COMMISSION DECISION No 3788/90/ECSC

of 19 December 1990

on the introduction of transitional tariff measures for products covered by the Treaty establishing the ECSC for Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia until 31 December 1992 to take account of German unification

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Whereas, from the date of German unification onwards, the tariff applied to products governed by the ECSC Treaty will be fully applicable to the territory of the former German Democratic Republic;

Whereas the former German Democratic Republic had concluded numerous agreements with Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia which provided for a yearly exchange of specific goods in maximum value at a zero rate of duty; whereas the former German Democratic Republic had concluded long-term cooperation and investment agreements with Czechoslovakia, Poland and the USSR which, according to the terms of these agreements, will give rise to deliveries of goods covered by the Treaty establishing the ECSC at zero rates of duty for many years to come;

Whereas agreements of the first type will not be renewed after 31 December 1990 and agreements of the second type will be renegotiated at Community, German or private enterprise level, but this process of renegotiation will take some time;

Whereas the maximum quantities or values mentioned in these agreements do not entail legally binding obligations between parties and non-performance therefore cannot lead to compensation by the European Coal and Steel Community;

Whereas it is necessary, therefore, during a transitional period to smooth the impact resulting from German unification on both types of agreement as otherwise very serious repercussions on enterprises in the territory of the former German Democratic Republic and in Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia may result and indeed the stability of the economies of these countries might be adversely affected thereby;

Whereas for these reasons it is appropriate to suspend temporarily the customs duties applied to products covered by the ECSC Treaty originating in Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia which are covered by the abovementioned agreements between the former German Democratic Republic and these countries, up to the maximum quantities or values referred to therein;

Whereas it is appropriate, in view of the special circumstances of German unification, for the abovementioned suspension of duties to be applicable to the products concerned only in so far as they are put into free circulation in the territory of the former German Democratic Republic;

Whereas it is necessary to make provision for determining the origin of the goods which will be covered by the suspension of duties;

Whereas, in view of the difficulties in applying these measures and the fact that some of their consequences are unforeseeable, it is appropriate to emphasize the transitional character of these measures and restrict their duration to a two-year period up to 31 December 1992;

Whereas it is appropriate to provide for special measures and a procedure to implement them, in case the temporary suspension of duties causes or threatens to cause serious injury to a branch of Community industry;

Whereas this Decision implies a derogation from recommendation No 1-64 of the High Authority of the ECSC concerning an increase in the protective duty on iron and steel products at the external frontiers of the Community;

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

Having consulted the European Parliament, the Consultative Committee and with the unanimous assent of the Council,

HAS ADOPTED THIS DECISION:

Article 1

1. As from 3 October 1990, date of German unification, and to 31 December 1992, the customs duties applied to products covered by the ECSC Treaty, including the anti-dumping duties presently in force, shall be suspended for products originating in Bulgaria, Czecoslo-

vakia, Hungary, Poland, Romania, the USSR or Yugoslavia covered by the agreements listed in Annexes I and II to Council Regulation (EEC) No 3568/90 [1] — the essential elements of which will be published in the *Official Journal of the European Communities* — up to the maximum quantities or values established by the said agreements.

2. The provisions of paragraph 1 shall be applicable only if:

— the goods in question are released for free circulation on the territory of the former German Democratic Republic and are consumed there or undergo processing conferring Community origin there [2],

— a licence issued by the relevant German authorities stating that the goods in question fall under the scope of the provisions contained in paragraph 1 is submitted in support of the entry for release for free circulation.

3. The Commission and the competent German authorities shall take whatever measures are needed to ensure that the final consumption of the products in question, of the processing by which they acquire Community origin, takes place on the territory of the former German Democratic Republic.

Article 2

To determine the origin of the goods referred to under Article 1, Council Regulation (EEC) No 802/68 of 27 June 1968 on the common definition of the concept of the origin of goods [3], as last amended by Council Regulation (EEC) No 1789/89 [4], shall be applicable.

Article 3

1. If the suspension of the duties referred to in Article 1 causes substantial injury to Community producers in one or several Member States of like or directly competitive products, the Commission, either on its own initiative or at the request of a Member State, may terminate the suspension of the duty for the product concerned.

2. The procedure set out in Article 11 of Regulation (EEC) No 1765/82 [5] shall be followed.

Article 4

The Commission shall report to the Council and to the European Parliament by 1 October 1991 on the operation of the system established, the quantities of the products which have benefited from it and the stage reached in the renegotiation of outstanding arrangements.

Article 5

This decision shall enter into force on 1 January 1991.

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

Done at Brussels, 19 December 1990.

For the Commission
Frans ANDRIESSEN
Vice-President

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(1) OJ No L 353, 17. 12. 1990, p. 1.
(2) Checks on this use shall be carried out pursuant to the relevant Community provisions on end-use (Commission Regulation (EEC) No 4142/87 of 9 December 1987 determining the conditions under which certain goods are eligible on import for a favourable tariff arrangement by reason of their end-use (OJ No L 387, 31. 12. 1987, p. 81).
(3) OJ No L 148, 28. 6. 1968, p. 1.
(4) OJ No L 174, 22. 6. 1989, p. 11.
(5) OJ No L 195, 5. 7. 1982, p. 1.