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THE HIGH AUTHORITY

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Communication from the High Authority of the European Coal and Steel Community to Associations of Enterprises coming under the Community's jurisdiction

(Article 48 of the Treaty)

In a letter addressed to the President of the Consultative Committee on February 23, 1955, the High Authority requested the Committee to proceed to the consultation prescribed in Article 55, paragraph 2 of the Treaty

—regarding the advisability of setting aside funds from the levies provided for under Article 50 of the Treaty, for the purpose of helping to finance research in steel rolling technique to be carried out in collaboration with enterprises and research organizations in all the countries of the Community.

Associations of Enterprises coming under the jurisdiction of the Community have, under Article 48, paragraph 2 of the Treaty, the right to submit to the High Authority the observations of their members on the point for consultation.

Any such observations should reach the High Authority not later than March 11, 1955.

(Sgd.) M. KOHNSTAMM,
Secretary, The High Authority.

Luxembourg, February 24, 1955.

Communication from the High Authority of the European Coal and Steel Community to Associations of Enterprises coming under the Community's jurisdiction

(Article 48 of the Treaty)

Decision No. 18/54, of March 20, 1954, concerning the principles governing the fixing of maximum prices for sales of coal within the Common Market by the enterprises of the Ruhr and Nord/Pas-de-Calais coalfields (Official Gazette, March 24, 1954, pp. 267–8) [1], is applicable only up to and including March 31, 1955.

Accordingly, Decisions Nos. 19/54 and 20/54, of March 20, 1954, concerning the issuing of price-schedules by the enterprises of the Ruhr coalfield and those of the Nord/Pas-de-Calais coalfield, respectively (Official Gazette, March 24, 1954, pp. 269–70) [1] are likewise applicable only up to and including March 31, 1955.

[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

In a letter addressed to the President of the Consultative Committee on February 28, 1955, the High Authority requested the Committee to proceed to the consultations prescribed in Article 61, paragraph 1 (*a*) of the Treaty

—regarding the advisability of fixing maximum prices for coal within the Common Market as from April 1, 1955;

—regarding the level at which such prices should be fixed.

Associations of Enterprises coming under the jurisdiction of the Community have, under Article 48, paragraph 2 of the Treaty, the right to submit to the High Authority the observations of their members on the points for consultation.

Any such observations should reach the High Authority not later than March 11, 1955.

(Sgd.) M. KOHNSTAMM,

Secretary, The High Authority.

Luxembourg, February 28, 1955.

Official Announcement by the Italian Government to the High Authority

The Government of the Italian Republic, through its Legation in Luxembourg, has notified the High Authority that Law No. 766 of the Italian Republic, dated June 22, 1952, ratifying the entry into force of the Treaty establishing the European Coal and Steel Community, has been extended to cover the Territory of Trieste as from December 21, 1954, as stated in No. 6 of the Official Bulletin of the High Commissioner's Office, Trieste.

THE COURT OF JUSTICE

JUDGMENT OF THE COURT

IN THE CASE No. 3-54 : THE " ASSOCIAZIONE INDUSTRIE SIDERURGICHE ITALIANE " (ASSIDER) *vs* THE HIGH AUTHORITY

(TRANSLATION, the Italian text being authoritative.)

In the case

the " ASSOCIAZIONE INDUSTRIE SIDERURGICHE ITALIANE " (ASSIDER)
association with registered offices in Milan,

which has chosen as its address for service the residence of Mr. Guido RIETTI, 15 Boulevard Roosevelt, in Luxemburg.

Plaintiff

represented by its chairman Mr. Dandolo Francesco REBUA,
assisted by Mr. Cesare GRASSETTI,
Professor at the University of Milan.

Barrister in Milan and at the Supreme Court of Appeal in Rome,

vs

the HIGH AUTHORITY OF THE EUROPEAN COAL AND STEEL COMMUNITY

which has chosen as its address for service its office, 2 Place de Metz, in Luxemburg,

Defendant

represented by its legal adviser, Mr. Nicola CATALANO,
as Agent,
assisted by Mr. Jean COUTARD,
Barrister at the Conseil d'Etat and at the Cour de Cassation, in Paris,

concerning the Appeal for annulment of the Decisions of the High Authority No. 1–54, 2–54 and 3–54 of January 7th, 1954,

THE COURT
composed of

President PILOTTI,
Presidents of the Chambers SERRARENS and HAMMES,
Judges RIESE, DELVAUX, RUEFF, and van KLEFFENS,

Advocate General: LAGRANGE,
Registrar: VAN HOUTTE,

delivers the following

JUDGMENT

As regards the facts:

.....

.....

