

THE EFFECTS OF REGULATIONS CONCERNING ENVIRONMENTAL PROTECTION ON FOREIGN TRADE AND INVESTMENTS IN THE GERMAN DEMOCRATIC REPUBLIC

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According to the principle of the socialist Constitution of the GDR that nature with all its wealth has to be utilized, developed, shaped and protected according to plan in the interest of the working people and with the aim to improve continuously their material and cultural living conditions, the Government of the GDR, from the very beginning, treated socialist national environment, including environmental protection, as one of those significant fields, in which the tasks, duties, rights of government and economic authorities and of the citizens and their social organizations have, especially by means of legal provisions, to be exactly defined and to be fixed legally binding for everybody. As to their foreign trade relations and the realization of investments abroad, however, the GDR proceeds from the fact that legal regulations concerning environmental protection must not burden the international exchange of goods, especially not the relations to the developing countries. In the GDR there are no legal restrictions on import or export on grounds of environmental protection and no such laws are envisaged.

This attitude of the GDR is being reflected in its legislation on foreign trade. Here, guiding principles are,

- to observe consistently the obligations taken over in connection with contracts relating to international law and international trade contracts;
- to utilize in a comprehensive manner the possibilities and advantages of international division of labour and cooperation within the economic relations to the member states of the Council of Mutual Economic Assistance (CMEA) as well as to the other socialist states, including to a growing extent the requirements of environmental protection;
- to shape the economic relations to partners of developing countries and capitalist states on the basis of mutual benefit;

- to lay down in international trade contracts stipulations on deliveries and services as to their quality, including regulations on environmental protection;
- that GDR import enterprises are not entitled to reject imports exclusively for the reason that the standards or other provisions of the supplier country do not correspond to GDR standards. In such cases rather, necessary adaptations and modifications of the equipment are to be provided.

Basic provisions for the shaping of the contractual relations between GDR foreign trade enterprises and their foreign and domestic contracting parties and on safeguarding the export and import of goods and services are contained in the following legal regulations:

Decree of January 10, 1974, on the Tasks, Rights and Duties of the Nationally-owned Foreign Trade Enterprises, GBl. part I, No. 9, p. 77.

(Verordnung über die Aufgaben, Rechte und Pflichten der volkseigenen Aussenhandelsbetriebe vom 10. Januar 1974, GBl. Teil I, Nr. 9, Seite 77).

§ 3

The foreign trade enterprises particularly are responsible for . . .

- the participation of socialist trusts and VVBs (associations of nationally-owned enterprises) in preparing and implementing the economic and scientific-technological cooperation in the framework of the socialist economic integration of the member states of the CMEA and with the other socialist states,
- the shaping of mutually beneficial commercial relations with partners of developing countries and capitalist industrial states,

§ 5

(1) The foreign trade enterprises have to strive for the most favourable commercial conditions in preparing and concluding export and import contracts; taking as a basis the contracts in international law, the legal rules, other decisions of the Council of Ministers and the provisions of the Minister of Foreign Trade.

Fourth Implementing Decree of May 16, 1973, Pursuant to the Law of Contracts—Trade Contracts for Safeguarding Export and Import—GBl. part I, No. 29, p. 277.

(2) Durchführungsverordnung zum Vertragsgesetz — Wirtschaftsverträge zur Sicherung des Exports und Imports — vom 16. Mai 1973, GBl. Teil I, Nr. 29, Seite 277).

§ 2

Objectives of economic contracts.

(3) By means of economic contracts it has to be ensured that the foreign trade enterprises and the export and import enterprises define and observe their tasks and responsibilities in preparing and carrying through their foreign trade activities according to their position within the national economy process of reproduction. Here it has especially to be guaranteed that

- in systematically preparing and carrying out foreign trade activities the possibilities and advantages of international socialist division of labour and cooperation are comprehensively utilized;
- the obligations taken over in the framework of contracts relating to international law and international economic contracts on economic and scientific-technological cooperation are consistently observed.

§ 4

Economic contracts in the field of export

(1) Economic contracts have to be shaped in accordance with the requirements of the external markets so that goods of a high technological standard and good quality are produced and their usability is steadily improved, and that exports are realized at least with the planned profitability and according to deadline and quality.

§ 5

Economic contracts in the field of import

(1) Economic contracts in the field of import are to be shaped in such a way as to ensure the planned supply of the national economy and the population according to the possibilities of purchase, and the conditions of realization of the countries of origin envisaged in the plans with using import means in the most economical way.

