally, there are 25 agreements setting up multilateral economic organizations of the CMEA countries. Current information indicates that Community law is only tangentially affected by three such organizations (Nuclear Research Institute Dubna; Organization for the Cooperation between Railways; Organization of Post and Telecommunications). No immediate action is proposed on these.

(b) Bilateral treaties

(ba) Treaties running parallel to the five-year plan 1986-90

Such treaties have been concluded with all CMEA countries and with a number of LDCs. They provide

a framework for trade between the partners. Lists of goods in which trade may take place are attached to them. The goods and the quantities in which trade will actually take place are laid down in yearly protocols. Obviously these treaties and the protocols for 1990 have no legal consequences for the Community beyond 31 December 1990. However, for the time between formal unification and the expiry of these treaties the Commission proposes to allow trade on the terms of the yearly protocols. Moreover, the yearly protocols for 1990 (for Poland: 1989) could serve as a reference point for any measures the Community might wish to take in favour of the East European CMEA members for a transitional period (see below, point 4). The German Democratic Republic is discussing new annual protocols for 1991 (with indicative product lists) with the USSR and probably also with others.

(bb) Specific treaties GDR-USSR, to which the Community should not necessarily succeed, but which will have consequences for Community law

The GDR authorities have submitted a specific list of bilateral treaties with the USSR which they are asking to maintain, principally for economic reasons. Since most of these treaties concern investment projects and other cooperative ventures between the two States, it is for the united Germany to decide whether to maintain them. However, the cooperation of the German Democratic Republic in these projects is in many cases compensated by deliveries from the USSR to the German Democratic Republic of raw materials, semi-finished goods and energy goods. These are of extreme importance to the GDR economy and the Community will allow the import of these goods into the territory of the former German Democratic Republic during a transitional period on the same terms as before unification. A list of these agreements can be found in Annex II.

(bc) Specific treaties between the German Democratic Republic and various third countries with consequences for Community law

The GDR authorities have submitted a list of agreements with various third countries which pose the same problems as those mentioned under (bb). For the European CMEA countries concerned, the Community will provide for specific transitional measures (see below, point 4). The agreements are also contained in Annex II. For some LDCs involved their ACP status gives them free access to the Community market for their deliveries in compensation for GDR projects. But in the case of the countries which do not

have this status or whose deliveries are in agricultural products, the Community is willing to entertain requests for renegotiation.

(bd) Trade agreements (Eastern Europe and Asia)

The German Democratic Republic has concluded trade and navigation treaties with its neighbours in Eastern Europe (Albania, Bulgaria, Czechoslovakia, Poland, USSR) and with two Asian countries (China, North Korea). These agreements can be rescinded by the German Democratic Republic with six months' notice. In consultation with both Germanys, the Commission has asked the German Democratic Republic to avail itself of this possibility in the cases of Albania, China and North Korea.

The Commission is willing to take the existing agreements with East European CMEA countries into account in future talks on the Community's relations with these countries. These agreements essentially ensure most-favoured-nation (mfn) treatment, but in coverage go somewhat beyond the Community's present mfn-treaties with these countries, and even beyond Community competence (mfn treatment of individuals; recognition and execution of arbitral awards, etc.).

(be) Trade agreements (other States)

The German Democratic Republic has trade agreements with countries from the following groups: EFTA States; Mediterranean and Middle Eastern States; ACP States; States of Asean and South Asia; States of South and Central America and some OECD countries (Australia, New Zealand, Canada and Japan). All of these treaties are essentially pure mfn-treaties (although some include shipping), except for the agreement with Japan. The large majority of these treaties can be terminated by unilateral denunciation before 30 September 1990. The German Democratic Republic has expressed its readiness to denounce them all.¹ The Community can agree to this, since the Community treaties with the countries concerned, or the Community trade policy in conformity with GATT, guarantee at least the same or better treatment than that granted by the German Democratic Republic treaties.

¹ Even those which have different deadlines for denunciation, but with an exception for those which form the ultimate legal basis for continuing barter payments to the German Democratic Republic (notably Brazil).

The agreement with Japan, which goes beyond trade, should be carefully studied by the Community and the united Germany.

(bf) Agreements on economic and technical cooperation

In so far as cooperation by the Community is concerned, there are sufficient instruments available (Lomé Convention, Mediterranean agreements, other agreements on trade and cooperation) to ensure further Community cooperation with the countries broadly covered by the GDR treaties in question. The Community has always admitted that its Member States may also have economic and technical cooperation treaties with third countries; hence a united Germany must have the right to succeed to GDR treaties of this kind, if it so wishes. Obviously such German cooperation treaties will be subject to the consultation procedure of Council Decision No 74/393/EEC of 22 July 1974.

(bg) Transport agreements

Air transport: in view of the specific situation created by unification, the Commission proposes to authorize the united Germany to succeed to GDR air transport agreements.

Shipping agreements: these are for Germany to succeed to. However, in so far as the GDR agreements include cargo sharing and cargo reservation clauses — and many of them do — these are fully subject to the disciplines of Regulation (EEC) No 4055/86.

Road transport agreements: for commercial and technical road transport agreements as for the air transport agreements, the Commission envisages an authorization for Germany to succeed to this type of agreement. Clearly, these agreements remain subject to existing EC disciplines.

(bh) Agricultural agreements

Here a distinction can be made between:

- (i) agreements on scientific and technical cooperation in the agricultural sector,
- (ii) agreements on veterinary matters and plant health,
- (iii) development aid agreements in the agricultural sector.

The first and third category of agreements should not be subject to succession by the Community. The

second category falls in principle within the framework of Community competence. However, the German Democratic Republic has announced that its Government intends to denounce the multilateral CMEA agreement and to terminate bilateral treaties in this area.

(bi) Fishing agreements

Some GDR fishing agreements (notably with the Faeroes, Norway and Sweden) have been concluded along the same lines as Community fishing treaties with the same countries. With the permission of the GDR authorities, the Commission proposes that the GDR quota agreed pursuant to these agreements should become part of the negotiations for the Community quota with these countries for 1991. Other GDR fishing agreements contain particularities or are with States which subject the Community fleet to certain restrictions. In these cases the Commission will need to explain to the treaty partners of the former German Democratic Republic that succession does not imply a recognition of such peculiarities and restrictions, but seeks to guarantee that these fisheries can continue to be exploited by former GDR fishermen. That is to say that the fisheries treaties, which for the moment are not integrated into Community agreements, will have a continued validity only for the 'East German' fleet (for concrete proposals, see the chapter on the common fisheries policy).

(bj) Textile agreements

Although the Community will have to take account of some GDR agreements on trade in textiles, the primary task here is to adapt the existing Community textile agreements to the new situation of a larger Community market. Where hitherto trade was non-existent, this operation would be restricted to an autonomous technical adaptation of these agreements given the absence of a general legal obligation flowing from the MFA (Multifibre Arrangement) or the GATT and not lead to a wholesale renegotiation of the textile regime with third countries. A proposal for a Directive for negotiations to this effect is included.

(bk) Steel agreement

The German Democratic Republic has concluded a steel arrangement with the USA which runs parallel to the Community steel arrangement with the USA both as to form and to duration but not as to products covered. The Commission believes that arrangement should be allowed to continue to benefit steel-

works within the former GDR territory alone until the expiry date in March 1992.

The above inventory of GDR treaties to which the Community will succeed or by which Community law is affected is far from complete. The Commission departments, in spite of the effective help they have received from Federal and GDR authorities, have not been able to analyse all possibly relevant treaties in depth. Nor can it be entirely excluded that some treaties have been overseen.

To take account of this, the Commission reiterates its basic willingness to succeed to GDR treaty rights and obligations which fall within the Community's sphere of competence, but on the other hand subjects such willingness to (re)negotiation.

2. Economic assessment

The impact on foreign trade of German unification and integration of East German territory into the Community is difficult to assess. No reliable estimates quantifying the decline in trade exist. But trade decline has already been observable since 1 July, the date of German economic and monetary union (GEMU).

The Commission's economic assessment is therefore limited first to a short description of the GDR's traditional patterns of foreign trade to 1990 and second to an analysis of their macroeconomic importance both for export industries in the German Democratic Republic and for the German Democratic Republic's main trading partners in the Council for Mutual Economic Assistance (CMEA). These patterns have traditionally been fixed by multiannual foreign trade treaties (see paragraph (b), (ba), p. 49) and the corresponding annual trade protocols. This will no longer be the case from January 1991.

The structural and political changes in the CMEA countries affecting the future trade of the former German Democratic Republic are also analysed below. In conclusion, the potential effects of the application of the Community's commercial policy are described.

2.1. Historic trade patterns

With autarky a prime objective, for a country of its size the German Democratic Republic has been com-

paratively unintegrated into the international trade system. In 1988, about two thirds of GDR trade was with other CMEA countries, notably with the Soviet Union (around 37% of total trade).¹ As trade with developing countries plays only a minor role, most of the remainder is with Western industrialized countries (of which, depending on the statistical source, one quarter to one half is with the Federal Republic of Germany).

The GDR's small share of world trade is illustrated by its overall volume of foreign trade which, in 1988, at USD 58.7 billion accounted for a share of somewhat more than 1 % of world imports and exports. By comparison, the Federal Republic of Germany with a trade volume of USD 551.9 billion scored an average share of world trade of 10%.

The GDR's foreign trade is characterized by:

- (i) low level of involvement in the international division of labour,
- (ii) one-sided orientation towards the CMEA countries, and
- (iii) a product pattern inappropriate to a highly industrialized country.

These characteristics derive from the politically determined compensatory function of the GDR's foreign trade:

- (a) Goods were only imported to obtain scarce resources and to fill gaps in the range of goods available. Goods were only exported in order to finance import requirements.
- (b) Until the beginning of 1990, the State monopoly of foreign trade determined the orientation of external economic relations towards the socialist countries.
- (c) An attitude of self-sufficiency, non-convertibility of the currency and lack of competitiveness are further adverse limiting factors.

The table below provides a brief overview of the GDR's foreign trade with its CMEA trading partners.

¹ According to more recent publications, trade with the USSR was only one quarter of total trade. These discrepancies in official figures are the result of a modification of the exchange rate of the transfer rouble. At present, it is not possible to quantify trade on the basis of market economy indicators. This makes it difficult to compare analyses of the GDR's foreign trade with CMEA countries with its trade with Western countries.

Breakdown of GDR-CMEA trade volume for 1990¹
(CMEA trade represents about 65% of total GDR trade)

Trade partners	Total trade volume (mio TR)	%
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
	23 838	100

¹ Estimates based on annual trade protocols for 1990.

Annex III contains a more detailed overview of trade with CMEA member countries by product group and separate information on the GDR's foreign trade flows. The Annex also provides country-based information on existing long-term obligations and issues requiring particular attention.

The structure of the GDR's trade with the CMEA countries has remained relatively constant. Stable export and import patterns have been established with a number of partners. A good 60% of the GDR's exports to the CMEA countries are accounted for by machinery and equipment while on the import side raw materials are the major group with 40 to 50%.

The compensatory function of the GDR's foreign trade is clearly reflected in this basic pattern. The Soviet Union is the GDR's main supplier of energy and raw materials (covering, for example, 100% of its natural gas, lead, pig iron, wood and phosphate requirements). This is matched by the fact that the German Democratic Republic, with its principal exports in the area of machinery, industrial equipment and transport facilities, is the Soviet Union's main supplier (it accounts for approximately 20% of all Soviet imports in this area). Trade with the other socialist countries is characterized by a greater degree of substitution.

The USSR is the GDR's main trading partner. In November 1989 a level for 1990 of 6.8 billion transferable roubles (TR) was agreed for the GDR's exports and a figure of 6.4 billion TR for imports.

Since 1987, however, there has been an unmistakable downward trend in the volume of trade with the USSR. In 1986 this still accounted for 70.6 billion transferable marks (VM). In 1987 it fell to 68.4 billion VM and again in 1989 to 65.4 billion VM.

Recently, the USSR has stepped up its purchase of microelectronics products, equipment for light industry and the foodstuffs sector and for commerce and public utilities. The raw materials package accounts for some 50% of deliveries and purchases in trade with the USSR. The USSR has been making efforts to ensure that this aspect of trade will continue to enjoy a State guarantee (possibly through State contracts with firms).

Trade links with the other CMEA countries differ in volume and structure from those with the USSR. The total volume of trade is approximately 1.5 billion TR less than with the USSR, accounting for 44.6% of total GDR trade with CMEA countries. The differences from one country to another arise primarily from the different levels of economic development of the countries concerned and their progress towards economic reform. Since 1990, there has been a dramatic decline in trade with several East European countries. The introduction of a market economy has meant that Hungary and Poland could no longer guarantee to purchase GDR products. Firms have terminated purchases previously made from the German Democratic Republic.

The 1990 protocol with Hungary contains no State guarantees of purchases on the part of the Hungarian Government and no provisions on pricing. In the case of Poland, it was decided not to conclude an annual protocol for 1990 but merely a loose agreement. The agreement provides only for a volume of approximately 20% of the previous years' trade, this being the amount for which the Polish Government considered it could provide a certain guarantee. On the other hand, Poland has recently expressed interest in greater supplies of consumer goods, including cars. These are products which the German Democratic Republic will find increasingly difficult to sell on its domestic market.

2.2. Structural changes affecting foreign trade

Much of business in the German Democratic Republic (and even more in its CMEA trading partners) depends on a continuation, in some form, of existing trade relations. Severance of existing relations, even after short-term contractual obligations have been met, could lead to the disappearance of

entire businesses and to wide-spread unemployment. About 1.8 million people are employed in export-related jobs, 480 000 (15% of total employees in GDR industry) of which are directly or indirectly related to exports destined for the USSR.

The GDR foreign trade reflects the high level of self-sufficiency. As a result, the range of products manufactured has been far too large measured in terms of a single country's opportunities on the world market, if the German Democratic Republic is exposed in the short term to the full pressure of competition on the world market, without fundamental changes to the pattern of production, many of its companies may not survive.

The Soviet, Polish and Hungarian Governments have expressed similar concerns about the fate of industries wholly or partially dependent on exports of the German Democratic Republic. Their potential losses have been attributed to German unification and the future application of the Community's commercial policy.

However, German unification and the subsequent integration of the GDR's territory into the EC is taking place simultaneously with several other important structural economic changes. In most Central and East European countries there is a clear transition to market economies, linked with a shift towards trade in convertible currencies at world market prices. The principle was formally adopted by the CMEA Sofia Summit in January 1990. There thus would have been major changes to the intra-CMEA trade pattern even without German unification. It is likely that the very swift process of German unification will reinforce these changes. Reliable quantification of this additional factor is impossible.

These radical changes are bound to call into question existing foreign trade patterns and will inevitably alter the structure of production. Since 1987, there has already been a decline in the volume of intra-CMEA trade, as described above. This process will now accelerate substantially in the remainder of 1990 and in 1991. Intra-CMEA trade volumes are likely to contract significantly as importers who previously bought within the CMEA have to pay in hard currency and may switch to other sources. The only way for CMEA exporters to avoid this is to lower their prices substantially. This may not work in all cases. Some of the CMEA's traditional exports could have problems finding a buyer at any (hard-currency) price.

However, these effects are the short-term results of the structural changes brought about by German uni-

fication. In the medium term new areas of cooperation will open up (e.g. cooperation in reconversion, transfer of GDR production specialized in exports to the USSR to East European countries, expansion of the tourist industry, cooperation of small and medium-sized businesses). The reform process in Central and East European countries, strongly supported by the Community, is creating new business opportunities. They will now be enhanced by the economic growth resulting from German unification. Additionally, the Central European CMEA countries will swiftly become very attractive for foreign investors looking for low production costs for new industries exporting to Germany and the EC.

2.3. Prospects for GDR exports to CMEA countries

GDR exports to CMEA countries fall into two categories: those products exported only to CMEA countries and those also exported to Western countries.

Basically, if products have only been exported to CMEA countries, they are not competitive on the world market. This holds mainly for investment goods and for protected markets such as those for agricultural goods and mining products, except where the CMEA has not been the only market for these goods. Consequently, exports of the German Democratic Republic to CMEA countries are soon likely to decrease substantially unless GDR producers either have had a monopoly position on these markets, or prove to be competitive or their exports are heavily subsidized.

If products have also been exported to Western countries, prospects for exports to CMEA countries are favourable. This will, however, depend on the development of production costs in the German Democratic Republic. This holds especially for those goods which have not depended on export subsidies to be competitive on world markets. For all other products, subsidies may be necessary to maintain prevailing export flows.

2.4. Prospects for CMEA exports to the German Democratic Republic

A parallel distinction between goods exclusively exported to the German Democratic Republic and those also exported to Western countries must be made for CMEA exports to the German Democratic Republic — which in principle also means to the European Community after German unification.

Goods only exported to CMEA countries but not to Western countries are obviously not competitive on the world market in convertible currency. Consequently, these exports to the German Democratic Republic will soon disappear, probably already in 1990. An exception might be exports processed in the German Democratic Republic and then re-exported to CMEA countries. But this will hold only as long as the GDR processing industry remains competitive.

Some goods exported to Western countries, e.g. oil, gas and coal, have proved competitive on the world market at current prices. Despite the prevailing preference of GDR consumers for goods of Western and mainly West German origin, such CMEA exports may be maintained or even extended in the medium term as long as they fulfil EC standards. If not, GDR demand for these products will probably soon decline.

In the absence of significant interventions on the market, CMEA exports to the German Democratic Republic (excluding raw materials) may fall in 1991 to less than one third of their 1989 level. CMEA raw material exports (oil, gas) will be maintained or even increased, assuming a phasing-out of nuclear energy production and plants based on lignite.

2.5. Potential effects of the application of the common commercial policy

Germany has to adopt the Community's common external tariff (previously the German Democratic Republic conducted tariff-free trade with CMEA countries) and apply Community and GATT rules to the territory of the former German Democratic Republic. Federal Republic of Germany quantitative restrictions will extend to GDR territory, as well as EC standards and quality norms.

(a) USSR

The Commission has noted that exports of the USSR to the German Democratic Republic follow approximately the same general pattern as USSR exports to the EC. Owing to the high percentage of raw material (particularly energy) exports, the current average rate of duty on such exports is 2.3% and may drop to 1.7% if the Uruguay Round tariff offer is maintained. The tariff impact will therefore be moderate (86% of goods at 5% duty or less). However, the USSR has noted that though market access is likely to be maintained, the pricing of currently price-balanced CMEA

trade arrangements will be affected and cause problematic imbalances.

Technical barriers based on the adherence to EC norms and standards by the German Democratic Republic will also adversely affect trade in various sectors such as machinery and equipment.

Under the EC-USSR Trade and Cooperation Agreement, all quantitative restrictions (QRs) for which it was agreed liberalization would take place, were liberalized by Regulation (EEC) No 1434/90. Only 67 have been maintained, of which 18 are agricultural. In the agricultural sector only coffee and vegetables, particularly potatoes, are involved. Therefore, none of the QRs in the agricultural sector would be likely to have a great impact on trade with Germany. In the non-agricultural group, the QRs are mostly for intermediate products such as fibre-board and ferro-silicon, and for a variety of finished goods with a limited importance in USSR-GDR trade.

(b) Other East European CMEA countries

The impact of the application of the tariff will be greatly alleviated for the other countries of the CMEA. Romania has had the benefit of the generalized system of preferences (GSP) on a limited basis for a long time. Poland and Hungary benefit from the full extension of the GSP in the framework of the G-24 Phare programme for a temporary period of five years from 1 January 1990. The Community intends to extend this on the same basis to Czechoslovakia, Bulgaria and Yugoslavia from 1 January 1991. This will certainly ensure that there is no adverse impact as far as industrial goods are concerned.

However, Regulation No 3420/83 and Regulation No 288/82 should be taken into account. These Regulations provide for regional quantitative restrictions (QRs) on certain imports on a regional basis in the Community. German unification implies the extension to the former GDR territory of those restrictions applied by the Federal Republic of Germany against the CMEA countries.

However, the impact of these restrictions will be minor, since the number applied by the Federal Republic of Germany is relatively small and covers a small range of products. Furthermore, the Federal Republic of Germany has reduced its impact almost totally under the system known as 'Testausschreibung' which has permitted, on an experimental basis, the unrestricted entry of industrial imports from the countries concerned. In the case of Poland and Hun-

gary the impact of QRs was reduced to zero on a Community-wide basis by the liberalizing Regulations of late 1989.¹ The same measures are planned for Czechoslovakia, Bulgaria, Romania, and Yugoslavia. A proposal to this effect is with the Council. For Yugoslavia no QRs are maintained by the Federal Republic of Germany and there will therefore be no effect after unification.

In sum, Community measures already taken or being taken to improve the access of certain countries of Central and Eastern Europe to the Community market will greatly diminish the potentially adverse effects of the application of tariffs and of QRs.

2.6. Conclusions

The current structure of the external trade of the German Democratic Republic is seriously distorted by the special division of labour within the CMEA and by accounting in non-convertible currencies. As both distortions will disappear in 1990, the present trade structure cannot be maintained. For market reasons, trade flows among CMEA countries, in particular between the German Democratic Republic and the other countries, will diminish significantly. GDR trade with the CMEA will adjust to the pattern of trade flows between CMEA countries and Western countries.

If the countries of Central and Eastern Europe undertake serious efforts to catch up, there will be significant trade and current account surpluses in EC countries *vis-à-vis* these countries, including the former GDR territory. This should prepare the ground for suspending remaining EC tariffs and quantitative restrictions *vis-à-vis* these countries during a transitional period. Trade relations should be extended on a market basis and East European countries should be helped to improve their competitiveness on the world market.

3. Political considerations

Legally, the Community is affected by an important number of existing foreign obligations of the German Democratic Republic. However, from an economic point of view it appears doubtful whether these obli-

gations will be honoured, given the structural changes taking place and the introduction of world market competition.

Against this background, the Commission had to evaluate carefully whether a transitional period should precede the full implementation of the Community's commercial policy. This would allow both the German Democratic Republic and its main trading partners to adapt to the additional change. The process of internal change towards market economies and external adaptation to world market prices and hard currency puts the CMEA economies under enormous pressure to restructure industry. This pressure has already been greatly increased by German economic and monetary union since 1 July 1990. Any additional strain on these countries resulting from the indiscriminate and immediate application of the common commercial policy which could result in subsequent economic and social destabilization ought to be avoided.

Even if the economic effect of possible derogations is likely to be limited in the case of CMEA exports to the former GDR territory (since the market will not be very responsive), the potential political and psychological impact could negatively affect EC relations with its Central and East European neighbours and the USSR.

