

## **TREATY ESTABLISHING THE EUROPEAN COAL AND STEEL COMMUNITY**

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, HIS ROYAL HIGHNESS THE PRINCE ROYAL OF BELGIUM, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF THE ITALIAN REPUBLIC, HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG, HER MAJESTY THE QUEEN OF THE NETHERLANDS,

CONSIDERING that world peace can be safeguarded only by creative efforts commensurate with the dangers that threaten it,

CONVINCED that the contribution which an organized and vital Europe can make to civilization is indispensable to the maintenance of peaceful relations,

RECOGNIZING that Europe can be built only through practical achievements which will first of all create real solidarity, and through the establishment of common bases for economic development,

ANXIOUS to help, by expanding their basic production, to raise the standard of living and further the works of peace,

RESOLVED to substitute for age old rivalries the merging of their essential interests; to create, by establishing an economic community, the basis for a broader and deeper community among peoples long divided by bloody conflicts; and to lay the foundations for institutions which will give direction to a destiny henceforward shared,

HAVE DECIDED to create a EUROPEAN COAL AND STEEL COMMUNITY and to this end have designated as their Plenipotentiaries:

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Dr Konrad ADENAUER, Chancellor and Minister for Foreign Affairs;

HIS ROYAL HIGHNESS THE PRINCE ROYAL OF BELGIUM:

Mr Paul VAN ZEELAND, Minister for Foreign Affairs,

Mr Joseph MEURICE, Minister for Foreign Trade;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Mr Robert SCHUMAN, Minister for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Mr Carlo SFORZA, Minister for Foreign Affairs;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG:

Mr Joseph BECH, Minister for Foreign Affairs;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Mr D. U. STIKKER, Minister for Foreign Affairs,

Mr J. R. M. VAN DEN BRINK, Minister for Economic Affairs;

WHO, having exchanged their full powers, found in good and due form, have agreed as follows.

## TITLE I

### The European Coal and Steel Community

#### *Article 1* 🏔

By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN COAL AND STEEL COMMUNITY, founded upon a common market, common objectives and common institutions.

#### *Article 2* 🏔

The European Coal and Steel Community shall have as its task to contribute, in harmony with the general economy of the Member States and through the establishment of a common market as provided in Article 4, to economic expansion, growth of employment and a rising standard of living in the Member States.

The Community shall progressively bring about conditions which will of themselves ensure the most rational distribution of production at the highest possible level of productivity, while safeguarding continuity of employment and taking care not to provoke fundamental and persistent disturbances in the economies of Member States.

#### *Article 3* 🏔

The institutions of the Community shall, within the limits of their respective powers, in the common interest:

- a. ensure an orderly supply to the common market, taking into account the needs of third countries;
- b. ensure that all comparably placed consumers in the common market have equal access to the sources of production;

- c. ensure the establishment of the lowest prices under such conditions that these prices do not result in higher prices charged by the same undertakings in other transactions or in a higher general price level at another time, while allowing necessary amortization and normal return on invested capital;
- d. ensure the maintenance of conditions which will encourage undertakings to expand and improve their production potential and to promote a policy of using natural resources rationally and avoiding their unconsidered exhaustion;
- e. promote improved working conditions and an improved standard of living for the workers in each of the industries for which it is responsible, so as to make possible their harmonization while the improvement is being maintained;
- f. promote the growth of international trade and ensure that equitable limits are observed in export pricing;
- g. promote the orderly expansion and modernization of production, and the improvement of quality, with no protection against competing industries that is not justified by improper action on their part or in their favour.

#### *Article 4*

The following are recognized as incompatible with the common market for coal and steel and shall accordingly be abolished and prohibited within the Community, as provided in this Treaty:

- a. import and export duties, or charges having equivalent effect, and quantitative restrictions on the movement of products;
- b. measures or practices which discriminate between producers, between purchasers or between consumers, especially in prices and delivery terms or transport rates and conditions, and measures or practices which interfere with the purchaser's free choice of supplier;
- c. subsidies or aids granted by States, or special charges imposed by States, in any form whatsoever;
- d. restrictive practices which tend towards the sharing or exploiting of markets.

#### *Article 5*

The Community shall carry out its task in accordance with this Treaty, with a limited measure of intervention.

To this end the Community shall:

- provide guidance and assistance for the parties concerned, by obtaining information, organizing consultations and laying down general objectives;
- place financial resources at the disposal of undertakings for their investment and bear part of the cost of readaptation;
- ensure the establishment, maintenance and observance of normal competitive conditions and exert direct influence upon production or upon the market only when circumstances so require;

- publish the reasons for its actions and take the necessary measures to ensure the observance of the rules laid down in this Treaty.

The institutions of the Community shall carry out these activities with a minimum of administrative machinery and in close cooperation with the parties concerned.

*Article 6* 🏔

The Community shall have legal personality.

In international relations, the Community shall enjoy the legal capacity it requires to perform its functions and attain its objectives.

In each of the Member States, the Community shall enjoy the most extensive legal capacity accorded to legal persons constituted in that State; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

The Community shall be represented by its institutions, each within the limits of its powers.

## **TITLE II**

### **The institutions of the Community**

*Article 7 (\*)* 🏔

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(\*) As amended by Article H(1) TEU.

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The institutions of the Community shall be:

- a HIGH AUTHORITY (hereinafter referred to as 'the Commission');
- a COMMON ASSEMBLY (hereinafter referred to as 'the European Parliament');
- a SPECIAL COUNCIL OF MINISTERS (hereinafter referred to as 'the Council');
- a COURT OF JUSTICE;
- a COURT OF AUDITORS.

The Commission shall be assisted by a Consultative Committee.

## **CHAPTER 1**

## THE COMMISSION

### Article 8

It shall be the duty of the Commission to ensure that the objectives set out in this Treaty are attained in accordance with the provisions thereof.

### Article 9 (\*)

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(\*) As inserted by Article H(2) TEU.

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1. The Commission shall consist of 20 Members, who shall be chosen on the grounds of their general competence and whose independence is beyond doubt. (\*\*)

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(\*\*) First subparagraph as amended by Article 16 AA A/FIN/SWE in the version resulting from Article 9 AD AA A/FIN/SWE.

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The number of Members of the Commission may be altered by the Council, acting unanimously.

Only nationals of the Member States may be Members of the Commission.

The Commission must include at least one national of each of the Member States, but may not include more than two Members having the nationality of the same State.

2. The Members of the Commission shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties. Each Member State undertakes to respect this principle and not to seek to influence the Members of the Commission in the performance of their tasks.

The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain

appointments or benefits. In the event of any breach of the obligations, the Court of Justice may, on application by the Council or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 12a or deprived of his right to a pension or other benefits in its stead.

*Article 10 (\*)* 

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(\*) As inserted by Article H(2) TEU.

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1. The Members of the Commission shall be appointed, in accordance with the procedure referred to in paragraph 2, for a period of five years, subject, if need be, to Article 24.

Their term of office shall be renewable.

2. The governments of the Member States shall nominate by common accord, after consulting the European Parliament, the person they intend to appoint as President of the Commission.

The governments of the Member States shall, in consultation with the nominee for President nominate the other persons whom they intend to appoint as Members of the Commission.

The President and the other Members of the Commission thus nominated shall be subject as a body to a vote of approval by the European Parliament. After approval by the European Parliament, the President and the other Members of the Commission shall be appointed by common accord of the governments of the Member States.

3. Paragraphs 1 and 2 shall be applied for the first time to the President and the other Members of the Commission whose term of office begins on 7 January 1995.

The President and the other Members of the Commission whose term of office begins on 7 January 1993 shall be appointed by common accord of the governments of the Member States. Their term of office shall expire on 6 January 1995.

*Article 11 (\*)* 


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(\*) As inserted by Article H(2) TEU.

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The Commission may appoint a Vice President or two Vice Presidents from among its Members.

*Article 12 (\*)* 

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(\*) As inserted by Article H(2) TEU.

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Apart from normal replacement, or death, the duties of a Member of the Commission shall end when he resigns or is compulsorily retired.

The vacancy thus caused shall be filled for the remainder of the Member's term of office by a new Member appointed by common accord of the governments of the Member States. The Council may, acting unanimously, decide that such a vacancy need not be filled.

In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his term of office. The procedure laid down in Article 10(2) shall be applicable for the replacement of the President.

Save in the case of compulsory retirement under Article 12a, Members of the Commission shall remain in office until they have been replaced.


*Article 12a* 

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(\*) As inserted by Article H(2) TEU.

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If any Member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council or the Commission, compulsorily retire him.

*Article 13 (\*)* 

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(\*) As inserted by Article H(2) TEU.

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The Commission shall act by a majority of the number of Members provided for in Article 9.

A meeting of the Commission shall be valid only if the number of Members laid down in its Rules of Procedure is present.

*Article 14* 🏔

In order to carry out the tasks assigned to it the Commission shall, in accordance with the provisions of this Treaty, take decisions, make recommendations or deliver opinions.

Decisions shall be binding in their entirety.

Recommendations shall be binding as to the aims to be pursued but shall leave the choice of the appropriate methods for achieving these aims to those to whom the recommendations are addressed.

Opinions shall have no binding force.

In cases where the Commission is empowered to take a decision, it may confine itself to making a recommendation.

*Article 15* 🏔

Decisions, recommendations and opinions of the Commission shall state the reasons on which they are based and shall refer to any opinions which were required to be obtained.

Where decisions and recommendations are individual in character, they shall become binding upon being notified to the party concerned.

In all other cases, they shall take effect by the mere fact of publication.

The Commission shall determine the manner in which this Article is to be implemented.

*Article 16 (\*)* 🏔

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(\*) As amended by Article H(3) TEU.

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The Commission shall make all appropriate administrative arrangements for the operation of its departments.

It may set up study committees, including an economic study committee.



The Council and the Commission shall consult each other and shall settle by common accord their methods of cooperation.

The Commission shall adopt its Rules of Procedure so as to ensure that both it and its departments operate in accordance with the provisions of this Treaty. It shall ensure that these rules are published.

*Article 17 (\*\*)* 

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(\*\*) Article inserted by Article H(4) TEU.

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The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Community.

*Article 18* 

A Consultative Committee shall be attached to the Commission. It shall consist of not less than 84 and not more than 108 members and shall comprise equal numbers of producers, of workers and of consumers and dealers. (\*)

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(\*) First paragraph as amended by Article 25 AA A/FIN/SWE in the version resulting from Article 16 AD AA A/FIN/SWE.

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The members of the Consultative Committee shall be appointed by the Council.

The Council shall, acting by a qualified majority, determine any payment to be made instead of remuneration. (\*\*)

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(\*\*) Third paragraph as added by Article H(5) TEU.

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*Article 19* 

The Commission may consult the Consultative Committee in all cases in which it considers this appropriate. It must do so whenever such consultation is prescribed by this Treaty.

The Commission shall submit to the Consultative Committee the general objectives and the programmes drawn up under Article 46 and shall keep the Committee informed of the broad lines of its action under Articles 54, 65 and 66.

Should the Commission consider it necessary, it may set the Consultative Committee a time limit for the submission of its opinion. The period allowed may not be less than 10 days from the date on which the chairman receives notification to this effect.

The Consultative Committee shall be convened by its chairman, either at the request of the Commission or at the request of a majority of its members, for the purpose of discussing a specific question.

The minutes of the proceedings shall be forwarded to the Commission and to the Council at the same time as the opinions of the Committee.

## ***CHAPTER 2***

### **THE EUROPEAN PARLIAMENT**

#### *Article 20*

The European Parliament, which shall consist of representatives of the peoples of the States brought together in the Community, shall exercise the supervisory powers which are conferred upon it by this Treaty.

#### *Article 20a (\*)*

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(\*) As inserted by Article H(6) TEU.

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The European Parliament may, acting by a majority of its Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Community act is required for the purpose of implementing this Treaty.

#### *Article 20b (\*)*

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(\*) As inserted by Article H(6) TEU.

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In the course of its duties, the European Parliament may, at the request of a quarter of its Members, set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by this Treaty on other institutions or bodies, alleged contraventions or maladministration in the implementation of Community law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.

The temporary Committee of Inquiry shall cease to exist on the submission of its report.

The detailed provisions governing the exercise of the right of inquiry shall be determined by common accord of the European Parliament, the Council and the Commission.

*Article 20c (\*)* 

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(\*) As inserted by Article H(6) TEU.

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Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Community's fields of activity and which affects him, her or it directly.

*Article 20d (\*)* 

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(\*) As inserted by Article H(6) TEU.

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1. The European Parliament shall appoint an Ombudsman empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role.

In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a Member of the European Parliament, except where the alleged facts are or

have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he shall refer the matter to the institution concerned, which shall have a period of three months in which to inform him of its views. The Ombudsman shall then forward a report to the European Parliament and the institution concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his inquiries.

2. The Ombudsman shall be appointed after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment.

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he no longer fulfils the conditions required for the performance of his duties or if he is guilty of serious misconduct.

3. The Ombudsman shall be completely independent in the performance of his duties. In the performance of those duties he shall neither seek nor take instructions from any body. The Ombudsman may not, during his term of office, engage in any other occupation, whether gainful or not.

4. The European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, lay down the regulations and general conditions governing the performance of the Ombudsman's duties.

#### *Article 21*

*(Paragraphs 1 and 2 lapsed on 17 July 1979 in accordance with Article 14 of the Act concerning the election of the representatives of the European Parliament)*

*[See Article 1 of that Act which reads as follows:*

1. The representatives in the European Parliament of the peoples of the States brought together in the Community shall be elected by direct universal suffrage.]

*[See Article 2 of that Act which reads as follows:*

2. The number of representatives elected in each Member State shall be as follows:

Belgium	25
Denmark	16
Germany	99
Greece	25
Spain	64
France	87

Ireland	15
Italy	87
Luxembourg	6
Netherlands	31
Austria	21
Portugal	25
Finland	16
Sweden	22
United Kingdom	87] (*)

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(\*) Number of representatives as laid down by Article 11 AA A/FIN/SWE in the version resulting from Article 5 AD AA A/FIN/SWE.

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3. The European Parliament shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States. (\*\*)

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(\*\*) On this point, see also Articles 7(1) and (2) of the Act concerning the election of the representatives of the European Parliament.

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The Council shall, acting unanimously after obtaining the assent of the European Parliament, which shall act by a majority of its component members, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements (\*).

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(\*) Paragraph 3 as amended by Article H(7) TEU.

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#### *Article 22*

The European Parliament shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March. (\*\*) (\*\*\*)

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(\*\*) First paragraph as amended by Article 27(1) of the Merger Treaty.

(\*\*\*) With regard to the second sentence of this paragraph, see also Article 10(3) of the Act concerning the election of the representatives of the European Parliament.

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The European Parliament may be convened in extraordinary session at the request of the Council in order to deliver an opinion on such questions as may be put to it by the Council.

It may also meet in extraordinary session at the request of a majority of its Members or of the Commission.

#### *Article 23*

The European Parliament shall elect its President and its officers from among its Members.

Members of the Commission may attend all meetings. The President of the Commission or such of its Members as it may designate shall be heard at their request.

The Commission shall reply orally or in writing to questions put to it by the European Parliament or its Members.

The members of the Council may attend all meetings and shall be heard at their request.

#### *Article 24 (\*)*

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(\*) As amended by Article H(8) TEU.

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The European Parliament shall discuss in open session the general report submitted to it by the Commission.

If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and only by open vote.

If a motion of censure is carried by a two thirds majority of the votes cast, representing a majority of the Members of the European Parliament, the Members of the Commission shall resign as a body. They shall continue to deal with current business until they are replaced in accordance with Article 10. In this case, the term of office of the Members of

the Commission appointed to replace them shall expire on the date on which the term of office of the Members of the Commission obliged to resign as a body would have expired.

*Article 25* ▲

The European Parliament shall adopt its Rules of Procedure, acting by a majority of its Members.

The proceedings of the European Parliament shall be published in the manner laid down in its Rules of Procedure.

**CHAPTER 3**

**THE COUNCIL**

*Article 26* ▲

The Council shall exercise its powers in the cases provided for and in the manner set out in this Treaty, in particular in order to harmonize the action of the Commission and that of the governments, which are responsible for the general economic policies of their countries.

To this end, the Council and the Commission shall exchange information and consult each other.

The Council may request the Commission to examine any proposals or measures which the Council may consider appropriate or necessary for the attainment of the common objectives.

*Article 27 (\*)* ▲

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(\*) As inserted by Article H(9) TEU.

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The Council shall consist of a representative of each Member State at ministerial level, authorized to commit the government of that Member State.

The office of President shall be held in turn by each Member State in the Council for a term of six months, in the order decided by the Council acting unanimously. (\*\*)

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(\*\*) Second paragraph as amended by Article 12 AA A/FIN/SWE. See also Council Decision of 1 January 1995 determining the order in which the office of President of the Council shall be held (see Volume I, p. 865).

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*Article 27a (\*)* 

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(\*) As inserted by Article H(9) TEU.

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The Council shall meet when convened by its President on his own initiative or at the request of one of its members or of the Commission.

*Article 28 (\*\*)* 

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(\*\*) As amended by Article 13 AA A/FIN/SWE in the version resulting from Article 6 AD AA A/FIN/SWE.

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When the Council is consulted by the Commission it shall consider the matter without necessarily taking a vote. The minutes of its proceedings shall be forwarded to the Commission.

Wherever this Treaty requires that the assent of the Council be given, the assent shall be considered to have been given if the proposal submitted by the Commission receives the approval:

- of an absolute majority of the representatives of the Member States, including the votes of the representatives of two Member States which each produce at least one tenth of the total value of the coal and steel output of the Community; or
- in the event of an equal division of votes and if the Commission maintains its proposal after a second discussion, of the representatives of three Member States which each produce at least one tenth of the total value of the coal and steel output of the Community.

Wherever this Treaty requires a unanimous decision or unanimous assent, such decision or assent shall have been duly given if all the members of the Council vote in favour.



However, for the purposes of applying Articles 21, 32, 32a, 45b and 78h of this Treaty, and Article 16, the third paragraph of Article 20, the fifth paragraph of Article 28 and Article 44 of the Protocol on the Statute of the Court of Justice, abstention by members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

Decisions of the Council, other than those for which a qualified majority or unanimity is required, shall be taken by a vote of the majority of its members; this majority shall be considered to be attained if it represents an absolute majority of the representatives of two Member States, including the votes of the representatives of two Member States which each produce at least one tenth of the total value of the coal and steel output of the Community. However, for the purpose of applying Articles 45b, 78 and 78b of this Treaty which require a qualified majority, the votes of the members of the Council shall be weighted as follows:

Belgium	5
Denmark	3
Germany	10
Greece	5
Spain	8
France	10
Ireland	3
Italy	10
Luxembourg	2
Netherlands	5
Austria	4
Portugal	5
Finland	3
Sweden	4
United Kingdom	10

For their adoption, acts shall require at least 62 votes in favour, cast by not less than 10 members.

