

## Treaty establishing a Monetary, Economic and Social Union (Bonn, 18 May 1990)

**Caption:** On 18 May 1990, the Federal Republic of Germany (FRG) and the German Democratic Republic (GDR) sign in Bonn the Treaty establishing a Monetary, Economic and Social Union.

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## Treaty between the Federal Republic of Germany and the German Democratic Republic establishing a Monetary, Economic and Social Union (18 May 1990)

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The High Contracting Parties,

Owing to the fact that a peaceful and democratic revolution took place in the German Democratic Republic in the autumn of 1989,

Resolved to achieve in freedom as soon as possible the unity of Germany within a European peace order,

Intending to introduce the social market economy in the German Democratic Republic as the basis for further economic and social development, with social compensation and social safeguards and responsibility towards the environment, and thereby constantly to improve the living and working conditions of its population,

Proceeding from the mutual desire to take an initial significant step through the establishment of a Monetary, Economic and Social Union towards national unity in accordance with Article 23 of the Basic Law of the Federal Republic of Germany as a contribution to European unification, taking into account that the external aspects of establishing unity are the subject of negotiations with the Governments of the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America,

Recognizing that the establishment of national unity is accompanied by the development of federal structures in the German Democratic Republic,

Realizing that the provisions of this Treaty are intended to safeguard the application of European Community law following the establishment of national unity,

Have agreed to conclude a Treaty establishing a Monetary, Economic and Social Union, containing the following provisions.

## **Chapter I**

### **Basic principles**

#### **Article 1**

##### **Subject of the Treaty**

- (1) The Contracting Parties shall establish a Monetary, Economic and Social Union.
- (2) Starting on 1 July 1990 the Contracting Parties shall constitute a Monetary Union comprising a unified currency area and with the Deutsche Mark as the common currency. The Deutsche Bundesbank shall be the central bank in this currency area. The liabilities and claims expressed in Mark of the German Democratic Republic shall be converted into Deutsche Mark in accordance with this Treaty.
- (3) The basis of the Economic Union shall be the social market economy as the common economic system of the two Contracting Parties. It shall be determined particularly by private ownership, competition, free pricing and, as a basic principle, complete freedom of movement of labour, capital, goods and services; this shall not preclude the legal admission of special forms of ownership providing for the participation of public authorities or other legal entities in trade and commerce as long as private legal entities are not subject to discrimination. It shall take into account the requirements of environmental protection.

(4) The Social Union together with the Monetary and Economic Union shall form one entity. It shall be characterized in particular by a system of labour law that corresponds to the social market economy and a comprehensive system of social security based on merit and social justice.

## **Article 2**

### **Principles**

(1) The Contracting Parties are committed to a free, democratic, federal and social basic order governed by the rule of law. To ensure the rights laid down in or following from this Treaty, they shall especially guarantee freedom of contract, freedom to exercise a trade, freedom of establishment and occupation, and freedom of movement of Germans in the entire currency area, freedom to form associations to safeguard and enhance working and economic conditions and, in accordance with Annex IX, ownership of land and means of production by private investors.

(2) Contrary provisions of the Constitution of the German Democratic Republic relating to its former socialist social and political system shall no longer be applied.

## **Article 3**

### **Legal Basis**

The establishment of a Monetary Union and the currency conversion shall be governed by the agreed provisions listed in Annex I. Pending the establishment of Monetary Union, the legislation of the Federal Republic of Germany concerning currency, credit, money and coinage as well as economic and social union referred to in Annex II shall be implemented in the German Democratic Republic; thereafter, it shall apply, as amended, in the entire currency area according to Annex II, unless this Treaty provides otherwise. The Deutsche Bundesbank, the Federal Banking Supervisory Office and the Federal Insurance Supervisory Office shall exercise the authority accorded to them under this Treaty and said legislation in the entire area of application of this Treaty.

## **Article 4**

### **Legal Adjustments**

(1) Legal adjustments in the German Democratic Republic necessitated by the establishment of the Monetary, Economic and Social Union shall be governed by the principles laid down in Article 2 (1) and the guidelines agreed in the Protocol; legislation remaining in force shall be interpreted and applied in accordance with said principles and guidelines. The German Democratic Republic shall repeal or amend the legislation referred to in Annex III and adopt the new legislation referred to in Annex IV prior to the establishment of Monetary Union, provided that no other time limit is fixed in the Treaty or in the Annexes.