§ 20

Quality

(1) The foreign trade enterprises and export firms have to make agreements on quality according to the international standard or the

quality requirements of the partner outside the GDR. The export firm is to improve continuously its products in order to adapt them to the technological and economic requirements of the agreed outlet.

(2) Agreements differing from the state quality regulations can be made if so allowed or required by the conditions of the respective market.

§ 45

Quality agreement

(1) The quality agreement must include concrete regulations as there are technological indexes, characteristics of quality, quality of protection, type of packing and make-up (labelling included) and specific properties of the product, which guarantee a highly qualitative processing and application by the import firm.

(3) Making agreements on quality in import contracts, it must be proceeded from indexes and other regulations of the state standards or other quality provisions of the GDR. The import firm and the other competent authorities are not entitled, however, to reject imports only on grounds of standards or other regulations of the supplier country not being in accordance with the state standards of the GDR.

(4) Importing from the member states of the CMEA the standards of the CMEA have to be agreed upon in the contract. If there are not yet any CMEA standards for the respective delivery or service, the standards of the supplier countries or other standards and regulations of the supplier countries which correspond to the recommendations of the CMEA on standardization can be agreed upon in the contract if their essential positions (follow up conditions, quality indexes, safety and protective regulations), are in accordance with the state standards of the GDR or the requirements necessary for applicability in the GDR are adhered to, respectively.

(5) Importing from the Soviet Union, Soviet standards and rules are to be agreed upon in the contract as far as the requirements of applicability in the GDR are being observed, if there is yet no accordance between the state standards of the GDR and the corresponding standards and rules of the USSR. In this case the import firm has to inform the competent central government authority, so that further necessary steps for unification can be taken.

(6) Importing from countries being not members of the CMEA, the agreement of standards and regulations of the supplier country is per-

missible if the requirements of the external markets give reason for this and the conditions essential for applicability in the GDR are fulfilled.

(8) If it is impossible to fulfill the conditions necessary for applicability in the GDR, and are there essential reasons for carrying out the import though, the import firm has to ask for a decision by its superordinate authority via the competent state supervisory body. If there is taken a decision in favour of the import, it has simultaneously to be decided, who has to carry through the necessary measures for adapting and modifying the equipment of the imported products. This regulation applies correspondingly to the examination requirements, safety and protective labour regulations.

According to their general character, these regulations are also to be applied to such products and services serving environmental protection. Thus the quality requirements include for instance also provisions containing regulations on environmental protection for products and services for instance limit values. In the following rule of law this becomes especially obvious in respect of the demand for regulations ensuring the protection of human environment. But here too, the provisions of the regulations mentioned apply stipulating that this has to be provided for in the contract.

Third Implementing Decree of December 13, 1973, Pursuant to the Law of Contracts—Economic Contracts on Scientific Technological Services—GBl. part I/1974, No. 4, p. 37.

(3) Durchführungsverordnung zum Vertragsgesetz — Wirtschaftsverträge über wissenschaftlich-technische Leistungen — vom 13. Dezember 1973, GBl. Teil I/1974 Nr. 4 Seite 37).

§ 14

Quality

(1) The enterprises have to fix the required agreements on the quality of the scientific-technological result on the basis of the tasks with due consideration of world standards. The quality provisions include, with regard to the objective of the service, particularly

...

— regulations on safeguarding environmental protection.

Special provisions on the requirements of socialist national environment, including environmental protection, which may, in respective contracts, exert an influence on the external trade relations of the GDR and on investments abroad are contained in:

Act of May 14, 1970, on the Systematic Arrangement of the Socialist National Environment in the German Democratic Republic — National Environment Act — GBl. part. I No. 12, p. 67.

(Gesetzes über die planmäßige Gestaltung der sozialistischen Landeskultur in der Deutschen Demokratischen Republik — Landeskulturgesetz — vom 14. Mai 1970, GBl. Teil 1, Nr. 12 Seite 67).

(1) The most advanced scientific and technological findings shall be applied for the planned implementation of environmental policies. Enterprises shall plan, develop and apply techniques and installations which eliminate to the furthest possible extent harmful effects and nuisances for the people and their environment and which ensure the fullest utilization of substances used or arising from production for the economic solution of environmental problems. When developing new techniques and products, the efficient and harmless disposal of unavoidable waste products is to be taken into account.

(2) Government and economic authorities and enterprises, which exert an essential influence on the socialist national environment through their activities, are responsible for ensuring the necessary scientific-technological research and for concentrating on focal points of science and technology in accordance with the principles of socialist scientific organization. They shall develop socialist teamwork in the implementation of the necessary scientific-technological policies in concert with scientific institutions.