Where a vote is taken, any member of the Council may act on behalf of not more than one other member.

The Council shall deal with the Member States through its President.

The acts of the Council shall be published in such a manner as it may decide.

*Article 29 (\*)* 🏔️

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(\*) As inserted by Article H(10) TEU.

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The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President and Members of the Commission, and of the President, Judges, Advocates General and Registrar of the Court of Justice. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.

*Article 30 (\*)* 🏔

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(\*) As inserted by Article H(10) TEU.

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1. A committee consisting of the Permanent Representatives of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council.

2. The Council shall be assisted by a General Secretariat, under the direction of a Secretary General. The Secretary General shall be appointed by the Council acting unanimously.

The Council shall decide on the organization of the General Secretariat.

3. The Council shall adopt its Rules of Procedure.

## ***CHAPTER 4***

### **THE COURT OF JUSTICE**

*Article 31* 🏔

The Court shall ensure that in the interpretation and application of this Treaty, and of rules laid down for the implementation thereof, the law is observed.

*Article 32 (\*)* 🏔

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(\* ) As amended by Article H(11) TEU.

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The Court of Justice shall consist of 15 Judges. (\*\*)

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(\*\*) First paragraph as amended by Article 17 AA A/FIN/SWE in the version resulting from Article 10 AD AA A/FIN/SWE.

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The Court of Justice shall sit in plenary session. It may, however, form chambers, each consisting of three, five or seven Judges, either to undertake certain preparatory inquiries or to adjudicate on particular categories of cases in accordance with the rules laid down for these purposes. (\*\*\*)

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(\*\*\*) Second paragraph as amended by Article 18 AA A/FIN/SWE.

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The Court of Justice shall sit in plenary session when a Member State or a Community institution that is a party to the proceedings so requests.

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Judges and make the necessary adjustments to the second and third paragraphs of this Article and to the second paragraph of Article 32b.

*Article 32a (\*)* 

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(\* ) As amended by Article 4(2)(a) of the Convention on Common Institutions.

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The Court of Justice shall be assisted by eight Advocates General. However, a ninth Advocate General shall be appointed as from the date of accession until 6 October 2000. (\*\*)

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(\*\*) First paragraph as amended by Article 20 AA A/FIN/SWE in the version resulting from Article 11 AD AA A/FIN/SWE.

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It shall be the duty of the Advocate General acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases brought before the Court, in order to assist the Court in the performance of the task assigned to it in Article 31.

Should the Court so request, the Council may, acting unanimously, increase the number of Advocates General and make the necessary adjustments to the third paragraph of Article 32b.

*Article 32b (\*)* 🏔️

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(\*) As amended by Article 4(2)(a) of the Convention on Common Institutions.

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The Judges and Advocates General shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognized competence; they shall be appointed by common accord of the governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges. Eight and seven Judges shall be replaced alternately. (\*\*\*)

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(\*\*\*) Second paragraph as amended by Article 21 AA A/FIN/SWE in the version resulting from Article 12 AD AA A/FIN/SWE.

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Every three years there shall be a partial replacement of the Advocates General. Four Advocates General shall be replaced on each occasion. (\*)


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(\*) Third paragraph as amended by Article 21 AA A/FIN/SWE in the version resulting from Article 12 AD AA A/FIN/SWE.

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Retiring Judges and Advocates General shall be eligible for reappointment.

The Judges shall elect the President of the Court from among their number for a term of three years. He may be re elected.


*Article 32c (\*\*)* 

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(\*\*) As added by Article 4(2)(a) of the Convention on Common Institutions.

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The Court shall appoint its Registrar and lay down the rules governing his service.

*Article 32d (\*\*\*)* 

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(\*\*\*) As amended by Article H(12) TEU.


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1. A Court of First Instance shall be attached to the Court of Justice with jurisdiction to hear and determine at first instance, subject to a right of appeal to the Court of Justice on points of law only and in accordance with the conditions laid down by the Statute, certain classes of action or proceeding defined in accordance with the conditions laid down in paragraph 2. The Court of First Instance shall not be competent to hear and determine questions referred for a preliminary ruling under Article 41.

2. At the request of the Court of Justice and after consulting the European Parliament and the Commission, the Council, acting unanimously, shall determine the classes of action or proceeding referred to in paragraph 1, and the composition of the Court of First Instance and shall adopt the necessary adjustments and additional provisions to the Statute of the Court of Justice. Unless the Council decides otherwise, the provisions of this Treaty relating to the Court of Justice, in particular the provisions of the Protocol on the Statute of the Court of Justice, shall apply to the Court of First Instance.

3. The members of the Court of First Instance shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office; they shall be appointed by common accord of the governments of the Member States for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for re appointment.

4. The Court of First Instance shall establish its Rules of Procedure in agreement with the Court of Justice. Those rules shall require the unanimous approval of the Council.

*Article 33 (\*)* 

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(\*) As amended by Article H(13) TEU.

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The Court of Justice shall have jurisdiction in actions brought by a Member State or by the Council to have decisions or recommendations of the Commission declared void on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers. The Court of Justice may not, however, examine the evaluation of the situation, resulting from economic facts or circumstances, in the light of which the Commission took its decisions or made its recommendations, save where the Commission is alleged to have misused its powers or to have manifestly failed to observe the provisions of this Treaty or any rule of law relating to its application.

Undertakings or associations referred to in Article 48 may, under the same conditions, institute proceedings against decisions or recommendations concerning them which are individual in character or against general decisions or recommendations which they consider to involve a misuse of powers affecting them.

The proceedings provided for in the first two paragraphs of this Article shall be instituted within one month of the notification or publication, as the case may be, of the decision or recommendation.

The Court of Justice shall have jurisdiction under the same conditions in actions brought by the European Parliament for the purpose of protecting its prerogatives.

*Article 34* 

If the Court declares a decision or recommendation void, it shall refer the matter back to the Commission. The Commission shall take the necessary steps to comply with the judgment. If direct and special harm is suffered by an undertaking or group of undertakings by reason of a decision or recommendation held by the Court to involve a fault of such a nature as to render the Community liable, the Commission shall, using the powers conferred upon it by this Treaty, take steps to ensure equitable redress for the harm resulting directly from the decision or recommendation declared void and, where necessary, pay appropriate damages.

If the Commission fails to take within a reasonable time the necessary steps to comply with the judgment, proceedings for damages may be instituted before the Court.

### *Article 35* ▲

Wherever the Commission is required by this Treaty, or by rules laid down for the implementation thereof, to take a decision or make a recommendation and fails to fulfil this obligation, it shall be for States, the Council, undertakings or associations, as the case may be, to raise the matter with the Commission.

The same shall apply if the Commission, where empowered by this Treaty, or by rules laid down for the implementation thereof, to take a decision or make a recommendation, abstains from doing so and such abstention constitutes a misuse of powers.

If at the end of two months the Commission has not taken any decision or made any recommendation, proceedings may be instituted before the Court within one month against the implied decision of refusal which is to be inferred from the silence of the Commission on the matter.

### *Article 36* ▲

Before imposing a pecuniary sanction or ordering a periodic penalty payment as provided for in this Treaty, the Commission must give the party concerned the opportunity to submit its comments.

The Court shall have unlimited jurisdiction in appeals against pecuniary sanctions and periodic penalty payments imposed under this Treaty.

In support of its appeal, a party may, under the same conditions as in the first paragraph of Article 33 of this Treaty, contest the legality of the decision or recommendation which that party is alleged not to have observed.

### *Article 37* ▲

If a Member State considers that in a given case action or failure to act on the part of the Commission is of such a nature as to provoke fundamental and persistent disturbances in its economy, it may raise the matter with the Commission.

The Commission, after consulting the Council, shall, if there are grounds for so doing, recognize the existence of such a situation and decide on the measures to be taken to end it, in accordance with the provisions of this Treaty, while at the same time safeguarding the essential interests of the Community.

When proceedings are instituted in the Court under this Article against such a decision or against an express or implied decision refusing to recognize the existence of the situation referred to above, it shall be for the Court to determine whether it is well founded.

If the Court declares the decision void, the Commission shall, within the terms of the judgment of the Court, decide on the measures to be taken for the purposes indicated in the second paragraph of this Article.

*Article 38* ▲

The Court may, on application by a Member State or the Commission, declare an act of the European Parliament or of the Council to be void.

Application shall be made within one month of the publication of the act of the European Parliament or the notification of the act of the Council to the Member States or to the Commission.

The only grounds for such application shall be lack of competence or infringement of an essential procedural requirement.

*Article 39* ▲

Actions brought before the Court shall not have suspensory effect.

The Court may, however, if it considers that circumstances so require, order that application of the contested decision or recommendation be suspended.

The Court may prescribe any other necessary interim measures.

*Article 40* ▲

Without prejudice to the first paragraph of Article 34, the Court shall have jurisdiction to order pecuniary reparation from the Community, on application by the injured party, to make good any injury caused in carrying out this Treaty by a wrongful act or omission on the part of the Community in the performance of its functions.

The Court shall also have jurisdiction to order the Community to make good any injury caused by a personal wrong by a servant of the Community in the performance of his duties. The personal liability of its servants towards the Community shall be governed by the provisions laid down in their Staff Regulations or the Conditions of Employment applicable to them. (\*)

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(\*) Second paragraph as amended by Article 26 of the Merger Treaty.

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All other disputes between the Community and persons other than its servants to which the provisions of this Treaty or the rules laid down for the implementation thereof do not apply shall be brought before national courts or tribunals.

*Article 41* ▲

The Court shall have sole jurisdiction to give preliminary rulings on the validity of acts of the Commission and of the Council where such validity is in issue in proceedings brought before a national court or tribunal.

*Article 42* ▲

The Court shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law.

*Article 43* ▲

The Court shall have jurisdiction in any other case provided for by a provision supplementing this Treaty.

It may also rule in all cases which relate to the subject matter of this Treaty where jurisdiction is conferred upon it by the law of a Member State.

*Article 44* ▲

The judgments of the Court shall be enforceable in the territory of Member States under the conditions laid down in Article 92.

*Article 45* ▲

The Statute of the Court is laid down in a Protocol annexed to this Treaty.

The Council may, acting unanimously at the request of the Court of Justice and after consulting the Commission and the European Parliament, amend the provisions of Title III of the Statute. (\*)

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(\*) Second paragraph as added by Article 5 of the SEA.

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**CHAPTER 5 (\*\*)**

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(\*\*) Chapter 5 (Articles 45a to 45c, formerly Articles 78e and 78f) as inserted by Article H(14) TEU.

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## THE COURT OF AUDITORS

### *Article 45a*

The Court of Auditors shall carry out the audit.

### *Article 45b*

1. The Court of Auditors shall consist of 15 Members. (\*)

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(\*) Paragraph 1 as amended by Article 22 AA A/FIN/SWE in the version resulting from Article 13 AD AA A/FIN/SWE.

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2. The Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

3. The Members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the European Parliament.

However, when the first appointments are made, four Members of the Court of Auditors, chosen by lot, shall be appointed for a term of office of four years only.

The Members of the Court of Auditors shall be eligible for reappointment.

They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re elected.

4. The Members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.

5. The Members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

6. Apart from normal replacement, or death, the duties of a Member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 7.

The vacancy thus caused shall be filled for the remainder of the Member's term of office.

Save in the case of compulsory retirement, Members of the Court of Auditors shall remain in office until they have been replaced.

7. A Member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

8. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the Members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

9. The provisions of the Protocol on the privileges and immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the Members of the Court of Auditors.

#### *Article 45c*

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Community. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community in so far as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

2. The Court of Auditors shall examine whether all revenue referred to in Paragraph 1 has been received and all expenditure referred to in that paragraph has been incurred in a lawful and regular manner and whether the financial management has been sound.

The audit of revenue shall be carried out on the basis of the amounts established as due and the amounts actually paid to the Community.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Community and in the Member States. In the Member States the audit shall be carried out in liaison with the national audit bodies or, if these do not have the necessary powers, with the competent national departments. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions of the Community and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the Official Journal of the European Communities.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Community.

It shall adopt its annual reports, special reports or opinions by a majority of its Members.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

5. The Court of Auditors shall also draw up a separate annual report stating whether the accounting other than that for the expenditure and revenue referred to in paragraph 1 and the financial management by the Commission relating thereto have been effected in a regular manner. It shall draw up this report within six months of the end of the financial year to which the accounts refer and shall submit it to the Commission and the Council. The Commission shall forward it to the European Parliament.

### **TITLE III**

#### **Economic and social provisions**

## **CHAPTER 1**

### **GENERAL PROVISIONS**

#### *Article 46*

The Commission may at any time consult governments, the various parties concerned (undertakings, workers, consumers and dealers) and their associations, and any experts.

Undertakings, workers, consumers and dealers, and their associations, shall be entitled to present any suggestions or comments to the Commission on questions affecting them.

To provide guidance, in line with the tasks assigned to the Community, on the course of action to be followed by all concerned, and to determine its own course of action, in accordance with the provisions of this Treaty, the Commission shall, in consultation as provided above:

1. conduct a continuous study of market and price trends;
2. periodically draw up programmes indicating foreseeable developments in production, consumption, exports and imports;
3. periodically lay down general objectives for modernization, long term planning of manufacture and expansion of productive capacity;
4. take part, at the request of the governments concerned, in studying the possibilities for re employing, in existing industries or through the creation of new activities, workers made redundant by market developments or technical changes;
5. obtain the information it requires to assess the possibilities for improving working conditions and living standards for workers in the industries within its province, and the threats to those standards.

The Commission shall publish the general objectives and the programmes after submitting them to the Consultative Committee.

It may publish the studies and information mentioned above.

#### *Article 47*

The Commission may obtain the information it requires to carry out its tasks. It may have any necessary checks made.

The Commission must not disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components. Subject to this reservation, it shall publish such data as could be useful to governments or to any other parties concerned.

The Commission may impose fines or periodic penalty payments on undertakings which evade their obligations under decisions taken in pursuance of this Article or which

knowingly furnish false information. The maximum amount of such fines shall be 1% of the annual turnover, and the maximum amount of such penalty payments shall be 5% of the average daily turnover for each day's delay.

Any breach of professional secrecy by the Commission which has caused damage to an undertaking may be the subject of an action for compensation before the Court, as provided in Article 40.

#### *Article 48* 🏔

The right of undertakings to form associations shall not be affected by this Treaty. Membership of such associations must be voluntary. Associations may engage in any activity which is not contrary to the provisions of this Treaty or to the decisions or recommendations of the Commission.

Where this Treaty requires the Consultative Committee to be consulted, any association shall have the right to submit to the Commission, within such time as the latter may set, the comments of its members on the proposed course of action.

To obtain information which it requires, or to facilitate the performance of the tasks entrusted to it, the Commission shall normally call upon producers' associations on condition either that they provide for accredited representatives of workers and consumers to sit on their governing bodies or on advisory committees attached to them, or that they make satisfactory provision in some other way in their organization for the interests of workers and consumers to be voiced.

The associations referred to in the preceding paragraphs shall furnish the Commission with such information on their activities as it may consider necessary. The comments referred to in the second paragraph of this Article and the information furnished in pursuance of this paragraph shall also be forwarded by those associations to the government concerned.

## **CHAPTER 2**

### **FINANCIAL PROVISIONS**

#### *Article 49* 🏔

The Commission is empowered to procure the funds it requires to carry out its tasks:

- by imposing levies on the production of coal and steel;
- by contracting loans.

It may receive gifts.

## Article 50

1. The levies are intended to cover:

- the administrative expenditure provided for in Article 78;
- the non repayable aid towards readaptation provided for in Article 56;
- in the case of the financing arrangements provided for in Articles 54 and 56, and after recourse to the reserve fund, any portion of the amounts required for servicing loans raised by the Commission which may not be covered by receipts from the servicing of loans granted by it, and any payments to be made under guarantees granted by the Commission on loans contracted directly by undertakings;
- expenditure on the promotion of technical and economic research as provided for in Article 55(2).

2. The levies shall be assessed annually on the various products according to their average value; the rate thereof shall not, however, exceed 1% unless previously authorized by the Council, acting by a two thirds majority. The mode of assessment and collection shall be determined by a general decision of the Commission taken after consulting the Council; cumulative imposition shall be avoided as far as possible.

3. The Commission may impose upon undertakings which do not comply with decisions taken by it under this Article surcharges of not more than 5% for each quarter's delay.

## Article 51

1. The Commission may not use the funds obtained by borrowing except to grant loans.

The issue of loans by the Commission on the markets of Member States shall be subject to the rules and regulations in force on these markets.

If the Commission considers the guarantee of Member States necessary in order to contract certain loans, it shall approach the government or governments concerned after consulting the Council; no State shall be obliged to give its guarantee.

2. The Commission may, as provided in Article 54, guarantee loans granted direct to undertakings by third parties.

3. The Commission may so determine its conditions for loans or guarantees as to enable a reserve fund to be built up for the sole purpose of reducing whatever amounts may have to be paid out of the levies in accordance with the third subparagraph of Article 50(1); the sums thus accumulated must not however, be used for any form of lending to undertakings.

4. The Commission shall not itself engage in the banking operations which its financial tasks entail.

*Article 52* ▲

Member States shall make all appropriate arrangements to enable transfers of funds derived from the levies, from pecuniary sanctions and periodic penalty payments and from the reserve fund to be effected within the territories referred to in the first paragraph of Article 79 in accordance with the procedure for commercial payments, to the extent necessary to make it possible for them to be used for the purposes intended by this Treaty.

The procedure for effecting transfers, both between Member States and to third countries, arising out of other financial operations carried out or guaranteed by the Commission, shall be determined by agreement between the Commission and the Member States concerned or the appropriate agencies; there shall, however, be no obligation upon any Member State which applies exchange controls to permit transfers where it has not expressly undertaken to do so.

*Article 53* ▲

Without prejudice to the provisions of Article 58 or Chapter 5 of Title III, the Commission may:

- a. after consulting the Consultative Committee and the Council, authorize the making, on conditions which it shall determine and under its supervision, of any financial arrangements common to several undertakings which it recognizes to be necessary for the performance of the tasks set out in Article 3 and compatible with this Treaty, and in particular with Article 65;
- b. with the unanimous assent of the Council, itself make any financial arrangements serving the same purposes.

Similar arrangements made or maintained by Member States shall be notified to the Commission, which, after consulting the Consultative Committee and the Council, shall make the necessary recommendations to the States concerned where such arrangements are inconsistent, in whole or in part, with the application of this Treaty.