(2) The proposed amendments to legislation in the Federal Republic of Germany are listed in Annex V. The proposed legislative adjustments in the German Democratic Republic are listed in Annex VI.

(3) In the transmission of personal data, the principles contained in Annex VII shall apply.

## **Article 5**

### **Administrative Assistance**

The authorities of the Contracting Parties shall, subject to the provisions of domestic law, assist each other

in the implementation of this Treaty. Article 32 of the Treaty shall remain unaffected.

## **Article 6**

### **Recourse to the Courts**

(1) Should any person's rights guaranteed by or following from this Treaty be violated by public authority he shall have recourse to the courts. In so far as no other jurisdiction has been established, recourse shall be to the ordinary courts.

(2) The German Democratic Republic shall guarantee recourse to the courts, including recourse for provisional court protection. In the absence of special courts for public-law disputes, special arbitration courts shall be set up at ordinary courts. Jurisdiction for such disputes shall be concentrated at specific regional and district courts.

(3) Pending the establishment of a special labour jurisdiction, legal disputes between employers and employees shall be settled by neutral arbitration bodies to be composed of an equal number of employers and employees and a neutral chairman. Their decisions shall be appealable.

(4) The German Democratic Republic shall permit free arbitration in the field of private law.

## **Article 7**

### **Arbitral Tribunal**

(1) Disputes concerning the interpretation or application of this Treaty, including the Protocol and the Annexes, shall be settled by the Governments of the two Contracting Parties through negotiation.

(2) If a dispute cannot thus be settled, either Contracting Party may submit the dispute to an arbitral tribunal. Such submission shall be admissible irrespective of whether a court has jurisdiction in accordance with Article 6 of this Treaty.

(3) The arbitral tribunal shall be composed of a chairman and four members. Within a period of one month following the entry into force of this Treaty, the Government of each Contracting Party shall appoint two regular and two deputy members. Within the same period, the chairman and the deputy chairman shall be appointed in agreement between the Governments of the two Contracting Parties. If the periods specified in the second and third sentences have not been observed, the necessary appointments shall be made by the President of the Court of Justice of the European Communities.

(4) The period of office shall be two years.

(5) The chairman and members of the arbitral tribunal shall exercise their office independently and free from instructions. Before commencing their activities, the chairman and members of the arbitral tribunal shall undertake to carry out their duties independently and conscientiously and to observe confidentiality.

(6) The provisions governing the convening and the procedure of the arbitral tribunal are laid down in Annex VIII.

## **Article 8**

### **Intergovernmental Committee**

The Contracting Parties shall appoint an Intergovernmental Committee. The Committee shall discuss - and where necessary reach agreement on - questions relating to the implementation of the Treaty. The tasks of the Committee shall include the settlement of disputes under Article 7 (1) of the Treaty.

## **Article 9**

### **Amendments to the Treaty**

Should amendments or additions to this Treaty appear necessary in order to achieve any of its aims, such amendments or additions shall be agreed between the Contracting Parties.

## **Chapter II**

### **Provisions concerning Monetary Union**

## **Article 10**

### **Prerequisites and Principles**

(1) Through the establishment of a Monetary Union between the Contracting Parties, the Deutsche Mark shall be the means of payment, unit of account and means of deposit in the entire currency area. To this end, the monetary responsibility of the Deutsche Bundesbank as the sole issuing bank for this currency shall be extended to the entire currency area. The issuance of coin shall be the exclusive right of the Federal Republic of Germany.

(2) Enjoyment of the advantages of Monetary Union presupposes a stable monetary value for the economy of the German Democratic Republic, while currency stability must be maintained in the Federal Republic of Germany. The Contracting Parties shall therefore choose conversion modalities which do not cause any inflationary tendencies in the entire area of the Monetary Union and which at the same time increase the competitiveness of enterprises in the German Democratic Republic.

(3) The Deutsche Bundesbank, by deploying its instruments on its own responsibility and, pursuant to Section 12 of the Bundesbank Act, independent of instructions from the Governments of the Contracting Parties, shall regulate the circulation of money and credit supply in the entire currency area with the aim of safeguarding the currency.

(4) Monetary control presupposes that the German Democratic Republic establishes a free-market credit system. This shall include a system of commercial banks operating according to private-sector principles, with competing private, cooperative and public-law banks, as well as a free money and a free capital market and non-regulated interest-rate fixing on financial markets.