As regards the Law:

Whereas the Court bases its judgment in the present case on the following grounds:

I. *Concerning the Admissibility*

(*a*) The Court ascertains that, on the ground of Article 2 of its statutes Plaintiff is an Association of enterprises which fulfills the requirements of Articles 33, paragraph 2 and 48 of the Treaty.

(*b*) The Decisions in question constitute general Decisions. The Court rejects Defendant's proposition that the Admissibility of Appeals submitted by enterprises or Associations of enterprises against general Decisions depends on the proof of the existence of a Détournement de pouroir affecting them. Indeed under Article 33, paragraph 2 of the Treaty, the enterprises or Associations of enterprises " have the right of appeal . . . against general Decisions . . . which they *deem* to involve a Détournement de pouvoir affecting them ". According to this clearly formulated text the Appeal will be admissible from the moment the Plaintiff formally adduces a Détournement de pouvoir affecting him, just as the Appeal of a Government will be admissible from the moment it puts forward one of the four grounds enumerated in the first paragraph of Article 33 of the Treaty. This allegation will have to indicate

the reasons from which, in Plaintiff's opinion, follows Détournement de pouvoir. These requirements have been fulfilled in the present case. In the case of an Appeal submitted by an Association of enterprises it suffices that the Association adduces a Détournement de pouvoir affecting one or several of the member enterprises. In the present case Plaintiff claims—and supports this claim—a Détournement de pouvoir affecting the enterprises which it represents, Détournement de pouvoir with regard to paragraph 30 of the Convention containing the Transitional Provisions, and with regard to Articles 4 (*b*), 60 and 64 of the Treaty and it also follows from the illogical character of the Decisions in question.

The Court is of the opinion that the Treaty does not provide for any supplementary requirement for the Admissibility of the Appeal, as for instance the proof that Détournement de pouvoir affecting Plaintiff was actually committed. This proof will be necessary to establish that the case is well-founded,—but this belongs to the examination of the merits of the case and does not concern the Admissibility.

(*c*) The Court, in agreement with the Advocate General on this point, admits the possibility of one single Appeal opposing the three Decisions in question.

II. *As for the merits*

On the above mentioned grounds the Court ascertains that the Appeal has lost its object in so far as it concerns the request for annulment of the first Article of Decision No. 2–54 of the High Authority, and the request for annulment of Decision No. 3–54. As for the request for annulment of Decision No. 1–54 and Articles 2 to 5 of Decision No. 2–54 it appears ill-founded.

Under these conditions, there is no reason for the Court to come to a Decision on the definition of Détournement de pouvoir in the sense of the second paragraph of Article 33 of the Treaty, neither on the interpretation of the words used therein " which involve a Detournement de pouvoir *affecting them* ".

(1°) As Article 1 of Decision No. 2–54 of the High Authority has been annuled erga omnes by the Judgment of December 21st, 1954 in the case French Government *vs* High Authority, the present request for annulment has on this point lost its object.

Under these conditions it is unnecessary to examine whether the Appeal is well-founded on this point or to state this expressly in the Judgment, because a Decision which has already been annuled or has been abrogated in the meantime can not affect Plaintiff's rights or interests. Consequently, the present Judgment, in so far as it concerns the requests for annulment of Article 1 of Decision No. 2–54 of the High Authority, can only declare there is no ground for a ruling by the Court.

(2°) The same conclusion results where Decision No. 3–54 is concerned, as the High Authority has abrogated it by its Decision No. 1–55 of January 4th, 1955 (Official Gazette of the Community 1955, No. 1, Fourth Year, p. 3). Consequently there are no grounds for a ruling by the Court with regard to Decision No. 3–54, of the High Authority.

(3°) As for Decision No. 1–54 of the High Authority, Plaintiff has put forward the same grounds as the Government of the Italian Republic in the case Italian Government *vs* High Authority (Case No. 2–54). The Court has rejected these grounds in its Judgment on that case, by ascertaining that the provisions in question do not violate the Treaty, nor the Convention containing the Transitional Provisions and that they do not constitute a Detournement de pouvoir. No new ground has been put forward which could bring the Court to another Decision, whatever interpretation one wants to give to the notion " Detournement de pouvoir à leur égard " which appears in Article 33 of the Treaty.

Indeed, while Decision No. 1–54 of the High Authority declares non-discriminatory the deviations from the prices provided for in the price-lists of an enterprise when it concerns a single transaction or when the same deviation is applied to all comparable transactions, it expressly maintains the obligation to obey the rules concerning the publication of price-lists; this provision does not infringe upon the legal situation of the Italian steel industry and is not intended to legitimate previous infractions.