**CHAPTER 3**

**INVESTMENT AND FINANCIAL AID**

*Article 54* ▲

The Commission may facilitate the carrying out of investment programmes by granting loans to undertakings or by guaranteeing other loans which they may contract.



With the unanimous assent of the Council, the Commission may by the same means assist the financing of works and installations which contribute directly and primarily to increasing the production, reducing the production costs or facilitating the marketing of products within its jurisdiction.

In order to encourage coordinated development of investment, the Commission may, in accordance with Article 47, require undertakings to inform it of individual programmes in advance, either by a special request addressed to the undertaking concerned or by a decision stating what kind and scale of programme must be communicated.

The Commission may, after giving the parties concerned full opportunity to submit their comments, deliver a reasoned opinion on such programmes within the framework of the general objectives provided for in Article 46. If application is made by the undertaking concerned, the Commission must deliver a reasoned opinion. The Commission shall notify the opinion to the undertaking concerned and shall bring the opinion to the attention of its government. Lists of such opinions shall be published.

If the Commission finds that the financing of a programme or the operation of the installations therein planned would involve subsidies, aids, protection or discrimination contrary to this Treaty, the adverse opinion delivered by it on these grounds shall have the force of a decision within the meaning of Article 14 and the effect of prohibiting the undertaking concerned from drawing on resources other than its own funds to carry out the programme.

The Commission may impose on undertakings which disregard the prohibition referred to in the preceding paragraph fines not exceeding the amounts improperly devoted to carrying out the programme in question.

#### *Article 55*

1. The Commission shall promote technical and economic research relating to the production and increased use of coal and steel and to occupational safety in the coal and steel industries. To this end it shall organize all appropriate contacts among existing research bodies.

2. After consulting the Consultative Committee, the Commission may initiate and facilitate such research:

- a. by inducing joint financing by the undertakings concerned; or
- b. by allotting for that purpose any funds received as gifts; or
- c. with the assent of the Council, by allotting for that purpose funds derived from the levies provided for in Article 50; the limit laid down in paragraph 2 of that Article must not, however, be exceeded.

The results of research financed as provided in subparagraphs (b) and (c) shall be made available to all concerned in the Community.

3. The Commission shall deliver any opinions which serve to make technical improvements more widely known, particularly with regard to the exchange of patents and the granting of licences for using them.

*Article 56* ▲

1. If the introduction, within the framework of the general objectives of the Commission, of new technical processes or equipment should lead to an exceptionally large reduction in labour requirements in the coal or the steel industry, making it particularly difficult in one or more areas to re employ redundant workers, the Commission, on application by the governments concerned:

- a. shall obtain the opinion of the Consultative Committee;
- b. may facilitate, in the manner laid down in Article 54, either in the industries within its jurisdiction or, with the assent of the Council, in any other industry, the financing of such programmes as it may approve for the creation of new and economically sound activities capable of reabsorbing the redundant workers into productive employment;
- c. shall provide non repayable aid towards:
  - the payment of tideover allowances to workers;
  - the payment of resettlement allowances to workers;
  - the financing of vocational retraining for workers having to change their employment.

The Commission shall make the provision of non repayable aid conditional upon payment by the State concerned of a special contribution of not less than the amount of that aid, unless an exception is authorized by the Council, acting by a two thirds majority.

2. If fundamental changes, not directly connected with the establishment of the common market, in market conditions for the coal or the steel industry should compel some undertakings permanently to discontinue, curtail or change their activities, the Commission, on application by the governments concerned:

- a. may facilitate, in the manner laid down in Article 54, either in the industries within its jurisdiction or, with the assent of the Council, in any other industry, the financing of such programmes as it may approve for the creation of new and economically sound activities or for the conversion of existing undertakings capable of reabsorbing the redundant workers into productive employment;
- b. may provide non repayable aid towards:
  - the payment of tideover allowances to workers;
  - the payment of allowances to undertakings to enable them to continue paying such of their workers as may have to be temporarily laid off as a result of the undertakings' change of activity;
  - the payment of resettlement allowances to workers;
  - the financing of vocational retraining for workers having to change their employment.

The Commission shall make the provision of non repayable aid conditional upon payment by the State concerned of a special contribution of not less than the amount of that aid, unless an exception is authorized by the Council, acting by a two thirds majority.  
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(\* ) Paragraph 2 added in accordance with the procedure under the third and fourth paragraphs of Article 95 of this Treaty (OJ 33, 16. 5. 1960).

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## *CHAPTER 4*

### **PRODUCTION**

#### *Article 57*

In the sphere of production, the Commission shall give preference to the indirect means of action at its disposal, such as:

- cooperation with governments to regularize or influence general consumption, particularly that of the public services;
- intervention in regard to prices and commercial policy as provided for in this Treaty.

#### *Article 58*

1. In the event of a decline in demand, if the Commission considers that the Community is confronted with a period of manifest crisis and that the means of action provided for in Article 57 are not sufficient to deal with this, it shall, after consulting the Consultative Committee and with the assent of the Council, establish a system of production quotas, accompanied to the necessary extent by the measures provided for in Article 74.

If the Commission fails to act, a Member State may bring the matter before the Council, which may, acting unanimously, require the Commission to establish a system of quotas.

2. The Commission shall, on the basis of studies made jointly with undertakings and associations of undertakings, determine the quotas on an equitable basis, taking account of the principles set out in Articles 2, 3 and 4. It may in particular regulate the level of activity of undertakings by appropriate levies on tonnages exceeding a reference level set by a general decision.

The funds thus obtained shall be used to support undertakings whose rate of production has fallen below that envisaged, in order, in particular, to maintain employment in these undertakings as far as possible.

3. The system of quotas shall be ended on a proposal made to the Council by the Commission after consulting the Consultative Committee, or by the government of a Member State, unless the Council decides otherwise, acting unanimously if the proposal emanates from the Commission or by a simple majority if the proposal emanates from a government. An announcement on the ending of the quota system shall be made by the Commission.

4. The Commission may impose upon undertakings which do not comply with decisions taken by it under this Article fines not exceeding the value of the tonnages produced in disregard thereof.

#### *Article 59*

1. If, after consulting the Consultative Committee, the Commission finds that the Community is confronted with a serious shortage of any or all of the products within its jurisdiction, and that the means of action provided for in Article 57 are not sufficient to deal with this, it shall bring the situation to the attention of the Council and shall, unless the Council, acting unanimously, decides otherwise, propose to it the necessary measures.

If the Commission fails to act, a Member State may bring the matter before the Council, which may, acting unanimously, recognize that the situation in question does in fact exist.

2. The Council shall, acting unanimously on a proposal from and in consultation with the Commission, establish consumption priorities and determine the allocation of the coal and steel resources of the Community to the industries within its jurisdiction, to export and to other sectors of consumption.

On the basis of the consumption priorities thus established, the Commission shall, after consulting the undertakings concerned, draw up the production programmes with which the undertakings shall be required to comply.

3. If the Council does not reach a unanimous decision on the measures referred to in paragraph 2, the Commission shall itself allocate the resources of the Community among the Member States on the basis of consumption and exports, irrespective of the place of production.

Within each of the Member States allocation of the resources assigned by the Commission shall be carried out on the responsibility of the government, provided that the deliveries scheduled to be supplied to other Member States are not affected and that the Commission is consulted concerning the portions to be allotted to export and to the operation of the coal and steel industries.

If the portion allotted by a government to export is less than the amount taken as the basis for calculating the total tonnage to be assigned to the Member State concerned, the Commission shall, to the necessary extent, at the next allocation, redivide among the Member States the resources thus made available for consumption.

If the portion allotted by a government to the operation of the coal and steel industries is similarly less and the result is a decrease in Community production of one of these, the tonnage assigned to the Member State concerned shall, at the next allocation, be reduced by the amount of the decrease in production so caused.

4. In all cases, the Commission shall be responsible for allocating equitably among undertakings the quantities assigned to the industries within its jurisdiction, on the basis of studies made jointly with undertakings and associations of undertakings.

5. Should the situation provided for in paragraph 1 of this Article arise, the Commission may, in accordance with Article 57, after consulting the Consultative Committee and with the assent of the Council, decide that restrictions on exports to third countries shall be imposed in all the Member States, or, if the Commission fails to act, the Council may, acting unanimously, so decide on a proposal from a government.

6. The Commission may end the arrangements made under this Article after consulting the Consultative Committee and the Council. It shall not do so if the Council unanimously dissents.

If the Commission fails to act, the Council may, acting unanimously, itself end the arrangements.

7. The Commission may impose upon undertakings which do not comply with decisions taken under this Article fines not exceeding twice the value of prescribed production or deliveries either not effected or diverted from their proper use.

## ***CHAPTER 5***

### **PRICES**

#### *Article 60*

1. Pricing practices contrary to Articles 2, 3 and 4 shall be prohibited, in particular:

- unfair competitive practices, especially purely temporary or purely local price reductions tending towards the acquisition of a monopoly position within the common market;

- discriminatory practices involving, within the common market, the application by a seller of dissimilar conditions to comparable transactions, especially on grounds of the nationality of the buyer.

The Commission may define the practices covered by this prohibition by decisions taken after consulting the Consultative Committee and the Council.

2. For these purposes:

- a. the price lists and conditions of sale applied by undertakings within the common market must be made public to the extent and in the manner prescribed by the Commission after consulting the Consultative Committee. If the Commission finds that an undertaking's choice of point on which it bases its price lists is abnormal and in particular makes it possible to evade the provisions of subparagraph (b), it shall make appropriate recommendations to that undertaking;
- b. the methods of quotation used must not have the effect that prices charged by an undertaking in the common market, when reduced to their equivalent at the point chosen for its price lists, result in:
  - increases over the price shown in the price list in question for a comparable transaction; or
  - reductions below that price the amount of which exceeds either:
    - the extent enabling the quotation to be aligned on the price list, based on another point which secures the buyer the most advantageous delivered terms; or
    - the limits fixed, by decision of the Commission after the Consultative Committee has delivered its opinion, for each category of product, with due regard, where appropriate, for the origin and destination of products.

Such decisions shall be taken when found necessary, to avoid disturbances in the whole or any part of the common market or disequilibria resulting from a difference between the methods of quotation used for a product and for materials involved in making it. Such decisions shall not preclude undertakings from aligning their quotations on those of undertakings outside the Community, on condition that the transactions are notified to the Commission, which may, in the event of abuse, restrict or abrogate the right of the undertakings concerned to take advantage of this exception.

#### *Article 61*

On the basis of studies made jointly with undertakings and associations of undertakings, in accordance with the first paragraph of Article 46 and the third paragraph of Article 48, and after consulting the Consultative Committee and the Council as to the advisability of so doing and the price level to be so determined, the Commission may, for one or more of the products within its jurisdiction:

- a. fix maximum prices within the common market, if it finds that such a decision is necessary to attain the objectives set out in Article 3, and particularly in paragraph (c) thereof;
- b. fix minimum prices within the common market, if it finds that a manifest crisis exists or is imminent and that such a decision is necessary to attain the objectives set out in Article 3;
- c. after consulting the associations to which the undertakings concerned belong, or the undertakings themselves, fix, by methods appropriate to the nature of the export markets, minimum or maximum export prices, if such an arrangement can be effectively supervised and is necessary both in view of the dangers to the undertakings resulting from the state of the market and in order to secure the acceptance in international economic relations of the objective set out in Article 3(f); any fixing of minimum prices shall be without prejudice to the measures provided for in the last subparagraph of Article 60(2).

In fixing prices, the Commission shall take into account the need to ensure that the coal and steel industries and the consumer industries remain competitive, in accordance with the principles laid down in Article 3(c).

If in these circumstances the Commission fails to act, the government of a Member State may bring the matter before the Council, which may, acting unanimously, call upon the Commission to fix such maximum or minimum prices.

#### *Article 62*

If the Commission considers this the most appropriate way of preventing coal from being priced at the level of the production costs of the mines which have the highest costs but which it is recognized should be temporarily maintained in service in order that the tasks laid down in Article 3 may be performed, it may, after consulting the Consultative Committee, authorize equalization payments:

- between undertakings in the same coalfield to which the same price lists apply;
- after consulting the Council, between undertakings in different coalfields.

These equalization payments may, moreover, be instituted as provided in Article 53.

#### *Article 63*

1. If the Commission finds that discrimination is being systematically practised by purchasers, in particular under provisions governing contracts entered into by bodies dependent on a public authority, it shall make appropriate recommendations to the governments concerned.

2. Where the Commission considers it necessary, it may decide that:

- a. undertakings must frame their conditions of sale in such a way that their customers and commission agents acting on their behalf shall be under an obligation to comply with the rules made by the Commission in application of this Chapter;
- b. undertakings shall be held responsible for infringements of this obligation by their direct agents or by commission agents acting on their behalf.

In the event of an infringement of this obligation by a purchaser, the Commission may restrict or, should the infringement be repeated, temporarily prohibit dealings with that purchaser by Community undertakings. If this is done, the purchaser shall have the right, without prejudice to Article 33, to bring an action before the Court.

3. In addition, the Commission is empowered to make to the Member States concerned any appropriate recommendations to ensure that the rules laid down for the application of Article 60(1) are duly observed by all distributive undertakings and agencies in the coal and steel sectors.

#### *Article 64* ▲

The Commission may impose upon undertakings which infringe the provisions of this Chapter or decisions taken thereunder fines not exceeding twice the value of the sales effected in disregard thereof. If the infringement is repeated, this maximum shall be doubled.

## **CHAPTER 6**

### **AGREEMENTS AND CONCENTRATIONS**

#### *Article 65* ▲

1. All agreements between undertakings, decisions by associations of undertakings and concerted practices tending directly or indirectly to prevent, restrict or distort normal competition within the common market shall be prohibited, and in particular those tending:

- a. to fix or determine prices;
- b. to restrict or control production, technical development or investment;
- c. to share markets, products, customers or sources of supply.

2. However, the Commission shall authorize specialization agreements or joint buying or joint selling agreements in respect of particular products, if it finds that:

- a. such specialization or such joint buying or joint selling will make for a substantial improvement in the production or distribution of those products;



- b. the agreement in question is essential in order to achieve these results and is not more restrictive than is necessary for that purpose; and
- c. the agreement is not liable to give the undertakings concerned the power to determine the prices, or to control or restrict the production or marketing, of a substantial part of the products in question within the common market, or to shield them against effective competition from other undertakings within the common market.

If the Commission finds that certain agreements are strictly analogous in nature and effect to those referred to above, having particular regard to the fact that this paragraph applies to distributive undertakings, it shall authorize them also when satisfied that they meet the same requirements.

Authorizations may be granted subject to specified conditions and for limited periods. In such cases the Commission shall renew an authorization once or several times if it finds that the requirements of subparagraphs (a) to (c) are still met at the time of renewal.

The Commission shall revoke or amend an authorization if it finds that as a result of a change in circumstances the agreement no longer meets these requirements, or that the actual results of the agreement or of the application thereof are contrary to the requirements for its authorization.

Decisions granting, renewing, amending, refusing or revoking an authorization shall be published together with the reasons therefor; the restrictions imposed by the second paragraph of Article 47 shall not apply thereto.

3. The Commission may, as provided in Article 47, obtain any information needed for the application of this Article, either by making a special request to the parties concerned or by means of regulations stating the kinds of agreement, decision or practice which must be communicated to it.

4. Any agreement or decision prohibited by paragraph 1 of this Article shall be automatically void and may not be relied upon before any court or tribunal in the Member States.

The Commission shall have sole jurisdiction, subject to the right to bring actions before the Court, to rule whether any such agreement or decision is compatible with this Article.

5. On any undertaking which has entered into an agreement which is automatically void, or has enforced or attempted to enforce, by arbitration, penalty, boycott or any other means, an agreement or decision which is automatically void or an agreement for which authorization has been refused or revoked, or has obtained an authorization by means of information which it knew to be false or misleading, or has engaged in practices prohibited by paragraph 1 of this Article, the Commission may impose fines or periodic penalty payments not exceeding twice the turnover on the products which were the subject of the agreement, decision or practice prohibited by this Article; if, however, the

purpose of the agreement, decision or practice is to restrict production, technical development or investment, this maximum may be raised to 10% of the annual turnover of the undertakings in question in the case of fines, and 20% of the daily turnover in the case of periodic penalty payments.

#### *Article 66*

1. Any transaction shall require the prior authorization of the Commission, subject to the provisions of paragraph 3 of this Article, if it has in itself the direct or indirect effect of bringing about within the territories referred to in the first paragraph of Article 79, as a result of action by any person or undertaking or group of persons or undertakings, a concentration between undertakings at least one of which is covered by Article 80, whether the transaction concerns a single product or a number of different products, and whether it is effected by merger, acquisition of shares or parts of the undertaking or assets, loan, contract or any other means of control. For the purpose of applying these provisions, the Commission shall, by regulations made after consulting the Council, define what constitutes control of an undertaking.

2. The Commission shall grant the authorization referred to in the preceding paragraph if it finds that the proposed transaction will not give to the persons or undertakings concerned the power, in respect of the product or products within its jurisdiction:

- to determine prices, to control or restrict production or distribution or to hinder effective competition in a substantial part of the market for those products; or
- to evade the rules of competition instituted under this Treaty, in particular by establishing an artificially privileged position involving a substantial advantage in access to supplies or markets.

In assessing whether this is so, the Commission shall, in accordance with the principle of non discrimination laid down in Article 4(b), take account of the size of like undertakings in the Community, to the extent it considers justified in order to avoid or correct disadvantages resulting from unequal competitive conditions.

The Commission may make its authorization subject to any conditions which it considers appropriate for the purposes of this paragraph.

Before ruling on a transaction concerning undertakings at least one of which is not subject to Article 80, the Commission shall obtain the comments of the governments concerned.

3. The Commission shall exempt from the requirement of prior authorization such classes of transactions as it finds should, in view of the size of the assets or undertakings concerned, taken in conjunction with the kind of concentration to be effected, be deemed to meet the requirements of paragraph 2. Regulations made to this effect, with the assent of the Council, shall also lay down the conditions governing such exemption.

4. Without prejudice to the application of Article 47 to undertakings within its jurisdiction, the Commission may, either by regulations made after consultation with the Council stating the kind of transaction to be communicated to it or by a special request under these regulations to the parties concerned, obtain from the natural or legal persons who have acquired or regrouped or are intending to acquire or regroup the rights or assets in question any information needed for the application of this Article concerning transactions liable to produce the effect referred to in paragraph 1.