(5) To achieve the aims described in paragraphs 1 to 4 above, the Contracting Parties shall, in accordance with the provisions laid down in Annex I, agree on the following principles for Monetary Union:

- With effect from 1 July 1990 the Deutsche Mark shall be introduced as currency in the German Democratic Republic. The banknotes issued by the Deutsche Bundesbank and denominated in Deutsche Mark, and the federal coins issued by the Federal Republic of Germany and denominated in Deutsche Mark or Pfennig, shall be sole legal tender from 1 July 1990.

- Wages, salaries, grants, pensions, rents and leases as well as other recurring payments shall be converted at a rate of one to one.
- All other claims and liabilities denominated in Mark of the German Democratic Republic shall be converted to Deutsche Mark at the rate of two to one.
- The conversion of banknotes and coin denominated in Mark of the German Democratic Republic shall only be possible for persons or agencies domiciled in the German Democratic Republic via accounts with financial institutions in the German Democratic Republic into which the cash amounts to be converted may be paid.
- Deposits with financial institutions held by individuals domiciled in the German Democratic Republic shall be converted upon application at a rate of one to one up to certain limits, there being a differentiation according to the age of the beneficiaries. - Special regulations shall apply to deposits of persons domiciled outside the German Democratic Republic.
- Action shall be taken against abuse.

(6) Following an inventory of publicly owned assets and their earning power and following their primary use for the structural adaptation of the economy and for the recapitalization of the budget, the German Democratic Republic shall ensure where possible that a vested right to a share in publicly owned assets can be granted to savers at a later date for the amount reduced following conversion at a rate of two to one.

(7) The Deutsche Bundesbank shall exercise the powers accorded it by this Treaty and by the Deutsche Bundesbank Act in the entire currency area. It shall establish for this purpose a provisional office in Berlin with up to fifteen branches in the German Democratic Republic, which shall be located in the premises of the State Bank of the German Democratic Republic.

### **Chapter III**

#### **Provisions concerning Economic Union**

#### **Article 11**

##### **Economic Policy Foundations**

(1) The German Democratic Republic shall ensure that its economic and financial policy measures are in harmony with the social market system. Such measures shall be introduced in such a way that, within the framework of the market economy system, they are at the same time conducive to price stability, a high level of employment and foreign trade equilibrium, and thus steady and adequate economic growth.

(2) The German Democratic Republic shall create the basic conditions for the development of market forces and private initiative in order to promote structural change, the creation of modern jobs, a broad basis of small and medium-sized companies and liberal professions, as well as environmental protection. The corporate legal structure shall be based on the principles of the social market economy described in Article 1 of this Treaty, enterprises being free to decide on products, quantities, production processes, investment, employment, prices and utilization of profits.

(3) The German Democratic Republic, taking into consideration the foreign trade relations that have evolved

with the member countries of the Council for Mutual Economic Assistance, shall progressively bring its policy into line with the law and the economic policy goals of the European Communities.

(4) In decisions which affect the economic policy principles referred to in paragraphs 1 and 2 above, the Government of the German Democratic Republic shall reach agreement with the Government of the Federal Republic of Germany within the framework of the Intergovernmental Committee appointed in accordance with Article 8 of this Treaty.

## **Article 12**

### **Intra-German Trade**

(1) The Berlin Agreement of 20 September 1951 concluded between the Contracting Parties shall be amended in view of Monetary and Economic Union. The clearing system established by that Agreement shall be ended and the swing shall be finally balanced. Outstanding obligations shall be settled in Deutsche Mark.

(2) The Contracting Parties shall guarantee that goods which do not originate in the Federal Republic of Germany or the German Democratic Republic are transported across the intra-German border in accordance with a customs monitoring procedure.

(3) The Contracting Parties shall endeavour to create as soon as possible the preconditions for complete abolition of controls at the intra-German border.

## **Article 13**

### **Foreign Trade and Payments**

(1) In its foreign trade, the German Democratic Republic shall take into account the principles of free world trade, as expressed in particular in the General Agreement on Tariffs and Trade. The Federal Republic of Germany shall make its experience fully available for the further integration of the economy of the German Democratic Republic into the world economy.

(2) The existing foreign trade relations of the 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 in accordance with free-market principles, taking account of the facts established by Monetary and Economic Union and the interests of all involved. Where necessary, the German Democratic Republic shall adjust existing contractual obligations in the light of those facts, in agreement with its partners.

(3) The Contracting Parties shall cooperate closely in advancing their foreign trade interests, with due regard for the jurisdiction of the European Communities.