Any destabilization from, or perceived as stemming from, the immediate application of EC commercial policy would run the risk of contradicting other major EC initiatives in Eastern Europe (Phare, association agreements, aid to the Soviet Union), which aim at establishing a pan-European free trade area in the long term.

Finally, it is declared policy of the EC to support the process of German unification. Since the principle of legitimate expectation ("Vertrauensschutz") is contained in the two State treaties between the German States and constitutes one of the external cornerstones of the unification process, it is a politically relevant factor for the Community as well.

Ways had therefore to be found to reconcile traditional trade patterns with the legal, political and economic integration of the German Democratic Republic into the Community. They combine transitional exemptions with the necessity rapidly to transform the German Democratic Republic into a market economy fully integrated into the EC. The application of the different measures proposed may be the beginning of very close economic cooperation between the EC and Central and East European

¹ Regulations Nos 3381/89 and 3691/89.

countries. The GDR's external commitments will thus have served as a catalyst for pan-European economic cooperation.

Clearly, the European Community's interest is limited to providing its Central and East European neighbours with this framework. These countries benefit from other efforts of the EC to stabilize their economic and political transition processes and negotiations on far-reaching association agreements with them are currently being prepared. Specific transitional measures of the Community are therefore limited to the active European member States of CMEA and Yugoslavia, the GDR's main trading partners.

Clearly, however, these measures can obviously not ensure actual market shares. Unified German and/or individual East German businesses may therefore have to guarantee the sales of certain products for the transition period.

4. *Adaptation measures during the transition period*

4.1. Application of common commercial policy

In principle, the common commercial policy applies from the day of formal unification. In fact, the principle is already in force since Council Regulation No 1794/90 establishing 'accelerated customs union' simultaneously with the creation of German economic and monetary union. However, during the interim phase preceding German unification, a general clause stated that the customs union 'shall apply without prejudice to the German Democratic Republic's obligations under agreements concluded with third countries' (Art. 2 (2)). Such indiscriminate preferential treatment was only justified for the short period before unification and applied to a country which was not even a member of the EC. The Community now has to define a more differentiated policy.

In the following section only adaptation measures for the import regime are discussed, since no major problems exist for the Community in the export field. As to the export side the possible granting of State aids to East German businesses is mainly a matter for Germany. Such aids will need authorization by the Commission in order to avoid distortive effects on the common market.

4.2. Exceptions during the transition period for trade with European CMEA countries

Legal, economic and political considerations led to the conclusion that a transitional period of adaptation was needed. During this period, a set of policies are to be applied, which fulfil the objectives of:

- (i) implementing the principles and instruments of the common commercial policy within a clearly defined time horizon;
- (ii) taking due consideration of the potentially serious effects on the economies of several Central and East European countries;
- (iii) promoting necessary structural adjustments in East Germany and its traditional main trading partners in Europe.

A variety of different measures are to be applied in order to meet these objectives. They are outlined below. But there is one common provision which has to be applied to all transitional measures envisaged, except for quantitative restrictions (bdb), namely application only to products of which final consumption takes place in the territory of the former German Democratic Republic. Despite its practical disadvantages, this approach can be justified in GATT and *vis-à-vis* economic sectors in the Community possibly affected by exceptions to Community rules.

The Commission will require commitment to this provision from the German Governments as well as from benefiting countries.

(a) *Renegotiations*

(aa) Immediate renegotiation of EC agreements with third countries

The EC has concluded a number of bilateral agreements with third countries limiting market access (textile and steel). The Commission is seeking a mandate from the Council for the adaptation of these agreements in order to increase EC quotas and add the increases to the share of the Federal Republic. Traditional trade flows of the German Democratic Republic ought to be taken into account in this exercise.

A proposal for a Council Directive for negotiations to adapt the bilateral textile agreements can be found in Part IV. GDR rights and obligations should be honoured until adaptation of existing EC agreements with third countries is complete.

(ab) Treaty succession and renegotiation of GDR treaties with third countries

As stated in Part I, the Community will succeed to the rights and obligations of the German Democratic Republic in areas of EC competence. However, a simple takeover of these treaties is impossible, owing to the differences between the legal nature and competences of the EC and those of a former socialist country with a State monopoly in trade. The EC can only provide a favourable framework for the necessary adaptation of these treaties to the new international economic environment. This point could be integrated into the negotiations on the conclusion of association agreements with the countries concerned.

Long-term investment projects and cooperative ventures involving deliveries to the German Democratic Republic in the industrial sector (1.2 (bb)) and in agriculture (1.2 (bc)) are of particular importance in this context. Most of these treaties have to be renegotiated by Germany (with the Commission associated).

(b) Exemption from application of common commercial policy instruments

(ba) Time horizon

Any exception has to start on the day of German unification and should be limited in time. The ultimate time-limit for any transitional measure should coincide with the end of preparations for the internal market, in order not to hamper its realization with external commitments not corresponding to internal market requirements. For the moment, the transitional period ends on 31 December 1991. After evaluation, extension may prove possible.

(bb) Beneficiaries

As already noted the USSR, Poland, Hungary, Czechoslovakia, Romania, Bulgaria and Yugoslavia should be the beneficiaries of any exemptions. It is clear that the USSR will gain most since it is not included in the Phare liberalization measures and does not have access to the GSP.

(bc) Trade volume covered

The maximum volume of goods covered by the transitional measures are those contained in

(i) the annual protocols agreed between the German Democratic Republic and the countries mentioned under (bb) for 1990 (1989 in the case of Poland);

(ii) long-term cooperation agreements contained in Annex II.

(bd) Instruments

(bda) Tariff quotas for products originating in European CMEA countries and Yugoslavia

This solution is formulated in a proposal for a Council Regulation (see Part IV). It suspends all duties for amounts identical with the quantities/values contained in the treaties mentioned under (bc).

(bdb) Quantitative restrictions

The Community has already liberalized or is currently undertaking efforts to eliminate or suspend remaining quantitative restrictions *vis-à-vis* East European countries included in operation Phare (see above, 2.5 (a) and (b)).

GDR imports from the USSR should also benefit from suspension of QRs applied by Germany until 31 December 1991. This is valid for specific QRs. Suspension of non-specific QRs is under consideration.

(bdc) Anti-dumping measures

The Commission prefers to stay within the terms of anti-dumping regulations, so a review of undertakings and anti-dumping duties is the most appropriate action. The Commission will ensure that the revision procedures requested in connection with German unification are treated as expeditiously as possible.

(c) Agricultural products

Given the high percentage of food exports to the German Democratic Republic from Hungary, Bulgaria and Romania (see Annex III), it is not possible to exclude agricultural products from transitional measures. However, duty-free tariff quotas should be limited to agricultural products subject to tariffs, excluding products subject to levies. Community provisions on minimum and reference prices would continue to apply.

(d) GATT notification

The Community should notify GATT of its intentions to implement the abovementioned arrange-

ments to either respect or phase out previous preferential agreements of the German Democratic Republic with third countries. It is important that the Community makes clear that:

- (i) the measures are limited to a very brief period;
- (ii) they are intended to solve very specific economic problems;
- (iii) there is no serious and viable alternative to this solution;
- (iv) the arrangements are undertaken within the framework of an overall liberalization of trade agreements.

(e) Norms and quality standards

The Commission proposes a two-year derogation period from the application of norms and standards in the sphere of the internal market (see the Chapter on the internal market, p. 68). Parallel to the provision for an adaptation period for domestic (GDR) industries, a similar period is proposed for export products to the former German Democratic Republic. The respective legislative provision is contained in the proposal for a Council Regulation on the introduction of a transitional period for the harmonization of technical rules (Article 1(3), see Part IV).

4.3. Additional measures

Even a more generous transition scheme could not guarantee sales. Efforts will therefore be made to offer concrete help for the improvement towards world market competitiveness, particularly with regard to quality and marketing. Possible methods could be:

- (i) the design of management training products in the most affected exporting industries;
- (ii) the establishment of a 'cooperation stock exchange' where GDR enterprises could find West European partners willing to share rights and obligations with regard to East European business partners, thus offering promising long-term cooperation to non-German as well as German firms;

(iii) increased cooperation in research and technology projects geared to innovative product development.

The Soviet Union has also expressed interest in closer customs cooperation (e.g. facilities for stepping up drug traffic control).

5. Legislative measures

There will be not more than three legislative measures to be adopted at this stage. The most important is a Council Regulation on the introduction of a transitional tariff quota (see above, 4.2 (bda)). This Regulation provides for the exemption from the application of the Common Customs Tariff for all goods covered by the annual trade protocols (Poland: 1989) and the long-term cooperation treaties with the European CMEA countries and Yugoslavia. The proposal covers both industrial and agricultural products.

The second proposal is for a Council Directive for negotiations to adapt the existing bilateral textile agreements to take account of German unification (see above, 1.2 (bj) and 4.2 (aa)).

The third proposal is for a Commission Decision exempting ECSC products imported from the European CMEA countries and Yugoslavia which are covered by the annual trade protocols and the long-term cooperation treaties between the German Democratic Republic and the countries in question, from customs duties and taxes having an equivalent effect.

6. Annexes

I. List of multilateral treaties concluded within the framework of the CMEA to which the German Democratic Republic is a party and to which the Community needs to define its attitude.

II. List of long-term cooperation treaties of the German Democratic Republic with the USSR, Poland and Czechoslovakia affecting Community law.

III. Overview of GDR foreign trade with CMEA countries.

Annex I

List of multilateral treaties concluded within the framework of the CMEA to which the German Democratic Republic is a party and to which the Community needs to define its attitude

(a) <i>Government agreements</i> <i>Short title</i>	<i>Signed</i>	<i>Validity</i>	<i>Proposed Community action</i>
Convention on the use of CMEA standards	21.6.1974	unlimited	Continued application to former GDR territory until 31.12.1992
Convention on quality assessment and certification	14.10.1987	unlimited	
Cooperation agreement on the establishment and application of type standard/standardized patterns	5.7.1985	unlimited	
Cooperation agreement	6.7.1984	unlimited	
Agreement on harmonizing requirements for patent applications	5.7.1975	5 years from entry into force (2.10.1975) 6 months' notice of termination, otherwise extended for 5 years	Continued application to former GDR territory until 31.12.1992 (with possible prolongation if technical necessity exists)
Agreement on the mutual recognition of patent documents	18.12.1976	as above (came into force 18.12.1976)	
Agreement on legal protection for inventions	12.4.1973	as above (came into force 11.7.1973)	
Agreement on plant for nuclear power stations	28.6.1979	2000	Renegotiation to be considered (possible consequences for customs duties)
General agreement on the development of the CMEA countries' unified electricity system	14.10.1987	2000	Renegotiation by Germany and/or Community to be considered
General agreement on the Winniza-Albertscha 750 kV power line	28.2.1974	2008	Renegotiation to be considered, but probably to be continued between the companies concerned
Agreement on guaranteed supply of electricity	23.1.1979	2009	
Agreement on 750 kV power line from Chmelnitzki to Rzeszow	29.3.1979	2013	To be continued between private companies Consequences for EC energy policy to be considered
General agreement on feeding yeast production in Mosyr	28.6.1979	1998	Denunciation by German Democratic Republic; GDR claims to deliveries to be considered

Agreement on cooperation in merchant shipping	3.12.1971	unlimited	Renegotiation by Germany and/or Community to be considered
---	-----------	-----------	--

(b) Sectoral agreements Title	Signed	Validity	Proposed Community attitude
----------------------------------	--------	----------	-----------------------------

Agreement on the mutual recognition of test results	4.7.1982	unlimited	Continued application to former GDR territory until 31.12.1992
Cooperation agreement on the establishment and application of standards	7.7.1983	unlimited	
Agreement on the development of reference standards and types	23.11.1972	unlimited	
Agreement on patent information	10.11.1989	5 years	
Agreement on the establishment of reference centres for major animal pathogens	14.9.1974	unlimited	Renegotiation by Community and/or Germany to be considered
Scientific and technical cooperation agreement on combating foot-and-mouth disease	20.12.1974	unlimited	
Agreement on the establishment of a reserve of foot-and-mouth vaccine	20.12.1974	unlimited	
Agreement on monitoring radioactivity levels in the Baltic Sea in the context of operating nuclear power stations	7.12.1984	1991	Renegotiation by Germany and/or the Community to be considered

(c) Accession agreements to multilateral economic bodies of the CMEA countries

Organization	Founded	Duration	Recommended action
Dubna Joint Nuclear Research Institute	26. 3.1956	unlimited	Euratom interest to be discussed
Organization for Rail Transport Cooperation (OSShD)	1956	unlimited	Community interest to be assessed
Post and Telecommunications Organization	1957	unlimited	Community interest to be assessed

Annex II

List of long-term cooperation treaties of the German Democratic Republic with the USSR, Poland and Czechoslovakia affecting Community law

<i>1. Long-term cooperation treaties (government level) with the USSR</i>	<i>Consequences</i>
Agreement of 20 January 1986 between the Government of the German Democratic Republic and Government of the Union of Soviet Socialist Republics on cooperation in the exploitation of the Jamburg natural gas deposits	Customs
Agreement of 28 October 1987 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction of mining and processing combines for oxidic ores including the Agreement of 28 October 1987 on residence and employment conditions for the contracting organizations	Customs
Agreement of 15 April 1985 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in shipbuilding and the mutual supply of ships and ships' fittings	Customs
Agreement of 21 July 1976 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction of a 750 kV electricity transfer network	Customs Energy policy
Agreement of 21 June 1974 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on joint investment in natural gas (Orenburg) (annual take-up of 2 800 million m ³ until 1998)	Customs Energy policy
Agreement of 16 November 1973 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on joint investment in asbestos (Kijembai plant) (annual take-up of 40 000 tonnes until 1991)	Customs Environment
Agreement of 21 June 1973 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on joint investment in pulp (Ust-Ilimsk plant) (annual take-up of 56 000 tonnes until 1992)	Customs
Agreement of 14 July 1965 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the construction of nuclear power stations (Nord and Stendal I)	Environment Nuclear policy
Agreement of 3 June 1987 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the rehabilitation of 210 mW thermal power units	Customs Environment
Treaty of 27 September 1953 between the German Democratic Republic and the Union of Soviet Socialist Republics on trade and shipping (including Annex to the Treaty concerning the legal status of the GDR's trade delegation to the USSR's trade delegation to the GDR)	Renegotiation to be considered by the Community and Germany

Agreement of 28 July 1962 between the Government of the German Democratic Republic, the Government of the Polish People's Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the fisheries sector	Renegotiation by the Community of the fisheries rights
Agreement of 18 September 1974 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in metrology	Continued application to former GDR territory until 31.12.1990
Agreement of 2 February 1973 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the harmonization of national standards, technical specifications and other technical rules	idem
Agreement of 31 January 1989 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on environmental cooperation	Environment Renegotiation

2. Long-term agreements of the German Democratic Republic with the Republic of Poland

Consequences

Agreement of 18 December 1959 between the Government of the German Democratic Republic and the Government of the Polish People's Republic and the Government of the Union of Soviet Socialist Republics on the construction of an oil pipeline from the Union of Soviet Socialist Republics to the German Democratic Republic via Poland	Customs
Agreement of 18 January 1961, amended on 12 November 1972, between the Government of the German Democratic Republic and the Government of the Polish People's Republic on the construction and financing of the oil pipeline from the Union of Soviet Socialist Republics to the German Democratic Republic	Customs
Agreement of 18 October 1969 between the Government of the German Democratic Republic and the Government of the Polish People's Republic on the construction and financing of a second pipeline for transporting oil from the Union of Soviet Socialist Republics to Poland across Polish territory to the German Democratic Republic	Customs
Agreement of 17 August 1983 between the Government of the German Democratic Republic and the Government of the Polish People's Republic on the construction and financing of a crossing of the Vistula at Plock for the first and second strands of the 'Friendship' oil pipeline	Customs
Agreement of 12 June 1972 between the Government of the German Democratic Republic and the Government of the Polish People's Republic on the joint construction, management and running of a cotton-spinning mill on the territory of the latter	Customs
Agreement of 28 November 1973 between the Government of the German Democratic Republic and the Government of the Polish People's Republic on cooperation in the construction of a feeding yeast production plant in the German Democratic Republic and the supply of feeding yeast to Poland	Customs
Agreement of 6 September 1985 between the Government of the German Democratic Republic and the Government of the Polish People's Republic on the supply of sulphur with deferment of the GDR's credit balance	Customs

<i>3. Long-term agreements of the German Democratic Republic with Czechoslovakia</i>	<i>Consequences</i>
Agreement of 2 July 1971 between the Government of the German Democratic Republic and the Government of the CSSR on the transport of natural gas from the Union of Soviet Socialist Republics to the German Democratic Republic across the territory of the CSSR, and the Protocols to this Agreement of 12 January 1973 and 31 May 1989	Customs
Treaty of 25 November 1959 between the German Democratic Republic and the CSSR ("Staatsvertrag") on trade and shipping	Renegotiation
<i>4. Long-term sectoral agreements of the German Democratic Republic with the USSR Union of Soviet Socialist Republics involving primarily delivery obligations</i>	<i>Consequences</i>
Ministerial Agreement of 6 June 1980 concerning specialization and cooperation in the manufacture of, and trade in, types of paper and cardboard and cooperation in science and technology	Customs (1992)
Ministerial Agreement of 24 May 1989 concerning cooperation in the development and production of computerized scanning machines	Customs (1992)
Agreement of 23 December 1976 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the manufacture of products of rubber	Customs (1992)
Agreement of 27 June 1977 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in developing the production and ensuring the supply of roller bearings	Customs
Ministerial Agreement of 4 December 1985 concerning specialization and cooperation in the manufacture of type 1532 cotton-combing machinery	Customs
Agreement of 14 December 1984 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the manufacture of patented colour formers	Customs
Agreement of 28 June 1979 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the manufacture of feeding yeasts in Mosyr	Customs
Ministerial Agreement of 17 December 1986 concerning specialization and cooperation in the field of catalytic reactors	Customs
Agreement of 9 December 1975 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the further development of integration in the chemical industry	Customs
Agreement of 18 June 1982 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in developing production and user technology in the field of nitrification inhibitors for nitrogenous fertilizers	Customs Environment

Agreement of 15 June 1973 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the foundation of an international economic body for the photochemical industry ('Assofoto')	Customs
Agreement of 30 October 1986 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction of the Stendal II nuclear power station	Customs
Agreement of 21 November 1973 between the German Democratic Republic and the Union of Soviet Socialist Republics on the mutual protection of copyright	Internal market
Agreement of 9 December 1983 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the construction and rehabilitation of cold storage depots for potatoes, fruit and vegetables	Customs
Agreement of 9 December 1983 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the production of lucerne seed	Customs
Agreement of 14 December 1984 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in expanding the production of kieselguhr (filter powder) for the food-processing industry	Customs
Agreement of 28 December 1961 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on the development of cooperation concerning the peaceful use of atomic energy	Euratom
Agreement of 22 December 1977 between the Government of the German Democratic Republic and the Government of the Union of Soviet Socialist Republics on cooperation in the improvement, development and establishment of new technological processes and installations for the treatment of waste water from cities and industrial plants	Customs
Ministerial Agreement of 3 June 1987 on scientific and technical cooperation in improving safety standards for the running and maintenance of nuclear power plant in the German Democratic Republic and the Union of Soviet Socialist Republics	Euratom
Ministerial Agreement of 11 June 1982 on cooperation in implementing research, construction and test projects in the field of controlled nuclear fusion	JET?
Ministerial Agreement of 21 March 1979 on cooperation in improving calcium carbide production technology and increasing production efficiency	Environment

Overview of German Democratic Republic foreign trade with CMEA countries

GDR-USSR

Total: 13.2 billion transferable roubles (TR) (GDR exports 6.8 billion TR; imports 6.4 billion TR), based on annual trade protocol for 1990.

Structure: GDR portion represents 10% of total USSR trade; USSR portion represents 37% of total GDR trade. A breakdown of trade by product group follows:

GDR exports: 62.6% machines, equipment, transport goods, electronic and electrotechnical goods; 19.6% industrial consumption goods; 5.6% chemical products; 13% other.

GDR imports: 61.5% energy and mineral-based raw materials; 25.4% machines, equipment, transport, electronic and electrotechnical goods; 7.4% refined and other raw materials; 2.5% chemical products; 3.2% other.

Agreements: In addition to annual trade protocols, there are 26 governmental S&T agreements with durations to 1995, of which 20 include concrete delivery obligations, plus additional long-term (until 1995) commercial agreements for a total of 4.4 billion TR in long-term GDR obligations. Corresponding USSR obligations for the same period *vis-à-vis* GDR amount to 3 billion TR.

Focal points of these agreements are: shipbuilding, natural gas pipeline construction, iron ore extraction, paper production, cooling systems.

Furthermore, there are 29 agreements on long-term research cooperation; resulting financial obligations are unknown.

GDR-Poland

Total: 2.5 billion TR for 1990 (GDR exports 1.3 billion TR; imports 1.2 billion TR)

GDR exports: 65% machines and equipment; 22.6% energy and raw materials, metals, chemical products, fertilizers; 12.4% industrial consumption goods.

GDR imports: 49.3% machines and equipment; 26.5% services, 6.3% energy and raw materials, metals, chemical products, fertilizers; 6.3% industrial consumption goods; 1.7% food.

Agreements: Around 150 specialized cooperation agreements with durations past 1990.

GDR-Czechoslovakia

Total: 2.9 billion TR for 1990 (GDR exports 1.6 billion TR; imports 1.3 billion TR)

GDR exports: 60.8% machines and equipment; 26.1% energy and raw materials, metals, chemicals, food; 11.9% technical consumption goods.

GDR imports: 61.4% machines and equipment; 28.2% energy and raw materials, metals, chemicals, food.

Agreements: 92 long-term (past 1990) specialized cooperation agreements; 350 S&T cooperation agreements; 480 direct agreements on enterprise and research institute level.

GDR-Hungary

Total: 2 billion TR for 1990 (GDR exports 1.6 billion TR; imports 0.92 billion TR).

GDR exports: 60.8% machines and equipment; 17.9% energy, raw and building materials, metals, chemicals; 17.8% industrial consumption goods.

GDR imports: 60% machines and equipment; 13.7% food and luxury food items; 12% industrial consumption goods.

Agreements: Few long-term agreements despite strong Hungarian interest.

Issues: Hungarian concern with continued access for its agricultural goods after German monetary and economic union, especially as regards wine (600 000 hl p.a.) and canned vegetables (10 000 t p.a.).

GDR-Bulgaria

Total: 1.1 billion TR (GDR exports 0.6 billion TR; imports 0.5 billion TR).

GDR exports: 74% machines and equipment; 17.2% energy and raw materials, metals, chemical products; 7.7% industrial consumption goods.