5. If a concentration should occur which the Commission finds has been effected contrary to the provisions of paragraph 1 but which nevertheless meets the requirements of paragraph 2, the Commission shall make its approval of that concentration subject to payment by the persons who have acquired or regrouped the rights or assets in question of the fine provided for in the second subparagraph of paragraph 6; the amount of the fine shall not be less than half of the maximum determined in that subparagraph should it be clear that authorization ought to have been applied for. If the fine is not paid, the Commission shall take the steps hereinafter provided for in respect of concentrations found to be unlawful.

If a concentration should occur which the Commission finds cannot fulfil the general or specific conditions to which an authorization under paragraph 2 would be subject, the Commission shall, by means of a reasoned decision, declare the concentration unlawful and, after giving the parties concerned the opportunity to submit their comments, shall order separation of the undertakings or assets improperly concentrated or cessation of joint control, and any other measures which it considers appropriate to return the undertakings or assets in question to independent operation and restore normal conditions of competition. Any person directly concerned may institute proceedings against such decisions, as provided in Article 33. By way of derogation from Article 33, the Court shall have unlimited jurisdiction to assess whether the transaction effected is a concentration within the meaning of paragraph 1 and of regulations made in application thereof. The institution of proceedings shall have suspensory effect. Proceedings may not be instituted until the measures provided for above have been ordered, unless the Commission agrees to the institution of separate proceedings against the decision declaring the transaction unlawful.

The Commission may at any time, unless the third paragraph of Article 39 is applied, take or cause to be taken such interim measures of protection as it may consider necessary to safeguard the interests of competing undertakings and of third parties, and to forestall any step which might hinder the implementation of its decisions. Unless the Court decides otherwise, proceedings shall not have suspensory effect in respect of such interim measures.

The Commission shall allow the parties concerned a reasonable period in which to comply with its decisions, on expiration of which it may impose daily penalty payments not exceeding one tenth of 1% of the value of the rights or assets in question.

Furthermore, if the parties concerned do not fulfil their obligations, the Commission shall itself take steps to implement its decision; it may in particular suspend the exercise, in undertakings within its jurisdiction, of the rights attached to the assets acquired irregularly, obtain the appointment by the judicial authorities of a receiver of such assets, organize the forced sale of such assets subject to the protection of the legitimate interests of their owners, and annul with respect to natural or legal persons who have acquired the rights or assets in question through the unlawful transaction, the acts, decisions, resolutions or proceedings of the supervisory and managing bodies or undertakings over which control has been obtained irregularly.

The Commission is also empowered to make such recommendations to the Member States concerned as may be necessary to ensure that the measures provided for in the preceding subparagraphs are implemented under their own law.

In the exercise of its powers, the Commission shall take account of the rights of third parties which have been acquired in good faith.

6. The Commission may impose fines not exceeding:

- 3% of the value of the assets acquired or regrouped or to be acquired or regrouped, on natural or legal persons who have evaded the obligations laid down in paragraph 4;
- 10% of the value of the assets acquired or regrouped, on natural or legal persons who have evaded the obligations laid down in paragraph 1; this maximum shall be increased by one twenty fourth for each month which elapses after the end of the 12th month following completion of the transaction until the Commission establishes that there has been an infringement;
- 10% of the value of the assets acquired or regrouped or to be acquired or regrouped, on natural or legal persons who have obtained or attempted to obtain authorization under paragraph 2 by means of false or misleading information;
- 15% of the value of the assets acquired or regrouped, on undertakings within its jurisdiction which have engaged in or been party to transactions contrary to the provisions of this Article.

Persons fined under this paragraph may appeal to the Court as provided in Article 36.

7. If the Commission finds that public or private undertakings which, in law or in fact, hold or acquire in the market for one of the products within its jurisdiction a dominant position shielding them against effective competition in a substantial part of the common market are using that position for purposes contrary to the objectives of this Treaty, it shall make to them such recommendations as may be appropriate to prevent the position from being so used. If these recommendations are not implemented satisfactorily within a reasonable time, the Commission shall, by decisions taken in consultation with the government concerned, determine the prices and conditions of sale to be applied by the undertaking in question or draw up production or delivery programmes with which it must comply, subject to liability to the penalties provided for in Articles 58, 59 and 64.

## **CHAPTER 7**

### **INTERFERENCE WITH CONDITIONS OF COMPETITION**

#### *Article 67*

1. Any action by a Member State which is liable to have appreciable repercussions on conditions of competition in the coal or the steel industry shall be brought to the knowledge of the Commission by the government concerned.
2. If the action is liable, by substantially increasing differences in production costs otherwise than through changes in productivity, to provoke a serious disequilibrium, the Commission, after consulting the Consultative Committee and the Council, may take the following steps:
  - if the action taken by that State is having harmful effects on the coal or steel undertakings within the jurisdiction of that State, the Commission may authorize it to grant aid to these undertakings, the amount, conditions and duration of which shall be determined in agreement with the Commission. The same shall apply in the case of any change in wages and working conditions which would have the same effects, even if not resulting from any action by that State;
  - if the action taken by that State is having harmful effects on the coal or steel undertakings within the jurisdiction of other Member States, the Commission shall make a recommendation to that State with a view to remedying these effects by such measures as that State may consider most compatible with its own economic equilibrium.
3. If the action taken by that State reduces differences in production costs by allowing special benefits to or imposing special charges on the coal or steel undertakings within its jurisdiction in comparison with the other industries in the same country, the Commission is empowered to make the necessary recommendations to that State after consulting the Consultative Committee and the Council.

## **CHAPTER 8**

### **WAGES AND MOVEMENT OF WORKERS**

#### *Article 68*

1. The methods used for fixing wages and welfare benefits in the several Member States shall not, in the case of the coal and steel industries, be affected by this Treaty, subject to the following provisions.

2. If the Commission finds that one or more undertakings are charging abnormally low prices because they are paying abnormally low wages compared with the wage level in the same area, it shall, after consulting the Consultative Committee, make appropriate recommendations to them. If the abnormally low wages are the result of governmental decisions, the Commission shall confer with the government concerned, and failing agreement it may, after consulting the Consultative Committee, make a recommendation to that government.

3. If the Commission finds that wage reduction entails a lowering of the standard of living of workers and at the same time is being used as a means for the permanent economic adjustment of undertakings or as a means of competition between them, it shall, after consulting the Consultative Committee, make a recommendation to the undertaking or government concerned with a view to securing, at the expense of the undertakings, benefits for the workers in order to compensate for the reductions.

This provision shall not apply to:

- a. overall measures taken by a Member State to restore its external equilibrium, without prejudice in such case to any action under Article 67;
- b. wage reductions resulting from the application of a sliding scale established by law or by contract;
- c. wage reductions resulting from a fall in the cost of living;
- d. wage reductions to correct abnormal increases that occurred previously in exceptional circumstances which no longer obtain.

4. Save in the cases referred to in paragraph 3(a) and (b), any wage reduction affecting all or a substantial number of the workers in an undertaking shall be notified to the Commission.

5. The recommendations provided for in the preceding paragraphs may be made by the Commission only after consulting the Council, unless they are addressed to undertakings smaller than a minimum size to be defined by the Commission in agreement with the Council.

If in one of the Member States a change in the arrangements for the financing of social security or for dealing with unemployment and its effects, or a change in wages, produces the effects referred to in Article 67(2) or (3), the Commission is empowered to take the steps provided for in that Article.

6. The Commission may impose upon undertakings which do not comply with recommendations made to them under this Article fines and periodic penalty payments not exceeding twice the amount of the saving in labour costs improperly effected.

*Article 69* 

1. Member States undertake to remove any restriction based on nationality upon the employment in the coal and steel industries of workers who are nationals of Member States and have recognized qualifications in a coalmining or steelmaking occupation, subject to the limitations imposed by the basic requirements of health and public policy.
2. For the purpose of applying this provision, Member States shall draw up common definitions of skilled trades and qualifications therefor, shall determine by common accord the limitations provided for in paragraph 1, and shall endeavour to work out arrangements on a Community wide basis for bringing offers of employment into touch with applications for employment.
3. In addition, with regard to workers not covered by paragraph 2, they shall, should growth of coal or steel production be hampered by a shortage of suitable labour, adjust their immigration rules to the extent needed to remedy this state of affairs; in particular, they shall facilitate the re employment of workers from the coal and steel industries of other Member States.
4. They shall prohibit any discrimination in remuneration and working conditions between nationals and migrant workers, without prejudice to special measures concerning frontier workers; in particular, they shall endeavour to settle among themselves any matters remaining to be dealt with in order to ensure that social security arrangements do not inhibit labour mobility.
5. The Commission shall guide and facilitate action by Member States in applying this Article.
6. This Article shall not affect the international obligations of Member States.

## ***CHAPTER 9***

### **TRANSPORT**

#### *Article 70*

It is recognized that the establishment of the common market necessitates the application of such rates and conditions for the carriage of coal and steel as will afford comparable price conditions to comparably placed consumers.

Any discrimination in rates and conditions of carriage of every kind which is based on the country of origin or destination of products shall be prohibited in traffic between Member States. For the purpose of eliminating such discrimination it shall in particular be obligatory to apply to the carriage of coal and steel to or from another country of the Community the scales, rates and all other tariff rules of every kind which are applicable to the internal carriage of the same goods on the same route.



The scales, rates and all other tariff rules of every kind applied to the carriage of coal and steel within each Member State and between Member States shall be published or brought to the knowledge of the Commission.

The application of special internal rates and conditions in the interest of one or more coal or steel producing undertakings shall require the prior agreement of the Commission, which shall verify that they are in accordance with the principles of this Treaty; it may make its agreement temporary or conditional.

Subject to the provisions of this Article, and to the other provisions of this Treaty, transport policy, including the fixing and altering of rates and conditions of carriage of every kind and the making of rates on a basis calculated to secure for the transport undertakings concerned a properly balanced financial position, shall continue to be governed by the laws or regulations of the individual Member States, as shall measures relating to coordination or competition between different modes of transport or different routes.

## ***CHAPTER 10***

### **COMMERCIAL POLICY**

#### *Article 71*

The powers of the governments of Member States in matters of commercial policy shall not be affected by this Treaty, save as otherwise provided therein.

The powers conferred on the Community by this Treaty in matters of commercial policy towards third countries may not exceed those accorded to Member States under international agreements to which they are parties, subject to the provisions of Article 75.

The governments of Member States shall afford each other such mutual assistance as is necessary to implement measures recognized by the Commission as being in accordance with this Treaty and with existing international agreements. The Commission is empowered to propose to the Member States concerned the methods by which this mutual assistance may be provided.

#### *Article 72*

Minimum rates below which Member States undertake not to lower their customs duties on coal and steel as against third countries, and maximum rates above which they undertake not to raise them, may be fixed by decision of the Council, acting unanimously on a proposal from the Commission made on the latter's own initiative or at the request of a Member State.



Within the limits so fixed, each government shall determine its tariffs according to its own national procedure. The Commission may, on its own initiative or at the request of a Member State, deliver an opinion suggesting amendment of the tariffs of the State.

*Article 73* ▲

The administration of import and export licences for trade with third countries shall be a matter for the government in whose territory the place of destination for imports or the place of origin for exports is situated.

The Commission is empowered to supervise the administration and verification of these licences with respect to coal and steel. Where necessary it shall, after consulting the Council, make recommendations to Member States to ensure that the arrangements in this connection are not more restrictive than the circumstances governing their adoption or retention require, and to secure the coordination of measures taken under the third paragraph of Article 71 or under Article 74.

*Article 74* ▲

In the cases set out below, the Commission is empowered to take any measures which are in accordance with this Treaty, and in particular with the objectives set out in Article 3, and to make to governments any recommendation which is in accordance with the second paragraph of Article 71:

1. if it is found that countries not members of the Community or undertakings situated in such countries are engaging in dumping or other practices condemned by the Havana Charter;
2. if a difference between quotations by undertakings outside and by undertakings within the jurisdiction of the Community is due solely to the fact that those of the former are based on conditions of competition contrary to this Treaty;
3. if one of the products referred to in Article 81 of this Treaty is imported into the territory of one or more Member States in relatively increased quantities and under such conditions that these imports cause or threaten to cause serious injury to production within the common market of like or directly competing products.

However, recommendations for the introduction of quantitative restrictions under subparagraph 2 may be made only with the assent of the Council, and under subparagraph 3 only under the conditions laid down in Article 58.

*Article 75* ▲

The Member States undertake to keep the Commission informed of proposed commercial agreements or arrangements having similar effect where these relate to coal and steel or to the importation of other raw materials and specialized equipment needed for the production of coal and steel in Member States.

If a proposed agreement or arrangement contains clauses which would hinder the implementation of this Treaty, the Commission shall make the necessary recommendations to the State concerned within 10 days of receiving notification of the communication addressed to it; in any other case it may deliver opinions.

## TITLE IV

### General provisions

#### Article 76

*(Article repealed by the second paragraph of Article 28 of the Merger Treaty)*

*[See Merger Treaty, first paragraph of Article 28, which reads as follows:*

The European Communities shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks, under the conditions laid down in the Protocol annexed to this Treaty. The same shall apply to the European Investment Bank.]

#### Article 77

The seat of the institutions of the Community will be determined by common accord of the governments of the Member States.

#### Article 78 (\*) (\*\*)

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(\*) As amended by Article 2 of the Treaty amending Certain Financial Provisions.

(\*\*) EDITORIAL NOTE:

[The Joint Declaration by the European Parliament, the Council and the Commission, adopted on 30 June 1982, on various measures to improve the budgetary procedure is reproduced on p. 865 of Volume I.](#)

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1. The financial year shall run from 1 January to 31 December.

The administrative expenditure of the Community shall comprise the expenditure of the Commission, including that relating to the functioning of the Consultative Committee, and that of the European Parliament, the Council, and of the Court of Justice.

2. Each institution of the Community shall, before 1 July, draw up estimates of its administrative expenditure. The Commission shall consolidate these estimates in a preliminary draft administrative budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The Commission shall place the preliminary draft administrative budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Council shall consult the Commission and, where appropriate, the other institutions concerned whenever it intends to depart from the preliminary draft budget.

The Council shall, acting by a qualified majority, establish the draft administrative budget and forward it to the European Parliament.

4. The draft administrative budget shall be placed before the European Parliament not later than 5 October of the year preceding that in which the budget is to be implemented.

The European Parliament shall have the right to amend the draft administrative budget, acting by a majority of its members and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within 45 days of the draft administrative budget being placed before it, the European Parliament has given its approval, the administrative budget shall stand as finally adopted. If within this period the European Parliament has not amended the draft administrative budget nor proposed any modifications thereto, the administrative budget shall be deemed to be finally adopted.

If within this period the European Parliament has adopted amendments or proposed modifications, the draft administrative budget together with the amendments or proposed modifications shall be forwarded to the Council.

5. After discussing the draft administrative budget with the Commission and, where appropriate, with the other institutions concerned, the Council shall act under the following conditions:

- a. the Council may, acting by a qualified majority, modify any of the amendments adopted by the European Parliament;
- b. with regard to the proposed modifications:
  - o where a modification proposed by the European Parliament does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure

which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted;

- where a modification proposed by the European Parliament has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a qualified majority, accept this proposed modification. In the absence of a decision to accept it, the proposed modification shall stand as rejected;
- where, in pursuance of one of the two preceding subparagraphs, the Council has rejected a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft administrative budget or fix another amount.

The draft administrative budget shall be modified on the basis of the proposed modifications accepted by the Council.

If, within 15 days of the draft administrative budget being placed before it, the Council has not modified any of the amendments adopted by the European Parliament and if the modifications proposed by the latter have been accepted, the administrative budget shall be deemed to be finally adopted. The Council shall inform the European Parliament that it has not modified any of the amendments and that the proposed modifications have been accepted.

If within this period the Council has modified one or more of the amendments adopted by the European Parliament or if the modifications proposed by the latter have been rejected or modified, the modified draft administrative budget shall again be forwarded to the European Parliament. The Council shall inform the European Parliament of the results of its deliberations.

6. Within 15 days of the draft administrative budget being placed before it, the European Parliament, which shall have been notified of the action taken on its proposed modification, may, acting by a majority of its Members and three fifths of the votes cast, amend or reject the modifications to its amendments made by the Council and shall adopt the administrative budget accordingly. If within this period the European Parliament has not acted, the administrative budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the administrative budget has been finally adopted.

8. However, the European Parliament, acting by a majority of its Members and two thirds of the votes cast, may, if there are important reasons, reject the draft administrative budget and ask for a new draft to be submitted to it.

9. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The Commission shall, after consulting the Economic Policy Committee, declare what this maximum is as it results from:

- the trend, in terms of volume, of the gross national product within the Community;
- the average variation in the budgets of the Member States;
- and
- the trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase on the draft administrative budget established by the Council is over half the maximum rate, the European Parliament may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where the European Parliament, the Council or the Commission considers that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the European Parliament, acting by a majority of its Members and three fifths of the votes cast.

10. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of this Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.

11. Final adoption of the administrative budget shall have the effect of authorizing and requiring the Commission to collect the corresponding revenue in accordance with the provisions of Article 49.

*Article 78a (\*)* 

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(\*) As amended by Article 3 of the Treaty amending Certain Financial Provisions.

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The administrative budget shall be drawn up in the unit of account determined in accordance with the provisions of the regulations made pursuant to Article 78h.

The expenditure shown on the budget shall be authorized for one financial year, unless the regulations made pursuant to Article 78h provide otherwise.

In accordance with conditions to be laid down pursuant to Article 78h any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.

Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 78h.

The expenditure of the European Parliament, the Council, the Commission and the Court shall be set out in separate parts of the administrative budget, without prejudice to special arrangements for certain common items of expenditure.

*Article 78b (\*)* 

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(\*) As amended by Article 4 of the Treaty amending Certain Financial Provisions.

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1. If, at the beginning of a financial year, the administrative budget has not yet been voted, a sum equivalent to not more than one twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the administrative budget in accordance with the provisions of the regulations made pursuant to Article 78h; this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one twelfth of those provided for in the draft administrative budget in course of preparation.

The Commission is authorized and required to impose the levies up to the amount of the appropriations for the preceding financial year, but shall not thereby exceed the amount which would have resulted from the adoption of the draft administrative budget.

2. The Council may, acting by a qualified majority, provided that the other conditions laid down in paragraph 1 are observed, authorize expenditure in excess of one twelfth. The authorization and requirement to impose the levies may be adjusted accordingly.

If the decision relates to expenditure which does not necessarily result from this Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to

the European Parliament; within 30 days the European Parliament, acting by a majority of its Members and three fifths of the votes cast, may adopt a different decision on the expenditure in excess of the one twelfth referred to in paragraph 1. This part of the decision of the Council shall be suspended until the European Parliament has taken its decision. If within the said period the European Parliament has not taken a decision which differs from the decision of the Council, the latter shall be deemed to be finally adopted.