## **Article 14**

### **Structural Adjustment of Enterprises**

In order to promote the necessary structural adjustment of enterprises in the German Democratic Republic, the Government of the German Democratic Republic shall, for a transitional period and subject to its budgetary means, take measures to facilitate a swift structural adjustment of enterprises to the new market conditions. The Governments of the Contracting Parties shall agree on the specific nature of these measures.



The objective shall be to strengthen the competitiveness of enterprises on the basis of the social market economy and to build up, through the development of private initiative, a diversified, modern economic structure in the German Democratic Republic, with as many small and medium-sized enterprises as possible, and thereby to create the basis for increased growth and secure jobs.

## **Article 15**

### **Agriculture and Food Industry**

(1) Because of the crucial importance of the European Community rules for the agriculture and food industry, the German Democratic Republic shall introduce a price support and external protection scheme in line with the EC market regime so that agricultural producer prices in the German Democratic Republic become adjusted to those in the Federal Republic of Germany. The German Democratic Republic shall not introduce levies or refunds vis-à-vis the European Community, subject to reciprocity.

(2) For categories of goods in respect of which it is not possible to introduce a full price support system immediately upon the entry into force of this Treaty, transitional arrangements may be applied. Pending the legal integration of the agriculture and food industry of the German Democratic Republic into the EC agricultural market, specific quantitative restriction mechanisms shall be allowed for sensitive agricultural products in trade between the Contracting Parties.

(3) Without prejudice to the measures to be taken under Article 14 of this Treaty, the German Democratic Republic shall, within the limits of its budgetary means and for a transitional period, take suitable measures to promote the structural adaptation in the agriculture and food industry which is necessary to improve the competitiveness of enterprises, to achieve environmentally acceptable and quality-based production, and to avoid surpluses.

(4) The Governments of the Contracting Parties shall agree on the specific nature of the measures referred to in paragraphs 2 and 3 above.

## **Article 16**

### **Protection of the Environment**

(1) The protection of human beings, animals and plants, soil, water, air, the climate and landscape as well as cultural and other material property against harmful environmental influences is a major objective of both Contracting Parties. They shall pursue this objective on the basis of prevention, the polluter pays principle, and cooperation. Their aim is the rapid establishment of a German Environmental Union.

(2) The German Democratic Republic shall introduce regulations to ensure that, on the entry into force of this Treaty, the safety and environmental requirements applicable in the Federal Republic of Germany are the precondition for the granting of authorizations under environmental law for new plant and installations on its territory. For existing plant and installations the German Democratic Republic shall introduce regulations to bring them up to standard as quickly as possible.

(3) The German Democratic Republic shall, along with the development of the federal structure at Land level and with the establishment of an administrative jurisdiction, adopt the environmental law of the Federal Republic of Germany.

(4) In further shaping a common environmental law, the environmental requirements of the Federal

Republic of Germany and the German Democratic Republic shall be harmonized and developed at a high level as quickly as possible.

(5) The German Democratic Republic shall harmonize the provisions governing promotion of environmental protection measures with those of the Federal Republic of Germany.

## **Chapter IV**

### **Provisions concerning the Social Union**

#### **Article 17**

##### **Principles of Labour Law**

In the German Democratic Republic freedom of association, autonomy in collective bargaining, legislation relating to industrial action, corporate legal structure, codetermination at board level and protection against dismissal shall apply in line with the law of the Federal Republic of Germany; further details are contained in the Protocol on Guidelines and in Annexes II and III.

#### **Article 18**

##### **Principles of Social Insurance**

(1) The German Democratic Republic shall introduce a structured system of social insurance, to be governed by the following principles:

1. Pension, sickness, accident and unemployment insurance shall each be administered by self-governing bodies under public law subject to legal supervision by the state.
2. Pension, sickness, accident and unemployment insurance including employment promotion shall be financed primarily by contributions. Contributions to pension, sickness and unemployment insurance shall, as a rule, be paid half by the employee and half by the employer in line with the contribution rates applicable in the Federal Republic of Germany, and accident insurance contributions shall be borne by the employer.
3. Wage replacement benefits shall be based on the level of insured earnings.

(2) Initially, pension, sickness and accident insurance shall be administered by a single institution; income and expenditure shall be accounted for separately according to the type of insurance. Separate pension, sickness and accident insurance institutions shall be established, if possible by 1 January 1991. The aim shall be to create an organizational structure for social insurance which corresponds to that of the Federal Republic of Germany.