GDR imports: 69.6% machines and equipment; 15.6% food and luxury food items; 7.2% energy and raw materials, metals, chemical products; 6.4% industrial consumption goods.

GDR-Romania

Total: 1.4 billion TR for 1990 (GDR exports 0.7 billion TR; imports 0.7 billion TR)

GDR exports: 70.3% machines and equipment; 18.6% energy, raw and building materials, minerals, metals, chemical products; 7.6% industrial consumption goods.

GDR imports: 69.2% machines and equipment; 12.9% food and luxury food items; 8.5% energy, raw and building materials, minerals, metals, chemical products; 6.6% industrial consumption goods.

Issues: In view of Bulgarian and Romanian inability to pay, the question arises whether deliveries until end-1991 should be continued in the clearing system framework. Bulgarian and Romanian deliveries have been ceased, while the GDR currently continues to deliver.

GDR-Mongolia

Total: 30.3 million TR for 1990 (GDR exports 14.3 million TR; imports 15.9 million TR)

GDR exports: 35.7% consumer goods; 32.2% chemical goods; 25.2% metal-finishing industrial goods.

GDR imports: 73.6% consumer goods; 11.9% raw materials.

GDR-Vietnam

Total: 140 million TR for 1990 (GDR exports 84 million TR; imports 56.1 million TR)

GDR exports: 56.3% machines and equipment; 26.4% energy, raw and building materials, metals, chemicals; 17% industrial consumption goods.

GDR imports: 68.6% industrial consumption goods; 19.4% energy, raw and building materials, metals, chemicals; 9.2% food and luxury food items.

Issues: Vietnam urges continuation of foreign labour agreements with GDR (currently 60 000 workers with contracts until 1993/94).

GDR-Cuba

Total: 568 million TR for 1990 (GDR exports 286.1 million TR; imports 282 million TR)

GDR exports: 64.5% machines and equipment; 15% industrial consumption goods; 14.9% energy, raw and building materials, metals, chemical products; 4.9% food and luxury food items.

GDR imports: 54.3% energy, raw and building materials, metals, chemicals, including sugar cane; 41.4% food and luxury food items.

Issues: Cuba is very dependent on GDR deliveries. GDR import obligations for 300 000 tonnes of sugar at 270% over world market price is politically motivated. Sugar protocol expires end 1990.

Internal market

1. Customs union

The unification of the German Democratic Republic with the Federal Republic of Germany will not entail any temporary derogations from the application of Community legislation governing the customs union. This is because the constituent elements of the customs union have been in place in the German Democratic Republic since the entry into force of economic, monetary and social union between the two Germanys (1 July 1990). The marginal parts of the customs arrangements, which will have to be implemented when the German Democratic Republic is integrated into the Community, do not pose problems.

2. Technical rules

2.1. The free movement of goods is governed by the relevant rules set out in the Treaties, including Article 30 *et seq.* of the EEC Treaty. On unification, these rules will apply in full both to products legally manufactured and/or marketed in the new *Länder* and introduced into other Member States and to products legally manufactured and/or marketed in other Member States and introduced into the territory of those *Länder*.

Since 1967, the Community has embarked on a process of removing technical obstacles to trade by way of rules harmonizing national provisions, with close on 600 Community instruments already adopted. These technical rules concern the design, composition, labelling and marketing of industrial products. Their implementation in the Member States necessitates not only a control structure but also an ability on the part of industry to comply with them under competitive conditions.

An analysis of the problems that will be encountered in introducing these technical rules in the territory of the new *Länder* requires, on the one hand, a comparison of GDR rules with Community rules and, on the other, an assessment of the adaptability of the production systems in order to ensure that products comply with those rules.

2.2. In its analysis of the problems of adapting Community law in the new *Länder*, the Commission has not considered legislative instruments which, by

their very nature, do not give rise to any problems of implementation:

(i) the 'optional' Directives (i.e. the technical rules that firms may apply in order to avoid a prohibition or restriction on the free movement of goods on the basis of Article 36 of the EEC Treaty) allow the German authorities to retain the present GDR rules provided, however, that they do not disrupt the marketing of products that comply with the Directives in the territory for the new *Länder*. This means that the analysis need not be extended to almost half the technical rules, and in particular all the Directives relating to motor vehicles (with the exception of Directive 89/458 on vehicle emissions), tractors, pressure vessels (old approach), the medical sector and fertilizers;

(ii) the Community instruments introducing cooperation procedures between Member States and the Commission, notably the notification arrangements (Directive 83/189) or the 'early-warning' systems (Decision 89/45);

(iii) the Directives adapting technical rules (Commission Directives), the application of which is directly linked to the entry into force of the basic text; any derogation from the basic text will, therefore, automatically result in a derogation from the adaptation Directives;

(iv) the instruments that are to enter into force in the course of 1992 since, given the principle that derogations may not run beyond the deadline of 31 December 1992, the situation of industry in the new *Länder* is no different from that of industry in other Member States, which must also adopt provisions incorporating Community measures into national law within comparable time-limits. This concerns in particular the agri-food sector (additives, Directive 89/107; materials in contact with foodstuffs, Directive 89/109; labelling, Directive 89/395) as well as most of the 'new approach' directives (construction products, Directive 89/106; machinery, Directive 89/392; equipment for individual protection, Directive 89/686).

2.3. The analysis has, therefore, focused on the 'total' Directives already in force or due to enter into force in the very near future. These Directives have been examined in close collaboration with the two German administrations. Two types of problem have come to light:

(i) first, the existence on markets in the new *Länder* of products which do not comply with the Directives but the withdrawal of which would impose an excessive burden on those concerned; this is particularly true of pharmaceutical products that were approved prior to unification;

(ii) second, the matter of the adjustment periods for the manufacturing industries concerned (see those granted to Community industries while Directives were being translated into national law).

2.4. On the basis of the analysis, the following industrial sectors have been identified:

(a) *Agri-food industry*

The agri-food industry is faced with the twin problems of adapting its products to the marketing conditions laid down in Community directives and making significant adjustments in its manufacturing processes. It is an industry which has no tradition of exporting to international markets other than the Comecon markets and which, unlike other industries, has not therefore been able to become acquainted with international standards and, even less so, with Community rules. Moreover, it is an industry that depends on raw-material imports from Comecon countries which do not comply with Community rules (additives, contact materials, health standards). A derogation is, therefore, justified both by the need to adapt the production process (notably through the introduction of labelling techniques that satisfy the requirements set out in the relevant directive) and by the need to retain, within acceptable limits, traditional industrial outlets in Eastern Europe.

However, it has been deemed inadvisable to provide for a derogation from the Directive on the official control of foodstuffs (Directive 89/397). For one thing, the Directive is due to enter into force in June 1991 and, for another, it will be of assistance in securing the conformity of products and production systems by offering industrialists in the new *Länder* recognition for controls carried out by authorized agencies. Similarly, most of the Directives on preservatives have been excluded since the legislation in force in the German Democratic Republic already complies with these Directives to a large extent.

The proposed derogation does, however, cover close on 80% of food legislation. On account of the lack of detailed information on the rules in force in the German Democratic Republic, it has not been possible to limit the scope of this derogation further.

(b) *Pharmaceutical industry*

The pharmaceuticals market in the German Democratic Republic is very small compared with the mar-

ket in the Federal Republic of Germany or, more generally, the markets in industrialized countries. The range of pharmaceutical products at present corresponds to only just over 1.5% for the market in the Federal Republic of Germany. In addition, the pharmaceutical industry in the German Democratic Republic supplies only some 75% of market requirements (in value terms). Of the 1 400 pharmaceutical products in circulation, 600 are imported, of which half from the countries of Eastern Europe and a quarter from the Federal Republic of Germany.

As early as 7 June 1990, the Health Minister of the German Democratic Republic took the steps necessary to permit the marketing of pharmaceutical products approved in the Federal Republic of Germany. Since 1 July 1990, the prices of pharmaceutical products have been freed on the basis of the Federal German price regulations.

This has provided the impetus necessary for the gradual introduction of the Community Directives on pharmaceutical products and those on veterinary medicinal products.

Even so, as was the case in the Member States, transitional periods seem necessary for:

(i) manufacturing licences, good manufacturing practices and inspection: this would concern solely the application of Chapter IV of Directive 75/319 to the territory of the new *Länder* and of Chapter V of Directive 81/851 on veterinary medicinal products;

(ii) the marketing of pharmaceutical products: on unification, any new application for marketing approval will be vetted by the Bundesgesundheitsamt (Federal Health Office), in accordance with Community Directives. The only problem, therefore, concerns medicines approved prior to unification. The Commission is proposing a 'review' period along the lines of Article 39(2) of Directive 75/319. This period would expire at the beginning of the second phase of the future arrangements for approving medicines in the Community (31 December 1995). During this period, 'old' medicines would enjoy 'notional' approval, as is presently the case in the Federal Republic of Germany.

(c) *Chemical industry*

Financially, structurally and commercially, the chemical industry in the German Democratic Republic is in a very difficult situation. Many jobs have already been lost and it is estimated that the number could rise to 15% out of a total workforce of 337 000. Prod-

uction has fallen since June 1990 as a result of the ecological standards that have been imposed and their impact on the price structure. Lastly, prospects for the future offer private investors few guarantees.

Immediate introduction in the new *Länder* of Community legislation, whether on environmental protection or on the marketing of products, would simply accentuate the difficulties currently facing the industry. The introduction of a transitional period thus appears inevitable in the case of all the 'total' Directives, i.e. all the Directives on dangerous preparations, with the exception of those relating to fertilizers.

(d) Veterinary and plant health matters

In the immediate future neither agriculture nor the processing industry of the German Democratic Republic will be in a position to comply with all Community legislation concerning quality, including plant health, veterinary and public health standards. There are some areas, for example general veterinary health, where the situation in the German Democratic Republic is better than in the Community. For other sectors, however, several derogations are necessary to facilitate the adaptation of production and commerce to Community standards. With very few exceptions, all of them will be limited to the end of 1992. In so far as East German products do not conform to Community quality standards provision should be made for the products concerned to be marketed only in the former German Democratic Republic.

Plant health legislation

Maximum permitted levels of pesticide residues in foodstuffs as currently applied in the ex-GDR territories are believed to be consistent with Community provisions except in the case of the cereal fumigant hydrogen cyanide, for which a derogation until 31 December 1992 is proposed. This will permit an appropriate modification of fumigation practice. Although the current level presents no danger to consumers, Germany should ensure that cereals containing residues higher than Community levels are not introduced into other parts of the Community.

With regard to the Community plant health regime, the continued introduction, under current international obligations, of certain plants or plant products which do not satisfy Community conditions should be permitted in ex-GDR territories for a transitional period.

Legislation on seeds and propagating material

Certain transitional exemptions must be provided for in respect of the Community legislation on seeds and propagating material.

It is essential that agricultural and vegetable varieties officially accepted, marketed or used in the former German Democratic Republic continue to be permitted there until screening under Community rules has been completed. For those eligible for the common catalogue systems, the periods within which other Member States may make applications for derogations from that system must be re-established.

As far as the marketing of seeds and other propagating material is concerned, the difficulties of progressively adapting current production and marketing practices to Community rules must be taken into account. Transitional exemptions from these rules, with the exception of those related to products satisfying Community conditions, should therefore be allowed.

In the case of seeds and seedlings of crop plant species or of vegetable species, these exemptions should, however, be more specific. In principle they should be restricted to products harvested before unification, or immediately derived from them, as well as to products marketed as a consequence of current international obligations. For certain species, the exemptions should also take into account particular situations such as deliveries of bulked material in large quantities and variety blending.

Legislation concerning animal nutrition

In the field of animal nutrition, the large majority of Community provisions concerning the use of additives in feedingstuffs will be applied in the ex-GDR territories after unification. There is, however, a need to provide for minor exceptions to those concerning three additives. Derogations are proposed for continued use of these additives until 31 December 1992 in order to permit these cases to be examined at Community level. With regard to the marketing of additives in feedingstuffs, general derogations from Community labelling rules are proposed until the same date to enable the feedingstuffs industry in the ex-GDR territories to adapt progressively and run down existing stocks of packaging.

The use of certain yeasts manufactured in the ex-GDR territories from n-alkanes for incorporation in feedingstuffs will be phased out by 31 December

1991 in order to comply with the Community prohibition of the use of such products.

Veterinary legislation

In the veterinary sector the Commission considers that only two pieces of Council legislation should be amended: first, the Directive concerning battery hens, for which an extra implementation deadline must be set, and second, Council Decision 88/303/EEC concerning the recognition of areas free of swine fever. It should be made clear that the Commission's proposal to include the ex-GDR territories in Annex II to this Decision is made on the assumption that those territories will be fully integrated into the notification system provided for by Council Directive 72/461/EEC before the date of unification.

(e) Cosmetic products

Cosmetic products manufactured in the ex-GDR territories do not comply with the conditions for marketing under Community rules. In addition, it is uncertain whether the methods of analysis provided for in Community rules can be applied by the new *Länder* immediately from unification. A transitional period will therefore be necessary.

(f) Mechanical and electrical engineering

For industrial policy reasons and in order to allow this sector to adjust gradually, a transitional period is essential for production of machinery and electrical equipment. Certain categories of products such as roll-over protective structures (ROPS) and falling-object protective structures (FOPS) for certain construction plants and industrial trucks do not currently comply with the directives and would prevent marketing of such equipment if the directives were to enter into force immediately.

(g) Textiles

The textile names provided for in Community Directives do not correspond to those laid down by East German rules on textiles. An adjustment period will be necessary to allow the sale of textiles manufactured in the former German Democratic Republic before unification.

(h) Pre-packages

The territory of the new *Länder* must be allowed a transitional period for bottle volumes, in the same way as Member States were able to maintain 70 cl bottle sizes on their market until the entry into force of the Directive.

(i) Mobile telephones

Technical analysis of radio-telephone frequencies shows that the frequency bands between 901 and 914 MHz and between 950 and 959 MHz, which would have to be made available to the Community's cellular mobile communications systems, are in fact currently used by Warsaw Pact troops. Negotiations will have to be initiated between the German authorities and the Warsaw Pact authorities in order to make these frequencies available. The Commission considers a two-year period sufficient to allow the frequency bands to be made available and thus to allow the Community Directive to be implemented.

Although the technical and legal situation in the telecommunications sector as a whole is very different from that in the other Community countries, the Commission does not think that other derogations will be necessary.

As regards a number of technical problems in the new *Länder*, the Commission envisages solutions in terms of the implementation of the directives.

(j) Crystal glass

The composition, manufacturing characteristics, labelling and advertising of crystal glass manufactured within the territory of the former German Democratic Republic do not comply with the specifications laid down by Community law. An adjustment period will be necessary in order to allow the sale of crystal glass manufactured before the date of unification.

(k) Tobacco

The Council recently adopted two Directives, one on the labelling of tobacco products and the other on the tar yield of cigarettes. Transitional provisions allow the marketing of cigarettes and tobacco products beyond the date when the Directives enter into force, i.e. 31 December 1991 in the case of labelling and

31 December 1992 and 31 December 1997 in the case of the various tar yields of cigarettes.

These two Directives do not pose major problems for the adjustment of existing structures in the new *Länder*. The provisions governing the marketing of products are sufficient to ensure the gradual implementation of the Directives without disruption to the market. However, the German authorities would like to be able to maintain the rules currently in force up to 31 December 1992 so as to avoid any administrative problems. At any rate, any such derogation would not affect the timetable for implementing the Directive on tar yield; it would have an effect only as regards labelling.

2.5. On the basis of this analysis, the Commission proposes a derogation mechanism based on the following principles.

(i) Under the proposals presented, the Commission would authorize the German authorities to exempt the territory of the new *Länder* from implementation of the Community Directives. This means that the final decision on exemption would lie with the German authorities in the case of the Directives, subject to strict conditions laid down in the Commission proposal.

(ii) Such derogations may be extended to imported products, provided this is necessary for the industry of the new *Länder* and that it is confined to traditional trade flows. Steps must be taken to ensure that third countries which do not have traditional trade relations with the German Democratic Republic do not take advantage of the derogations in order to penetrate the market of the new *Länder*, to the detriment of products complying with the Directives.

(iii) Products complying with the Directives must be able to move freely within the Community; this applies both to products manufactured in other Member States and to products manufactured in the new *Länder*.

(iv) Products which continue to be manufactured to specifications peculiar to the new *Länder* and do not comply with Community Directives cannot move freely in the rest of the Community. The German authorities must take all necessary steps to protect the other Member States against imports of such products. The other Member States will be entitled to withdraw from the market products which do not comply with the Directives, as they are already so authorized under Community law.

(v) The Commission must be able to administer the derogations flexibly, provided that they do not run

beyond 31 December 1992 and provided that they comply with the criteria stipulated in the proposals for Directives. Such flexibility is essential for the coherent application of Community provisions and is justified in that analysis of the problems of integrating the German Democratic Republic into the system of Community law has been carried out in a very short period of time. Subsequent difficulties therefore cannot be ruled out. Provision must therefore be made for a flexible procedure enabling the Commission to introduce additional measures and subsequent adjustments up to 31 December 1992. Any change made after 1992 or extending the derogation beyond 31 December 1992 will have to be covered by a Commission proposal.

In administering the flexibility clause, the Commission will be assisted by a regulatory committee in accordance with Procedure IIIa of the Council Decision of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission.

The Commission is proposing two Directives to take account of the legal bases for the instruments to which these derogations will apply.

3. *Public procurement*

3.1. The Community Directives on public supply and public works contracts have been applicable since 1 July 1990. The East German Government has approached the Commission to have invitations to tender published in the *Official Journal of the European Communities* during the interim adjustment phase.

During the interim adjustment phase, however, it is difficult to estimate a priori the volume of the contracts to which the Directives will apply during the transitional phase, since it will depend both on the duration of that phase and the rate at which contracts are awarded.

The volume of such contracts will also depend on the existence of the entities subject to public procurement procedures. The current structure of the 'Bezirke' is supposed to disappear, and these entities will therefore not be awarding any public contracts of major importance. The five new *Länder* will not be established before the October elections. Only the local authorities set up after the May elections are likely at present to award such contracts. The volume

of the contracts also depends on the budgetary capacities of the entities, such capacities being difficult to determine at this stage. It is therefore difficult to forecast the benefits which the other Member States will be able to derive from the publication of invitations to tender in the Official Journal as of the interim phase.

3.2. The actual implementation of the Directives in the new *Länder* after unification will not be without difficulties: firstly, because they represent a challenge to administrative traditions; secondly, because they presuppose strict application of the qualifying criteria for undertakings; and, lastly, because they are often based on the implementation of Community technical rules or European standards. The Commission will therefore have to monitor procedures carefully in order to ensure fair competition in invitations to tender. For this purpose, it will make use of the supervisory instruments which it has acquired in recent years.

In December 1991, the German arrangements concerning review procedures will have to be adjusted to the requirements of Directive 89/665. As from that date, undertakings in the other Member States will be able to rely on supervisory arrangements in the new *Länder* equivalent to those in the rest of the Community. The main investment projects will be in the water, energy, transport and telecommunications sectors. The Community rules governing the award of contracts by entities operating in these sectors will have to be applicable on 1 January 1993. The Commission will ensure that the entities, including those in the new *Länder*, are listed as fully as possible. In the mean time, it will see to it that the principle of non-discrimination deriving from the Treaties is observed.

4. *Industrial and intellectual property*

The Community's achievements to date are confined to the Directive on the harmonization of trade marks (Directive 89/104/EEC) and the Directive on the legal protection of topographies of semiconductor products (Directive 87/54/EEC). Only the latter has already entered into force. German law on industrial and intellectual property has already incorporated the provisions of the latter Directive. It will apply to the new *Länder* as from unification. Implementation of the Directive on the harmonization of trade marks should not pose any difficulties.

5. *Free movement of persons*

The free movement of persons is governed by the Treaty (right of establishment and ban on discrimination) and by secondary legislation establishing freedom of entry and residence for Community nationals. GDR nationals were covered by these principles and rules as soon as they acquired official documents from the Federal Republic of Germany recognizing their German nationality. After unification, Community rules will apply directly to German nationals in the new *Länder*.

6. *Recognition of diplomas in the regulated professions*

6.1. Most of the regulated professions, whose exercise is subject under national provisions to the possession of professional qualifications, are covered by Directives providing for such qualifications to be recognized between Member States. There are some 50 such Directives. They cover both technical qualifications and evidence of good character and good repute and introduce different methods of recognition. Depending on their object and the method used, it may prove necessary to provide for amendments to these directives.

6.2. The Directives which provide for automatic recognition of diplomas based on a Community definition of minimum training need to be amended in a number of respects. This method of recognition was used in the case of seven professions: doctors, nurses responsible for general care, dentists, veterinary surgeons, midwives, architects and pharmacists. Virtually all the existing provisions can be applied in a coherent manner to a united Germany. However, a number of new provisions should be introduced in order:

(i) to guarantee the established rights of German nationals originating in the new *Länder* who exercise their profession on the basis of training begun before unification; such guarantees would consist in allowing recognition of their diplomas in conditions similar to those allowed nationals of other Member States when the directives were adopted or when the Community was enlarged;

(ii) to repeal the particular provisions relating to the recognition of diplomas issued by the German Democratic Republic, such provisions having become inapplicable;

(iii) to set a period of 18 months as from unification to implement new rules in line with Community law on the training of specialist doctors.

6.3. The other Directives do not require amendment. The Directives on freedom of establishment and freedom to provide services were adopted on the basis of Articles 54 and 63 of the EEC Treaty. These include provisions concerning the recognition between Member States of certificates relating to good repute, to the absence of bankruptcy and to financial capacity. Germany will notify the Commission and the other Member States, in accordance with these Directives, of the new competent authorities designated.

Similarly, in the case of the Directives providing for recognition of professional qualifications based on the exercise of a professional activity during a given period, Germany will notify the Commission and the other Member States, in accordance with such Directives, of the new competent authorities designated to issue the relevant certificates.

In the case of Directive 89/48/EEC (general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration), no adjustment seems necessary. It will be for any German holding a diploma issued by an institution in the new *Länder* to establish to the satisfaction of the authorities in the host country, in the same way as any migrant national from a Member State, that he possesses a higher-education diploma and that the activity which he wishes to exercise in the host Member State is or is not regulated in his *Land* of origin. Qualification difficulties may, of course, arise in that the concept of regulated profession does not fit easily into the reality of a socialist economy. However, it should be possible to solve such difficulties within the framework of the coordinating group provided for in Article 9 of Directive 89/48/EEC.