*Article 78c (\*)* 

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(\*) As amended by Article H(15) TEU.

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The Commission shall implement the administrative budget, in accordance with the provisions of the regulations made pursuant to Article 78h, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management.

The regulations shall lay down detailed rules for each institution concerning its part in effecting its own expenditure.

Within the administrative budget, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 78h, transfer appropriations from one chapter to another or from one subdivision to another.

*Article 78d (\*\*)* 

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(\*\*) As amended by Article 6 of the Treaty amending Certain Financial Provisions.

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The Commission shall submit annually to the Council and to the European Parliament the accounts of the preceding financial year relating to the implementation of the administrative budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community in the field covered by that budget.

*Article 78e* 

*(Repealed)*

*Article 78f* 

*(Repealed)*

*Article 78g (\*)* 🏔

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(\*) As amended by Article H(17) TEU.

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1. The European Parliament, acting on a recommendation from the Council, which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the administrative budget. To this end, the Council and the European Parliament in turn shall examine the accounts and the financial statement referred to in Article 78d, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, and any relevant special reports by the Court of Auditors.

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the administrative budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.

3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.

At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the administrative budget. These reports shall also be forwarded to the Court of Auditors.

*Article 78h (\*)* 🏔

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(\*) As amended by Article H(18) TEU.

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The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall:



- a. make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the administrative budget and for presenting and auditing accounts;
- b. determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Communities' own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements;
- c. lay down rules concerning the responsibility of financial controllers, authorizing officers and accounting officers, and concerning appropriate arrangements for inspection.

*Article 78i (\*\*)* 

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(\*\*) As inserted by Article H(19) TEU.

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Member States shall take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests.

Without prejudice to other provisions of this Treaty, Member States shall coordinate their action aimed at protecting the financial interests of the Community against fraud. To this end they shall organize, with the help of the Commission, close and regular cooperation between the competent departments of their administrations.

*Article 79* 

This Treaty shall apply to the European territories of the High Contracting Parties. It shall also apply to European territories for whose external relations a signatory State is responsible; as regards the Saar, an exchange of letters between the Government of the Federal Republic of Germany and the Government of the French Republic is annexed to this Treaty.

Notwithstanding the preceding paragraph:

- a. This Treaty shall not apply to the Faeroe Islands.
- b. This Treaty shall not apply to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus.
- c. This Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Decision of the Council of the European Communities of 22 January 1972 concerning the accession of new Member States to the European Coal and Steel Community. (\*)

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(\*) Second paragraph, added by Article 25 AA DK/IRL/UK, modified by Article 14 AD AA DK/IRL/UK and Article H(20) TEU.

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- d. This Treaty shall not apply to the Farland Islands. The Government of Finland may, however, give notice, by a declaration deposited when ratifying this Treaty with the Government of the Italian Republic, that the Treaty shall apply to the Farland Islands in accordance with the provisions set out in Protocol No 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded. The Government of the Italian Republic shall transmit a certified copy of any such declaration to the Member States. (\*)
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(\*) Point (d) added by Article 28 AA A/FIN/SWE in the version resulting from Article 19 AD AA A/FIN/SWE.

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Each High Contracting Party undertakes to extend to the other Member States the preferential treatment which it enjoys with respect to coal and steel in the non European territories under its jurisdiction.

#### *Article 80*

For the purposes of this Treaty, undertaking' means any undertaking engaged in production in the coal or the steel industry within the territories referred to in the first paragraph of Article 79, and also, for the purposes of Articles 65 and 66 and of information required for their application and proceedings in connection with them, any undertaking or agency regularly engaged in distribution other than sale to domestic consumers or small craft industries.

#### *Article 81*

The expressions coal' and steel' are defined in Annex I to this Treaty.

Additions to the lists in that Annex may be made by the Council, acting unanimously.

#### *Article 82*

The turnover taken as the basis for calculating any fines and periodic penalty payments imposed on undertakings under this Treaty shall be the turnover on products within the jurisdiction of the Commission.

*Article 83* 

The establishment of the Community shall in no way prejudice the system of ownership of the undertakings to which this Treaty applies.

*Article 84* 

For the purposes of this Treaty, the words 'this Treaty' mean the provisions of the Treaty and its Annexes, of the Protocols annexed thereto and of the Convention on the Transitional Provisions.

*Article 85* 

The initial and transitional measures agreed by the High Contracting Parties to enable the provisions of this Treaty to be applied are laid down in a Convention annexed to this Treaty.

*Article 86* 

Member States undertake to take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations resulting from decisions and recommendations of the institutions of the Community and to facilitate the performance of the Community's tasks.

Member States undertake to refrain from any measures incompatible with the common market referred to in Articles 1 and 4.

They shall make all appropriate arrangements, as far as lies within their powers, for the settlement of international accounts arising out of trade in coal and steel within the common market and shall afford each other mutual assistance to facilitate such settlements.

Officials of the Commission entrusted by it with tasks of inspection shall enjoy in the territories of Member States, to the full extent required for the performance of their duties, such rights and powers as are granted by the laws of these States to their own revenue officials. Forthcoming visits of inspection and the status of the officials shall be duly notified to the State concerned. Officials of that State may, at its request or at that of the Commission, assist the Commission's officials in the performance of their task.

*Article 87* 

The High Contracting Parties undertake not to avail themselves of any treaties, conventions or declarations made between them for the purpose of submitting a dispute concerning the interpretation or application of this Treaty to any method of settlement other than those provided for therein.

#### *Article 88* 🏔️

If the Commission considers that a State has failed to fulfil an obligation under this Treaty, it shall record this failure in a reasoned decision after giving the State concerned the opportunity to submit its comments. It shall set the State a time limit for the fulfilment of its obligation.

The State may institute proceedings before the Court within two months of notification of the decision; the Court shall have unlimited jurisdiction in such cases.

If the State has not fulfilled its obligation by the time limit set by the Commission, or if it brings an action which is dismissed, the Commission may, with the assent of the Council acting by a two thirds majority:

- a. suspend the payment of any sums which it may be liable to pay to the State in question under this Treaty;
- b. take measures, or authorize the other Member States to take measures, by way of derogation from the provisions of Article 4, in order to correct the effects of the infringement of the obligation.

Proceedings may be instituted before the Court against decisions taken under subparagraphs (a) and (b) within two months of their notification; the Court shall have unlimited jurisdiction in such cases.

If these measures prove ineffective, the Commission shall bring the matter before the Council.

#### *Article 89* 🏔️

Any dispute between Member States concerning the application of this Treaty which cannot be settled by another procedure provided for in this Treaty may be submitted to the Court on application by one of the States which are parties to the dispute.

The Court shall also have jurisdiction in any dispute between Member States which relates to the subject matter of this Treaty, if the dispute is submitted to it under a special agreement between the parties.

#### *Article 90* 🏔️

If failure to fulfil an obligation under this Treaty on the part of an undertaking also constitutes an infringement of its obligations under the law of its State and judicial or

administrative action is being taken under that law against the undertaking, the State in question shall so inform the Commission, which may defer its decision.

If the Commission defers its decision, it shall be kept informed of the progress of the action taken by national authorities and shall be permitted to produce all relevant documents and expert and other evidence. It shall also be informed of the final decision on the case and shall take account of this decision in determining any penalty it may itself impose.

#### *Article 91*

If an undertaking does not pay by the time limit set a sum which it is liable to pay to the Commission either under this Treaty or rules laid down for the implementation thereof or in discharge of a pecuniary sanction or periodic penalty payment imposed by the Commission, the Commission may suspend payment of sums which it is liable to pay to that undertaking, up to the amount of the outstanding payment.

#### *Article 92*

Decisions of the Commission which impose a pecuniary obligation shall be enforceable.

Enforcement in the territory of Member States shall be carried out by means of the legal procedure in force in each State, after the order for enforcement in the form in use in the State in whose territory the decision is to be enforced has been appended to the decision, without other formality than verification of the authenticity of the decision. This formality shall be carried out at the instance of a minister designated for this purpose by each of the governments.

Enforcement may be suspended only by a decision of the Court.

#### *Article 93*

The Commission shall maintain all appropriate relations with the United Nations and the Organization for European Economic Cooperation and shall keep these organizations regularly informed of the activities of the Community.

#### *Article 94*

Relations shall be maintained between the institutions of the Community and the Council of Europe as provided in a Protocol annexed to this Treaty.

#### *Article 95*

In all cases not provided for in this Treaty where it becomes apparent that a decision or recommendation of the Commission is necessary to attain, within the common market in coal and steel and in accordance with Article 5, one of the objectives of the Community

set out in Articles 2, 3 and 4, the decision may be taken or the recommendation made with the unanimous assent of the Council and after the Consultative Committee has been consulted.

Any decision so taken or recommendation so made shall determine what penalties, if any, may be imposed.

If, after the end of the transitional period provided in the Convention on the Transitional Provisions, unforeseen difficulties emerging in the light of experience in the application of this Treaty, or fundamental economic or technical changes directly affecting the common market in coal and steel, make it necessary to adapt the rules for the Commission's exercise of its powers, appropriate amendments may be made; they must not, however, conflict with the provisions of Articles 2, 3 and 4 or interfere with the relationship between the powers of the Commission and those of the other institutions of the Community.

These amendments shall be proposed jointly by the Commission and the Council, acting by a twelve fifteenths majority of its members, and shall be submitted to the Court for its opinion. In considering them, the Court shall have full power to assess all points of fact and of law. If as a result of such consideration it finds the proposals compatible with the provisions of the preceding paragraph, they shall be forwarded to the European Parliament and shall enter into force if approved by a majority of three quarters of the votes cast and two thirds of the Members of the European Parliament. (\*)

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(\*) Fourth paragraph as amended by Article 14 AA A/FIN/SWE in the version resulting from Article 7 AD AA A/FIN/SWE.

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*Article 96* ▲

*(Repealed)*

*Article 97* ▲

This Treaty is concluded for a period of 50 years from its entry into force.

*Article 98* ▲

*(Repealed)*

*Article 99* ▲

This Treaty shall be ratified by all the Member States in accordance with their respective constitutional requirements; the instruments of ratification shall be deposited with the Government of the French Republic.

This Treaty shall enter into force on the date of deposit of the instrument of ratification by the last signatory State to take this step.

If all the instruments of ratification have not been deposited within six months of the signature of this Treaty, the governments of the States which have deposited their instruments shall consult each other on the measures to be taken.

*Article 100* 🏔️

This Treaty, drawn up in a single original, shall be deposited in the archives of the Government of the French Republic, which shall transmit a certified copy thereof to each of the governments of the other signatory States.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Treaty and affixed thereto their seals.

Done at Paris this eighteenth day of April in the year one thousand nine hundred and fifty one.

ADENAUER  
Paul VAN ZEELAND  
J. MEURICE  
SCHUMAN  
SFORZA  
Jos. BECH  
STIKKER  
VAN DEN BRINK

**Annexes**

**ANNEX I**

**DEFINITION OF THE EXPRESSIONS 'COAL' AND 'STEEL'**

1. The expressions 'coal' and 'steel' cover the products listed below.

2. In the exercise of its functions in relation to special steels, coke and scrap the Commission shall take account of the special features of production of these materials or of trade in them.

3. The Commission shall exercise its functions in relation to gas coke, and to brown coal other than for the making of briquettes and semi coke, only where this is necessary by reason of appreciable disturbances caused by these products on the market in fuels.

4. The Commission shall take account of the fact that the production of some of the products listed is directly linked with the production of by products which are not listed but whose selling prices may influence those of the principal products.

OEEC Code No (for reference)	PRODUCT
3000	FUELS
3100	<i>Hard coal</i>
3200	<i>Hard coal briquettes</i>
3300	<i>Coke, excluding electrode and petroleum coke</i> Semi-coke derived from hard coal
3400	<i>Brown coal briquettes</i>
3500	<i>Run-of-mine brown coal</i> Semi-coke derived from brown coal
4000	IRON AND STEEL
4100 (*)	<i>Raw material for iron and steel production (1)</i> Iron ore (except pyrites) Sponge iron and steel (1a) Ferrous scrap Manganese ore
4200	<i>Pig iron and ferro-alloys</i> Pig iron for steelmaking Foundry and other pig iron Spiegeleisen and high-carbon ferro-manganese (2)
4300	<i>Crude and semi-finished products of iron, ordinary steel or special steel, including products for re-use and re-rolling</i> Liquid steel cast or not cast into ingots, including ingots for forging (3) Semi-finished products: blooms, billets and slabs; sheet bars and tinplate bars; hot-rolled wide coils (other than coils classed as finished products)
4400	<i>Hot finished products of iron, ordinary steel or special steel (4)</i> Rails, sleepers, fishplates, soleplates, joists, heavy sections 80 mm and over, sheet piling



	Bars and sections of less than 80 mm and flats of less than 150 mm
	Wire rod
	Tube rounds and squares
	Hot-rolled hoop and strip (including tube strip)
	Hot-rolled sheet under 3 mm (coated or uncoated)
	Plates and sheets of 3 mm thickness and over, universal plates of 150 mm and over
4500	<i>End products of iron, ordinary steel or special steel</i> <a href="#">(5)</a>
	Tinplate, terneplate, blackplate, galvanized sheets, other coated sheets
	Cold-rolled sheets under 3 mm
	Electrical sheets
	Strip for tinplate
	Cold-rolled plate, in coil and in strips, of a thickness of 3 mm or more <a href="#">(*)</a>

[\(\\*\)](#) EDITORIAL NOTE

Text of heading as amended by Article 1 of the Decision of the Council of the European Coal and Steel Community (OJ 129, 6.12.1962, p. 2810).

[\(1\)](#) Not including the raw material under OEEC Code No 4190 ('Other raw materials not elsewhere classified for iron and steel production') which are not contained in this list. Not including refractories.

[\(1a\)](#) Including sponge iron proper or in briquetted form, Renn Balls and similar products.

[\(2\)](#) Not including other ferro-alloys.

[\(3\)](#) The Commission shall concern itself with production of liquid steel for castings only where this is to be regarded as an activity of the steel industry proper.

Any other production of liquid steel for castings, such as that at small and medium-sized independent foundries, shall be subject to statistical coverage only, such coverage not to give rise to any discriminatory action in respect thereof.

[\(4\)](#) Not including steel castings, forgings and powder metallurgy products.

[\(5\)](#) Not including steel tubes (seamless or welded), cold-rolled strip less than 500 mm in width (other than for tinplating), wire and wire products, bright bars and iron castings (tubes, pipes and fittings, and other iron castings).

[\(\\*\)](#) EDITORIAL NOTE:

Text of the heading as supplemented by the Single Article of the Council Decision of 21 February 1983 adding a number of products to the list in Annex I to the ECSC Treaty (OJ L 56, 3.3.1983).

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## *ANNEX II*

### **SCRAP**

The provisions of this Treaty shall apply to ferrous scrap, but account shall be taken of the following practical arrangements necessitated by the special features of the recovery of and trade in scrap:

- a. any prices fixed by the Commission under Chapter 5 of Title III shall apply to purchases by Community undertakings; Member States shall cooperate with the Commission in ensuring that sellers comply with the decisions taken;
- b. Article 59 shall not apply to:
  - o cast iron scrap usable only in foundries outside the jurisdiction of the Community;
  - o undertakings' own arisings, availabilities of which shall, however, be taken into account in calculating the bases for allocations of bought scrap;
- c. for the application of Article 59 to bought scrap, the Commission shall, in cooperation with the governments of Member States, obtain the necessary information on availabilities and requirements, including exports to third countries.

On the basis of the information thus obtained, the Commission shall allocate availabilities among Member States in accordance with Article 59, in such a way as to enable the most efficient use to be made of them and taking into account all the operating and supply conditions in the different parts of the steel industry within its jurisdiction.

To ensure that shipments of scrap so allocated from one Member State to another, or purchases by undertakings in one Member State of the tonnages to which they are entitled on the market of another Member State, will not involve discrimination harmful to undertakings in either State, the following measures shall be taken:

1. Each Member State shall authorize the shipment from its territory to other Member States of tonnages in accordance with the allocation made by the Commission; in return, each Member State shall be authorized to effect the necessary checks to establish that outgoing shipments are not in excess of the amounts provided for. The Commission is empowered to ensure that the arrangements made are not more restrictive than is necessary for this purpose.
2. The allocation among Member States shall be reviewed at as frequent intervals as may be necessary to maintain a relation fair both to local purchasers and to

- purchasers from other Member States between the recorded availabilities in each Member State and the tonnages it is required to ship to other Member States.
3. The Commission shall ensure that the regulations made by each Member State concerning sellers within its jurisdiction do not lead to the application of dissimilar conditions to comparable transactions, especially on grounds of the nationality of the buyers.

### *ANNEX III*

#### **SPECIAL STEELS**

Special steels and high carbon steels, as defined in the draft European customs nomenclature finalized by the Tariff Committee at its meeting in Brussels on 15 July 1950, shall be treated according to which of the following groups they fall within:

- a. special steels commonly called structural steels, containing less than 0.6% of carbon and not more than 8% of two or more alloying elements taken together or 5% of a single alloying element; (1)

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(1) Sulphur, phosphorus, silicon and manganese in the amounts normally accepted in ordinary steels are not counted as alloying elements.

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- b. high carbon steels, containing between 0.6 and 1.6% of carbon; special steels other than those defined in (a) above, containing less than 40% of two or more alloying elements taken together or 20% of a single alloying element;1
- c. special steels not covered by (a) or (b).

Products in groups (a) and (b) shall come within the jurisdiction of the Commission, but to enable study to be made of appropriate arrangements for the application of this Treaty to them, given the special features of their production and of trade in them, the date for the abolition of import and export duties or equivalent charges and of all quantitative restrictions on their movement within the Community shall be deferred until one year after the date of the establishment of the common market in steel.

As to products in group (c), the Commission shall, upon taking up its duties, enter into a series of studies to determine appropriate arrangements for the application of the Treaty to them, taking into account the special features of their production and of trade in them; as and when the findings are forthcoming, and within three years of the establishment of the common market at the latest, the arrangements suggested for each of the products in question shall be submitted by the Commission to the Council, which shall pronounce

upon them in accordance with Article 81. During this period products in group (c) shall be subject only to statistical checks by the Commission.

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## **II Protocols**

### **Protocol on the Statute of the Court of Justice of the European Coal and Steel Community (\*)**

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(\*) EDITORIAL NOTE:

Article 4(2)(b) of the Convention on Certain Institutions Common to the European Communities states:

'The provisions of the Protocol on the Statute of the Court of Justice annexed to the Treaty establishing the European Coal and Steel Community, in so far as they are in conflict with Articles 32 to 32c of that Treaty, shall be repealed.'