(3) For a transitional period the present comprehensive compulsory social insurance cover in the German Democratic Republic may be retained. Exemption from compulsory social insurance cover shall be granted to self-employed persons and professionals who can prove that they have adequate alternative insurance. In this connection, the creation of professional pension schemes outside the pension insurance system shall be made possible.

(4) Wage-earners whose earnings in the last wage accounting period before 1 July 1990 were subject to a special tax rate under Section 10 of the Ordinance of 22 December 1952 on the Taxation of Earned Income

(Law Gazette No. 182, p. 1413) shall receive until 31 December 1990 a supplement to their pension insurance contribution amounting to

- DM 30 for monthly wages up to DM 600,
- DM 20 for monthly wages of more than DM 600 up to DM 700, and
- DM 10 for monthly wages of more than DM 700 up to DM 800.

Earnings from several employments shall be counted together. The supplement shall be paid to the wage-earner by the employer.

Upon application the employer shall be reimbursed for these payments from the budget.

(5) The ceilings for compulsory insurance cover and for contribution assessment shall be fixed according to the principles of social insurance law applying in the Federal Republic of Germany.

#### **Article 19** **Unemployment Insurance and Employment Promotion**

The German Democratic Republic shall introduce a system of unemployment insurance including employment promotion which shall be in line with the provisions of the Employment Promotion Act of the Federal Republic of Germany. Special importance shall be attached to an active labour market policy, such as vocational training and retraining. Consideration shall be given to the interests of women and disabled persons. In the transitional phase, special conditions in the German Democratic Republic shall be taken into account. The Governments of both Contracting Parties shall cooperate closely in the development of unemployment insurance including employment promotion.

#### **Article 20** **Pension Insurance**

(1) The German Democratic Republic shall introduce all necessary measures to adapt its pension law to the pension insurance law of the Federal Republic of Germany, which is based on the principle of wage and contribution-related benefits. Over a transitional period of five years account shall be taken of the principle of bona fide rights protection in respect of persons approaching pensionable age.

(2) The pension insurance fund shall use its resources exclusively to meet its obligations with regard to rehabilitation, invalidity, old age, and death. The existing supplementary and special pensions schemes shall be discontinued as of 1 July 1990. Accrued claims and entitlements shall be transferred to the pension insurance fund, and benefits on the basis of special arrangements shall be reviewed with a view to abolishing unjustified benefits and reducing excessive benefits. The additional expenditure incurred by the pension insurance fund because of such transfers shall be reimbursed from the budget.

(3) Upon conversion to Deutsche Mark current pensions from the pension insurance fund shall be fixed at a net replacement rate which, for a pensioner who has completed 45 insurance/working years and whose earnings were at all times in line with average earnings, shall be 70 per cent of average net earnings in the German Democratic Republic. For a greater or smaller number of insurance/working years, the percentage shall be correspondingly higher or lower. The basis for calculating the upgrading rate for individual pensions shall be the pension of an average wage-earner in the German Democratic Republic, graduated according to year of entry, who has paid full contributions to the voluntary supplementary insurance scheme of the German Democratic Republic, over and above his compulsory social insurance contributions. If there is no upgrading on this basis a pension shall be paid in Deutsche Mark which corresponds to the amount of the former pension in Mark of the German Democratic Republic. Survivors' pensions shall be calculated on the

basis of the pension which the deceased would have received after conversion.

(4) Pensions from the pension insurance fund shall be adjusted in line with the development of net wages and salaries in the German Democratic Republic.

(5) The voluntary supplementary pension insurance scheme in the German Democratic Republic shall be discontinued.

(6) The German Democratic Republic shall make a government contribution to its pension insurance fund to offset its expenditure.

(7) Persons who have transferred their habitual residence from the territory of either Contracting Party to that of the other Party after 18 May 1990 shall receive from the pension insurance institution hitherto responsible a pension calculated according to the regulations applicable to that institution for the period completed there.

## **Article 21**

### **Health Insurance**

(1) The German Democratic Republic shall introduce all necessary measures to adapt its health insurance law to that of the Federal Republic of Germany.

(2) Benefits which have hitherto been financed from the health insurance fund according to the legislation of the German Democratic Republic but which according to the legislation of the Federal Republic of Germany are not benefits covered by the health insurance fund shall, for the time being, be financed from the budget of the German Democratic Republic.

(3) The German Democratic Republic shall introduce continued payment of wages in the event of sickness which is in line with legislation governing continued payment of wages in the Federal Republic of Germany.