6.4. In the case of lawyers, it is anticipated by the German authorities that, even after unification, lawyers established in the new *Länder* will not be able to set up freely in the other part of Germany and vice versa. The purpose of these temporary arrangements is to take account of the major differences which currently exist between the laws applicable in the two territories.

Despite its anomalous nature, this German rule is compatible with Community rules, which do not therefore require any adjustment.

The cross-frontier provision of lawyers' services is governed by Directive 77/249/EEC, which, as regards the exercise of activities relating to the representation of a client in legal proceedings, provides for the migrant lawyer and the local lawyer to work in conjunction with one another. The Directive will apply both to lawyers established in the new *Länder* and wishing to provide services, say, in the United Kingdom or in Spain and to lawyers established in Member States wishing to provide services in that part of Germany.

The right of establishment is covered by Directive 89/48/EEC on the general system for the recognition of diplomas. This provides that the host Member State may require applicant lawyers from other Member States to sit an exam in order to test their legal knowledge. An exam could therefore be imposed, for example, by Denmark or Italy on lawyers coming from the new *Länder*, and by Germany on Danish or Italian lawyers wishing to practise in the new *Länder*.

7. *Financial services, company law and taxation*

7.1. In the financial services sector, the adoption and immediate implementation of existing legislation is provided for under the Staatsvertrag. Prudential regulation became the responsibility of the Federal authorities when the Staatsvertrag came into force and they have indicated that there would be full compliance with existing prudential rules immediately. New Community legislation under the internal market programme will be applied in the former German Democratic Republic at the same time as in the Federal Republic of Germany.

7.2. In the company law sector existing Federal company law became directly applicable in the former German Democratic Republic at the moment of the entry into force of the Staatsvertrag. No mention was made of the EEIG Regulation (EEC) No 2137/85 but the Federal authorities have undertaken to include it in the second State Treaty.

7.3. Tax legislation based on Community Directives in fields other than VAT and excise duties (i.e. capital duty) applies as from 1 July 1990.

8. *Indirect taxation*

VAT and excise taxes already introduced in the German Democratic Republic since 1 July 1990 corre-

spond to the West German system of taxation, which complies with Community provisions. For this reason, and under present circumstances, no derogations from the common provisions are needed for the period after unification.

9. Consumer protection

Consumer protection consists of a 'physical protection' aspect and a 'protection of economic interests' aspect. These two areas comprise important provisions requiring appropriate information to be provided for consumers.

The 'physical protection' of consumers is provided for, at Community level, by the various sectoral directives laying down the technical specifications of products, in particular basic safety requirements, and the rules on labelling. In so far as derogations from these Directives are granted (see point 2 above) and are implemented by the German authorities, a minor level of protection will exist for German nationals in the new *Länder* and for nationals of other Member States travelling or residing within such *Länder*. This must be accepted for a transitional period, provided that appropriate warning measures are taken. It should also be borne in mind that consumer protection will be guaranteed by the fact that products not complying with Community rules will not be allowed to leave the former territory of the German Democratic Republic.

In the same context, a partial derogation will also be needed as regards implementation of Council Decision 89/45/EEC on a Community system for the rapid exchange of information on dangers arising from the use of consumer products. Such a derogation is necessary, at least for an initial period, in view of the lack of administrative infrastructure and operational resources within the former territory of the German Democratic Republic. However, all possible measures must be taken to ensure that the objectives of the decision are nevertheless achieved from the outset.

With regard to the 'protection of the economic interests' of consumers, the Community rules in force (Directives 79/581/EEC and 88/315/EEC concerning the indication of prices; Directive 84/450/EEC on misleading advertising; Directive 85/577/EEC on contracts negotiated away from business premises) may be applied without derogations.

10. Competition

10.1. State aid

10.1.1. After political unification, the existing principles of the Community's State aid rules ('*acquis communautaire*') will apply in full throughout the united Germany. It is neither considered necessary nor desirable to introduce a general transition period for their application. Furthermore, although the integration of the German Democratic Republic into the Community does not constitute an accession but an enlargement of the German territory and market, this operation is not to be treated differently from accessions, where the provisions of the Treaty on State aid and most secondary legislation were immediately applied in full.

On several occasions, the Commission has stated that it will apply these rules constructively to facilitate the development and full integration of the economy of the former German Democratic Republic. At the same time, application of State aid rules will have to continue to perform its normal function of keeping competitive conditions equal throughout the Community, maintaining a level playing field in the common market and avoiding any artificial and unjustified advantage for East German companies.

The desolate state of the GDR economy in general, the absence of an economic structure adequate for a market economy, the requirement to rebuild, modernize and gear up industry and services, and the need to improve the environment significantly, to name only a few major problems, require an assessment as to whether full and immediate application of all State aid rules can be regarded as providing an adequate response to the exceptional and unique situation arising with unification.

The Commission has carefully scrutinized this question and considers that, with the exceptions set out below, none of the existing horizontal or sectoral rules, directives, frameworks, guidelines, etc. require adaptation in order to cope with the problems referred to above. These provisions allow for a sensitive and flexible application by the Commission both facilitating the building of a suitable new economic and industrial structure and avoiding the often harmful side-effects of State aids. There is, therefore, no need to modify them or to envisage transitional arrangements for the legislative instruments concerned. These have been communicated to the Federal German Government at the proper time and the Commission expects the German authorities to comply with them in full after unification.

10.1.2. As regards State aids to the West German zonal border area and Berlin (West), the Commission takes the view that the economic justification for continuous subsidization of these regions has ceased to exist. It welcomes the intention of the Federal authorities to phase out this aid totally. In its own re-examination of aid to the zonal border area and Berlin (West), which is under way, the Commission will also look at the matter of the phasing-out period which it considers necessary and justified. It also feels that VAT aid should cease with unification.

10.1.3. The Commission takes the view that the provisions of the current Community legislation (Sixth Directive on aid to shipbuilding) and those included in the draft of the forthcoming Seventh Directive can be directly applied to East Germany in so far as restructuring aid (investment, closures, research and development aid) is concerned. However, for a limited period of time and until such time as they have completed their restructuring, it is likely that East German yards will need a higher level of operating aid than permissible in the case of other yards in the Community. In that case, a special clause similar to the one for Spain and Portugal (Article 9 of the Sixth Directive) can apply.

Legislative clauses will have to be added to the Seventh Directive in order to take into account the position of East Germany's shipbuilding industry after unification.

Finally, the Commission would point out that the special arrangement permitting the granting of aid to the shipbuilding industry of East Germany must be included in the possible international agreement concerning aid to shipbuilding at present under examination in the OECD.

10.1.4. The steel industry in the former German Democratic Republic will have to undergo substantial restructuring. The aim will be to ensure viability of the GDR steel industry and its integration into the common market. The Commission proposes to authorize Germany to grant investment aid to the steel industry on condition that the aim remains rendering the industry competitive without increasing capacity.

10.2. Articles 85 and 86 of the EEC Treaty

Articles 85 and 86 of the Treaty and the new merger control Regulation will be applied by the Commission on a non-discriminatory basis after formal unifi-

cation. This does not rule out flexible application in particular cases during an initial period.

10.3. Monopolies

Monopolies of a commercial character, organized in the form of external trade companies, will have to be abolished immediately in cases where exclusive export rights are involved. As far as exclusive import rights are concerned, a transitional period could be envisaged for the companies concerned, so as to allow them to adjust to competition.

11. Statistics

11.1. Statistical context

Community legislation reflects the specific data requirements required for the implementation, monitoring and assessment of Community policies. Statistical legislation consists of over 50 directives, regulations and decisions, in particular in the areas of agriculture, external trade, iron and steel, transport and social affairs.

GDR statistics are being completely reorganized in collaboration with West German statisticians so as to satisfy the information needs of a market economy. The aim is a common methodology, collecting system and organizational structure. The main problems are organizational.

11.2. Community legislation and statistics in a unified Germany

Four specific areas of statistics require legislation.

Technical adaptations of the directives relating to the regional breakdown of data are necessary as regards the transport of goods and energy pricing (gas and electricity for industrial end-consumers).

The present coverage of the labour force survey will have to be changed. Hitherto, it comprised 100 000 households in the Federal Republic. For forthcoming surveys, it will be increased by 30 000 households to take account of the larger territory of Germany.

Finally, in the field of agricultural statistics transitional measures are necessary while structural

changes in local statistical services, and the adjustment of the statistics system are under way. The expenditure section of the regulation on cereals production needs revision.

Proposals for legislation in these four areas can be found in Part IV.

Common agricultural policy

1. Introduction

The proposed changes in secondary agricultural legislation provide for the harmonious and speedy integration of GDR agriculture into the Community system.

Enormous efforts are necessary in agriculture, the processing industry and marketing in the German Democratic Republic to secure a fair share of Community markets. Switching to the Community system, with its totally different institutional and economic conditions, is a major challenge. However, it has been agreed that integration should be achieved as fully and as quickly as possible in order not to delay its benefits.

Thus, a basic principle of the proposals is to work with the least possible number of exceptions in the core areas of agricultural policy. If, however, exceptions are considered to be necessary, these are to be strictly limited in time. Preference is being given to the search for additional instruments to assist the adaptation process.

The elaboration of the proposals was considerably facilitated by the fact that Germany anticipated a significant part of the changes necessary for the integration of former GDR agriculture into the common agricultural policy in the provisions for the interim period prior to unification.

Clearly, the Commission's views and concerns could not be confined to the German Democratic Republic and its problems. It was also vital to respect Community policies, and in particular the ongoing reform of the CAP and the preparations for 1992.

The Commission's information note on the state of progress of the integration of the German Democratic Republic into the common market in the agricultural sector, presented to the Council in June 1990, draws attention to these matters in more detail.

2. The situation of agriculture

2.1. The agricultural area of the German Democratic Republic covers 6 182 million hectares, of which 4 687 million ha or 76% is arable land. The quality of the land is very variable. Some of the best German soils are found in the German Democratic Republic but about 20% of the land is extremely poor (sandy and light) and in principle not well suited to agricultural production. In general the quality of land in the German Democratic Republic is comparable to the Federal Republic.

2.2. Agriculture employed 840 000 persons in 1988 or 10% of total employment; investment was between 7 and 8% of total national investment and the contribution of agriculture to the NMP (GDP) was about 10%. The two latter indicators, however, are distorted by administrative and arbitrary price levels.

2.3. To understand the economic and social situation of agriculture the past policy objectives should be remembered. They differed from the Community's and created particular characteristics. The main objective was to introduce 'socialist organization' of production covering the elements of central planning, collectivization of the agricultural means of production and 'industrial production methods'. Other major objectives were to ensure the same living conditions and wages for the agricultural population as for the industrial population and to ensure a constant increase of production with the aim of national self-sufficiency.

These objectives were fulfilled in a relatively thorough and successful way. Compared to other socialist countries the production results in agriculture were quite good. Intersectoral comparisons of the international competitiveness of the GDR economy also show a good position for agriculture.

2.4. The predominant feature of GDR agriculture is its organization. 5.85 million ha or 95% of total agricultural land is operated by only 4 751 farms (465 directly State-owned and 3 855 cooperative ones). Moreover, most farms are specialized in either animal or crop production. Both elements are the direct outcome of the philosophy of introducing 'industrial production methods'. As a result the average size of arable farms is about 4 500 ha and the average size of dairy farms is about 740 cows.

However, in many cases the farms' technical equipment is not appropriate for large units, in particular in animal production. The separation of crop and animal production is not considered to be very effi-

cient because of both logistic and environmental problems.

2.5. Employment figures in agriculture are astonishingly high, but the large agricultural production units carry out a good deal of work not directly linked to production, such as construction, repair services, social and cultural services, etc.

Only about 60% of the agricultural workforce is directly involved in production. Nevertheless, this reduced figure is still 8.2 persons per 100 ha of land despite the favourable farm structures. The high number may be partly explained by industrial-type working conditions, i.e. fixed hours per day, regular holidays, etc. but also by the pay structure. Indeed, average wages in agriculture reached nearly the average wages of industrial workers or, in the case of very efficient agricultural cooperatives, were even higher. This was possible by virtue of an internal price system very favourable to agriculture.

2.6. Since 1984, the date of the last agricultural price reform, producer prices in the German Democratic Republic have been fixed to cover average production costs and to guarantee a certain margin. Consequently, prices have constantly increased, while Community prices have remained stable or dropped.

It is difficult to speculate about the absolute level of prices because the former East German mark was not convertible. However, in a purely domestic context, prices could be considered relatively high. In the German Democratic Republic the 1988 price for 100 kg of wheat was 67.54 East German marks or 5.2% of the average monthly wage. At the same time the respective values for West Germany were DM 38.60 and

1.2%. A similar ratio applies to agricultural input prices.

Producer price ratios in the German Democratic Republic and the Community differed considerably. In particular, animal production benefited from relatively higher protection than in the Community system. The ratio is nearly 2:1. In the crop sector there was a relatively high price for potatoes.

2.7. Consumer prices for basic food have remained extremely low and stable over time. The price for 1 kg of potatoes for example was 0.17 East German marks, whereas agricultural producers received 0.56 East German marks for the raw material. The consumers responded to this situation by very high yearly per capita consumption, such as 93 kg of bread, 111 litres of milk or 147 kg of potatoes. The difference between the high producer prices and the low consumer prices was covered by subsidies from the national budget. Subsidies reached a level of 32 billion East German marks in 1988.

2.8. Direct subsidies from the national budget to agriculture were relatively low owing to the mechanism of price fixing already described. Total support was about 7 billion East German marks during recent years, which corresponds to 8% of the production value. 3 to 4 billion East German marks were spent on subsidizing agricultural inputs, and another 1.5 billion East German marks for 'compensatory measures linked to the place of production'. Since the GDR authorities were very keen to increase production and extend the idea of self-sufficiency even to regional level, agricultural production had also to take place in regions that are not really suitable. The budgetary transfers referred to were meant to compensate the relevant farms for the disadvantages.

2.9. Data on the main agricultural products, areas and yields are given in the table below.

Crop and animal production
Average 1986-88

Products	Area		Yield		Production	
	1 000 ha	% of land under crop	100 kg/ha	Index FRG = 100	1 000 t	Evolution since 1975 (%)
Cereals	2 462	52.5	44.3	82.4	10 909	22.4
Wheat	754	16.1	52.8	82.7	3 978	45.4
Barley	887	18.9	46.1	94.3	4 096	11.3
Rye	647	13.8	33.2	80.7	2 158	38.1
Sugarbeet	214	4.6	310.0	67.2	6 685	4.2
Oilseeds	160	3.4	26.5	86.6	424	14.6
Potatoes	450	9.6	250.5	71.0	11 257	46.7

Products	Herd		Yield		Production	
	1 000 heads	Evolution 1975-88	kg/head (Egg/head)	Index FRG = 100	1 000 t (mio eggs)	Evolution since 1975 (%)
Total cattle	5 745	3.8			429	2.8
Dairy cows/milk ¹	2 022	- 6.2	4 003	86.9	8 097	14.5
Pigs	12 602	9.6			1 371	21.1
Sheep	2 646	40.5			19	33.3
Total poultry	50 122	6.4			159	25.2
Laying hens	24 737	- 3.8	224	87.0	5 678	14.1

Sources: Statistics GDR, FAO, DG VI.

¹ Milk: Herd of dairy cows, milk production (4% fat), and production of milk per cow.

As can be seen, yields in crop production were on average about 80% of West German yields, those for sugar beet and potatoes were only about 70%. Yields of milk per cow and eggs per hen reached nearly 90% of West German levels. But the use of fertilizers and pesticides per unit of land was considerably higher than in West Germany. This can perhaps be explained by the organization and technical equipment for using chemicals which allowed neither exact timing nor exact dosage. However, as is well known, the over-use of fertilizers, in particular on light soils, can create severe environmental consequences.

As to land use by crop, the preponderance of oats and potatoes should be mentioned.

Published data on external trade for agricultural products do not seem to be very valid and are even today still contradictory as between different sources. Thus data on self-sufficiency are only approximations. For animal products self-sufficiency is in general estimated to be slightly above 100%, for crop production between 80 and 90%.

It must be underlined that these data only relate to production and consumption patterns under the old

central planning system. Radical changes of both aggregates have already taken place or will occur in the near future.

2.10. The performance of the agricultural processing industry is generally very weak. With about 240 000 persons employed, the industry is mainly organized in several central 'Kombinate' with, however, rather dispersed plants. Since 1981 it has had to bear negative growth rates of investment with the consequence that its technical equipment is now totally out of date. This also has negative consequences for the quality of the products. In general, the technical and economic position of the processing industry is estimated to be much less competitive than that of primary agricultural production. Insufficient processing capacities are considered to be the main bottleneck for the future development of agricultural production in the German Democratic Republic. The negative effects of this can be seen in the enormous sales problems of agriculture since 1 July 1990.

2.11. Clearly, the abolition of central planning and the introduction of the common agricultural policy in

the German Democratic Republic will mean fundamental changes in the conditions under which agricultural production takes place. In order to clarify the measures required, and with a view to successful policy integration, the Commission has tried to identify areas where major changes will have to be made.

The most obvious area is production. Farms will be confronted with totally changed price systems. This will require completely new designs of production processes and will lead to a different composition and new levels of output. Qualitative changes will also have to be made. Having examined the price changes, market policy restraint and other elements mentioned below, the Commission estimates that animal production, with the exception of beef, will decrease, whereas crop production, with the exception of rye and potatoes, will increase.

As the present structure of agricultural holdings is not really the result of economic processes, nor of processes voluntarily undertaken by the farms, but the result of administrative decisions, profound changes may be expected.

The exact outcome of this is impossible to predict. Apart from some more or less obvious items such as partial reintegration of animal and crop production, partial hiving off of non-agricultural services from farms, and the reduction of the area of some oversized farms, the future structure will very much depend on the decision of the present cooperative farmers whether or not to become private farmers. Obviously German Democratic Republic farmers will need some time to reach decisions. Their decisions will heavily influence other indicators such as investment and employment.

As described above, present employment in agriculture, per unit of land, is far above Community levels. It is estimated that the income capacity of GDR agriculture as a whole will not be sufficient to maintain the high labour force under Community conditions. This will probably concern not only employment in the areas supporting agricultural production, but also the core area of people working in agricultural production itself.

Since much of the technical equipment in the German Democratic Republic is neither of western standard nor suited to requirements imposed by the CAP (e.g. environmental aspects) important new investment will certainly be required. Furthermore, the expected organizational changes of farms (restructuring of LPGs, creation of private farms) will demand important additional investment.

The same expectation applies to investment needs in the processing and marketing industries. The Commission estimates that some major processing units such as slaughterhouses, dairies and sugar factories will have to be totally restructured and new marketing agencies created.

The result of the past policy of 'regional self-sufficiency' has been distorted regional distribution of agricultural production. It is estimated that under the conditions of EC markets and EC transfers to comparable regions, some part of this agriculture will fall by the wayside. It should be also underlined that environmental aspects argue against the continuation of production in some cases.

3. Provisions for the interim period

3.1. As well as arranging economic and monetary union between the two Germanys, the German Democratic Republic has started to prepare its agriculture for impending integration into the EEC. Notably, the complex area of market policy has already been dealt with. In Article 15 of the Staatsvertrag the Federal Republic and the German Democratic Republic agreed that the latter would adopt the main elements of the common agricultural policy by 1 July 1990. In order to fulfil this commitment the Parliament of the German Democratic Republic voted a law authorizing the East German authorities to adopt national market organizations for the interim period.

3.2. Regarding domestic support for agricultural production the EC market organizations' main instruments such as intervention schemes and production aids are generally applied. Prices are now practically the same as in the Federal Republic. The organizational framework, namely a public intervention agency ('ALM'), was set up and has been working since 1 July.

Market organizations for crop products closely follow existing Community Regulations. Those for animal products initially had some different elements such as, for example, minimum prices instead of public intervention. These immediately proved to be unworkable, however, and were also changed to the EC-type market organization, including intervention, by 1 August.

3.3. On the external side of agriculture, the German Democratic Republic has taken over, in accordance with the Staatsvertrag, the Community system of

export refunds and import levies or other charges, with amounts identical to those in the Community. At the same time, the German Democratic Republic undertook in the Staatsvertrag to suspend levies and export refunds in its trade with the European Community on the condition of reciprocity. The Community legislation on this subject was adopted in July 1990.¹ This means that from 1 August the German Democratic Republic and the Community have a customs union for trade in agricultural products. This also implies that the rules of the Protocol on German internal trade no longer apply.

Initially, from 1 July on, the German Democratic Republic had introduced a system of quantitative import controls and restrictions similar to those of the Protocol on German internal trade in order to protect its domestic agriculture. This was considered necessary because the German Democratic Republic was faced with major marketing problems for its own agricultural products. Much of the processed food which its citizens buy at present is of western origin. However, the restrictions proved to be inadequate and unworkable and were therefore given up by 1 August. Agricultural trade between the German Democratic Republic and the Community is now totally free. However, safeguard measures may be taken in the event of agricultural market disturbance.

3.4. As to the other agricultural policy fields such as structural, regional, or social policy in agriculture, the situation is much less advanced. Measures in these fields are generally of a medium or long-term character and should continue after German unification. All measures ought therefore to conform to Community law from the beginning. However, copying the existing Community legislation has not been possible because this generally focuses on structures and problems which differ from those in the German Democratic Republic.

Up to now only two concrete measures have been settled. The first is an early retirement scheme, mainly for cooperative farmers, paid from the national budget. The second concerns the new arrangements for the organization of agricultural holdings. By the 'Law on the structural adaptation of agriculture to the social and ecological market economy in the German Democratic Republic' (Gesetz über die strukturelle Anpassung der Landwirtschaft an die soziale und ökologische Marktwirtschaft in der Deutschen

Demokratischen Republik), private property rights for land, agricultural buildings and equipment have been fully re-established. Also, the legal framework for the reorganization of cooperatives or the foundation of individual farms is provided by law.

Adoption of a 'Law for the promotion of agro-social and agro-structural adaptation of GDR agriculture to the social market economy' (Gesetz zur Förderung der agrarsozialen und agrarstrukturellen Anpassung der Landwirtschaft der DDR an die soziale Marktwirtschaft) is planned.

It is supposed to be very closely based on the Commission's proposals. But it will also cover national aid schemes of which the most important is 'liquidity' aid. This scheme aims to attenuate the most damaging consequences of abrupt price changes and to cushion the effects of the abolition of budget transfers to those regions which are less suited for agricultural production.

4. *Main substance of the proposals*

A — Market policy

4.1. At market level, the CAP is largely founded on the principle of common prices for agricultural products as the basis for free circulation of agricultural goods within the Community. Ensuring the application of Community price levels in the German Democratic Republic is therefore a most vital issue in the process of integration.