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THE HIGH CONTRACTING PARTIES,

DESIRING to lay down the Statute of the Court of Justice provided for in Article 45 of this Treaty,

HAVE AGREED as follows:

*Article 1* 

The Court of Justice established by Article 7 of the Treaty shall be constituted and shall function in accordance with the provisions of this Treaty and of this Statute.

## ***TITLE I***

### **JUDGES**

#### **Oath of office**

##### *Article 2*

Before taking up his duties each Judge shall, in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

#### **Privileges and immunities**

##### *Article 3*

The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The Court, sitting in plenary session, may waive the immunity.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the court competent to judge the members of the highest national judiciary.

*(Fourth paragraph repealed by the second paragraph of Article 28 of the Merger Treaty)*

*[See Article 21 of the Protocol on the privileges and immunities of the European Communities, which reads as follows:*

Articles 12 to 15 and Article 18 shall apply to the Judges, the Advocates General, the Registrar and the Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols on the Statute of the Court of Justice concerning immunity from legal proceedings of Judges and Advocates General.]

#### **Disqualifications**

##### *Article 4*

The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council, acting by a two thirds majority.

They may not acquire or retain, directly or indirectly, any interest in any business related to coal and steel during their term of office and for three years after ceasing to hold office.

## **Remuneration**

### *Article 5*

*(Article repealed by Article 8(3)(a) of the Merger Treaty)*

*[See Article 6 of the Merger Treaty, which reads as follows:*

The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President, and Members of the Commission, and of the President, Judges, Advocates General and Registrar of the Court of Justice. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.]

## **Termination of appointment**

### *Article 6*

Apart from normal replacement, the duties of a Judge shall end on his death or resignation.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 7 applies, a Judge shall continue to hold office until his successor takes up his duties.

### *Article 7*

A Judge may be deprived of his office only if, in the unanimous opinion of the other Judges, he no longer fulfils the requisite conditions.

The President of the Council, the President of the Commission and the President of the European Parliament shall be notified thereof by the Registrar.

A vacancy shall arise on the bench upon this notification.

### *Article 8*

A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

## ***TITLE II***

### **ORGANIZATION**

#### *Article 9*

The Judges, the Advocates General and the Registrar shall be required to reside at the place where the Court has its seat.

#### *Article 10 (\*)*

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(\*) See note on p. 129.

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The Court shall be assisted by two Advocates General and a Registrar.

#### **Advocates General**

#### *Article 11*

It shall be the duty of the Advocate General, acting with complete impartiality and independence, to make, in open court, oral and reasoned submissions on cases brought before the Court, in order to assist the Court in the performance of the task assigned to it in Article 31 of this Treaty.

#### *Article 12 (\*)*

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(\*) See note on p. 129.

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The Advocates General shall be appointed for a term of six years in the same manner as the Judges. Every three years there shall be a partial replacement. The Advocate General whose term of office is to expire at the end of the first three years shall be chosen by lot. The provisions of the third and fourth paragraphs of Article 32 of this Treaty (\*\*\*) and the provisions of Article 6 of this Statute shall apply to the Advocates General.

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(\*\*) EDITORIAL NOTE:

Since the new version of Article 32 of the Treaty establishing the European Coal and Steel Community this reference is no longer accurate; see Articles 32a and 32b of this Treaty.

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*Article 13* ▲

The provisions of Articles 2 to 5 and of Article 8 shall apply to the Advocates General.

An Advocate General may be deprived of his office only if he no longer fulfils the requisite conditions. The decision shall be taken by the Council, acting unanimously, after the Court has delivered its opinion.

**Registrar**

*Article 14* ▲

The Court shall appoint its Registrar and lay down the rules governing his service, account being taken of the provisions of Article 15. The Registrar shall take an oath before the Court to perform his duties impartially and conscientiously and preserve the secrecy of the deliberations of the Court.

*(Second paragraph repealed by the second paragraph of Article 28 of the Merger Treaty)*

*[See Article 21 of the Protocol on the privileges and immunities of the European Communities, which reads as follows:*

Articles 12 to 15 and Article 18 shall apply to the Judges, the Advocates General, the Registrar and the Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols on the Statute of the Court of Justice concerning immunity from legal proceedings of Judges and Advocates General.]

*Article 15* ▲

*(Article repealed by Article 8(3)(a) of the Merger Treaty)*

*[See Article 6 of the Merger Treaty, which reads as follows:*

The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President and Members of the Commission, and of the President, Judges,



Advocates General and Registrar of the Court of Justice. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.]

### **Staff of the Court**

#### *Article 16 (\*)*

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(\*) As amended by Article 8(3)(b) of the Merger Treaty

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1. Officials and other servants shall be attached to the Court to enable it to function. They shall be responsible to the Registrar under the authority of the President.

2. On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in the Rules of Procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they shall be appointed by the Council. They shall take an oath before the Court to perform their duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

### **Functioning of the Court**

#### *Article 17*

The Court shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

### **Composition of the Court**

#### *Article 18 (\*)*

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(\*) See note on p. 129.

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The Court shall sit in plenary session. It may, however, form chambers, each consisting of three, five or seven Judges, either to undertake certain preparatory inquiries or to

adjudicate on particular categories of cases in accordance with rules laid down for these purposes. (\*\*)

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(\*\*) First paragraph as amended by Article 18 AA A/FIN/SWE.

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Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations. Decisions of the full Court shall be valid if nine members are sitting. Decisions of the chambers consisting of three or five Judges shall be valid only if three Judges are sitting. Decisions of the chambers consisting of seven Judges shall be valid only if five Judges are sitting. In the event of one of the Judges of a chamber being prevented from attending, a Judge of another chamber may be called upon to sit in accordance with conditions laid down in the Rules of Procedure. (\*)

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(\*) Second paragraph as amended by Article 19 AA A/FIN/SWE.

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Actions brought by States or by the Council shall in all cases be tried in plenary session.

### **Special rules**

#### *Article 19*

No Judge or Advocate General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or on which he has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge or Advocate General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court.

A party may not apply for a change in the composition of the Court or of one of its chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the chamber of a Judge of the nationality of that party.

***TITLE III***  
**PROCEDURE**

**Representation of and assistance to the parties**

*Article 20* 

The States and the institutions of the Community shall be represented before the Court by an agent appointed for each case; the agent may be assisted by a lawyer entitled to practise before a court of a Member State.

Undertakings and all other natural or legal persons must be assisted by a lawyer entitled to practise before a court of a Member State.

Such agents and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties under conditions laid down in rules drawn up by the Court and submitted for the approval of the Council, acting unanimously. (\*)

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(\*) Third paragraph as amended by Article 8(3)(c) of the Merger Treaty.

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As regards such lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in those rules.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this Article to lawyers entitled to practise before a court of a Member State.

**Stages of procedures**

*Article 21* 

The procedure before the Court shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Community whose decisions are in dispute of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the Rules of Procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of witnesses, experts, agents, and lawyers entitled to practise before a court of a Member State and of the submissions of the Advocate General.

## **Applications**

### *Article 22*

A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the name and address of the party and the description of the signatory, the subject matter of the dispute, the submissions and a brief statement of the grounds on which the application is based.

The application shall be accompanied, where appropriate, by the decision the annulment of which is sought or, in the case of proceedings against an implied decision, by documentary evidence of the date on which the request was lodged. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time limit for bringing proceedings.

## **Transmission of documents**

### *Article 23*

Where proceedings are instituted against a decision of one of the institutions of the Community, that institution shall transmit to the Court all the documents relating to the case before the Court.

## **Preparatory inquiries**

### *Article 24*

The Court may require the parties, their representatives or agents or the governments of the Member States to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

### *Article 25*

The Court may at any time entrust any individual, body, authority, committee or other organization it chooses with the task of holding an inquiry or giving an expert opinion; to this end it may compile a list of individuals or bodies approved as experts.

## **Hearing to be public**

### *Article 26* ▲

The hearing in court shall be public, unless the Court decides otherwise for serious reasons.

## **Minutes**

### *Article 27* ▲

Minutes shall be made of each hearing and signed by the President and the Registrar.

## **Hearings**

### *Article 28* ▲

The case list shall be established by the President.

Witnesses may be heard under conditions laid down in the Rules of Procedure. They may be heard on oath.

During the hearings the Court may also examine experts, persons entrusted with holding an inquiry, and the parties themselves. The latter, however, may address the Court only through their representatives or their lawyers.

Where it is established that a witness or expert has concealed facts or falsified evidence on any matter on which he has testified or been examined by the Court, the Court is empowered to report the misconduct to the Minister for Justice of the State of which the witness or expert is a national, in order that he may be subjected to the relevant penal provisions of the national law.

With respect to defaulting witnesses the Court shall have the powers generally granted to courts and tribunals, under conditions laid down in rules drawn up by the Court and submitted for the approval of the Council, acting unanimously. (\*)

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(\*) Fifth paragraph as amended by Article 8(3)(c) of the Merger Treaty.

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## **Secrecy of the deliberations of the Court**

### *Article 29* ▲

The deliberations of the Court shall be and shall remain secret.

*Article 30* 🏔

Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

*Article 31* 🏔

Judgments shall be signed by the President, the Judge acting as Rapporteur and the Registrar. They shall be read in open court.

**Costs**

*Article 32* 🏔

The Court shall adjudicate upon costs.

**Summary procedure**

*Article 33* 🏔

The President of the Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the Rules of Procedure, adjudicate upon applications to suspend execution, as provided for in the second paragraph of Article 39 of this Treaty, or to prescribe interim measures in pursuance of the last paragraph of Article 39, or to suspend enforcement in accordance with the third paragraph of Article 92.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the rules provided for in Article 18 of this Statute.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

**Intervention**

*Article 34* 🏔

Natural or legal persons establishing an interest in the result of any case submitted to the Court may intervene in that case.

Submissions made in an application to intervene shall be limited to supporting or requesting the rejection of the submissions of one of the parties.

**Judgment by default**

#### *Article 35* ▲

Where the defending party in proceedings in which the Court has unlimited jurisdiction, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court decides otherwise.

### **Third party proceedings**

#### *Article 36* ▲

Natural or legal persons and the institutions of the Community may, in cases and under conditions to be determined by the Rules of Procedure, institute third party proceedings to contest a judgment rendered without their being heard.

### **Interpretation**

#### *Article 37* ▲

If the meaning or scope of a judgment is in doubt, the Court shall construe it on application by any party or any institution of the Community establishing an interest therein.

### **Revision of a judgment**

#### *Article 38* ▲

An application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognizing that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of 10 years from the date of the judgment.

### **Time limits**

#### *Article 39* ▲

The proceedings provided for in Articles 36 and 37 of this Treaty must be instituted within the time limit of one month provided for in the last paragraph of Article 33.

Periods of grace based on considerations of distance shall be laid down in the Rules of Procedure.

No right shall be prejudiced in consequence of the expiry of a time limit if the party concerned proves the existence of unforeseeable circumstances or of force majeure.

### **Periods of limitation**

#### *Article 40*

Proceedings provided for in the first two paragraphs of Article 40 of this Treaty shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Community. In the latter event the proceedings must be instituted within the time limit of one month provided for in the last paragraph of Article 33; the provisions of the last paragraph of Article 35 shall apply where appropriate.

### **Special rules relating to disputes between Member States**

#### *Article 41 (\*)*

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(\*) See note on p. 129.

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Where a dispute between Member States is brought before the Court under Article 89 of this Treaty, the other Member States shall be notified forthwith by the Registrar of the subject matter of the dispute.

Each Member State shall have the right to intervene in the proceedings.

The disputes referred to in this Article must be dealt with in plenary session.

#### *Article 42*

If a State intervenes in a case before the Court as provided for in the preceding Article, the interpretation contained in the judgment shall be binding upon the State.

### **Proceedings by third parties**

#### *Article 43*



Decisions taken by the Commission under Article 63(2) of this Treaty must be notified to the purchaser and to the undertakings concerned; if the decision concerns all or a large number of undertakings, publication may be substituted for individual notification.

Appeals may be brought, under Article 36 of this Treaty, by any person on whom a periodic penalty payment has been imposed under the fourth subparagraph of Article 66(5).

#### *TITLE IV (\*)*

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(\*) Inserted by Article 5 of the Council Decision of 24 October 1988 establishing a Court of First Instance of the European Communities (OJ L 319, 25. 11. 1988, p. 1). The Text of the Decision appears on p. 513 of this volume.

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### **THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES**

#### **Rules concerning the Members of the Court of First Instance and its organization**

##### *Article 44*

Articles 2, 3, 4, 6 to 9, the first paragraph of Article 13, Article 17, the second paragraph of Article 18 and Article 19 of this Statute shall apply to the Court of First Instance and its Members. The oath referred to in Article 2 shall be taken before the Court of Justice and the decisions referred to in Articles 3, 4 and 7 shall be adopted by that Court after hearing the Court of First Instance.

#### **Registrar and staff**

##### *Article 45*

The Court of First Instance shall appoint its Registrar and lay down the rules governing his service. Articles 9 and 14 of this Statute shall apply to the Registrar of the Court of First Instance *mutatis mutandis*.

The President of the Court of Justice and the President of the Court of First Instance shall determine, by common accord, the conditions under which officials and other servants attached to the Court of Justice shall render their services to the Court of First Instance to enable it to function. Certain officials or other servants shall be responsible to the

Registrar of the Court of First Instance under the authority of the President of the Court of First Instance.

### **Procedure before the Court of First Instance**

#### *Article 46*

The procedure before the Court of First Instance shall be governed by Title III of this Statute, with the exception of Articles 41 and 42.

Such further and more detailed provisions as may be necessary shall be laid down in the Rules of Procedure established in accordance with Article 32d(4) of this Treaty.

Notwithstanding the fourth paragraph of Article 21 of this Statute, the Advocate General may make his reasoned submissions in writing.

#### *Article 47*

Where an application or other procedural document addressed to the Court of First Instance is lodged by mistake with the Registrar of the Court of Justice it shall be transmitted immediately by that Registrar to the Registrar of the Court of First Instance; likewise, where an application or other procedural document addressed to the Court of Justice is lodged by mistake with the Registrar of the Court of First Instance, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice.

Where the Court of First Instance finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice has jurisdiction, it shall refer that action to the Court of Justice; likewise, where the Court of Justice finds that an action falls within the jurisdiction of the Court of First Instance, it shall refer that action to the Court of First Instance, whereupon that Court may not decline jurisdiction.

Where the Court of Justice and the Court of First Instance are seized of cases in which the same relief is sought, the same issue of interpretation is raised or the validity of the same act is called in question, the Court of First Instance may, after hearing the parties, stay the proceedings before it until such time as the Court of Justice shall have delivered judgment. Where applications are made for the same act to be declared void, the Court of First Instance may also decline jurisdiction in order that the Court of Justice may rule on such applications. In the cases referred to in this subparagraph, the Court of Justice may also decide to stay the proceedings before it; in that event, the proceedings before the Court of First Instance shall continue.

#### *Article 48*

Final decisions of the Court of First Instance, decisions disposing of the substantive issues in part only, or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility, shall be notified by the Registrar of the Court of First

Instance to all parties as well as all Member States and the Community institutions even if they did not intervene in the case before the Court of First Instance.

### **Appeals to the Court of Justice**

#### *Article 49*

An appeal may be brought before the Court of Justice, within two months of the notification of the decision appealed against, against final decisions of the Court of First Instance and decisions of that Court disposing of the substantive issues in part only, or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the Community institutions may bring such an appeal only where the decision of the Court of First Instance directly affects them.

With the exception of cases relating to disputes between the Community and its servants, an appeal may also be brought by Member States and Community institutions which did not intervene in the proceedings before the Court of First Instance. Such Member States and institutions shall be in the same position as Member States or institutions which intervened at first instance.

#### *Article 50*

Any person whose application to intervene has been dismissed by the Court of First Instance may appeal to the Court of Justice within two weeks of the notification of the decision dismissing the application.

The parties to the proceedings may appeal to the Court of Justice against any decision of the Court of First Instance made pursuant to the second or third paragraphs of Article 39 or the third paragraph of Article 92 of the Treaty within two months from their notification.

The appeal referred to in the first two paragraphs of this Article shall be heard and determined under the procedure referred to in Article 33 of this Statute.

#### *Article 51*

An appeal to the Court of Justice shall be limited to points of law. It shall lie on the grounds of lack of competence of the Court of First Instance, a breach of procedure before it which adversely affects the interests of the appellant as well as the infringement of Community law by the Court of First Instance.

No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

### **Procedure before the Court**

#### *Article 52*

Where an appeal is brought against a decision of the Court of First Instance, the procedure before the Court of Justice shall consist of a written part and an oral part. In accordance with conditions laid down in the Rules of Procedure the Court of Justice, having heard the Advocate General and the parties, may dispense with the oral procedure.

### **Suspensory effect**

#### *Article 53*

Without prejudice to the second and third paragraphs of Article 39 of this Treaty, an appeal shall not have suspensory effect.

By way of derogation from Article 44 of the Treaty, decisions of the Court of First Instance declaring a general decision or general recommendation to be void shall take effect only as from the date of expiry of the period referred to in the first paragraph of Article 49 of this Statute, or if an appeal shall have been brought within that period, as from the date of dismissal of the appeal, without prejudice, however, to the right of a party to apply to the Court of Justice pursuant to the second and third paragraphs of Article 39 of the Treaty, for the suspension of the effects of the act which has been declared void or for the prescription of any other interim measure. (\*)

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(\*) Second paragraph as amended by Article 2 of Council Decision of 8 June 1993 amending Council Decision 88/591/ECSC, EEC, Euratom establishing a Court of First Instance of the European Communities (OJ L 144, 16. 6. 1993, p. 21).

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### **Decision of the Court of Appeal**

#### *Article 54*

If the appeal is well founded, the Court of Justice shall quash the decision of the Court of First Instance. It may itself give final judgment in the matter, where the state of the proceedings so permits, or refer the case back to the Court of First Instance for judgment.

Where a case is referred back to the Court of First Instance, that Court shall be bound by the decision of the Court of Justice on points of law.

When an appeal brought by a Member State or a Community institution, which did not intervene in the proceedings before the Court of First Instance, is well founded the Court of Justice may, if it considers this necessary, state which of the effects of the decision of the Court of First Instance which has been quashed shall be considered as definitive in respect of the parties to the litigation.

### **Rules of Procedure**

#### *Article 55*

The Court of Justice shall adopt its Rules of Procedure. These shall require the unanimous approval of the Council. The Rules of Procedure shall contain all the provisions necessary for applying and, where required, supplementing this Statute.

### **Transitional provision**

#### *Article 56 (\*)*

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(\*) Former Article 45.