(4) Pensioners shall be covered by health insurance. The contribution rate of the relevant health insurance fund shall be applicable. The health insurance contributions of pensioners shall be paid in a lump sum by the pension insurance fund to the health insurance fund. The amount to be paid shall be determined according to overall pension payments before deduction of the proportion of the health insurance contribution payable by pensioners. This shall not affect the net replacement rate envisaged after conversion of pensions.

(5) Investment in in-patient and out-patient facilities of the health service of the German Democratic Republic shall be financed from budget funds and not from contribution revenue.

## **Article 22**

### **Public Health**

(1) Medical care and health protection are of particular concern to the Contracting Parties.

(2) While provisionally continuing the present system, which is necessary to maintain public medical services, the German Democratic Republic shall gradually move towards the range of services offered in the Federal Republic of Germany with private providers, particularly by admitting registered doctors, dentists and pharmacists as well as independent providers of medicaments and remedial aids, and by admitting private providers of independent, non-profit-making hospitals.

(3) The German Democratic Republic shall create the necessary legal framework for the development of the necessary contractual relations - particularly as regards remuneration - between health insurance institutions and providers of services.

## **Article 23**

## **Accident Insurance Pensions**

- (1) The German Democratic Republic shall introduce all necessary measures to adapt its accident insurance law to that of the Federal Republic of Germany.
- (2) Upon conversion to Deutsche Mark, current accident insurance pensions shall be recalculated and paid on the basis of average gross earnings in the German Democratic Republic.
- (3) Accident pensions to be determined after the conversion to Deutsche Mark shall be based on the average gross monthly earnings in the twelve months prior to the accident.
- (4) The provisions of Article 20 (4) and (7) shall apply mutatis mutandis.

## **Article 24 Social Assistance**

The German Democratic Republic shall introduce a system of social assistance which shall correspond to the Social Assistance Act of the Federal Republic of Germany.

## **Article 25 Initial Financing**

If, during a transitional period, contributions to the unemployment insurance fund of the German Democratic Republic and both the contributions and the government subsidy to the pension insurance fund of the German Democratic Republic do not fully cover expenditure on benefits, the Federal Republic of Germany shall provide temporary initial financing for the German Democratic Republic within the framework of the budgetary aid granted under Article 28 of this Treaty.

## **Chapter V Provisions concerning the budget and finance**

### **Section 1 The Budget**

## **Article 26 Principles underlying the Fiscal Policy of the German Democratic Republic**

- (1) Public budgets in the German Democratic Republic shall be drawn up by the relevant national, regional or local authorities on their own responsibility, due account being taken of the requirements of general economic equilibrium. The aim shall be to establish a system of budgeting adapted to the market economy. Budgets shall be balanced as regards revenue and expenditure. All revenue and expenditure shall be included in the appropriate budget.
- (2) Budgets shall be adapted to the budget structures of the Federal Republic of Germany. The following in particular shall be removed from the budget, starting with the partial budget for 1990 as of the establishment of Monetary Union:
  - the social sector, in so far as it is wholly or mainly financed from charges or contributions in the Federal Republic of Germany,
  - state undertakings by conversion into legally and economically independent enterprises,

- transport undertakings by making them legally independent,
- the Deutsche Reichsbahn and the Deutsche Post, which will be operated as special funds.

Government borrowing for housing shall be allocated to individual projects on the basis of their existing physical assets.

(3) National, regional and local authorities in the German Democratic Republic shall make every effort to limit deficits in drawing up and executing budgets. As regards expenditure this shall include:

- abolition of budget subsidies, particularly in the short term for industrial goods, agricultural products and food, autonomous price supports being permissible for the latter in line with the regulations of the European Communities, and progressively in the sectors of transport, energy for private households and housing, making allowance for the general development of income,
- sustained reduction of personnel expenditure in the public service,
- review of all items of expenditure, including the legal provisions on which they are based, to determine whether they are necessary and can be financed,
- structural improvements in the education system and preparatory division according to a federal structure (including the research sector).

As regards revenue, the limitation of deficits shall require, in addition to the measures under Section 2 of this Chapter, the harmonization or introduction of contributions and fees for public services corresponding to the system in the Federal Republic of Germany.

(4) An inventory shall be made of publicly owned assets. Publicly owned assets shall be used primarily for the structural adaptation of the economy and for the recapitalization of the budget in the German Democratic Republic.