The German Democratic Republic anticipated most of the needs for price changes by the introduction of its transitional market organization and by its pricing system. Therefore, as far as institutional prices, premiums etc. are concerned, only minor exceptions for the German Democratic Republic need to be foreseen.

The same applies to the instruments of the CAP for the external protection of agricultural markets, such as import duties and levies and export refunds. In this area again, thanks to the prior introduction of the Community's trade rules in the German Democratic Republic, no substantial derogations had to be provided for in the basic instruments.

However, for the case of unforeseeable difficulties, a safeguard clause has been introduced similar to that

¹ Council Regulation (EEC) No 2060/90, OJ L 188, 20.7.1990; Commission Regulation (EEC) No 2252/90, OJ L 203, 1.8.1990.

used for new members acceding to the Community. This must be applied in conformity with the Treaty. The object of the exercise is to enable by urgent procedure initiated by a Member State or by the Commission the adoption of measures designed to restore balance to the situation and adapt the sector concerned in conformity with the Treaties.

The German Democratic Republic has traditional, well-established agricultural trade relations within the former CMEA network. These have been carefully examined. The result of this examination is reflected in the first chapter.

Individual proposals were needed only as regards production ceilings, stocks and quality and health standards.

4.2. Production ceilings

A basic aspect of the present CAP is the application of measures to stabilize expenditure, to discourage further production increases which are not market-oriented, or even to cut down present production levels. Integrating extra farmers into the existing Community framework against this background is not without problems.

Opportunities for developing agricultural production in the German Democratic Republic were handicapped by the former economic system. Given the need for the harmonious continuation of CAP reforms, and the Community's responsibility towards its international trading partners, the Commission is insisting on strict respect of the principles of the CAP.

As far as maximum guaranteed quantities (MGQs) for different products are concerned, most will have to be reviewed in the near future. It is therefore proposed — with the sole exception of intervention quantities for beef and processed tomatoes — not to change the MGQs currently in force. On the other hand, GDR production will be discounted when output against the MGQs is measured. However, all possible price decreases or other measures consequent upon overshooting the MGQs should also apply to GDR farmers.

The general rules for fixing production quotas (sugar, milk) have to be applied. The application of these rules in the milk sector will lead to a considerable drop in milk production in the territory of the German Democratic Republic. The Commission is pleased to note that necessary cuts in production lev-

els will be carried out, at least partially, during the interim period.

The proposed amendments in the sugar sector base the quota for the ex-GDR territories on production in the last five years. No specific isoglucose quota has to be attributed. Furthermore, Germany will be authorized to grant national aid to facilitate necessary adaptation in the processing industry.

More substantial amendments are necessary in the milk sector, where a significant reduction of milk production has to be achieved by 1 April 1991. From that day on the quota regime for milk will apply in the ex-GDR territories. Until that date Germany will be entitled to maintain the regime established by the German Democratic Republic as well its system of co-responsibility levy for milk. This will prevent distortions of competition. In order to facilitate the almost immediate adjustment of milk production, financial support is to be given to producers in the ex-GDR territories in 1991/92. This support is calculated on the basis of the significant financial subsidies granted by the Community for the reduction and temporary suspension of milk quotas in Member States for several years since 1984.

Further transitional measures relate to the temporary buying-in of roller milk-powder and butter produced in the ex-GDR territories.

4.3. Other changes

Two further transitional measures need mentioning:

Under the market organization for fresh fruit and vegetables, production units in the ex-GDR territories may — under certain conditions and restrictions — be recognized as producers' organizations despite the differences in their structure compared to producers' organizations in the Member States. This exception was necessary because alternative marketing bodies could not be established in the mean time.

Under the market organization for wine, transitional measures concerning the classification and recognition of varieties will apply. During recent decades about 400 ha of vineyards could not be cultivated owing to the economic situation in the German Democratic Republic. In order to allow the replanting of these vineyards the replanting deadline should be adapted for the German Democratic Republic.

4.4. Assessment of existing stocks

The Commission's proposal is based on the distinction between public and private stocks. It is proposed

to apply the new financial rules for Community intervention to all public stocks built up during the interim period. These will be depreciated to the world market price level from the very beginning. The costs fall to the national German budget.

For private stocks, the measures already used in the case of the accession of Spain and Portugal are provided for. The proposed solution is mainly based on the traditional distinction between 'normal' and 'unusual' stocks. Details will be dealt with in a Commission implementing regulation.

4.5. Quality and health standards

Concerning quality, including plant health, animal and public health standards, the agriculture and processing industry of the German Democratic Republic will not be in a position to comply with all Community legislation in the immediate future. This is for reasons such as the outdated equipment in slaughterhouses, the pollution of soils, existing stocks of sub-standard seed, etc. Thus, in this important policy area several derogations have had to be proposed. However, with very few exceptions, all of them will be limited to the end of 1992. The practical consequence of any exception to the Community rules is that the products concerned can only be marketed within former GDR territory.

It should be noted, however, that a separate legal text — in the context of the internal market — embodies these proposals (see previous chapter, point 2).

B — Structural policy and related measures

Structural policy in agriculture includes horizontal and regional measures covered by Objectives 1 (promoting the development and structural adjustment of regions whose development is lagging behind), 5a (speeding up the adjustment of agricultural structures) and 5b (promoting the development of rural areas) of the reform of the structural Funds. The EAGGF Guidance Section contributes to the attainment of Objectives 1 and 5b along with the other structural Funds, but is responsible for financing Objective 5a entirely on its own.

An additional financial allocation for structural Fund intervention in the former German Democratic Republic is proposed. By analogy with Article 12(2) of Regulation (EEC) No 2052/88 the amount considered necessary for the set-aside scheme must be added.

4.6. Regional measures

In view of the differences in agricultural structures between the German Democratic Republic and the Community, the need for rapid restructuring of East German agriculture, the absence of reliable statistics enabling the formal classification by objective of the regions of the German Democratic Republic and the need to avoid disrupting the balance established by the reform of the structural Funds, transitional measures or derogations to the rules in force are needed.

These measures are incorporated in a separate proposal described in the section on structural policies, pp. 95 and 96 of this report.

In particular, the Commission proposes to make the whole territory of the German Democratic Republic eligible for measures under all objectives. The arrangement is foreseen for a three-year period and will benefit from a special budget of ECU 3 billion. The agricultural items of Objective 1 and Objective 5b will be included in this arrangement, as will Objective 5a, the horizontal measures of structural policy in agriculture (see below).

It should be mentioned that the early retirement scheme for farmers, in normal Community legislation covered under Objective 5a, is proposed to be grouped under specific regional measures in the case of former GDR territory. The aim is to keep the GDR early retirement scheme already in force at the beginning of the year (see previous chapter, point 3). It was designed to help reduce the high labour force on socialist farms and does not fit into the Community scheme for early retirement. An important criterion of this is that the land cultivated by the farmers concerned has to be taken out of production. This criterion is not adequate in the present GDR framework.

4.7. Horizontal measures (Objective 5a)

Structural policy and other related policies covered by this heading are mostly needed in GDR agriculture to help farmers adapt quickly and in a socially acceptable way to the new situation. However, up to now the Community's agricultural policy has never had to deal with such a problem, nor were its concrete measures designed to do so. Moreover, Community measures as such are in some cases even contrary to what could be useful in the case of the former GDR territory.

For instance, it is one of the principles of the reform of the structural Funds to concentrate financial

resources. This entails, in Objective 5a measures, focusing on smaller producers and letting larger agricultural holdings benefit relatively little from the measures. It is obvious that under the present conditions in the German Democratic Republic the existing measures could hardly be applied and would not show any effect.

On the other hand the structure of GDR agriculture is expected to change. A new, economically solid equilibrium under the conditions of Community policy and under the new legal provisions for property has to be established. In the Commission's opinion, policy measures should be completely neutral as regards the different organizational and property structures of agricultural holdings, and should give a fair chance to all types of agriculture that might develop in the former GDR territory.

Thus the task has been to adjust the existing measures of the Community's structural legislation in a way that fits the needs of present large cooperative holdings and of family farms equally well. This ambiguity is also the reason why the proposed legal constructions are not always homogeneous. In some cases derogations from existing law under Article 43 had to be used, whereas in other cases 'special arrangements' or the possibilities for implementing State aids had to be chosen.

(a) Investment aid

On the classic question of investment aid in agriculture there is no problem in view for the few private farms already existing. However, for existing or new large agricultural enterprises (cooperatives) and new family farms adjustments will be necessary. To tackle the restructuring of present cooperative farms it is proposed to increase substantially the maximum eligible amounts for investment, and to increase the maximum numbers of cows and pigs for eligible investment as well. In the case of new family farms there is no Community scheme really suited for this purpose. A State aid solution has therefore been proposed.

(b) Set-aside and extensification

As to the two structural measures designed to help the stabilization of production and the improvement of the rural environment, namely the set-aside scheme and the extensification scheme, exceptions have only been proposed for the former. They concern the minimum area to be set aside and the eligible land (inclusion of land under potatoes because of

the present structure of production). Furthermore, it is proposed to authorize the German Democratic Republic to apply a national scheme until 1 July 1990.

(c) Less-favoured areas

The German Democratic Republic has not yet collected the necessary data to define less-favoured areas in accordance with Community criteria. On the other hand, it has defined similar areas in the past. The Commission's proposal is to suspend the Community scheme until the end of 1991 but to allow Germany to grant State aids in the formerly defined regions.

(d) Processing and marketing

Improvement of the processing and marketing of agricultural and forestry products is — given the present disastrous marketing problems — probably the most urgent task related to GDR agriculture. It has therefore been proposed to allow for Community part-financing of operational programmes, presented in the absence of real sectoral plans, during the year 1991.

C — State aids

4.8. It is obvious that State aids will have to play a certain role in the process of fast integration and adaptation of GDR agriculture, and one might expect an increased number of acceptable State aids on the grounds that there will inevitably be a large number of transitional problems entirely specific to the East German situation. A distinction should be made between State aids already existing in West Germany and those to be expressly introduced for the German Democratic Republic.

4.9. Existing German State aids

On the question of the extension of existing German farm support to the territory of the German Democratic Republic, the Commission sees a problem with aid to compensate for disadvantages West German agriculture had to bear in the past. This applies in particular to aid granted by means of the VAT machinery pursuant to the 20th Council Directive on VAT. In view of the fact that the derogation provided for in this Directive ends definitively on 31 December 1991 the Commission feels that, despite the absence of

economic grounds, there is no reason to oppose its extension to the former German Democratic Republic for this brief period. It has also taken into consideration the need for a single rate within a given Member State.¹

As to the other existing State aids there are no remarks to be made.

4.10. Specific State aids

As described under item B, the Commission intends to authorize State aids for structural adjustment in cases where the normal Community schemes for structural adjustment are considered inadequate or not workable under the present conditions of the German Democratic Republic.

Furthermore, a general authorization for national aids is necessary in order to solve the important problem of adaptation to the new economic environment, as mentioned above.

Some of the existing agricultural holdings are heavily in debt and have to bear the consequences of considerable changes in the price structure resulting from the immediate introduction of the Community price policy. As a consequence, sensitive income and liquidity problems will arise in the transitional period. A solution can only be found through a national support scheme to compensate for loss of income.

5. Specific legislative questions

The proposed amendments and transitional measures for the integration of farming in the ex-GDR territories into the common agricultural policy have been prepared after close consultation with the competent German authorities.

Nevertheless, owing to the extremely rapid process of unification the Commission was forced to prepare the necessary legislation in a very short period of time. This specific situation and a significant lack of information meant that it was not possible to ensure a detailed and definitive examination of the legislation in all cases. Therefore a specific clause has been included in the draft proposal, beside the abovementioned safeguard clause, in order to facilitate the

adoption of supplementary measures which may prove necessary in the future.

Common fisheries policy

1. *The state of the fisheries sector in the German Democratic Republic*

1.1. Fleet, aquaculture and processing

The GDR's total deep-sea fishing fleet is 28 fishing units with a capacity of 63 200 GRT and 55 700 kW. These 28 units include four vessels specializing in shrimp fishing.

In addition there are 10 vessels in operation for processing and transport which cannot be considered to be fishing units.

The Baltic Sea fleet consists of about 200 vessels with a capacity of 13 000 GRT and 30 000 kW. In addition, there is a fleet of about 600 small vessels (some without engines) for coastal fishing.

The total capacity of the GDR fleet is estimated at 76 200 GRT and 85 700 kW.

As regards the aquaculture sector, total annual production is about 25 000 t. The most important species are carp (13 000 t) and trout (7 000 t).

Processing industry activities centre on herring and mackerel/horse mackerel. The main products are smoked, pickled and preserved fish. The distribution network is rather outdated.

1.2. Internal and external resources

Over the last three years 35% of the GDR's total production has been caught in its fishing zone in the Baltic Sea.

During the same period, catches based on bilateral agreements² amount to 20% and those within the

¹ Not finally decided yet.

² The German Democratic Republic has concluded fishery agreements with the following countries: Norway, Sweden, Færoes, Canada, USA, USSR, Mauritania, Guinea (Conakry), Guinea-Bissau and Mozambique.

framework of international conventions¹ to 30%. The GDR fleet catches about 15% of total production beyond the 200-mile zone.

1.3. The market

While the fresh-product market plays a dominant role in the Community, it is of only marginal importance in the German Democratic Republic. It is largely supplied by aquaculture and the small quantities landed by coastal fishing (flat fish, herring, cod).

The greater part of the fishery products market consists of processed products, in particular preserved and semi-preserved fish, smoked and salted products and frozen products. The main species are herring, mackerel, redfish, cod and halibut.

The bulk of the blue whiting and horse mackerel and almost all squid is exported.

Consumption per person in the German Democratic Republic averages only about 8 kg per year compared with 28 kg in the Community.

There are major shortcomings in the distribution of fishery products in the German Democratic Republic. Retail outlets for fresh products, refrigerators and means of transport for fresh products are almost non-existent. Traditional auctions as practised in the Community do not exist in the German Democratic Republic at present.

The German Democratic Republic imports large quantities of herring and mackerel, especially from the United Kingdom and Ireland. These imports are bought over the side in klondyking operations.

Over the last three years exports by the German Democratic Republic averaged around 45 000 t, mainly frozen products. Most of these went to the CMEA countries, Japan and Nigeria.

¹ The German Democratic Republic is a member of NAFO (North-West Atlantic Fisheries Organization), NEAFC (North-East Atlantic Fisheries Commission), IBSFC (International Baltic Sea Fisheries Commission) and CCAMLR (Commission for the Conservation of Antarctic Marine Living Resources). The German Democratic Republic is also a member of ICES (International Council for the Exploration of the Sea).

2. General considerations

2.1. Total production by the GDR fleet averages 160 000 t a year, equivalent to 2% of Community production. Its overall capacity is 76 200 GRT (3.8% of the Community fleet). These figures reflect a level of efficiency below that of the Community fleet.

2.2. Integration of the German Democratic Republic's fleet into the common fisheries policy poses certain problems in a number of areas.

The Commission considers that adaptations are necessary as regards internal and external resources, structures, in particular the deep-sea fishing fleet, and the market.

2.3. Integrating the new fleet into the common fisheries policy poses particular problems politically, since the capacity of the Community fleet is already disproportionately high compared to the limited resources available. However, as regards access to resources, the authorities of the two German States have informed the Commission that a united Germany would not request a readjustment of the quota allocations among the Member States except where the German Democratic Republic brings fish stocks into the Community (Spitzberg cod).

This approach will make it easier to integrate the GDR fleet into Community fisheries policy and maintain the existing balance between the Member States as regards stocks subject to TACs and quotas. The additional fishing opportunities which the German Democratic Republic will bring with it, in particular in the Baltic Sea and as a result of certain fishing agreements concluded with non-Community countries or fishing rights obtained through various international conventions, will ensure that the new fleet does not particularly threaten the balance in the allocation of Community resources.

2.4. However, in the case of 'precautionary' TACs which have not been allocated to the Member States, access by the GDR fleet operating in future under the German flag could, in view of its concentration on certain stocks such as blue whiting, horse mackerel, etc., threaten the current balance of fishing capacity and hence the internal balance of these TACs among the Member States.

2.5. In the case of Community resources not subject to TACs and quotas, the 'theoretically' free access by this additional fleet, particularly to the North Sea, the west of Scotland, the Irish Sea and the Bay of Biscay, could result in a disturbance to stocks. Furthermore,

access 'as of right' to Community waters for GDR fishing boats operating under the German flag could raise problems of principle with Spain and Portugal, whose fishing fleets do not enjoy this 'right of access' or are unable in practice to exercise the fishing rights granted to them.

2.6. From the resources point of view, the integration of East Germany resembles the accession of Spain and Portugal, which did not have adequate fisheries resources of their own to keep their fleets active.

As in the case of those two Member States, implementation of the common fisheries policy and the integration into it of the current German Democratic Republic could require supplementary provisions on the activity of the fleet concerned and on inspections.

The Commission will therefore have to watch very carefully how the activities of the new fleet in Community waters develop and, where appropriate, take this into account in the revision of the common fisheries policy scheduled for 1991.

Here it should not be overlooked that a large part of the activity of the German Democratic Republic's fishing fleet is concerned with low-value species such as horse mackerel, blue whiting and mackerel, which are not very profitable in view of the difficulty of selling them on the Community or world market. In the past, the German Democratic Republic has provided large subsidies for the production and marketing of fishery products but it will soon become hard to continue this policy.

The needs of the Community market, and particularly those of Germany after unification, will force the GDR fleet to move towards species which find a readier outlet on a free market, i.e. those which have traditionally been included in the arrangements governing TACs and quotas. The changes required in the fleet will undoubtedly involve increased fishing of certain stocks which are already heavily exploited.

2.7. As regards the market, the Commission thinks that the integration of the former GDR market into the German organization of the market in fishery products should be carried out without transitional measures. Since price formation on the Community market is largely dependent on the situation on the world market and on substantial imports, the Commission in its price policy would like as far as possible to avoid fixing and supporting artificial prices. The former GDR market is relatively small compared to the Community market and is especially depend-

ent on the factors which determine the Federal Republic's market.

In light of the above, the Commission considers that plans should be made to apply the Community price system on the territory of the former German Democratic Republic immediately after the unification of the two German States and that the introduction of different prices in this region would not be an adequate or realistic solution. This approach also makes it necessary to adapt the existing structures on the territory of the former German Democratic Republic to the established Community conditions.

2.8. As regards the structural aspects, the representatives of the two German States have already signalled their intention to introduce, during the interim period, the measures required to substantially reduce fishing capacities, in particular in the case of deep-sea fishing.

The Commission emphasizes that the adaptation of the fishing capacity of a unified German fleet to the available resources is a very important element in the integration of the GDR fisheries sector into the fisheries policy as a whole.

The Commission will take this aspect into consideration in deciding what measures should be taken to reduce German fishing capacities in order to ensure the compatibility of the multiannual guidance programmes following German unification.

3. *Legislation*

3.1. **Internal resources**

Apart from minor changes which will need to be made to the annual 'TACs and quotas' Regulation when the time comes, German unification will not require amendments to the internal Community arrangements (Regulation (EEC) No 170/83).

In the case of species not subject to TACs or not allocated, access to Community resources by the GDR fleet could give rise to particular problems.

Accordingly, some inspection measures should be stepped up with regard to these fishing activities and, if necessary, restrictions could be imposed on catches of these species.

In the case of species subject to TACs and quotas which are allocated among the Member States, and

in respect of which the German Democratic Republic has no fishing rights at present, it will not be necessary to revise the allocation keys. GDR boats will fish on German quotas without adjustment of the allocations.

As regards the Baltic, the German Democratic Republic will be adding to Community stocks. The GDR is a contracting party to the IBSFC and possesses quotas for cod, herring and sprat in the area administered by that organization. These rights will be added to those of the current Community and so the three allocations will require adjustment in the light of this extra contribution.

Statistics provided by the authorities of the two German States indicate that the German Democratic Republic has a cod fishery in the Svalbard zone. Cod fishing opportunities for the Community and the Member States in this zone were fixed autonomously by the Council on the basis of historical catch levels (Council Decision 87/277/EEC of 18 May 1987). It will be necessary to amend this system to take into account GDR catches.

3.2. External resources

Once the two German States are formally united:

(i) the Community will take the place of the former German Democratic Republic in international conventions to which the Community is party exclusively in its own right;

(ii) the Community will take over management of the GDR's bilateral agreements. This rights and obligations under these agreements will be continued until such time as they expire at the latest, unless they are renegotiated. However, GDR obligations under these agreements which are not compatible with the existing Community situation cannot be assumed by the Community. They will have to be renegotiated at a convenient moment. Another solution might be a declaration to this effect addressed to the non-Community countries concerned, on the grounds of the changes caused by German unification. At all events, continuity of fishing activities must be ensured for the former GDR fleet.

3.3. Markets

The inter-German agreement envisages the immediate introduction on GDR territory, in the transitional phase, of the instruments of the common mar-

ket organization in fishery products (Regulation (EEC) No 3796/81). The two German States have confirmed that this system will be applied in its entirety after formal unification.

Given the above, the Commission considers that the integration of the market of the former German Democratic Republic into the common market organization in fishery products can take place without transitional measures.

However, in order to back up the immediate introduction of the Community market system in the former German Democratic Republic, the Commission is proposing higher levels of start-up aid during a transitional period to encourage the establishment of producers' organizations. The speedy establishment of such organizations in the German Democratic Republic is an essential precondition for the smooth application of the common market organization.

3.4. Structures

Under Council Regulation (EEC) No 4028/86 of 18 December 1986, the Commission has adopted two multiannual guidance programmes for the fleet and aquaculture in the Federal Republic of Germany. Integration of the German Democratic Republic into Community territory will involve a Commission Decision revising these two programmes.

As far as Council legislation is concerned, the two German States are requesting the inclusion of the German Democratic Republic coastal region in the list of regions eligible for a higher percentage of Community aid for fleet and aquaculture projects (Annexes II and III to Regulation (EEC) No 4028/86). Given the general economic situation of the region and the unfavourable status of the fisheries sector, this request seems justified.

With regard to the processing industry, the Federal Republic submitted its sectoral plan for fisheries under Regulation (EEC) No 4042/89 on 30 May 1990. This plan, along with those from the other Member States, is currently being examined by the Commission. It forms the basis for the Community support framework to be adopted by Commission Regulation.

Integration of the German Democratic Republic will necessitate revision and adoption of the sectoral plan, which the German authorities will have to request of the Commission.

4. State aid

Any aid granted by Germany which is likely to distort competition and affect trade between Member States has to be notified to the Commission in accordance with Article 93(3) of the EEC Treaty. Germany cannot put planned aid schemes into effect before the Commission has adopted a final decision.