§ 9

Government and economic authorities and enterprises are obliged to make use of international experience and scientific knowledge, particularly that of the Soviet Union and the other socialist countries, in accomplishing their environmental tasks. Responsible government and economic authorities shall work together closely with similar institutions in the Soviet Union and in other socialist countries. Cooperation in industry and research shall particularly be developed for the purpose of basic science and technology.

Furthermore the legislation of the GDR contains provisions for special sections of environmental protection which also have an impact on external trade relations only then if respective arrangements are made between the contracting parties. Here the following examples can be mentioned:

a) *Air quality conservation*

National Environment Act
(Landeskultugesetz)

§ 30

(3) In the development, production and operation of facilities and products, enterprises shall concentrate on excluding or, to the extent possible, reducing air pollution in the course of the production process or in the utilization of products or installations . . .

(4) The competent government and economic authorities shall make planned provision for ensuring that pollution of the air by exhaust gases from motor vehicles does not exceed the required standards.

Fifth Implementing Decree of January 17, 1973, Pursuant to the National Environment Act-Air Quality Conservation — GBl. part I No. 18, p. 157.

(5) Durchführungsvorordnung zum Landeskultugesetz — Reinhaltung der Luft — vom 17. Januar 1973, GBl. Teil I Nr. 18 Seite 157).

§ 2

Systematic research and development in the field of air quality conservation shall be secured in order to create better prerequisites for reducing or eliminating emissions. In the further and new development of techniques and installations such techniques and technologies are to be worked out and applied, which are not or less pollutive. Responsible for this are the emitters which have an essential effect on air quality, the enterprises producing installations and combustion engines which cause air pollution (in the following referred to as installations), and the superordinate government and economic authorities. They have to arrange for carry out the necessary research and development work and to secure international cooperation, especially with the Soviet Union and the other socialist countries.

§ 11

Duties of producers, importers and purchasers of installations

(1) The producers of installations causing air pollution and of specific equipment for air quality conservation are to create, by research, develop-

ment, planning, construction and manufacturing, the prerequisites enabling the purchasers and users of installations and equipment to observe their legal duties in the field of air quality conservation.

(2) The producers, suppliers, importers and purchasers of installations causing air pollution and of special equipment for air quality conservation are obliged to include in the contracts requirements for securing air quality conservation which arise from their legal duties. As far as directives and standards exist their requirements are effective.

b) *Protection against noise*

National Environment Act
(Landeskultugesetz)

§ 35

(2) The responsible government and economic authorities and enterprises ... shall take noise abatement into account in conformity with the required standards ... in the new and further development of production techniques and products including transport vehicles.

Fourth Implementing Decree of May 14, 1970, Pursuant to the National Environment Act — Protection against Noise — GBl. part II No. 46, p. 343.

(4) Durchführungsvorordnung zum Landeskultugesetz — Schutz vor Lärm — vom 14. Mai 1970, GBl. Teil II Nr. 46 Seite 343).

§ 4

(1) Installations, machines and instruments, transport vehicles and other vehicles and consumer goods shall be so constructed and manufactured as to keep the noise level at a minimum when operating them. In concert with the Minister of Public Health the maximum admissible noise emissions are to be bindingly fixed as limit values, in the standards of the respective products. The observation of the limit values is part of the certificate of quality of protection.

(2) The provisions of paragraph 1 apply analogously also to installations, machines and instruments, transport vehicles and other vehicles and consumer goods which are imported into the German Democratic Republic. If necessary, they are to be adapted to the requirements of the legal rules in the German Democratic Republic.

c) Measures for environmental protection in the field of export and import of foodstuffs

Main attention is paid here particularly to the residues of pesticides and rodenticides in foodstuffs.

National Environment Act
(Landeskulturgesetz)

§ 11

(3) In connection with the use of chemicals necessary for the effective use of landscapes and their resources, observance of the standards set for the maximum admissible quantity, the time and repetition of their application shall be assured. These and other substances shall be handled in such a way as to guarantee, to the furthest possible extent, the exclusion of harmful effects on man and his environment.

Act on Trade in Foodstuffs and Consumer Goods of November 30, 1962 (Act on Foodstuffs), GBl. part I No. 12, p. 111.

(Gesetz über den Verkehr mit Lebensmitteln und Bedarfsgegenständen — Lebensmittelgesetz — vom 30. November 1962, GBl. Teil I Nr. 12 Seite 111).

§ 6

(1) Trade in foodstuffs shall be shaped in such a way as to exclude damages to human health when consuming foodstuffs according to their designation.