## **Article 27**

### **Borrowing and Debts**

(1) Borrowing authorizations in the budgets of the local, regional and national authorities of the German Democratic Republic shall be limited to 10 billion Deutsche Mark for 1990 and 14 billion Deutsche Mark for 1991 and allocated to the different levels of government in agreement with the Minister of Finance of the Federal Republic of Germany. A borrowing limit of 7 billion Deutsche Mark for 1990 and 10 billion Deutsche Mark for 1991 shall be established for the advance financing of proceeds expected to accrue from the realization of assets currently held in trust. In the event of a fundamental change in conditions, the Minister of Finance of the Federal Republic of Germany may permit these credit ceilings to be exceeded.

(2) The raising of loans and the granting of equalization claims shall be conducted in agreement between the Minister of Finance of the German Democratic Republic and the Minister of Finance of the Federal Republic of Germany. The same shall apply to the assumption of sureties, warranties or other guarantees and for the total authorizations for future commitments to be appropriated in the budget.

(3) After accession, debt accrued in the budget of the German Democratic Republic shall be transferred to

the assets held in trust in so far as it can be redeemed by proceeds expected to accrue from the realization of the assets held in trust. The remaining debt shall be assumed in equal parts by the Federal Government and the Länder newly constituted on the territory of the German Democratic Republic. Loans raised by Länder and local authorities shall remain their responsibility.

## **Article 28**

### **Financial Allocations granted by the Federal Republic of Germany**

(1) The Federal Republic of Germany shall grant the German Democratic Republic financial allocations amounting to 22 billion Deutsche Mark for the second half of 1990 and 35 billion Deutsche Mark for 1991 for the specific purpose of balancing its budget. Furthermore, initial financing shall be made available from the federal budget, in accordance with Article 25, amounting to 750 million Deutsche Mark for the second half of 1990 for pension insurance as well as 2 billion Deutsche Mark for the second half of 1990 and 3 billion Deutsche Mark for 1991 for unemployment insurance. Payments shall be made as required.

(2) The Contracting Parties agree that the transit sum payable under Article 18 of the Agreement of 17 December 1971 on the Transit of Civilian Persons and Goods between the Federal Republic of Germany and Berlin (West) shall lapse upon the entry into force of this Treaty. The German Democratic Republic shall cancel with effect for the two Contracting Parties the regulations on fees laid down in that Agreement and in the Agreement of 31 October 1979 on the Exemption of Road Vehicles from Taxes and Fees. In amendment of the Agreement of 5 December 1989, the Contracting Parties agree that from 1 July 1990 no more payments shall be made into the hard-currency fund (for citizens of the German Democratic Republic travelling to the Federal Republic of Germany). A supplementary agreement shall be concluded between the Finance Ministers of the Contracting Parties on the use of any amounts remaining in the fund upon the establishment of monetary union.

## **Article 29**

### **Transitional Regulations in the Public Service**

The Government of the German Democratic Republic shall guarantee, with due regard for the first sentence of Article 2 (1), that in collective bargaining agreements or other settlements in the public administration sector the general economic and financial conditions in the German Democratic Republic and the exigencies of budget consolidation are taken into account, with any new service regulations being of a transitional nature only. The Federal Representation of Staff Act shall be applied *mutatis mutandis*.

## **Section 2**

### **Finance**

## **Article 30**

### **Customs and Special Excise Taxes**

(1) In accordance with the principle set out in Article 11 (3) of this Treaty, the German Democratic Republic shall adopt step by step the customs law of the European Communities, including the Common Customs Tariff, and the special excise taxes stipulated in Annex IV to this Treaty.

(2) The Contracting Parties are agreed that their customs territory shall comprise the area of application of this Treaty.

(3) Equalization at the border between the fiscal territories for excise taxes of both Contracting Parties, except those on tobacco, shall be discontinued. Fiscal jurisdiction shall remain unaffected. Separate agreements shall be made to offset shifts in excise revenue.

(4) The movement of untaxed excisable goods between the fiscal territories shall be permitted as stipulated



in the regulations on movements of untaxed goods within one fiscal territory.

(5) Tax relief for export goods shall be granted only upon proof of export to territories other than the two fiscal territories.

### **Article 31**

#### **Taxes on Income, Property, Net Worth and Transactions**

(1) The German Democratic Republic shall regulate taxes on income, property, net worth and transactions in accordance with Annex IV to this Treaty.