(4°) In its Judgment of December 21st, 1954 in the case Italian Government *vs* High Authority, the Court declared that Articles 2 and 3 of Decision No. 2–54 of the High Authority do not constitute a violation of the Treaty or of the Convention containing the Transitional Provisions, nor a Detournement de pouvoir.

As for the provisions of Article 3 of the Decision No. 2–54 of the High Authority which reduces to one day the time-limit provided for the entering into force of new price-lists, although it forces the Italian enterprises to react more rapidly to the modifications of the price-lists of their competitors, it does not, however, seriously infringe upon the special protection provided for them.

Articles 4 and 5 of Decision No. 2–54 of the High Authority are of general significance and in no way constitute a menace for the Italian steel enterprises or Associations of enterprises. The object of these Articles has nothing to do with the present dispute; furthermore Plaintiff has not opposed this object and has not put forward any argument concerning it. The said Articles can therefore not be vitiated with the Detournement de pouvoir alleged by Plaintiff.

(5°) From the proceeding it follows that none of the opposed provisions, as mentioned under 3 and 4, violates the Treaty or the Convention containing the Transitional Provisions.

There is therefore no reason to answer the question whether and under what conditions the enterprises and the Associations of enterprises can oppose a general decision of the High Authority on the ground of Violation of the Treaty.

(6°) The Court rejects the request for the exhibition of all the documents concerning the case: the documents which Defendant has exhibited suffice in the present case to inform the Court about the objectives pursued by the High Authority.

III. *Costs*

As the Defendant has been proved wrong with regard to its principal claim which sought a declaration of inadmissibility (" improponibilità ") of the Appeal, the Court deems just to compensate the costs, in accordance with Article 60, paragraph 2 of the Rules of the Court.

Having regard to the pleadings;

Having heard the parties;

Having heard the findings of the Advocate General;

Having regard to Articles 31, 33, 48, 60 and 80 of the Treaty;

Having regard to the Protocole on the Statute of the Court;

Having regard to the Rules of the Court and to the Rules of the Court concerning the Costs;

THE COURT

rejecting all further submissions and all submissions to the contrary,
finds and decides:

There is no ground for pronouncing Judgment on the Appeal for annulment submitted against Article 1 of Decision No. 2–54 of the High Authority and against Decision No. 3–54 of the High Authority.

The Appeal for annulment submitted against Decision No. 1–54 of the High Authority and against Articles 2 to 5 of Decision No. 2–54 of the High Authority is rejected.

The costs are compensated. Each party carries its own costs.

Thus done and judged by the Court, in Luxembourg, on February 10th, 1955.

PILOTTI, SERRARENS, HAMMES, RIESE, DELVAUX, RUEFF, VAN KLEFFENS.

Read in public session in Luxembourg, on February 11th, 1955.

The President,
M. PILOTTI

The Judge Rapporteur,
O. RIESE

The Registrar,
A. VAN HOUTTE.

JUDGMENT OF THE COURT

IN THE CASE No. 4–54: THE ASSOCIATION " INDUSTRIE SIDERURGICHE ASSOCIATE " (I.S.A.) *vs* THE HIGH AUTHORITY

In the case

The Association " Industrie Siderurgiche Associate " (I.S.A.)
with registered offices in Milan,

which has chosen as its address for service the residence of Mr. Guido RIETTI, 15 Boulevard Roosevelt, in Luxemburg,

Plaintiff

represented by its chairman Mr. Emilio POZZI,
assisted by Mr. Pietro GASPARRI,

Professor at the Faculty of Law of the University of Perugia, Barrister in Rome,

vs

The HIGH AUTHORITY OF THE EUROPEAN COAL AND STEEL COMMUNITY,

which has chosen as its address for service its office, 2 Place de Metz, in Luxemburg,

Defendant

represented by its legal adviser, Mr. Nicola CATALANO, as Agent, assisted by Mr. Jean COUTARD,
Barrister at the Conseil d'Etat and at the Cour de Cassation, in Paris,

concerning the Appeal for annulment of the Decisions of the High Authority No. 1–54, 2–54 and 3–54 of January 7th, 1954.

THE COURT
composed of
President PILOTTI,
Presidents of the Chambers SERRARENS and HAMMES,
Judges RIESE, DELVAUX, RUEFF and VAN KLEFFENS

Advocate General: LAGRANGE,
Registrar: VAN HOUTTE,

delivers the following

JUDGMENT

As regards the facts:

.....

.....

As regards the Law:

Whereas the Court bases its judgment in the present case on the following grounds:

I. *Concerning the Admissibility*

(*a*) The Court ascertains that, on the ground of Article 2B of its statutes, Plaintiff is an Association which fulfils the requirements of Articles 33, paragraph 2 and 48 of the Treaty.