If the planned aid relates to projects in the fisheries sector, the Commission will assess each aid plan on the basis of the guidelines for the examination of State aid in the fisheries sector.

It seems evident that there will be a clear need for restructuring the East German fishing industry in order to allow it to compete under free market conditions. It also seems evident that such restructuring will require the grant of State aid.

As regards the assessment of such aid plans, the guidelines refer to the present Community structural measures providing for multiannual guidance programmes.

Proper assessment of German aid schemes for the former East German fishing industry requires Community insistence that the German authorities prepare a restructuring programme which can be converted to a multiannual guidance programme as from unification. Allowing the granting of aid outside the framework of such a programme could jeopardize the effectiveness of structural improvement.

The transitional aspects as regards State aid are covered by the restructuring programme for the East German fishing industry, which will serve as a reference framework for the assessment of aid plans. Since the Commission's approach under Articles 92 and 93 of the Treaty is essentially on a case-by-case basis, the guidelines could be applied *mutatis mutandis* until unification takes place.

Transport

1. General

1.1. Transport in the German Democratic Republic is facing three major challenges:

(i) the need to gear transport policy to a sector run on market economy lines;

(ii) the need to improve the transport infrastructure and means of transport;

(iii) the need to integrate transport undertakings into the common transport market.

1.2. The condition of the transport infrastructure and of the means of transport sometimes considerably impairs productivity, efficiency, safety and quality in passenger transport and road haulage. The German Democratic Republic's Ministry of Transport estimates that, merely to modernize the road and rail infrastructure to bring it up to Western standards will require DM 200 000 million. Yet rapid improvements in infrastructure and rapid increases in capacity are required because transport forecasts suggest a rapid expansion in road haulage. Whilst 24.6 million tonnes were carried between the two German States in 1988, this is expected to increase by 1 000% to 244 million tonnes by the year 2010 as a consequence of the opening of the frontier between the two Germanys.

The Community will therefore have to keep a watchful eye on the extension of this east-west infrastructure link in order to ensure that the desirable integration of the two economies, and the resulting trade flows, are not hindered by bottlenecks.

1.3. Integrating the German Democratic Republic's transport economy into the common transport market calls for certain adjustments to Community law. These will be temporary and will affect:

(i) road haulage in respect of admission to the occupation, and the tachograph used to keep a check on drivers' work and rest periods;

(ii) rail transport in respect of cost accounting by the railways, the commercial autonomy of railway undertakings, and the inclusion of the Deutsche Reichsbahn in the body of Community law covering the railways;

(iii) inland waterway transport in respect of the relationship between inland waterway transport in the German Democratic Republic and the scrapping action now under way in the Community.

2. Road haulage

2.1. Admission to the occupation

Community legislation includes the requirements of being of good repute, having financial standing and

being professionally competent to practise the occupation of road haulier. As GDR road hauliers will not immediately be able to meet some of the requirements regarding financial standing, namely to have available (in the form of capital and reserves) ECU 3 000 per vehicle or ECU 150 per maximum authorized weight (in the case of lorries) or ECU 150 per passenger seat (in the case of coaches), it would be appropriate to grant a derogation up to 31 December 1992.

There should also be a similar derogation to enable GDR road hauliers to acquire the necessary knowledge (occupational training) to meet Community requirements concerning professional competence.

2.2. Tachograph

To allow checks on compliance with Community law on driving hours and rest periods, the law requires the installation of tachographs.¹ Commercial vehicles in the German Democratic Republic will have to be allowed a period of grace to comply with this requirement. The Commission proposes that, in the case of new vehicles first registered after 1 January 1991, tachographs should be installed from the outset. In the case of vehicles already registered, there will have to be a period of grace. Here, tachographs should be installed by 31 December 1993 at the latest.

As GDR-registered vehicles used in international transport are generally already fitted with tachographs, the exemption will mainly benefit those commercial vehicles used inside the German Democratic Republic. The time allowed for compliance is necessary because of the absolute insufficiency of workshop capacity. In addition small businesses are to have time to replace their fleets (frequently between 20 and 28 years old) before having to finance an expensive re-equipment operation.

2.3. Driving licences

Community legislation on driving licences² provides that, where the holder of a licence issued in one Member State changes his normal place of residence to another Member State, the licence remains valid for a maximum of one year and must be exchanged

for one issued by the second State before that period expires.

These rules on the recognition and exchange of driving licences are accompanied by others on the issuing of licences. The driving licence issued by the German Democratic Republic complies with the model in the Vienna Convention on Road Traffic, which also provides the basis for the Community driving licence introduced on 1 January 1986.

To ensure that the holder of a driving licence issued in the German Democratic Republic before unification can benefit from the provisions in Community law which facilitate the recognition and exchange of licences, it is not necessary to amend the legislation in question since Article 8 provides for recognition between Member States of driving licences issued by them. After unification driving licences issued by the former German Democratic Republic will be deemed to be issued by a Member State.

2.4. Quotas

The enlargement of Community territory subsequent to the German Democratic Republic becoming subject to the Basic Law of the Federal Republic of Germany means in principle that Community quotas for national and international transport will have to be increased. Using the standard formula, the Community quota for international transport in 1991 should be raised from 47 094 to 47 404 authorizations (an extra 310 authorizations). The increase in the cabotage quota would be from 15 000 to 15 296 authorizations (an extra 296). The Commission intends to submit proposals for this relatively small increase at the same time as proposing the increases in both quotas required in any case.

It should nevertheless be pointed out that, following German unification, Community quotas for international transport will also give operators the right to carry out operations from and to the territory of the former German Democratic Republic and that cabotage authorizations valid for the territory of the Federal Republic of Germany will be valid for the whole of Germany.

2.5. Weights and dimensions

There is no need to foresee a derogation from weights and measures legislation in the road transport sector, despite the serious condition of much of the road net-

¹ Council Regulation (EEC) No 3821/85 of 20 December 1985, OJ L 370, 31.12.1985, p. 8 *et seq.*

² Council Directive 80/1263/EEC.

work. Pending general upgrading, road signs are foreseen where dangers could arise, such as at weak bridges.

3. Railways

3.1. The railway system of East Germany, the Deutsche Reichsbahn (DR), will eventually become subject to the same conditions as those of the other principal railways of the Community.

This will require the name of the DR being added, as of German unification, to those of the other railways that are covered by the five Community Regulations in force. However, in the case of Regulation (EEC) No 2183/78 laying down uniform costing principles for railway undertakings,¹ it is considered that the accountancy and other technical problems that will be involved require a waiver to be granted so that the provisions will enter into force only on 1 January 1992.

In view of the absence of an adequate accounting system Council Regulation (EEC) No 1192/69² on common rules for the normalization of the accounts of railway undertakings will not apply in the former German Democratic Republic until 1 January 1993.

3.2. In addition to the Community Regulations referred to in paragraph 3.1 above there are also three Council Decisions³ requiring amendment. These concern the autonomy of railway undertakings in general, in particular with regard to the pricing of freight and passenger services. Amendment to include the DR is necessary. In view of the potential difficulties in converting the DR to an independent commercial entity, a waiver of a maximum of up to two years is proposed.

4. Inland waterways

4.1. Scrapping fund

By Regulation (EEC) No 1101/89⁴ the Council has taken measures aimed at the abolition of structural overcapacity in inland waterways. The Regulation provides in particular for an international scrapping action coordinated at Community level and accompanying measures to curb investment in new capacity for a number of years: the so-called 'old-for-new' rule.

Owners of vessels operating on the interlinked inland waterway networks of Belgium, Germany, France, Luxembourg and the Netherlands had the opportunity to apply for a scrapping premium between 1 January and 30 April 1990.

To meet the costs of the scrapping scheme inland waterway carriers are required to pay annual contributions for a period estimated at roughly eight years starting on 1 January 1990.

As a result of German unification the fleet currently flying the flag of the German Democratic Republic will enter the Community market and hence become subject to the Regulation.

Since the period for submitting scrapping applications has expired, the German authorities must be given the opportunity to organize a specific scrapping action for vessels in their fleet registered in the German Democratic Republic. As vessel operators from the former GDR will also qualify for the increased tariffs likely to be payable after the current scrapping action they must pay the same contributions as the other Community vessel operators; however, for administrative reasons, the first payment payable will be for 1991. To prevent attempts to get round the 'old-for-new' rule the rule will apply from 1 September 1990 to vessels registered for the first time in the GDR. However, for vessels under construction before 1 September the 'old-for-new' rule will not apply before 1 February 1991.

5. Maritime transport

The Community's maritime law⁵ provides that the principle of freedom to provide services shall also apply to shipping plying between the Member States and third countries and therefore requires that cargo-

¹ OJ L 259, 21.9.1978, p. 1.

² OJ L 156, 28.6.1969.

³ Decision 75/327/EEC (OJ L 152, 12.6.1975, p. 3); Decision 82/529/EEC (OJ L 234, 9.8.1982, p. 5); Decision 83/418/EEC (OJ L 237, 26.8.1983, p. 32).

⁴ OJ L 116, 28.4.1989, p. 25.

⁵ Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries, OJ L 378, 31.12.1986, p. 1 *et seq.*

sharing arrangements in existing bilateral agreements between the Member States and third countries shall be terminated or adjusted.

In trade coming under the United Nations Code of Conduct for Liner Conferences such agreements have to comply with the Code as well as the Member States' obligations under Regulation (EEC) No 954/75.

Agreements covering non-Code trade are to be adjusted as soon as possible, and at the latest by 1 January 1993 such that, without discrimination, all Community nationals have free access to the cargo shares of the Member State concerned.

In the past the German Democratic Republic negotiated a number of bilateral agreements with third countries and these will not be transferred to the single German State. In so far as they contain cargo-sharing arrangements these agreements will therefore have to be terminated or amended to comply with Community law. A period of grace terminating at the end of 1994 at the latest should be allowed for this purpose for agreements covering non-Code trade.

6. *Air transport*

6.1. *Aircraft noise*

At the end of 1989 the Council issued a Directive limiting the noise emissions of civil subsonic jet aircraft.¹ The aim of the Directive is to reduce aircraft noise whilst at the same time 'taking into account environmental factors, technical feasibility and economic consequences' (preamble). However, this Directive does not apply to aircraft entered in Member States' national registers on 1 November 1990.

Aircraft covered by Chapter II (18 Tupolev) registered in the German Democratic Republic will be put on the same footing as aircraft registered in the EEC.

Energy

1. *The energy situation in the German Democratic Republic*

Primary energy consumption in the German Democratic Republic is around 100 million tonnes a year.

¹ OJ L 363, 13.12.1989, p. 27 *et seq.*

Solid fuels (almost exclusively brown coal) account for more than 90% of domestic energy production (the GDR is the world's largest producer of brown coal) and more than 70% of primary energy consumption. More than 80% of electricity is produced by solid fuels, which also cover over 30% of final demand.

Despite presumably low production costs, the transformation to final energy (briquettes) and transport costs of brown coal are probably high. SO₂ emissions are estimated at around 5 million tonnes a year.

The German Democratic Republic imports around 21 million tonnes a year of crude oil (of which 20 million tonnes from the USSR) and exports some 6 million tonnes of refined products. Natural gas accounts for about 8% of primary energy consumption. About 70% of natural gas requirements are met by imports of Soviet gas.

Installed electricity generating capacity is in the order of 24.8 GW, of which 16.5 GW comes from brown coal-fired plants and 1.8 GW from nuclear plants.

2. *Restructuring of the energy sector in the German Democratic Republic*

2.1. With regard to the gas sector in the German Democratic Republic political discussion is currently under way regarding the distribution of the market among interested companies. The assumption underlying these discussions is that imports of gas will rise from their current level of 8 billion m³ of Soviet gas to 16 billion m³ by the year 2000 (replacing brown coal used for heating and industrial gas).

As for infrastructure, the German Democratic Republic network is connected via Czechoslovakia to the Soviet Union's pipeline export system. Two large-scale connections are planned, one with the BEB system and the other with the Ruhrgas system.

2.2. Brown coal is currently the cornerstone of energy supply in the German Democratic Republic. In an attempt to protect the environment from the major emissions of SO₂, NO_x and dust, it is planned to cut the production and burning of brown coal by 50% by 1998, i.e. from the current level of 300 million tonnes to 150 million tonnes in 1998. Discontinuing the use of brown coal for domestic heating should

reduce SO₂ levels by over 30% by the year 2000. Similarly, CO₂ levels should fall by 20% over the same period.

Two companies produce brown coal, one at Lausitz (200 million tonnes) and the other at Halle Leipzig (100 million tonnes). A restructuring exercise involving Rheinbraun is being examined.

Brown coal will continue to be used in power stations, given the favourable production costs (DM 20 to 30 per tonne).

However, production of brown coal briquettes, currently standing at 50 million tonnes, should be cut radically to 20 million tonnes by the year 2000. Forty-eight companies currently producing briquettes in the Halle Leipzig region (20 million tonnes) will cease production by 1993.

2.3. The electricity industry consists of two generating 'Kombinate'. One is based on brown coal and provides 80% of the country's electricity, while the other is based on nuclear power and provides 10%. The remainder is generated by gas and industry itself.

The distribution system (380 and 220 kW) is organized by a single independent company (Kombinat), which is also responsible for importing and exporting electricity. Local distribution is carried out by 15 Kombinate at district level.

The future organization of production and distribution is still under consideration. Discussions also cover electricity utilities in the Federal Republic of Germany.

Electricity production will continue to be based chiefly on brown coal (total investment requirements for modernization DM 20 billion, including DM 6 billion for the introduction of environmental technology to reduce emissions of dust, SO₂ and NO_x). Gas will play a more important role in electricity production. The future role of nuclear power has not yet been decided, and it is not clear whether the three Greifswald reactors which are shut down (and the fourth reactor, which is still working) will become operational again, given the strict West German safety regulations which will enter into force in East Germany.

2.4. As regards the oil industry, the former State monopoly has been abolished at all levels (supplies, importation, distribution and refinery). The industry is tending towards West European market structures involving joint ventures with oil companies in the Federal Republic of Germany.

Prices for oil products such as petrol, diesel and fuel have been deregulated and are now in the West German price range.

2.5. The restructuring of the electricity and oil industries will have to take place in accordance with Community competition rules.

3. Internal energy market

3.1. Electricity transit

The Council has reached a common position on the proposal for a Directive on electricity transit. The annex to the Directive should be adapted to take account of the new networks and the new bodies of a unified Germany. Since the number and structure of the bodies responsible for the electricity network in the new *Länder* have still to be determined, the annex will be amended subsequently by a Commission Decision under the procedure laid down in Article 2(2) of the Directive.

3.2. Gas transit

The proposal for a Directive on gas transit through transmission grids also provides for the identification of the relevant networks and bodies in an annex.

Discussions are under way on the structure of the gas industry in the new territories. The same updating procedure will be applied as for electricity transit.

3.3. Price transparency

Following the adoption by the Council of the Directive concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users, the annexes to the Directive now need to be amended. The annexes contain lists of places and regions where prices have to be recorded, and should be enlarged to cover the present GDR territory.

The lists will be amended by applying the procedure laid down in Articles 6 and 7(a) of the Directive.

The same procedure would be applied if it became apparent that a transitional period would be needed

to introduce the new pricing systems in the places concerned.

4. *Transmission of information*

Since it would not be practicable to implement the existing rules immediately on GDR territory, the Commission is proposing a transitional period of one year for their implementation.

5. *Energy technology and research*

The Thermie programme, whose main objective is to promote innovative technologies in the fields of energy saving, alternative energy sources, solid fuels and hydrocarbons, will be of particular interest to the new *Länder*. It will offer an opportunity to promote innovative energy technology in the former GDR territory, while at the same time contributing to a better environment. The proposed preferential treatment for small businesses and peripheral regions should create good opportunities to help the new *Länder* comply with the overall efficiency standards of the Community. The Thermie programme as such does not need any adaptation.

6. *Nuclear energy — Euratom Treaty*

6.1. **Nuclear installations in the German Democratic Republic**

The German Democratic Republic has six nuclear reactors which have already been operational, all of them pressurized water reactors. The oldest, Rheinsberg, has a nominal power of 79 MWe and has been operating since 1966. The others are at Greifswald (Lubmin) and are 440 PWRs with a net power of 408 MWe. The first four were commissioned during the 1970s (North 1 to North 4). The fifth began its chain reaction in April 1989. Three others are being built. At Stendal two 1 000 PWRs with a planned net power of 900 MWe are also being built.

The eight 440 PWRs belong to two different series. One series of reactors (North 1 to North 4), built by

Atomenergoexport (USSR), are first-generation Model V 230. For safety reasons, reactors North 2, 3 and 4 have had to be shut down. The other series, built by Skoda (Czechoslovakia), are Model 213 which have been made safer.

The two 1 000 PWRs being built are of a generation which includes the most recent Soviet know-how as regards safety.

6.2. **Fuel supply**

Nuclear fuel elements for the operational PWRs are supplied by the Soviet Union. The German Democratic Republic produces only natural uranium. This is sent to the USSR to be converted into UF₆, enriched with U-235 isotopes and turned into fuel elements.

6.3. **Uranium resources**

There are several uranium deposits in the south-east of the German Democratic Republic near the Czechoslovak border. The German Democratic Republic and the USSR extract the uranium jointly. Reserves in the mines currently being worked are put at 66 000 tonnes (plus a possible further 17 000 tonnes) and annual output totals some 3 000 tonnes, while annual requirements are around 500 tonnes. Costs would not be competitive when compared with the West.

Reserves outside the working mines are put at about 50 000 tonnes. The uranium content of the ore varies between 0.08% and 0.4%.

6.4. The Euratom Treaty will apply from the date of unification. No secondary legislation needs to be adapted; nor do any transitional measures need to be recommended. The authorities of the unified Germany will have to implement the existing legislation in its entirety. All investments currently being made will have to be declared to the Commission. The provisions on supplies (Chapter VI) will apply automatically. Euratom safeguards will automatically apply to nuclear installations in former GDR territory. While no adaptation of secondary legislation is required, substantial follow-up will be needed (particularly inspections). The verification agreement will apply but new facility attachments will to be negotiated between the Commission and the IAEA. The Community will become the owner of all special fissile material on the former territory of the German Democratic Republic. Negotiations with the USSR may be necessary on this matter.

Structural policies

1. The German Democratic Republic faces numerous problems, economic, social, environmental and administrative. These problems hamper integration into the Community at the very moment when its economy becomes exposed to competition.

2. An immense task of restructuring lies ahead. It must be achieved within a short time, without the possibility of attenuating its effects through a gradual phasing out of border protection. This situation calls for Community assistance. The structural Funds have an important task in facilitating a smooth transition and helping the creation of better prospects for the eastern regions of Germany.

Structural Fund intervention has to respond to the problems specific to the regions of the German Democratic Republic, whether they consist in the handicaps of regions whose development is lagging behind, in industrial decline or in the need to adjust agricultural structures and develop rural areas.

The regulations governing the structural Funds require regional, social and agricultural statistics which help guide structural intervention. For example, Objective 1 regions are in principle defined at NUTS Level II as those where per capita GDP measured in terms of purchasing power parity is less than 75% of the Community average, on the basis of the figures for the last three years. Classification under Objective 2 or 5b requires data on a number of other variables at NUTS III or lower level. The system of official statistics in the German Democratic Republic is not yet capable of providing data in the form and quality necessary to allow harmonization with Community statistics.

3. The Commission's proposals for measures of assistance take account of:

(a) the need to treat structural Fund operations in the former German Democratic Republic as soon and as far as possible on the same basis as operations in the rest of the Community;

(b) the need for rapid implementation of Fund operations in the German Democratic Republic, based on simplified procedures;

(c) the impossibility of designating Objective 1, 2 and 5b regions on the basis of the criteria contained in the regulations, in the absence of the relevant statistical data, and the risk that any a priori designation could limit the flexibility of response of the Commission to problems which have not yet been fully identified, analysed and defined;

(d) the fact that the approach chosen allows for identification within the Community support framework of specific areas designated for regional and rural development operations.

4. In the establishment of the basic regulations a delicate balance has been set with regard to the financial allocation of the existing Funds for categories of regions and priority objectives. This is demonstrated by the following implementation provisions and decisions:

(i) doubling of commitment appropriations for the structural Funds in real terms in 1993 by comparison with 1987;

(ii) doubling of commitment appropriations to Objective 1 regions by 1992;

(iii) approximately 80% concentration of ERDF funds on Objective 1 regions;

(iv) concentration of Objective 2 regions to cover up to 15% of the Community population living outside Objective 1 regions;

(v) indicative allocation of ERDF resources between the Member States.

These long-term commitments, which have to be adhered to, have been made on the part of the Community and the Member States and regions. For this reason, the funding of structural Fund interventions in the territory of the former German Democratic Republic can only be additional to the resources already planned for structural intervention.

It is proposed that the structural Funds should have additional commitment appropriations amounting to ECU 3 000 million over the period 1991 to 1993. This amount will cover all Community structural assistance under a Community support framework corresponding to the five priority Objectives of the Funds, including expenditure on measures which are financed in the rest of the Community within the financial allocations for Community initiatives.

Set-aside measures are financed half by the Guarantee Section and half by the Guidance Section of the EAGGF.

It is estimated that an additional amount of ECU 25 million will be needed for the Guarantee Section share.

5. Given the lack of adequate reliable statistics to assess the eligibility of East German regions for structural Fund assistance on the same basis as the exist-

ing regions of the Community, the fact that the Community has already undertaken commitments relating to the concentration of assistance within those regions, and the need for flexibility to allow the Funds to operate from the moment when East Germany becomes part of the Community, a specific transitional regulation is required.

The Council is due to review the structural Fund framework regulation (Regulation (EEC) No 2052/88) on a proposal from the Commission not later than 31 December 1993. That review should provide an opportunity to integrate East Germany into the normal framework of rules¹ governing the Funds.

Until that review is completed, a number of derogations are required.

The derogations proposed should allow:

- (i) the financial intervention in the former German Democratic Republic to be additional to the existing financial commitments of the structural Funds;
- (ii) flexibility, including a pragmatic approach to the classification of regions by regional objective;
- (iii) rapid intervention by dint of a simplified procedure for the analysis of the plan leading to the adoption of the Community support framework and operational programmes.

The new Regulation also

- (i) makes clear — by reference to the regulations — that the principles of the reform of the structural Funds will be respected;
- (ii) fixes the financial envelope for the intervention;
- (iii) lays down the measures eligible for the programme by way of reference to the regulations governing the structural Funds;
- (iv) makes appropriate arrangements for the monitoring of measures for compatibility with Community law and policies.