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Immediately after the oath has been taken, the President of the Council shall proceed to choose by lot the Judges and the Advocates General whose terms of office are to expire at the end of the first three years in accordance with Article 32 of this Treaty.

Done at Paris this eighteenth day of April in the year one thousand nine hundred and fifty one.

ADENAUER  
Paul VAN ZEELAND  
J. MEURICE  
SCHUMAN  
SFORZA  
Jos. BECH  
STIKKER  
VAN DEN BRINK

## **Protocol on relations with the Council of Europe**

THE HIGH CONTRACTING PARTIES,

FULLY AWARE of the need to establish ties as close as possible between the European Coal and Steel Community and the Council of Europe, particularly between the European Parliament and the Consultative Assembly of the Council of Europe,

TAKING NOTE of the recommendations of the Assembly of the Council of Europe,

HAVE AGREED upon the following provisions:

### *Article 1*

The governments of the Member States are invited to recommend to their respective Parliaments that the members of the Assembly (\*) whom these Parliaments are called upon to designate should preferably be chosen from among the representatives to the Consultative Assembly of the Council of Europe.

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(\*) EDITORIAL NOTE:

Notwithstanding the provisions of Article 3 of the SEA, and for historical reasons, the term 'Assembly' has not been replaced by the terms 'European Parliament'.

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### *Article 2*

The European Parliament of the Community shall forward each year to the Consultative Assembly of the Council of Europe a report on its activities.

### *Article 3*

The Commission shall communicate each year to the Committee of Ministers and to the Consultative Assembly of the Council of Europe the general report provided for in Article 17 of this Treaty.

### *Article 4*

The Commission shall inform the Council of Europe of the action which it has been able to take on any recommendations that may have been sent to it by the Committee of Ministers of the Council of Europe under Article 15(b) of the Statute of the Council of Europe.

*Article 5* 🏔

The present Treaty establishing the European Coal and Steel Community and the Annexes thereto shall be registered with the Secretariat of the Council of Europe.

*Article 6* 🏔

Agreements between the Community and the Council of Europe may, among other things, provide for any other type of mutual assistance and cooperation between the two organizations and indicate the appropriate forms thereof.

Done at Paris this eighteenth day of April in the year one thousand nine hundred and fifty one.

ADENAUER  
Paul VAN ZEELAND  
J. MEURICE  
SCHUMAN  
SFORZA  
Jos. BECH  
STIKKER  
VAN DEN BRINK

**III Exchange of letters between the Government of the Federal Republic of Germany and the Government of the French Republic concerning the Saar**

*[TRANSLATION]*

THE FEDERAL  
CHANCELLOR  
AND  
MINISTER FOR  
FOREIGN AFFAIRS

Paris, 18 April 1951

*His Excellency President Robert Schuman,  
Minister for Foreign Affairs,  
Paris*

*Sir,*

The representatives of the Federal Government have several times declared in the course of the negotiations on the European Coal and Steel Community that the status of the Saar can be finally settled only by the Peace Treaty or a similar Treaty. Furthermore, they have declared in the course of the negotiations that in signing the Treaty the Federal Government is not expressing recognition of the present status of the Saar.

I would repeat this declaration and would ask you to confirm that the French Government agrees with the Federal Government that the status of the Saar can be finally settled only by the Peace Treaty or a similar Treaty and that the French Government does not view the Federal Government's signature of the European Coal and Steel Community Treaty as recognition by the Federal Government of the present status of the Saar.

I am, Sir,

(Signed) ADENAUER

*[TRANSLATION]*

Paris, 18 April 1951

*Sir,*



In reply to your letter of 18 April 1951, the French Government notes that the Federal Government in signing the Treaty establishing the European Coal and Steel Community does not intend recognition of the present status of the Saar.

The French Government declares, in accordance with its own point of view, that it is acting on behalf of the Saar by virtue of the present status of the latter but does not view the Federal Government's signature of the Treaty as recognition by the Federal Government of the present status of the Saar. It is not its understanding that the Treaty establishing the European Coal and Steel Community prejudices the final status of the Saar, which is a matter for the Peace Treaty or a Treaty in place thereof.

I am, Sir,

(Signed) SCHUMAN

Dr Konrad ADENAUER,

Chancellor and Minister for Foreign Affairs  
of the Federal Republic of Germany

## IV Convention on the Transitional Provisions

THE HIGH CONTRACTING PARTIES,

DESIRING to draw up the Convention on the Transitional Provisions provided for in Article 85 of the Treaty,

HAVE AGREED as follows:

### Purpose of the Convention

#### *Article 1*

1. The purpose of this Convention, drawn up in pursuance of Article 85 of the Treaty, is to provide for the measures required in order to establish the common market and enable production to be progressively adapted to the new conditions, while helping to eliminate disequilibria arising out of the former conditions.
2. To this end, the implementation of the Treaty shall be effected in two stages a preparatory period and a transitional period.
3. The preparatory period shall extend from the date of entry into force of the Treaty to the date of the establishment of the common market.

During this period:

- a. all the institutions of the Community shall be set up and contacts established between them and undertakings and associations of undertakings, trade unions, and associations of consumers and dealers, in order to place the functioning of the Community on a basis of regular consultation and to develop a common approach and mutual understanding among all concerned;
- b. the Commission shall conduct:
  1. studies and consultations;
  2. negotiations with third countries.

The purpose of the studies and consultations shall be to enable an overall survey to be drawn up, in regular contact with governments, with undertakings and associations of undertakings, with workers and with consumers and dealers, of the situation of the coal and steel industries in the Community and the problems arising therefrom, and the way to be prepared for the actual measures which will have to be taken to deal with these during the transitional period.

The purpose of the negotiations with third countries shall be:

- first, to lay the foundations for cooperation between the Community and these countries;
- second, to obtain, before the elimination of customs duties and quantitative restrictions within the Community, the necessary derogations from:
  - most favoured nation treatment under the General Agreement on Tariffs and Trade and under bilateral agreements;
  - the principle of non discrimination in liberalization of trade within the Organization for European Economic Cooperation.

4. The transitional period shall begin on the date of the establishment of the common market and shall end five years after the establishment of the common market in coal.

5. Upon the entry into force of the Treaty in accordance with Article 99, the provisions thereof shall apply subject to the derogations allowed by this Convention and without prejudice to the supplementary provisions contained in this Convention for the ends set out above.

Save where this Convention expressly provides otherwise, these derogations and supplementary provisions shall cease to apply, and measures taken to implement them shall cease to have effect, at the end of the transitional period.

## **PART ONE**

### **Implementation of the Treaty**

#### ***CHAPTER 1***

### **SETTING UP OF THE INSTITUTIONS OF THE COMMUNITY**

#### **The Commission**

##### *Article 2*

1. The Commission shall take office upon the appointment of its Members.

2. In order to perform the tasks assigned to it by Article 1 of this Convention, the Commission shall exercise forthwith the information and study functions assigned to it by the Treaty, in the manner and with the powers provided in Articles 46, 47 and 48 and the third paragraph of Article 54. Once the Commission has taken office, the governments shall notify it in accordance with Article 67 of any action liable to have repercussions on conditions of competition, and in accordance with Article 75 of any provisions in trade agreements or arrangements having similar effect where these relate to coal and steel.

On the basis of information obtained concerning facilities existing and planned, the Commission shall determine the date from which the provisions of Article 54 other than those referred to in the preceding subparagraph shall apply to investment programmes and to projects already in process of execution on that date. The penultimate paragraph of Article 54 shall not apply, however, to projects for which orders were placed before 1 March 1951.

Once the Commission has taken office, it shall exercise where necessary, in consultation with the governments, the powers provided in Article 59(3).

It shall not exercise the other functions assigned to it by the Treaty until the opening date of the transitional period for each of the products in question.

3. On each of the opening dates referred to in the preceding paragraph, the Commission shall notify Member States that it is ready to assume the functions concerned. Until such notification the relevant powers shall continue to be exercised by Member States.

However, from a date which the Commission shall appoint on taking office, prior consultations shall be held between it and Member States concerning any laws or regulations which Member States may be planning to introduce on matters assigned to the jurisdiction of the Commission by the Treaty.

4. Without prejudice to the provisions of Article 67 relating to the effect of new measures, the Commission shall examine with the governments concerned the effect on the coal and steel industries of existing laws and regulations, including any which fix prices for by products not coming within its jurisdiction, and of such contractual social security schemes as are equivalent in effect to regulations. If it finds that some of these, by reason either of their own effects or of differences in them between two or more Member States, are liable seriously to distort conditions of competition in the coal or the steel industry, whether in the market of the country in question or in the rest of the common market or in export markets, it shall, after consulting the Council, propose to the governments concerned any action which it considers will correct them or offset their effects.

5. In order to have a working basis which is independent of the practices of the various undertakings, the Commission shall seek to establish, in consultation with governments, undertakings and associations of undertakings, workers, and consumers and dealers, by what means it will be possible to make comparable:

- the price ranges for different qualities relative to the average price for the products, or for the successive stages of their production;
- the calculation of provision for depreciation.

6. During the preparatory period the main task of the Commission shall be to establish relations with undertakings and associations of undertakings, trade unions, and

associations of consumers and dealers, in order to obtain practical knowledge of the general situation and of particular situations in the Community.

In the light of the information it obtains on markets, supplies, the production conditions of undertakings, the living conditions of workers, and modernization and equipment programmes, the Commission shall, in contact with all concerned, draw up an overall survey of the situation of the Community to guide their work together.

On the basis of these consultations and the overall picture thus formed, the measures shall be prepared which will be needed to establish the common market and facilitate the adaptation of production.

### **The Council**

#### *Article 3*

The Council shall meet within one month after the Commission takes office.

### **The Consultative Committee**

#### *Article 4*

To enable the Consultative Committee to be set up as provided in Article 18 of the Treaty, governments shall forward to the Commission upon its taking office all information on the producers', workers' and consumers' organizations for coal and steel in each country, particularly on their membership, geographical coverage, statutes, powers and functions.

On the basis of this information, the Commission shall, within two months of taking office, obtain a decision of the Council designating the producers' and workers' associations which are to put forward candidates.

The Consultative Committee shall be set up within one month of this decision.

### **The Court**

#### *Article 5*

The Court shall take office upon the appointment of its members. Its first President shall be appointed in the same manner as the President of the Commission.

The Court shall adopt its Rules of Procedure within three months.

No matter may be brought before the Court until its Rules of Procedure have been published. The imposition of periodic penalty payments and the collection of fines shall be suspended until the date of that publication.

The time within which an action must be brought shall run only from the same date.

### **The Assembly (\*)**

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(\*) EDITORIAL NOTE:

Notwithstanding the provisions of Article 3 of the SEA, and for historical reasons, the term 'Assembly' has not been replaced by the terms 'European Parliament'.

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#### *Article 6*

The Assembly shall meet, having been convened by the President of the Commission, one month after the Commission takes office, in order to elect its officers and draw up its Rules of Procedure. Pending the election of its officers, the oldest member shall take the chair.

The Assembly shall hold a second meeting five months after the Commission takes office in order to consider a general report on the situation of the Community, together with the first budget estimates.

### **Administrative and financial provisions**

#### *Article 7*

The first financial year shall run from the date on which the Commission takes office to 30 June of the following year.

The levy provided for in Article 50 of the Treaty may be collected upon the adoption of the first budget estimates. As a transitional measure to meet initial administrative expenditure, Member States shall make repayable interest free advances, the amount of which shall be calculated in proportion to their contributions to the Organization for European Economic Cooperation.

*(Third paragraph repealed by Article 24(2) of the Merger Treaty)*

*[See Article 24(1) of the Merger Treaty, which reads as follows:*

1. The officials and other servants of the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community shall, at the date of entry into force of this Treaty, become officials and other servants of the European Communities and form part of the single administration of those Communities.

The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the other institutions concerned, lay down the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of those Communities.]

## **CHAPTER 2**

### **ESTABLISHMENT OF THE COMMON MARKET**

#### *Article 8*

The common market will be established as effect is given to Article 4 of the Treaty, once all the institutions of the Community have been set up and the Commission has consulted governments, undertakings and associations of undertakings, workers and consumers, and an overall picture of the situation in the Community has been established on the basis of the information thus obtained.

This shall be done, without prejudice to the special provisions contained in this Convention;

- a. in the case of coal, upon notification by the Commission that the equalization machinery provided for in Chapter 2 of Part Three of this Convention has been set up;
- b. in the case of iron ore and scrap, on the same date as for coal;
- c. in the case of steel, two months after that date.

The equalization machinery for coal provided for in Part Three of this Convention shall be set up within six months, after the Commission takes office.

If more time should be needed, revised dates shall be fixed by the Council acting on a proposal from the Commission.

#### **Elimination of customs duties and quantitative restrictions**

#### *Article 9*

Subject to the special provisions contained in this Convention, Member States shall abolish all import and export duties or charges having equivalent effect and all quantitative restrictions on the movement of coal and steel within the Community on the dates appointed for the establishment of the common market in coal, iron ore and scrap, and the common market in steel, as provided in Article 8.

#### **Transport**

## Article 10

A Committee of Experts designated by the governments of the Member States shall be convened forthwith by the Commission to study the arrangements to be proposed to the governments for the carriage of coal and steel, in order to attain the objectives set out in Article 70 of the Treaty.

The negotiations required to obtain the agreement of the governments concerning the various measures proposed shall, without prejudice to the last paragraph of Article 70, be initiated by the Commission, as shall any necessary negotiations with third countries concerned.

The Committee of Experts shall study:

1. measures to eliminate discriminatory practices contrary to the second paragraph of Article 70;
2. measures to establish through international tariffs incorporating a degressive factor taking account of total distance for carriage within the Community, without prejudice to the apportionment of the receipts among the carriers concerned;
3. examination of the rates and conditions of every kind for the carriage of coal and steel by the different modes of transport, with a view to their harmonization on a Community wide basis to the extent necessary to the proper functioning of the common market, taking account inter alia of transport costs.

The Committee of Experts shall have not more than:

- three months for its studies of the measures referred to under 1;
- two years for its studies of the measures referred to under 2 and 3.

The measures referred to under 1 shall enter into force on the date of the establishment of the common market in coal at the latest.

The measures referred to under 2 and 3 shall enter into force simultaneously as soon as the governments are agreed. If, however, two and a half years after the Commission is set up the governments of Member States are still not agreed concerning the measures referred to under 3, the measures referred to under 2 shall enter into force separately on a date to be determined by the Commission. In that case the Commission shall, on a proposal from the Committee of Experts, make such recommendations as it considers necessary to avoid any serious disturbances in the transport sector.

The rates and conditions referred to in the fourth paragraph of Article 70 which are in force when the Commission is set up shall be notified to the Commission, which shall allow such time for their modification as may be necessary to avoid any serious economic disturbance.



The Committee of Experts shall work out and propose to the governments concerned the derogations which they will authorize the Luxembourg Government to make from the measures and principles set out above so as to take account of the special position of Luxembourg Railways.

The governments concerned shall, after consulting the Committee of Experts, authorize the Luxembourg Government, in so far as the special position of Luxembourg Railways makes it necessary, to continue after the transitional period to operate the arrangements adopted.

Until such time as agreement is reached among the governments concerned on the measures referred to in the preceding paragraphs, the Luxembourg Government shall be authorized not to give effect to the principles set out in Article 70 of the Treaty and in this Article.

### **Subsidies, direct or indirect aids, special charges**

#### *Article 11*

The governments of the Member States shall notify the Commission upon its taking office of all aids and subsidies to or special charges on the coal and steel industries in their respective countries. Unless the Commission agrees to the continuance of such aids, subsidies or special charges and to the terms on which they are to be continued, they shall be withdrawn, when and in the manner which the Commission shall determine after consulting the Council, though it shall not be mandatory to withdraw them until the opening date of the transitional period for the products in question.

### **Restrictive agreements and arrangements**

#### *Article 12*

All information concerning agreements or arrangements coming under Article 65 shall be communicated to the Commission as provided in Article 65(3).

Where the Commission does not grant authorization under Article 65(2), it shall set reasonable time limits after which the prohibitions contained in this Article shall apply.

To facilitate the winding up of arrangements prohibited by Article 65, the Commission may appoint liquidators, who shall be responsible to it and shall act under its instructions.

With the assistance of these liquidators, the Commission shall study the problems involved and the means to be employed:

- to ensure the most economic distribution and use of the products, and particularly of the different grades and qualities of coal;

- in the event of a fall in demand, to avoid any cutback in production capacity, and particularly in colliery capacity, which is needed to keep the common market supplied in times of normal or high demand;
- to avoid inequitable distribution among workers of any reductions in employment arising out of a fall in demand.

On the basis of these studies the Commission shall, in accordance with the tasks assigned to it, establish such procedures or bodies to which it is authorized to have recourse under the Treaty as it considers appropriate for the purpose of solving the problems through the exercise of its powers, in particular under Articles 53, 57 and 58, and Chapter 5 of Title III; recourse to these procedures or bodies need not be confined to the transitional period.

### *Article 13*

The provisions of Article 66(5) shall apply from the entry into force of the Treaty. They may also be applied to transactions bringing about concentrations effected between the signature and the entry into force of the Treaty if the Commission can show that they were effected in order to evade the application of Article 66.

Until the regulations provided for in paragraph 1 of Article 66 have been made, transactions of the kind referred to in that paragraph shall not automatically require prior authorization. The Commission shall not be obliged to rule immediately on applications for authorization submitted to it.

Until the regulations provided for in paragraph 4 of Article 66 have been made, the information referred to in that paragraph may be required only from undertakings within the jurisdiction of the Commission in accordance with the provisions of Article 47.

The regulations provided for in Article 66(1) and (4) shall be made within four months after the Commission takes office.

The Commission shall obtain from governments, from associations of producers and from undertakings all information relevant to the application of Article 66(2) and (7) concerning the situation in the different areas of the Community.

The provisions of Article 66(6) shall apply from the entry into force of the provisions in the case of which legal sanctions are provided for noncompliance.

The provisions of Article 66(7) shall apply from the date of the establishment of the common market as provided in Article 8 of this Convention.

## **PART TWO**

### **Relations between the Community and third countries**

#### ***CHAPTER 1***

## NEGOTIATIONS WITH THIRD COUNTRIES

### *Article 14* ▲

Once the Commission has taken office, Member States shall open negotiations with the governments of third countries, and in particular with the British Government, on the whole range of economic and commercial relations concerning coal and steel between the Community and these countries. In these negotiations the Commission shall act, upon instructions unanimously agreed by the Council, for the Member States jointly. Representatives of Member States may be present at the negotiations.