(2) For the purposes of turnover tax there shall be no tax frontier between the Contracting Parties; in consequence, there shall be no equalization of turnover tax burdens at the frontier. Fiscal jurisdiction shall remain unaffected. The right of input tax deduction shall extend to the tax on turnovers which are subject to the turnover tax of the other Contracting Party. Compensation for the reduced yield resulting from this shall be settled by special agreement.

(3) Where there is unlimited net worth tax liability in the territory of one Contracting Party, that Party shall have the exclusive right to tax; where there is unlimited net worth tax liability in the territories of both Contracting Parties, this shall apply to the Party with which the taxpayer has the closer personal and economic ties (centre of vital interests) or in whose territory he has effective management as a legal person. Property located in the territory of the other Contracting Party shall be assessed according to the regulations for domestic property applying in that territory.

(4) Where there is unlimited inheritance tax or gift tax liability in the territory of one Contracting Party, that Party shall have the exclusive right to tax transfers on which tax is payable after 31 December 1990. Where there is unlimited tax liability in the territory of both Contracting Parties, this shall apply to the Party with which the testator or donor had the closer personal and economic ties when the tax liability was incurred (centre of vital interests), or in whose territory he had effective management as a legal person. The second sentence of paragraph 3 above shall be applied *mutatis mutandis* to evaluation.

(5) Paragraph 4 shall apply accordingly to transfers of property by reason of death on which taxes are incurred after 30 June 1990 and before 1 January 1991. Transfers of property by reason of death from citizens of the Contracting Parties who had established residence in the territory of the other Party after 8 November 1989 or who for the first time had their customary abode there and who still had their residence or customary abode there at the time of death cannot be subjected to any higher inheritance tax than would be imposed where there is unlimited tax liability in the territory of the first-mentioned Contracting Party.

(6) Disclosure and notification obligations resulting from the inheritance tax and gift tax legislation of the Contracting Parties shall in each case apply also with regard to the revenue authorities of the other Party.

### **Article 32**

#### **Exchange of Information**

(1) The Contracting Parties shall exchange such information as is necessary for the execution of their taxation and monopoly legislation. The Ministers of Finance of the Contracting Parties, together with the authorities empowered by them, shall be responsible for the exchange of information. Any information received by a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic laws of that party and shall be disclosed only to those persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes and monopolies falling within this Section. Such persons or authorities shall use the information for these purposes only. They may disclose the information in public court proceedings or in judicial decisions.

(2) The provisions of paragraph 1 shall not commit either Contracting Party



- to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;
- to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting Party;
- to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

### **Article 33**

#### **Consultation Procedure**

(1) The Contracting Parties shall endeavour to avoid double taxation in respect of taxes on income, property, net worth and transactions by reaching agreement on the appropriate delimitation of the tax base. They shall also strive to eliminate by mutual agreement any difficulties or doubts which result from the interpretation or application of their law on the taxes and monopolies that fall within this Section.

(2) To reach agreement as mentioned in paragraph 1 above, the Minister of Finance of the Federal Republic of Germany and the Minister of Finance of the German Democratic Republic may communicate directly with each other.

### **Article 34**

#### **Structure of the Revenue Administration**

(1) The German Democratic Republic shall create the legal basis for a three-tier revenue administration in line with the Revenue Administration Act of the Federal Republic of Germany, incorporating the amendments arising from this Treaty, and shall establish the administrations accordingly.

(2) Before the establishment of monetary, economic and social union, the first priority shall be to set up efficient tax and customs administrations.

## **Chapter VI**

### **Final Provisions**

### **Article 35**

#### **International Treaties**

This Treaty shall not affect the international treaties which the Federal Republic of Germany and the German Democratic Republic have concluded with third countries.

### **Article 36**

#### **Review of the Treaty**

The provisions of this Treaty shall be reviewed in the light of any fundamental changes in the situation.

### **Article 37**

#### **Berlin Clause**

Consistent with the Quadripartite Agreement of 3 September 1971 this Treaty will, in accordance with established procedures, be extended to Berlin (West).

### **Article 38**

#### **Entry into Force**

This Treaty, including the Protocol and Annexes I-IX, shall enter into force on the date on which the Governments of the Contracting Parties have informed each other that the necessary constitutional and other national requirements for such entry into force have been fulfilled.

Done at Bonn on 18 May 1990 in duplicate in the German language.

For the Federal Republic of Germany  
Dr Theo Waigel

For the German Democratic Republic  
Dr Walter Romberg