



Volume 10. One Germany in Europe, 1989 – 2009

The State Treaty between the FRG and the GDR on the Creation of a Monetary, Economic, and Social Union (May 18, 1990)

In order to regulate the conversion from a planned to a market economy, the governments of the GDR and the FRG negotiated a treaty on the creation of a monetary, economic, and social union. The treaty detailed the process of introducing the DM [Deutschmark], spelled out the provisions for monetary and economic union, and assured the preservation of social benefits.

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 Marks 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. [. . .]

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 Law, 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. [. . .]

(7) The Deutsche Bundesbank shall exercise the powers accorded it by this Treaty and by the Law concerning the Deutsche Bundesbank 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. [. . .]

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. [. . .]

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 15: Agriculture and Food Industry

- (1) Because of the crucial importance of the European Community rules for the agriculture and food industries, 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-a-vis the European Community, subject to reciprocity. [. . .]

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. [. . .]

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. [. . .]

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 Marks 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. [. . .]

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. [. . .]

ARTICLE 22: Public Health

[. . .]

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. [. . .]

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. [. . .]

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 management of 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 nationally-owned assets. Nationally-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 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 traveling 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. [. . .]

Source of English translation: *International Legal Materials*, Volume 29, Number 5 (September 1990). [29 I.L.M. 1108; (1990)]

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Original German text reprinted in Volker Gransow and Konrad Jarausch, eds., *Die Deutsche Vereinigung: Dokumente zu Bürgerbewegung, Annäherung und Beitritt* [German Reunification: Documents on the Citizens' Movement, Rapprochement, and Accession]. Cologne: Verlag Wissenschaft und Politik, 1991, pp. 174-82.