6. Although the financial allocation referred to in paragraph 4 includes provision for measures under Objective 5a, this Regulation does not provide for adjustments to the Council Regulations governing

¹ (EEC) No 2052/88: 'Framework Regulation'; (EEC) No 4253/88: 'Coordination Regulation'; (EEC) No 4254/88: 'ERDF Regulation'; (EEC) No 4255/88: 'ESF Regulation'; (EEC) No 4256/88: 'EAGGF-Guidance Regulation'.

those measures. These adjustments will form the subject of another proposal or proposals by the Commission, described on pp. 76 to 84 of this report.

Social affairs, education and training

1. Free movement of workers in paid employment

Free movement of workers in paid employment, being an integral part of the free movement of persons, is one of the four fundamental freedoms. Article 48 of the EEC Treaty requires that freedom of movement for workers be secured within the Community. This entails the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.

The Community has adopted a number of instruments of secondary legislation to give effect to the principle of freedom of movement for workers.

Both the Treaty provisions and the secondary legislation will apply from the day of unification. The Commission does not propose any transitional measures.

2. Social security for migrant workers

At Community level this area is covered by Regulations (EEC) Nos 1408/71 and 574/72. German unification would call for certain amendments to be made to them.

The purpose of these two Regulations is to protect workers in paid employment and self-employed workers and members of their families who move from one Community country to another. Accordingly, they do not provide for the alignment of the various social security systems in the Community but simply for coordination of the systems. So they leave room for differences between Member States' social security schemes and largely take account of the specific aspects of each of them. For this reason the Council regularly amends the Regulations to reflect changes made in national legislation. Following the

successive enlargements of the Community, the Council has made the consequential adjustments after a thorough examination of the new Member States' social security legislation, the Community Regulations becoming applicable immediately on accession.

At the present time it is not clear how the social security legislation applicable in the former German Democratic Republic will develop after unification, so it is not yet possible to ascertain what adjustments will be needed to the Community Regulations.

The Council, acting unanimously on a proposal from the Commission after consulting Parliament, will amend the Regulations as soon as possible. This is no impediment to the immediate application of all the provisions of the Regulations from the date of unification.

3. Equal treatment of men and women

Article 119 of the Treaty requires each Member State to maintain the application of the principle that men and women should receive equal pay for equal work. In addition, the Community has adopted a number of instruments to give effect to the principle of equal treatment with respect to remuneration, access to employment, vocational training and advancement, self-employment, statutory social security schemes and occupational social security schemes.

In the areas covered by these Directives, apart from such exceptions as are expressly contained in them, any discrimination on grounds of sex, whether direct or indirect, is prohibited.

Community legislation in this field will take effect on the day of unification. The Commission does not propose any transitional period.

4. Labour law

At Community level there are three Council Directives on the protection of workers in the event of collective redundancies, transfers of undertakings and the insolvency of their employer.

Article 17 of the Staatsvertrag and Annex II provide that Federal German labour law will operate in the German Democratic Republic once economic, monetary and social union is effected. Community legislation can therefore be applied without difficulty from the day of unification.

The Commission proposes no transitional period in this area.

5. Health and safety at work

5.1. There are 15 Community Directives on protection of workers at the workplace. Seven of these Council Directives and six individual Directives have to be incorporated in national law by the Member States by 31 December 1992. Germany will also have to give effect to them throughout its territory by that date.

Council Directive 77/576/EEC, as amended by Directive 79/640/EEC, relating to the provision of safety signs at places of work will have effect in the new German territory from the day of unification.

5.2. It would be difficult to have the Directives on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work apply immediately upon unification given the position of industry and existing firms in the former German Democratic Republic.

According to available information, there are administrative, technical and educational difficulties which would be an impediment to the correct application of the Directives, in particular:

- (i) lack of equipment to measure the levels specified in some of them;
- (ii) need for significant adjustments to the infrastructure to reduce current levels of exposure;
- (iii) need for training;
- (iv) need to set up a new administrative structure to operate the administrative aspects of the Directives (in particular, recording and storing individual data relating to exposure and medical examinations).

In the light of this information, it would seem that the establishment of appropriate administrative and management systems, the installation and correct use of the necessary technical equipment, modification of

the present technological infrastructure and training of managerial staff, workers and their representatives, inspectors and specialized staff will call for a major effort of adjustment.

The Commission proposes a transitional period until 31 December 1992 for bringing these Directives into effect. This two-year period is shorter than the period for transposition generally allowed the Member States when the Directives were adopted.

6. Education and training

6.1. Situation and problems

The education and training systems in the German Democratic Republic are in a period of transition towards an alignment with the systems in the Federal Republic. By introducing the Federal legislation on initial training (*Berufsbildungsgesetz*) by 1 September 1990, organizations and responsibilities are undergoing significant changes which will impose great efforts on all concerned.

Up to 2.5 million of the current workforce may require urgent retraining only to take the effects of German economic and monetary union into account. This training effort is all the more essential, as unemployment is increasing in the German Democratic Republic as a consequence of fundamental economic restructuring. The readaptation of the existing workforce must be an urgent priority, as it is without doubt one of the absolutely necessary conditions to meet the structural changes.

The higher-education system is also in a process of change towards the system of the Federal Republic of Germany. Legislation is expected on this subject once the *Länder* have been created in the German Democratic Republic. One of the major issues here, as for the education system as a whole, is the question of the training and retraining of teaching staff, previously recruited on an ideological platform (socialist theory, planned economy, etc.) for whom a change of attitude under the new system will be fundamental to their capacity to continue in the teaching profession. Some teaching staff have already been made redundant. Additionally, the German Democratic Republic needs support as far as technical equipment and libraries of higher-education institutes are concerned.

Primary and especially secondary education are also subject to substantial reorganization, mostly by mov-

ing from a comprehensive system to a wider range of alternatives in secondary education, as well as moving responsibilities from the central State to the *Länder*, in line with the constitution of the Federal Republic of Germany.

6.2. Integration of the German Democratic Republic in Community education and vocational training programmes

From the date of unification the new *Länder* in the former German Democratic Republic will be fully entitled to participate in all Community education and training programmes without any special measures for the adjustment of legislation.

The present operational structure of Petra, Force, Yes for Europe, exchanges of young workers and Euro-tecnet will allow for the effective participation of the persons and organizations concerned in the former German Democratic Republic, without any major technical or administrative difficulties.

In the case of Comett, Lingua and Erasmus, it could be difficult to secure effective and immediate participation since the time-limits set and current financial commitments for the three programmes leave no room for manoeuvre.

Environment and nuclear safety

1. Environmental situation

1.1. On the basis of the information gathered over the last few months in the meetings of experts and especially the results of the East-West ministerial meeting of 16 and 17 June and the data given in the Report on the Environment published by the GDR Ministry in June 1990 it can be said that the environment in the GDR is in a catastrophic state. Water and air pollution in particular is so bad that it is no longer simply a matter of cleaning up the environment but one of restoring the most basic conditions for life. For example:

(i) in the case of some pollutants atmospheric pollution is four times higher than the Community average; SO₂ and suspended particulate emissions are the highest of all the European countries;

(ii) nearly half of the water resources are already unusable for the production of drinking water; the

principal river, the Elbe, is almost 'dead' in parts and its fish are unfit for human consumption;

(iii) about 60% of industrial waste is 'disposed of' without any control whatsoever and with no consideration for the environmental aspects, thus causing a permanent deterioration in the quality of the soil and the groundwater; some 90% of disposal installations do not appear to meet Community standards;

(iv) the existing nuclear facilities are poorly maintained to the point of being dangerous. As a result, almost all of them have already had to be closed.

This situation is the result of a policy geared to rapid economic growth based on the radical and almost indiscriminate use of the available natural resources, without consideration of the environmental implications. Despite the fact that the German Democratic Republic is the most advanced and industrialized of the East European countries, its investments in the environment amounted to only 0.4% of GDP in 1988, as compared with 1.34% in the Netherlands and 1.07% in the Federal Republic of Germany. For example, the German Democratic Republic has never provided any funds to meet its obligations under the Protocol to the Convention of 9 July 1985 on the reduction of transboundary air pollution.

1.2. The end result of this policy is seen particularly clearly in three key areas: water, air and waste.

(a) The German Democratic Republic has the lowest water potential (groundwater and surface water) of all European countries. In view of the high density of the population and of industrial installations, this potential is already 40% utilized, a percentage three to four times higher than in the neighbouring countries. As a result, only 20% of the water is still fully usable for producing drinking water, 35% could be, but at the cost of substantial investment, and 45% is no longer usable at all. The Elbe, the German Democratic Republic's only major river, is one of the most polluted rivers in Europe. Mercury levels found in its fish are several times in excess of the limit value accepted for foodstuffs.

A considerable improvement effort will therefore be required, involving both the reduction of industrial and agricultural pollution (nitrates, pesticides) and the construction of modern purification plant. This will be expensive and will have to be preceded in the medium term by the establishment of a more modern and thorough monitoring and control system.

(b) The German Democratic Republic as yet uses little oil and natural gas. 70% of its energy needs are

covered by lignite, of which the German Democratic Republic is the world's leading producer.

Quite apart from the enormous damage caused by large-scale mining activities, lignite is a fuel that is relatively low in calories but rich in sulphur. It is burned in ageing power stations and domestic stoves, releasing on average 300 kg of sulphur dioxide per inhabitant per year, as compared with a Community average of 70 kg. The German Democratic Republic has thus become 'the biggest net exporter' of SO₂ to the other European countries (more than 800 000 t in 1988).

Here, too, the clean-up requires a costly and prolonged effort. This will have to be accompanied by a review of energy policy, including the introduction of a real market price and economy measures, by a reorganization of the chemical industry, the second main user of lignite, and by the conversion of the national production of highly polluting cars.

(c) To date there are no reliable data on the volume and nature of industrial and municipal waste. Here again, the Ministry of the Environment's report reveals that:

(i) there are 10 times more unauthorized than authorized dumps;

(ii) most of the authorized dumps do not even comply with the standards applying in the German Democratic Republic;

(iii) there is no modern installation for incinerating particularly dangerous substances;

(iv) the capacity of the existing installations and dumps will have been used up in 10 years.

In spite of this, the German Democratic Republic has for 10 years been importing waste from the Federal Republic without having any real capacity for its disposal.

On the other hand, mention should be made here of the GDR's considerable efforts and success in the recycling of waste materials.

Better waste management will depend, in the first instance, on the drawing up of a complete inventory. The decisions on whether to clean up or close down will have to take account of the growing need for disposal. Accompanying measures will be necessary, both in the German Democratic Republic and throughout the European Community, to reduce the production of waste, before tackling the problem of recycling and disposing of it.

One problem of which the scale is impossible to evaluate at this stage is that of pollution of the soil by waste dumps. On the basis of experience in several Member States and in the United States it is to be feared that colossal expenditure will be required for cleaning up the contaminated soil.

1.3. The present environmental situation in the German Democratic Republic is seriously affecting human health. Even now the population, especially in the more industrialized regions of the south of the German Democratic Republic, is obliged to live and work in unhealthy and inhuman conditions. Studies have shown figures for typical diseases, especially in the case of children, well in excess of the national average, and even point to reduced life expectancy in certain places.

1.4. On the practical level, the clean-up and protection measures therefore have to be swift and hard-hitting. The Federal Republic and the German Democratic Republic have already agreed on the financing of a whole range of major projects. As for the EC, certain 'model' projects could be started before unification within the framework of Phare.

It is also important to ensure that industrial and infrastructural development does not adversely affect existing environmental resources. The principles and the obligations arising out of the Community Directive on environmental impact assessment (85/337/EEC) have to be strictly complied with for each new project, both by the national authorities and by the Community institutions. It would be disastrous to increase still further the pressure on natural resources that are already overused and even exhausted.

2. *Transitional measures*

On the legal front, nearly 200 Community documents on the environment and nuclear safety have been examined jointly by the Commission and the representatives of the Federal Republic and the German Democratic Republic. On the German side, several transitional measures have been proposed, and these have been examined case by case in terms of their legal and practical merits and their likely duration.

Since data on the state of the environment are still patchy and in many cases inaccurate, and there are as yet virtually no clean-up plans or programmes, it has sometimes been difficult to identify the measures that are required. For such cases it has been essential to

include an adaptation clause, common to all measures, so as to be able to react to additional data or to developments unforeseeable at this stage. At any event, the Commission's proposals are based on data currently available and on general technical knowledge and experience. They take full account of both the need to protect the population affected and the concern of the institutions to have Community standards respected as soon as possible. The two German Governments have fully accepted their obligations in the matter.

The Commission proposes transitional measures only where the state of the environment is such that Community standards are unattainable at the date of unification. This automatically excludes purely legislative or administrative measures, product standards (except for the rules relating to dangerous substances, where a time-limit will have to be laid down for notification) and all new installations and projects.

The only areas where transitional measures will be justified, or even indispensable if Community law is to be respected, are therefore those of existing installations and quality standards. Air, water and soil will have to be cleaned up on the basis of programmes or plans followed by practical measures. These measures cannot be effective unless they are accompanied by others in the framework of economically and ecologically sustainable development. If this leads to longer deadlines, there will have to be a parallel obligation on Germany to prepare and submit improvement plans or programmes to the Commission in the shortest possible time. In this way the Commission will be able to exercise its right to monitor both the effectiveness of the measures and compliance with the deadlines set.

3. *Nuclear safety*

No transitional measures are proposed in the field of nuclear safety. From the time of unification, Articles 33, 35, 36 and 37 of the Euratom Treaty and the secondary Community legislation in the field have to be, and can be, applied immediately. Any material problems arising will have to be settled as soon as possible, either by evaluating the whole system of radiation protection (industrial and medical sectors) or by closing any installations that are incapable of complying with the Community protection standards.

4. Summary table

The summary table in the Annex shows the measures proposed and the reasons for them, case by case. It should be noted that for the areas most affected, i.e. water, air and waste, periods of grace extending to 1995/96 have been allowed for, taking account of the need for integrated medium-term measures. It would be wrong to imagine that cleaning up the environment is merely a question of funding. The polluted air and especially the polluted water will take years to recover, and as for waste, it is obvious that all industrialized countries have trouble finding quick solutions.

However, wherever a period of more than three years is allowed, there is an obligation to submit an improvement plan within one to two years. It should be remembered, though, that the periods proposed are as a rule much shorter than those originally provided for in the directives, and that the Commission will conscientiously carry out its role of ensuring compliance with the time-limits laid down. This will be another opportunity to tighten control of the application of Community Directives by the Member States, also with a view to equal treatment and the harmonization of economic parameters.

Annex**Transitional measures in respect of the former territory of the German Democratic Republic concerning the environment****Summary table***Directives based on Article 100a of the Treaty*

Directives	Deadline	Reasons ¹
1. 67/548/EEC + amendments up to 88/490 — Dangerous substances	31.12.1992	<p>Technical adjustments and notifications required to take stock of and classify chemical substances in the German Democratic Republic not yet covered by the Community inventory.</p> <p>The sale of these substances, however, will be confined to the former territory of the German Democratic Republic alone.</p> <p>Period specified in the Directive (Article 25): 5 years</p>
2. 75/442/EEC and 78/319/EEC — Waste	31.12.1991 (plans) and 31.12.1995 (authorizations)	<p>It is estimated that over 90% of the rubbish dumps/waste disposal installations are not authorized and do not meet Community standards.</p> <p>An inventory is to be drawn up to enable them to be identified and to determine which of them can still be improved.</p> <p>Immediate, total closure is impossible due to the lack of alternatives at the moment. The improvement of existing facilities and the construction of new facilities will mean a considerable period of time before the requirements for authorization under the two Directives can be met (Articles 8 and 9 respectively).</p> <p>In the meantime, a programme is to be rapidly drafted and presented to the Commission. Period specified in the Directives (Articles 13 and 21 respectively): 2 years</p>

¹ A general purpose clause will be added making it possible to adapt the regulation to new circumstances and developments.

Directives based on Article 130s of the Treaty

Directives	Deadline	Reasons ¹
Directives concerning the reduction of water pollution	Between 31.12.1992 and 31.12.1995 for the quality objectives and 31.12.1991 or 31.12.1992 for the improvement plans	<p>Relatively long periods are inevitable in view of the catastrophic situation in particular as regards the quality of water intended for human consumption (points 1 to 3) and the major improvements required.</p> <p>However, the periods are in principle far shorter than those allowed under the Directives when they were adopted.</p> <p>Germany is nevertheless required to draw up very complex improvement plans and to present them to the Commission within a short period of time</p>
1. 75/440/EEC — Surface water and 79/869/EEC — Methods of measurement	31.12.1995 (quality objectives) + improvement plan 31.12.1992	Less than 50% of the surface water is suitable for use. Major improvement plans and projects are required. Period allowed under the Directive: 2 years (administrative measures, 4 years in the case of Portugal), and 10 years (quality) (Articles 10 and 4(2))
2. 80/68/EEC — Groundwater	31.12.1992 (plans) 31.12.1995 (objectives)	<p>Current situation: Industry and agriculture have to be restructured to reduce further waste: long-term work.</p> <p>Periods allowed under the Directive: 2 years, 4 years in the case of Greece (Article 21) (administrative measures) and a maximum of 6 years (objectives), Article 14</p>
3. 80/778/EEC — Drinking water	31.12.1991 (notifications and plans) 31.12.1995 (objectives)	<p>The situation in some areas is such that enormous investment will be required to ensure the supply of clean water to the public. To start with, administrative and technical monitoring measures are required. As far as quality standards are concerned, Germany will be able to grant derogations (Articles 9 and 20), which also have to be notified within one year.</p> <p>Period allowed under the Directive: 2 years (administrative measures) and 5 years (quality) (Articles 18 and 19)</p>

¹ A general purpose clause will be added making it possible to adapt the regulation to new circumstances and developments.

Directives	Deadline	Reasons ¹
4. 76/160/EEC — Bathing water	31.12.1993	<p>The current situation: No designation, measures, inventory, etc.</p> <p>Period allowed under the Directive: 2 years (administrative measures) and 10 years (quality standards) (Articles 12 and 4).</p> <p>The end of 1993 deadline covers the two types of obligation</p>
5. 76/464/EEC and subsequent Directives — Discharge of dangerous substances in water	31.12.1992	<p>Very little known about the waste disposal situation; assessment of the current situation, drawing up of programmes (normal period: 5 years) and measures to meet the limit values (normal period: 4 years) standard period of 2 years across-the-board</p>
6. 78/659/EEC — Fish-farming waters	31.12.1992	<p>The current situation: No inventory, designation or monitoring.</p> <p>Period allowed under the Directive: 2 years (administration and designation) and 5 years (quality standards) (Articles 17 and 5)</p> <p>The 31.12.1992 deadline concerns the two types of obligation</p>
Directives on the reduction of air pollution	31.12.1991 (objectives or plans) between 1.7.1994 and 1.1.1996 (exceptions)	<p>The same catastrophic, unhealthy and complex situation as in the case of water. The restructuring necessary, in particular in energy and the chemical industry, inevitably means long deadlines though shorter than those laid down in the Directives when they were adopted.</p> <p>Improvement plans, however, have to be produced in a short period of time</p>
7. 80/779/EEC — SO ₂ in the air	31.12.1991 (as regards the objectives for less-polluted regions and the notifications and plans concerning other regions) 1.4.1996 (final objectives concerning the regions notified)	<p>The regions where the coalmining and chemical industries are concentrated are particularly polluted. For these reasons, Article 3(2) of the Directive specifies a longer maximum period for notification. Improvement plans also have to be communicated. The first deadline (1991) will be necessary to take stock of the situation, to prepare the plans and, at the same time, to achieve the quality objectives in the less severely affected regions. For the polluted regions notified, the restructuring required in the energy and chemical sectors will necessitate a later deadline of up to 1.4.1996. Period allowed under the Directive: 3 years (general objectives, plans) and 13 years (subsequent quality objectives) (Articles 3(1) and (2))</p>

¹ A general purpose clause will be added making it possible to adapt the regulation to new circumstances and developments.

Directives	Deadline	Reasons ¹
8. 82/884/EEC — Lead in the air	31.12.1992 (plans); 1.7.1994 (objectives)	Same as for Directive 80/779/EEC. Periods allowed under the Directive: 5 years (objectives in principle), 2 years (plans) and 7 years (subsequent quality objectives) (Article 3(1) and (3))
9. 84/360/EEC — Air pollution from industrial plants	Adaptation date	Article 2(3) defines existing plants. The date of 1.7.1987 will have to be replaced by the date of entry into force of the Regulation
10. 85/203/EEC — NO _x in the air	31.12.1992 (objectives or plans) 1.1.1996 (final objectives)	Same as for 80/779/EEC and 82/884/EEC. Periods allowed under the Directive: 2 years (administrative measures) and 9 years (final objectives for the regions notified pursuant to Article 3(2)) (Articles 15 and 3(2))
11. 88/609/EEC — Large combustion plants	1.1.1996 (instead of 1.1.1993)	The Directive contains a calculation for the gradual reduction of emissions for each Member State. For Germany, it will be necessary to incorporate the values and reductions for the Federal Republic. Completion of phase 1 therefore has to be extended from 1993 to 1996. The timetable will be complied with from phase 2 on. Furthermore, for the definition of existing plants the date of 1.7.1987 has to be replaced by the date of unification
Other than those concerning air and water		
12. 79/409/EEC — Birds Directive	6 months for the identification of special protection areas to be classified and for the adaptation of public interventions likely to affect them. 31.12.1992 for the formal classification	Need to elaborate the statutory protection measures. Deadline for implementation of the Directive: 2 years (Article 18)
13. 87/101/EEC — Disposal of waste oils	Amendment to date defining existing plants	Since the initial date is that on which the Directive is notified, the date has to be replaced by that of the entry into force of this Directive

¹ A general purpose clause will be added making it possible to adapt the regulation to new circumstances and developments.

Directives	Deadline	Reasons ¹
14. 82/501/EEC 87/216/EEC 88/610/EEC — Major accident hazards	1.6.1992 (inventory) 1.7.1994 (supplementary declaration)	Germany will have to draw up an inventory of the plants falling under the Directives, including a risk analysis. Furthermore, the Directives specify an additional period to supplement the declarations. Periods allowed under the Directives (Article 9): 3 years (inventory), 7 years (supplementary declaration)
15. 87/217/EEC — Asbestos	31.12.1991 and 30.6.1993 (limit values)	The deadlines distinguish between general application, in particular the substantive obligations, monitoring and notification to the Commission and the target date for the limit values. Periods allowed under the Directives (Article 14): 18 months (administrative measures) and 4 years (objectives)

¹ A general purpose clause will be added making it possible to adapt the regulation to new circumstances and developments.

Research, technology and telecommunications

1. Research and technology

1.1. Current situation

The GDR's scientific research and development facilities and scientific equipment are outdated, in some cases by two or three generations.