(2) Foodstuffs must not be polluted, perished by foreign bodies or otherwise incompatible with hygiene.

(3) In any stadium of trade the used raw materials must not have been subject to conditions which are incompatible with the principles of hygiene. The used raw materials must be of a quality usual in commerce.

(4) It is prohibited to change intentionally or carelessly the composition, the technique of production and manufacturing, of treatment and processing, the admissible marking and make-up of foodstuffs, which represent an imitation, falsification, fraud or misguidance.

(5) Techniques of production, treatment or processing of foodstuffs must be proved to be harmless under the aspect of hygiene and health. Applying these techniques is admissible only with the permission of the

Ministry of Public Health or the authorities entrusted by it. The scientific control of this proof is carried through by the institutions designed by the Ministry of Public Health.

(6) Foodstuffs may contain foreign substances only of such a quality and quantity as is permitted by the Minister of Public Health. Further the provisions of paragraphs 2 and 3 apply to foreign substances added to foodstuffs.

§ 9

(1) Consumer goods are to be produced, treated, processed, measured, weighed out, packed, stored, transported, offered or otherwise handled with in such a way that by their designated or expected use neither a damage to human health by their components or impurities nor an injury of the human body their shaping can be caused.

(2) Consumer goods according to section 3 paragraph 1 item 1 shall be of such condition as to eliminate a disadvantageous influence on foodstuffs in the intendment of section 6 paragraphs 1 and 5, when using them according to their designation.

§ 13

(1) Foodstuffs and consumer goods designed for export may be produced differently from the provisions of this Act, in accordance with the provisions of the import country.

(2) Inside the country such products may be distributed to consumers only with the permission of the Minister of Public Health, and as far as veterinary responsibilities in the field of foodstuff hygiene are concerned, in concert with the Minister of Agriculture, Registration, Buying up and Forestry (now: Minister for Agriculture, Forestry and Food Economy).

§ 14

(1) As to foodstuffs and consumer goods to be imported from abroad, there are to be taken into account the provisions of section 6 paragraph 1 to 6 or of section 9 paragraphs 1 and 2 respectively. The importer must prove to the responsible authorities of the state public health and veterinary system the harmlessness, according to the provisions mentioned above, by means of expert opinions of institutions certified by the Ministry of

Public Health or by the Ministry of Agriculture, Registration, Buying up and Forestry, respectively.

(2) The Minister of Public Health or the Minister of Agriculture, Registration, Buying up and Forestry, respectively, is entitled to demand that the importer submits models for groups of merchandize, which are to be fixed, and an expert opinion given by an institution appointed by them. The expert opinion must be available at the latest at the date of keeping the goods ready for dispatch.

(3) Foodstuffs which are distributed to the consumers in an unchanged or unprocessed form as natural products, and foodstuffs designated for processing and corresponding to the provisions of § 6 paragraphs 1, 2, and 6 are considered to be harmless. The harmlessness of these foodstuffs does not need to be proved according to paragraph 1.

§ 15

Special permits

(5) For foodstuffs and consumer goods to be imported but not corresponding to the requirements of § 14 paragraph 1. limited special permits can be granted in justified cases.

The admissible quantities of residues of pesticides and rodenticides in foodstuffs are fixed in the "Directive on Pesticide and Rodenticide Residues in Foodstuffs" of June 28, 1971, GBl. part II No. 60, p. 526, in the version of Directive No. 2 of December 18, 1973, GBl. I/1974, No. 3, p. 27.

According to this directive, there are fixed at present the tolerances of 64 substances for 23 foodstuffs and further tolerances for 36 substances with a special scope of application, being specific for the GDR.

According to the Decision of the Council of Ministers of July 15, 1970, the rodenticide "DDT" is gradually substituted on the basis of a step programme. Here, the Ministry of Public Health has the obligation to build up step by step a system of controls by which all foodstuffs will have been covered by 1975.

The FAO/WHO foodstuff code, which bears recommendatory character will be taken over in the GDR as far as allowed by our economic conditions.

Recapitulating, one can state that up to now, the GDR did not impose any import restrictions in consequence of legal regulations on environmental protection.

In the field of the external trade relations of the GDR and investments abroad the requirements of environmental protection are given consideration to by making respective arrangements in the import and export contracts. Further more the GDR is prepared to make concessions in this respect. This becomes obvious from the legal regulations mentioned above, which for instance provide for special permits or measures concerning treatment, adaptations, modifications or processing of imported goods where they do not coincide with the requirements of environmental protection in the GDR.