### *Article 15* ▲

In order to leave Member States entirely free to negotiate concessions from third countries, including in particular concessions in return for a lowering of customs duties on steel so as to harmonize with the least protective tariffs in the Community, Member States agree to the following arrangements, to take effect upon the establishment of the common market in steel:

- the Benelux countries shall continue to charge on products which are imported from third countries under tariff quotas and are bound for their own home markets the duties which they are charging at the date of entry into force of the Treaty;
- on imports in excess of the quota which are deemed to be bound for other Community countries, they shall charge duties equal to the lowest duty being applied in the other Member States, by reference to the Brussels Nomenclature of 1950, at the date of entry into force of the Treaty.

The tariff quota for each heading of the Benelux customs tariff shall be fixed by the governments of the Benelux countries, in agreement with the Commission, for a year at a time subject to quarterly revision, taking into account movements in demand and in trade flows. The initial quotas shall be fixed on the basis of the average imports of the Benelux countries from third countries over an appropriate reference period, account being taken where necessary of any intended change from importation to home production as newly installed capacity comes into service. Any imports in excess of the quota in response to unforeseen demand shall be notified forthwith to the Commission, which, should it find that shipments from the Benelux countries to other Member States show a substantial increase accounted for entirely by the importation of tonnages in excess of the quota, may prohibit such importation unless temporary controls are imposed on these shipments. Benelux importers shall be entitled to pay the lowest rate of duty only if they undertake not to re export the products in question to other Community countries.

The undertaking by the Benelux countries to operate a tariff quota shall cease to apply as provided in the agreement concluding the negotiations with Great Britain, and at latest at the end of the transitional period.

If the Commission finds, at the end of the transitional period or on the abolition of the tariff quota in advance of that date, that one or more Member States are justified in charging on imports from third countries customs duties above the rates which would be chargeable if harmonized with the least protective tariffs in the Community, it shall, as provided in Article 29, authorize these States to take appropriate steps of their own to afford their indirect imports through Member States with lower tariffs the same degree of protection as that afforded by their own tariffs to their direct imports.

To facilitate the harmonization of the tariffs, the Benelux countries agree, where the Commission in consultation with their governments finds it necessary, to raise their present duties on steel by up to two points. They shall not be bound to do so until the tariff quotas provided for in the second, third and fourth paragraphs of this Article have been abolished and until one or more of the Member States bordering on the Benelux countries forgo the corresponding arrangements provided for in the preceding paragraph.

#### *Article 16* ▲

Save with the agreement of the Commission, the undertaking given under Article 72 of the Treaty shall debar Member States from binding by international agreements the customs duties in force at the date of entry into force of the Treaty.

Earlier bindings under bilateral or multilateral agreements shall be notified to the Commission, which shall examine whether their retention is compatible with the proper functioning of the common arrangements and may if necessary make to Member States the appropriate recommendations for terminating the bindings by the procedure provided in the agreements containing them.

#### *Article 17* ▲

Trade agreements which still have more than one year to run at the date of entry into force of the Treaty, or which contain a clause for tacit extension, shall be notified to the Commission, which may make to the Member State concerned appropriate recommendations for bringing the provisions of these agreements into line where necessary with Article 75 under the procedure provided in these agreements.

## **CHAPTER 2**

### **EXPORTS**

#### *Article 18* ▲

Until such time as the provisions of the exchange control regulations of the various Member States concerning foreign currency left at the disposal of exporters have been made uniform, special measures must be taken to ensure that the elimination of customs

duties and quantitative restrictions between Member States does not have the effect of depriving some of them of the foreign currency which is earned when their undertakings export to a third country.

In application of this principle, the Member States undertake not to give exporters of coal or steel, under the regulations referred to above, greater advantages in the use of foreign currency than those accorded under the regulations of the Member State in which the products originate.

The Commission is empowered to see to it that this is done by making recommendations to governments after consulting the Council.

#### *Article 19*

If the Commission finds that the establishment of the common market, by causing a change from direct exporting to re exporting, is leading to a shift in the pattern of trade with third countries which causes substantial injury to one of the Member States, it may, at the request of the government concerned, require producers in that State to insert a destination clause in their sales contracts.

### **CHAPTER 3**

#### **EXCEPTIONS FROM MOST FAVOURED NATION TREATMENT**

#### *Article 20*

1. As regards the countries entitled to most favoured nation treatment under Article I of the General Agreement on Tariffs and Trade, Member States shall jointly approach the Contracting Parties to the Agreement to arrange that the provisions of that Article shall not be a bar to the application of the provisions of the Treaty. If necessary, a special session of the GATT shall be requested for this purpose.

2. As regards countries not parties to the General Agreement on Tariffs and Trade but entitled nevertheless to most favoured nation treatment under bilateral agreements in force, negotiations shall be opened once the Treaty has been signed. Should the countries concerned not consent, the agreements shall be amended or denounced as provided therein.

If any country refuses its consent to Member States or to any one of them, the other Member States undertake to give each other effective assistance, which may extend to the denunciation by all Member States of agreements with the country in question.

## **CHAPTER 4**

### **LIBERALIZATION OF TRADE**

#### *Article 21* ▲

The Member States of the Community recognize that they constitute a special customs system such as is referred to in Article 5 of the Code of Liberalization of Trade of the Organization for European Economic Cooperation as in force on the date of the signature of the Treaty. They therefore agree to notify the Organization accordingly in due course.

## **CHAPTER 5**

### **SPECIAL PROVISION**

#### *Article 22* ▲

Notwithstanding the expiry of the transitional period, trade in coal and steel between the Federal Republic of Germany and the Soviet Zone of Occupation shall be regulated, as far as the Federal Republic is concerned, by the Federal Government in agreement with the Commission.

## **PART THREE**

### **General safeguards**

#### **CHAPTER I**

### **GENERAL PROVISIONS**

#### **Readaptation**

#### *Article 23* ▲

1. If in consequence of the establishment of the common market some undertakings or parts of undertakings should be compelled to discontinue or alter their activities during the transitional period defined in Article 1 of this Convention, the Commission shall, on application by the governments concerned, assist as provided below in ensuring that the workers do not have to bear the brunt of the readaptation and in affording them productive employment, and may provide non repayable aid to some undertakings.

2. On application by the governments concerned, the Commission shall take part, as provided in Article 46, in studying the possibilities for re employing redundant workers in existing undertakings or through the creation of new activities.

3. The Commission shall facilitate, in the manner laid down in Article 54, the financing of programmes submitted by the governments concerned and approved by itself for the conversion of undertakings or for the creation, either in the industries within its jurisdiction or, with the assent of the Council, in any other industry, of new and economically sound activitiescapable of reabsorbing the redundant workers into productive employment. Subject to the approval of the government concerned, the Commission shall give preference to programmes submitted by undertakings which have to close as a result of the establishment of the common market.

4. The Commission shall provide non repayable aid towards:

- a. the payment of tideover allowances to workers, where undertakings are closing altogether or in part;
- b. the payment of allowances to undertakings to enable them to continue paying such of their workers as may have to be temporarily laid off as a result of the undertakings' change of activity;
- c. the payment of resettlement allowances to workers;
- d. the financing of vocational retraining for workers having to change their employment.

5. The Commission may also provide non repayable aid to undertakings which have to close as a result of the establishment of the common market, provided that this state of affairs is directly and solely due to the fact that the common market is confined to the coal and steel sectors, and is leading to a relative increase in the production of other Community undertakings. The aid shall be limited to the amount required to enable the undertakings to meet their immediate liabilities.

The undertakings concerned must make all applications for aid through their governments. The Commission may decline to provide any aid to an undertaking which has not informed its government and the Commission that a situation was developing which might lead it to close or change its activity.

6. The Commission shall make the provision of non repayable aid under paragraphs 4 and 5 conditional upon payment by the State concerned of a special contribution at least equal in amount, unless an exception is authorized by the Council, acting by a two thirds majority.

7. The financing arrangements laid down for the application of Article 56 shall apply to this Article.

8. Assistance under this Article may be provided during the two years following the end of the transitional period by decision of the Commission with the assent of the Council.

## **CHAPTER 2**

### **SPECIAL PROVISIONS FOR COAL**

#### *Article 24*

It is agreed that, during the transitional period, safeguards will be necessary to avoid sudden and harmful shifts in production levels. The safeguards shall take account of the position as it is when the common market is established.

Furthermore, if it should become apparent that in one or more areas some price increases are liable to be so sudden and of such extent as to be harmful, precautions will have to be taken to ensure that they do not occur.

To deal with these problems, the Commission shall, to the necessary extent, authorize during the transitional period, under its supervision:

- a. practices referred to in Article 60(2)(b) and zone prices in cases not covered by Chapter 5 of Title III;
- b. the retention or institution of national equalization schemes or arrangements financed by a levy on home production, without prejudice to the exceptional expedients provided for below.

#### *Article 25*

The Commission shall impose an equalization levy per saleable metric ton, fixed at a uniform percentage of producers' receipt, on the coal production of those countries whose average costs are below the weighted average of the Community.

The ceiling of the equalization levy shall be 1.5% of these receipts for the first year that the common market is operating and shall be regularly lowered each year by 20% of the initial ceiling.

Taking into account needs recognized by it, in accordance with Articles 26 and 27 below and excluding any special charges in connection with exports to third countries, the Commission shall periodically determine the amount of the levy to be actually charged and of the government subsidies related to it in accordance with the following rules:

1. Within the ceiling defined above, it shall calculate the amount to be actually levied in such a way that the government subsidies to be actually paid shall be at least equal to that amount;
2. It shall fix the maximum permitted amount of the government subsidies, on the understanding that:
  - o the governments may, but need not, grant subsidies up to that amount;



- aid received from outside may in no circumstances exceed the amount of the subsidy actually paid.

Extra charges in connection with exports to third countries shall be allowed for neither in calculating the equalization payments required nor in assessing the offsetting subsidies.

## **Belgium**

### *Article 26*

1. It is agreed that net Belgian coal production:

- need not be reduced each year by more than 3% as compared with the level of the preceding year if total Community production is the same or is above the level of the preceding year; or,
- if total Community production is below the level of the preceding year, need not be lower than the figure obtained by applying to the level of Belgian production in the preceding year less 3% the same coefficient of decrease as that in total Community production. (\*)

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(\*) Example 1952, total Community production 250 million metric tons, total Belgian production 30 million metric tons; 1953, total Community production 225 million metric tons, i.e. coefficient of decrease 0.9. Hence, Belgian production in 1953 need not be lower than  $30 \cdot 0.97 \cdot 0.9 = 26.19$  million metric tons.

Of this reduction, 900 000 metric tons represents a permanent shift and the remaining 2 910 000 a downturn due to the business situation.

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The Commission, as the body responsible for ensuring that the Community is kept regularly supplied, shall make an assessment of the long term production and sales prospects and, after consulting the Consultative Committee and the Council, shall make to the Belgian Government, for as long as the Belgian market is insulated under paragraph 3 of this Article, a recommendation as to the shifts in production levels which it finds possible on the basis of this assessment. The Belgian Government shall decide, in agreement with the Commission, what arrangements are to be made to cause these possible shifts to come about within the limits defined above.

2. The equalization arrangements shall be designed, from the beginning of the transitional period:

- a. to enable all consumers of Belgian coal within the common market to be charged prices more nearly in line with the ruling common market prices, reducing

- Belgian prices to the approximate figure of the estimated production costs at the end of the transitional period. The price list so fixed shall not be changed without the agreement of the Commission;
- b. to ensure that the Belgian steel industry is not prevented by the special arrangements for Belgian coal from being integrated into the common market in steel and reducing its prices accordingly to the level ruling in that market.

The Commission shall periodically fix the amount of such additional equalization payments in respect of Belgian coal sold to the Belgian steel industry as it considers necessary for this purpose in view of all the operational factors involved for that industry, taking care, however, that these equalization payments do not bear unfairly on the steel industries of the neighbouring countries. Also, having regard to the price of the coke used by the Belgian steel industry to below the delivered price it could obtain if supplied with coke from the Ruhr;

- c. to allow, in respect of exports of Belgian coal within the common market considered by the Commission to be necessary in view of the production and demand prospects in the Community, additional equalization payments to cover 80% of the difference which the Commission finds to exist between the pithead price plus carriage to destination of Belgian coal and of coal from other Community countries.

3. The Belgian Government may, by way of derogation from the provisions of Article 9 of this Convention, retain or institute, under the supervision of the Commission, machinery for insulating the Belgian market from the common market.

Imports of coal from third countries shall require the approval of the Commission.

These special arrangements shall end as provided below.

4. The Belgian Government undertakes to remove the machinery for insulating the Belgian market under paragraph 3 of this Article by the end of the transitional period at the latest. If the Commission considers it necessary by reason of exceptional circumstances not now foreseeable, it may, after consulting the Consultative Committee and with the assent of the Council, allow the Belgian Government an additional year which may be extended by a further year.

The integration thus provided for shall take place after consultation between the Belgian Government and the Commission, which shall both determine the ways and means therefor; these may include allowing the Belgian Government, notwithstanding Article 4(c) of the Treaty, to grant subsidies covering the extra operating costs due to the natural conditions of the coalfields, taking into account any charges due to manifest disequilibria which add to these costs. The procedure for granting of subsidies and their maximum amount shall require the approval of the Commission, which shall see to it that the maximum amount of subsidies and the tonnage subsidized are lowered as quickly as possible, taking into account the facilities for readaptation and the extension of the

common market to products other than coal and steel, and ensuring that the scale of such production cutbacks as may be made does not give rise to fundamental disturbances in the Belgian economy.

The Commission shall every two years submit to the Council for approval proposals as to the tonnage which may be subsidized.

## **Italy**

### *Article 27*

1. The Sulcis mines shall be entitled to equalization payments under Article 25 to enable them to meet competition in the common market pending completion of the plant installation operations now in progress; the Commission shall periodically determine the amount of aid required, but outside aid may not be continued for more than two years.

2. In view of the special position of the Italian coking plants, the Commission is empowered to authorize the Italian Government to continue, to the necessary extent during the transitional period defined in Article 1 of this Convention, to charge customs duties on coke from other Member States; however, in the first year of the transitional period these may not exceed the rates of duty under Presidential Decree No 442 of 7 July 1950, this ceiling being reduced by 10% in the second year, 25% in the third, 45% in the fourth and 70% in the fifth, and the duties being abolished altogether at the end of the transitional period.

## **France**

### *Article 28*

1. It is agreed that coal production in the French mines:

- need not be reduced each year by more than one million metric tons as compared with the level of the preceding year if total Community production is the same or is above the level of the preceding year; or,
- if total Community production is below the level of the preceding year, need not be lower than the figure obtained by applying to the level of French production in the preceding year less one million metric tons the same coefficient of decrease as that in total Community production.

2. To ensure that shifts in production levels are kept within these limits, the arrangements referred to in Article 24 of this Convention may be supplemented by the exceptional expedient of a special levy imposed by the Commission on increases in the net deliveries from other collieries as shown in French customs statistics, to the extent that these increases represent shifts in production levels.

Accordingly, the levy shall be chargeable on the amounts by which net deliveries in each period exceed those in 1950, up to the amount of the decrease in the coal production of French mines since 1950 or, if total Community production is also down, to the figure obtained by applying to that amount the same coefficient of decrease as that in total Community production. The special levy shall be fixed at a maximum of 10% of the producers' receipts on the amounts in question and shall be used, in agreement with the Commission, to reduce, in the appropriate zones, the price for certain coals produced by the French mines.

### **CHAPTER 3**

## **SPECIAL PROVISIONS FOR THE STEEL INDUSTRY**

### *Article 29*

1. It is agreed that, during the transitional period, special safeguards may be necessary in the case of the steel industry to ensure that shifts in production levels due to the establishment of the common market neither create difficulties for undertakings which would be in a position to meet competition following the adaptation provided for in Article 1 of this Convention, nor lead to more redundancies than can benefit under Article 23. Where the Commission finds that the provisions of the Treaty, and in particular Articles 57, 58, 59 and 60(2)(b), cannot be applied, it is empowered, in the following order of preference:

- a. after consulting the Consultative Committee and the Council, to limit by direct or indirect means the net increase in deliveries from one area to another within the common market;
- b. after consulting the Consultative Committee and with the assent of the Council both as to the advisability and the details of the proposed action, to use the powers of intervention provided in Article 61(b), but, by way of derogation from that Article, without the requirement that a manifest crisis should exist or be imminent;
- c. after consulting the Consultative Committee and with the assent of the Council, to establish a system of production quotas, which shall not, however, affect production for export;
- d. after consulting the Consultative Committee and with the assent of the Council, to authorize a Member State to take the steps referred to in the sixth paragraph of Article 15 of this Convention, in the manner provided therein.

2. For the purpose of applying these provisions, the Commission shall during the preparatory period defined in Article 1 of this Convention, in consultation with associations of producers, the Consultative Committee and the Council, fix the technical details for the application of the safeguard arrangements.

3. If during part of the transitional period, either because of a shortage, or because the funds earned by undertakings or placed at their disposal are insufficient, or because of exceptional circumstances not now foreseeable, it has not been possible to effect the necessary adaptation of or alterations in production conditions, the provisions of this Article may, after the Consultative Committee has been consulted and the assent of the Council obtained, be applied after the end of the transitional period for as long as, but no longer than, this state of affairs continues, up to a maximum of two years.

## **Italy**

### *Article 30*

1. In view of the special position of the Italian steel industry, the Commission is empowered to authorize the Italian Government to continue, to the necessary extent during the transitional period defined in Article 1 of this Convention, to charge customs duties on steel products from other Member States; however, in the first year of the transitional period these may not exceed the rates of duty under the Annecy Convention of 10 October 1949, this ceiling being reduced by 10% in the second year, 25% in the third, 45% in the fourth and 70% in the fifth, and the duties being abolished altogether at the end of the transitional period.

2. The prices charged by undertakings for sales of steel on the Italian market, when reduced to their equivalents at the point chosen for their price lists, may not be lower than the prices shown in the lists in question for comparable transactions, save where authorized by the Commission in agreement with the Italian Government, without prejudice to the last subparagraph of Article 60(2)(b).

## **Luxembourg**

### *Article 31*

In the operation of the safeguards provided for in Article 29 of this Convention, the Commission shall take account of the exceptional importance of the steel industry to the general economy of Luxembourg and the need to avoid serious disturbances in the marketing of Luxembourg steel, given the special conditions under which this is effected by reason of the Belgo Luxembourg Economic Union.

Failing other action, the Commission may if necessary draw on the funds at its disposal under Article 49 of the Treaty up to the amount needed to deal with any repercussions on the Luxembourg steel industry of the arrangements provided for in Article 26 of this Convention.

Done at Paris this eighteenth day of April in the year one thousand nine hundred and fifty one.

ADENAUER

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J. MEURICE  
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