On the staffing side, while research centres will need to become cost-effective by reducing staffing levels, there is already large-scale emigration of qualified scientists.

After unification, the R&TD potential of the former German Democratic Republic will represent 25% of the current level in the Federal Republic of Germany. Preparation for rapid exploitation of the potential is under way in the interim period through the encouragement of exchanges of scientific information and personnel, investment in new laboratory equipment and the setting up of technology centres.

1.2. Community policies

After unification, former GDR laboratories in universities, industry or research centres will be eligible to participate in Community R&TD programmes implementing the second and third framework programmes for Community research and technological development.

The six major action areas of the third framework programme cover priority Community industrial and scientific requirements, so there is no need to modify it, or to increase funding. If specific needs do arise, they can be discussed in the mid-term review planned for 1992.

2. Telecommunications

2.1. Current situation

The telecommunications infrastructure in the German Democratic Republic was installed in the 1930s

and 1940s and is largely obsolete. This is particularly true for transmission plant and switching equipment where only analogue systems exist.

There are 1.6 million telephone subscribers (out of a population of 16 million) and an annual waiting list for connections estimated at 1.2 million. The system is capable of accommodating a maximum of 10 000 new subscribers per year. Modern means of communication — mobile telephones, facsimile, packet switching — are almost non-existent.

Although the GDR telecommunications industry is not currently competitive, technology transfer through joint ventures will rapidly alter the situation. Service provision equal to that of the Federal Republic of Germany is planned for 1997. The investment involved amounts to an estimated total of ECU 25 billion or more.

2.2. Community policies

The principal legal instruments governing the telecommunications sector can apply immediately from unification, but there are two Community Directives requiring adaptation:

(i) A formal derogation from Directive 88/301/EEC (terminal liberalization — extension of monopoly for the first telephone set) is not necessary, but the Commission is proposing a transitional period until the end of 1991 for full application of the Directive.

(ii) For Directive 87/372/EEC (GSM frequencies) the Commission is proposing a transitional period until the end of 1992. The issue here is the occupancy of the relevant frequency bands by Warsaw Pact forces. The adaptation forms part of the proposals in the chapter on the internal market.

2.3. The production sector

The computing and telecommunications industry in the German Democratic Republic consisted in essence of two conglomerates (Kombinate) with about 100 000 employees and a turnover of about ECU 5.5 billion (11 billion East German marks) of which ECU 2.2 billion (4.5 billion East German marks) derived from exports. Imports amounted to about ECU 850 million (1.7 billion East German marks).

Unification and Community integration mean exposure to world competition, product obsolescence, application of DIN norms and a need to restructure

industry. Since virtually all trade was with CMEA countries, there are potential effects on GDR's traditional trading relations with Eastern Europe, as set out in the first chapter.

ECSC

1. General situation

Integration of the East German steel industry into the Community system will certainly cause serious industrial, social and regional problems in the GDR territory. It will be possible to use the ECSC instruments, and in some cases possibly even before unification.

From a legal point of view there are unlikely to be any serious problems, apart from possible use of State aids in the ECSC industries. There would seem to be no need to change existing laws. After unification, ECSC secondary legislation will automatically apply, which means that the Commission will have to do some preparatory work.

The Commission will use the powers conferred upon it by Article 14 and Articles 49 to 51 of the ECSC Treaty to take a decision to adjust the reserve funds as it did in the context of new accessions in separate protocols.

1.1. Steel

In 1988 the GDR steel industry produced some 8 million tonnes of crude steel (compared with the 41 million tonnes produced in the Federal Republic of Germany and the 137 million tonnes produced in the EEC as a whole in 1988), which puts it more or less level with Belgium.

Unlike most of the other major steel producing countries of the Community, the East German steel industry cannot satisfy the demand for steel in its territory. Most imports come from the USSR. There is relatively little trade with the Community except for substantial processing traffic with undertakings in the Federal Republic of Germany.

The German Democratic Republic is very poor in raw materials for the steel industry and imports most

of them from the countries of Eastern Europe, particularly the USSR. It even imports wide hot strip and pig iron (which is very rare). It may well be in the interests of some undertakings in the German Democratic Republic to maintain these import arrangements despite being part of the customs union with the Community.

Production is centred primarily on three undertakings which have grown out of the old combines, the main centres of production being Brandenburg, Riesa and Eisenhüttenstadt, which specialize respectively in long products and special steels, tubes and flat products. The combines recently became stock companies, their stock being managed by the privatization institute 'Treuhändanstalt'.

The Commission has held discussions with the directors of these undertakings in order to identify the main problems to be tackled. The conclusion is that there is an urgent need for modernization, restructuring and rationalization of the industry. The inevitable consequence will be massive job losses and a need for extensive investment. At present, none of these undertakings seems to be economically viable.

Some 40% of crude steel production is in open-hearth furnaces, which are no longer used in the Community. They will have to be closed down as soon as possible because, apart from being uncompetitive, they cause considerable pollution. Continuous casting accounts for only 40% of production compared with 85% in the Community.

On the other hand, the outlook for expansion of local demand for steel seems promising, particularly in the car industry, in the building industry and for infrastructure.

In any case, there are likely to be massive job losses as a result of rationalization (including rationalization of activities which are not steel production as such and of the services provided by the combines) and as a result of restructuring.

There is only limited scope for adopting the usual solutions of early retirement and re-employing workers in other industries, particularly in the Eisenhüttenstadt region near the Oder, which depends almost exclusively on the steel industry.

1.2. Coal

There has been no production of hard coal (as defined in the ECSC Treaty) in East Germany since 1970 when reserves ran out.

Brown coal is the only solid fuel produced in the country. Total production is in the order of 300 million tonnes of crude lignite, 99 million tonnes of which are made into some 50 million tonnes of brown coal briquettes, of which approximately 11 million tonnes are made into 6 million tonnes of semi-coke. Although brown coal as such is not covered by the ECSC Treaty, brown-coal briquettes and semi-coke derived from brown coal are classed as ECSC products and as such are covered by the rules in the Treaty and are subject to the ECSC levy. In all, 39 million tonnes (50–11 million tonnes) of briquettes and 6 million tonnes of semi-coke are classed as ECSC products.

To give some idea, there are some 135 000 workers in the East German brown coal industry. However, 80 000 of these jobs will be lost following a decision to cut brown coal production to between 160 and 170 million tonnes by 1995 for environmental reasons.

2. Application of internal rules

2.1. So far, there appears to be no need for legal adjustments to the internal rules governing relations between steel undertakings and the Commission.

It should be remembered that measures to tackle the manifest crisis in the steel industry taken under Article 58 of the ECSC Treaty (production quotas) have not applied since 1 July 1988. Minimum prices were discontinued at the end of 1985 and the monitoring system expired on 30 June 1990.

It will be necessary to draw up a list of ECSC undertakings for the purposes of Articles 80 and 66 of the ECSC Treaty.

It will also be necessary, in conjunction with the undertakings concerned, to arrange for application of the provisions of Article 60 of the ECSC Treaty, particularly the publication of price lists and points of equivalence.

2.2. Redeployment aid

ECSC redeployment aid, under Article 56 of the ECSC Treaty, takes the form of financial participation in social measures to help workers affected by restructuring or modernization in the coal and steel industries. The conditions for EEC intervention are

laid down in the bilateral conventions between the Commission and the Member States. On unification, the terms of the bilateral conventions concluded with the Federal Republic of Germany for the granting of ECSC redeployment aid will apply to the former German Democratic Republic. No further decision from the Council is needed to extend the redeployment aid system to the German Democratic Republic.

The steel sector, with a workforce of some 67 000, is far more significant than the coal sector where only brown coal briquettes and brown coal semi-coke are ECSC products and production is effected by a workforce of only 20 000. It has been estimated that up to half of these 87 000 ECSC workers in the German Democratic Republic could be affected by restructuring measures.

Most of the social assistance required will be for measures already covered by existing bilateral agreements, namely early retirement, unemployment, internal transfer, external redeployment and vocational training. Until 30 June 1991, there will be special legislative arrangements for short-time working, accompanied by training.

2.3. Social housing implications

Under Article 54 of the ECSC Treaty, social housing programmes provide for financial participation in the cost of housing occupied by ECSC workers. The social housing programmes were launched largely to encourage permanent settlement of the workforce within the industry. ECSC participation is in the form of loans with a low interest rate of 1%, financed by a 'special reserve' from the ECSC. Under the current programme (the 11th) an amount of ECU 48 million is earmarked for the years 1989-92. These loans may be supplemented by normal loans at market interest rates. The ECSC social housing programme will be automatically extended to the former German Democratic Republic on unification.

2.4. Regional aid and loans

Assistance for the reconversion of steel and coal areas in the form of grants from the structural Funds will be dealt with under the overall arrangements for the Funds described on pages 95-96.

Conversion loans based on Article 56(2)(a) of the ECSC Treaty are still an operational instrument

which can be used for regional purposes. The Commission is preparing to use the ECSC financial instruments for investment in the ECSC industries (particularly in order to reduce pollution) and for regional redevelopment. A decision based on Article 95 of the ECSC Treaty to grant these loans before unification has been adopted by the Council.

2.5. Aid schemes

The rules for aid to the steel industry established by Decision 322/89/ECSC, which allows aid for closures, research and development and environmental protection only under certain conditions and prohibits regional aid, will apply after unification. The rules do not allow authorization to cover operating losses or operational aid (even during the period of return to profitability), or investment aid, and they restrict environmental aid to a 15% net grant equivalent of the investment costs in this area. There are also relatively severe restrictions on aid for closures.

Under the abovementioned Decision 322/89/ECSC, it is possible to apply Article 5 of the German Democratic Republic. This allows regional aid for investment in the steel industry under certain conditions. It would require a Commission Decision based on Article 95 of the ECSC Treaty.

Should the German Government officially apply to grant investment aid to the former GDR steel industry, the Commission Decision in the framework of Article 95 is provided for in the draft proposal to this effect in Part IV.

Since East Germany does not produce hard coal, there should be no particular problems with regard to Decision 2064/86/ECSC establishing Community rules for State aid to the coal industry.

The coal provisions which apply in the Community and hence in the Federal Republic of Germany will be fully applicable in the former territory of the German Democratic Republic.

3. External arrangements

Application by the German Democratic Republic of Community customs legislation on steel means that the following measures will enter into force without the need for any technical adjustment (since the Ger-

man Democratic Republic is not mentioned in any of them as a non-member country):

(i) Recommendation 3979/89/ECSC of 20 December 1989 (OJ L 380, 29.12.1989) establishing a system of surveillance by automatic issuing of import documents, although these documents will no longer have to be granted or required by the other Member States for goods of East German origin;

(ii) Decision 2424/88/ECSC (OJ L 209, 2.8.1988) on the dumping of ECSC products, including the basic prices recently published in OJ C 17 of 22.1.1988 (price amendments) and OJ C 313 of 8.12.1988 (exchange-rate amendments) which could be used as a reference for opening an anti-dumping procedure;

(iii) suspension of imports of iron and steel products originating in South Africa (Decision 86/459/ECSC, OJ L 268, 19.9.1986);

(iv) generalized system of preferences (Decision 89/645/ECSC of 18.12.1989, OJ L 383, 30.12.1989).

For 1990 the Community has entered into arrangements with Bulgaria, Czechoslovakia, Romania, Poland, Hungary and Brazil to limit the quantities of steel imported into the 12 Member States of the Community. The quantities referred to in these arrangements are to be amended in 1991, if the arrangements are continued, in order to take account of customary imports from these countries by the German Democratic Republic. It is unlikely, in 1990, that the German Democratic Republic will attempt to get around these arrangements because of the checks being carried out by the German authorities since 1 July 1990 and the inter-Community surveillance system, on which an ECSC decision for 1990 is in preparation (since the previous Decision 29/89/ECSC has expired).

III — Financial aspects

Introduction

The financial implications of German unification have to be assessed from three viewpoints: (i) estimate of the overall financial impact; (ii) revision of the financial perspective; (iii) incorporation in the 1991 budget.

It has to be stressed that the figures given here are provisional estimates, some of which are based on

very uncertain assumptions. These estimates will therefore have to be continuously refined right up until the procedure for amending the financial perspective and incorporating it into the budget is launched.

It should also be noted that the figures relate to the overall impact of German unification on the Community budget and not just the financial consequences of the adjustment measures discussed in Part IV.

The financial implications of unification for the ECSC are set out in the Annex.

The entire financial repercussions of German unification will be dealt with following the procedures laid down for the establishment of the EEC and ECSC budgets, in other words they will not fall under the legislative procedure required for the measures set out in Part IV.

Estimate of the overall financial impact

1. The budgetary impact of unification, which is only one factor in the overall economic equation for the Community, falls under four main headings.

(i) First and foremost is the immediate automatic impact resulting from the application of the existing financial rules to a Community whose population will be 5% larger (+16.7 million) and which will cover a wider area, with a GNP that is roughly 2% higher (some ECU 110 billion) and an agricultural area almost 5% greater (+62 000 km²).

This principally affects Community guarantee intervention for agriculture, the net additional cost of which, assuming there is no policy change, will be determined by applying the existing regulations to the new overall economic situation in that sector. The same is also true as regards Community revenue, since the base will automatically increase by virtue of unification.

(ii) Secondly, there is the impact of extending the scope of structural measures to the territory of the German Democratic Republic — though not at the expense of the others — since the Community policy pursued through the structural Funds must obviously be applied to this new part of the Community. Furthermore the principle of solidarity dictates that the

new beneficiaries must be given a guarantee that the financial assistance made available through structural operations will be on a scale and on terms as near as possible as that accorded to the regions already receiving aid in a similar situation. On the other hand, a clear signal needs to be given that structural operations to assist the German Democratic Republic will not work to the detriment of those regions. Since structural Fund resources up to 1993 have already been earmarked by country, type of operation and objective, integration of the German Democratic Republic will have to involve special arrangements and appropriations for the years 1991–93.

(iii) The third aspect is the impact of applying the other Community policies. Here allowance will have to be made not only for some degree of proportional increase (e.g. administrative expenditure) but also for certain specific problems or potential developments in the East German economy, in particular in the areas of the environment, energy, telecommunications, transport, fisheries, training and research. Here too the essential question, in view of the budgetary constraints, is to ensure that the additional financial effort is commensurate with the weight of the former German Democratic Republic. This will obviate the risk of integration being accomplished at the expense of the others.

(iv) Besides the financial impact of the automatic or deliberate application of Community policies, the positive or negative effect of temporary changes to the 'acquis communautaire' warranted by the need to afford the new *Länder* a breathing space to adapt their economy will be felt for some time. The list of special measures with significant financial implications, which is unlikely to be long in any case, has not yet been adopted. This could, for instance, involve financing special set-aside measures.

2. The budgetary estimate of the impact of unification in the coming year is heavily clouded by uncertainty and further economic and sectoral analyses are still needed. However, it is already possible to put forward some figures for 1991 and 1992. Although clearly only provisional and very approximate, they give an idea of the likely scale of the impact. These estimates are based on the assumption that unification will take effect from 1 January 1991. Even if the date is moved forward to 14 October 1990, given the nature of agricultural expenditure, the need to make the necessary legislative adjustments beforehand and the implementation schedules involved, almost all the additional budgetary outlay will not actually enter the costing process until the beginning of 1991.

On the expenditure side the bulk of the cost will be accounted for by agriculture (between ECU 550 mil-

lion and 1 050 million in 1991,¹ and between ECU 1 000 and 1 200 million in 1992) and structural Fund operations (an average of around ECU 1 billion per year, over three years).

The rather wide expenditure margin for agriculture is due to uncertainty about how quickly the German Democratic Republic will manage to adjust its level and structure of consumption and production. The estimate covers all sectors of intervention (cereals, sugar, milk, butter, pigmeat, and beef and veal).

Treating the regions of the German Democratic Republic on a par with areas elsewhere in the Community that are comparable in terms of objectives and given the limited data currently available the figure that emerged for the financing of all structural operations under the various objectives was ECU 3 billion over three years.

The expenditure involved in other areas (research, environment, energy, telecommunications, fisheries, transport and training) is far more modest (roughly ECU 150 million per year in 1991 and 1992). However, this is fully in line with the relative importance of these policies in the budget and the weight of the German Democratic Republic.

The amount of revenue that would have to be called in will obviously depend on the size of the budget. For a full year, assuming an increase in 1991 of ECU 2 billion in the 1991 budget (preliminary draft: ECU 53 billion in commitment appropriations), the increase in resources due to the larger revenue base would amount to some ECU 1.5 billion (portion of own resources from former German Democratic Republic). This calculation — making allowance, of course, for the loss in revenue due to the elimination of duties and levies in trade between the German Democratic Republic and the Member States (some ECU 150 million) — is based on full application of the CCT to trade between a unified Germany and non-member countries.

Slightly more than a third of the total (ECU 580 million) would come from traditional own resources (customs duties, agricultural and sugar levies — with

¹ This figure is for eight and a half months, assuming entry into force on 1 January 1991 (nine and a half months) and allowing for the estimated one-month administrative time lag involved in paying out aid. If the CAP were to be applied from 14 October 1990 (11 months, given administrative time lags) the cost would be between ECU 700 and 1 250 million.

extra-Community and intra-Community trade accounting for 30% and 70% of total imports respectively) while VAT (ECU 740 million) and the GNP-based resource would make up the remainder.

In 1990, the increase in resources due to the larger revenue base would be at most around ECU 200 million.

3. The scale of actual expenditure will, of course, rise only gradually, whatever the administrative capacity of the German authorities. The same also applies to the increase in resources resulting from the broadening of the revenue base.

Thus it is quite possible that the net cost to the budget of the GDR's integration will be relatively low in the first year (1991), since full take-up of Community support and assistance is unlikely in view of the time it will take for administrative structures to be set up in the new *Länder* and for the Community dimension to filter through. By the following year, when the German Democratic Republic has reached its full absorption capacity, the net cost to the budget — allowing for a comparable contribution to own resources — should level off at around ECU 1 billion. From the third year onwards the extra cost should begin to drop, with a steady rise in the contribution to own resources in wake of the expected economic upturn in the former German Democratic Republic.

How long it will take for additional revenue to balance expenditure will depend essentially on the dynamics of the economy there. The extra burden on the Member States (including a unified Germany) as a result of the GDR's integration into the Community will, then, be only temporary.

Revision of the financial perspective

Implementation of the Community budget in the territory of the former German Democratic Republic does not necessarily require any change to the budget rules. Since German unification should not make a significant impact on expenditure in the current budgetary period, revision of the financial perspective for 1990 is not necessary. This will however be essential for 1991 and 1992, though the agricultural guideline should suffice, at least for 1991.

The current assessment of additional financing requirements suggests that the projected increase in

the expenditure ceilings should be somewhere in the region of 3% of the overall ceiling in the financial perspective. On the other hand this will result in only a marginal increase in the own resources call-in rate, so that there would be no need, given the margin available, to amend the Decision of 24 June 1988.

But the volume of additional expenditure, in terms of both commitment and payment appropriations, is certain to come very close to its projected level — at least in 1992 — and the necessary increase in the ceilings will exceed 0.03% of Community GNP. It will not, therefore, be possible to rely on paragraph 12 of the Interinstitutional Agreement. Consequently the Commission will have to propose applying paragraph 4 of the Agreement (which relates to the procedure for its amendment); this, at all events, is the implication of any change to the reference framework of the financial perspective that applied when the Agreement was signed. Paragraph 4 of the Interinstitutional Agreement requires the consent of all three institutions and hence a unanimous Council decision.

Incorporation in the 1990 and 1991 budgets

At this stage introduction of a supplementary and amending budget would not seem necessary following German unification. If it did turn out to be necessary, it would be done within the existing financial perspective framework.

The procedure for revision of the financial perspective for 1991 and 1992 should be launched as soon as the financial implications of the German Democratic Republic's integration into the Community become more definite. However, if the special Council meeting in October were to adopt decisions involving an increase in Community expenditure, this would provide yet another argument for a revision and the negotiations for an agreement between the three institutions on the new ceilings could be extended.

Assuming that agreement on revision of the financial perspective were reached quickly enough and that the budgetary authority were prepared to speed up the procedure, it might be possible to incorporate the budgetary implications of German unification into the budget adopted in December. In this case, the Commission would immediately present a letter of amendment provided, as appears likely, that unifica-

tion of the two Germanys is established legally as well as politically.

However, if revision of the financial perspective were to take place during the final stage of the normal budget procedure, it is worth considering — given the circumstances and in order not to jeopardize completion of the normal budget procedure — whether the budgetary consequences of German unification ought not to be covered by a supplementary and amending budget rather than a letter of amendment.

The argument in favour of allowing the budget procedure to run its normal course is the fact that the budget approved for 1991 will apply to the whole of Germany from 1 January 1991 in any case; a letter of amendment is not, therefore, a budgetary requirement. At all events, if the negotiations on revision of the financial perspective were to run on, the institutions would have to set themselves the target of signing both the decision amending the financial perspective and the 1991 budget on the same day in December. The Commission would then produce a preliminary draft supplementary and amending budget as soon as possible, for discussion early in 1991.

Annex

Financial implications of German unification for the ECSC

The draft ECSC operating budget for 1991 was approved by the Commission on 25 July 1990. It amounts to ECU 407 million at the established levy rate of 0.31%.

From the point of view of resources, integration of the German Democratic Republic into the Community will yield an estimated ECU 10 million in extra levy revenue in 1991. It is, however, uncertain whether this level, based on production, will be maintained for the years after 1991.

A preliminary estimate of additional social expenditure under Article 56 has been made, based on planned restructuring of the coal and steel industries over a period of six years, with a peak rate of ECU 20 million a year in commitments for ECSC redeployment aid. Approximately half this amount might be claimed and paid in 1991. Other forms of aid (research, interest-rate subsidies) might amount to between ECU 5 and 10 million.

It should be noted that, subject to other claims, the Commission should be able to cope with all foreseeable and unexpected budgetary implications of German unification, among other things by mobilizing a part of the budget contingency reserve. This reserve stands at ECU 70 million in the balance sheet as at 31 December 1989. ECU 20 million from this reserve has been earmarked to cover possible short-term increases/decreases in forecast commitments/resources and 50 'long-term operations'.

The Commission intends to adjust the figures in the draft budget to cover the effect of unification during consultation with Parliament.

In the past, every new Member State has, on accession, paid a contribution to the ECSC reserve funds (Guarantee Fund, Special Reserve, the former ECSC Pension Fund). Similarly, a unified Germany will be required to pay on behalf of the former German Democratic Republic.

The procedure for fixing the contribution would be a Commission Decision based on Article 14 of the ECSC Treaty.