(*b*) The Decisions in question constitute general Decisions. The Court rejects Defendant's proposition that the Admissibility of Appeals submitted by enterprises or Associations of enterprises against general Decisions depends on the proof of the existence of a Détournement de pouvoir affecting them. Indeed under Article 33, paragraph 2 of the Treaty, the enterprises or Associations of enterprises " have the right of Appeal . . . against general Decisions . . . which they *deem* to involve a Détournement de pouvoir affecting them ". According to this clearly formulated text the Appeal will be admissible from the moment the Plaintiff formally adduces a Détournement de pouvoir affecting him, just as the Appeal of a Government will be admissible from the moment it puts forward one of the four grounds enumerated in the first paragraph of Article 33 of the Treaty. This allegation will have to indicate the reasons from which, in Plaintiff's opinion, follows Détournement de

pouvoir. These requirements have been fulfilled in the present case. In the case of an Appeal submitted by an Association of enterprises it suffices that the Association adduces a Détournement de pouvoir affecting one or several of the member enterprises. In the present case Plaintiff claims—and supports this claim—a Détournement de pouvoir affecting the enterprises which it represents, Détournement de pouvoir with regard to paragraph 30 of the Convention containing the Transitional Provisions, and with regard to Articles 60 and 64 of the Treaty and it also follows from the absence of a sufficient motivation of the Decisions in question.

The Court is of the opinion that the Treaty does not provide for any supplementary requirement for the Admissibility of the Appeal, as for instance the proof that Détournement de pouvoir affecting Plaintiff was actually committed. This proof will be necessary to establish that the case is well-founded—but this belongs to the examination of the merits of the case and does not concern the Admissibility.

(*c*) The Court, in agreement with the Advocate General on this point, admits the possibility of one single Appeal opposing the three Decisions in question.

II. *As for the merits*

On the above mentioned grounds the Court ascertains that the Appeal has lost its object in so far as it concerns the request for annulment of the first Article of Decision No. 2–54 of the High Authority, and the request for annulment of Decision No. 3–54. As for the request for annulment of Decision No. 1–54 and Articles 2 and 3 of Decision No. 2–54 it appears ill-founded.

Under these conditions, there is no reason for the Court to come to a Decision on the definition of Détournement de pouvoir in the sense of the second paragraph of Article 33 of the Treaty, neither on the interpretation of the words used therein " which involve a Détournement de pouvoir *affecting them* ".

(1°) As Article 1 of Decision No. 2–54 of the High Authority has been annulled erga omnes by the Judgment of December 21st, 1954, in the case French Government *vs* High Authority, the present request for annulment has on this point lost its object.

Under these conditions it is unnecessary to examine whether the Appeal is well-founded on this point or to state this expressly in the Judgment, because a Decision which has already been annulled or has been abrogated in the meantime cannot affect Plaintiff's rights or interests. Consequently the present Judgment, in so far as it concerns the request for annulment of Article 1 of Decision No. 2–54 of the High Authority, can only declare there is no ground for a ruling by the Court.

(2°) The same conclusion results where Decision No. 3–54 is concerned, as the High Authority has abrogated it by its Decision No. 1–55 of January 4th, 1955 (Official Gazette of the Community 1955, Fourth year—No. 1, p. 3). Consequently there are no grounds for a ruling by the Court with regard to Decision No. 3–54, of the High Authority.

(3°) As for Decision No. 1–54 of the High Authority, Plaintiff has put forward the same grounds as the Government of the Italian Republic in the case Italian Government *vs* High Authority (case No. 2–54). The Court has

rejected these grounds in its Judgment on that case, by ascertaining that the provisions in question do not violate the Treaty, nor the Convention containing the Transitional Provisions and that they do not constitute a Détournement de pouvoir. No new ground has been put forward which could bring the Court to another Decision, whatever interpretation one wants to give to the notion " Détournement de pouvoir à leur égard " which appears in Article 33 of the Treaty.

Indeed while Decision No. 1–54 of the High Authority declares non-discriminatory the deviations from the prices provided for in the price-lists of an enterprise when it concerns a singular transaction or when the same deviation is applied to all comparable transactions, it expressly maintains the obligation to obey the rules concerning the publication of price-lists; this provision does not infringe upon the legal situation of the Italian steel industry and is not intended to legitimate previous infractions.

(4°) In its Judgment of December 21st, 1954, in the case Italian Government *vs* High Authority, the Court declared the Articles 2 and 3 of Decision No. 2–54 of the High Authority do not constitute a violation of the Treaty or of the Convention containing the Transitional Provisions, nor a Détournement de pouvoir.

As for the provision of Article 3 of Decision No. 2–54 of the High Authority which reduces to one day the time-limit provided for the entering into force of new price-lists, although it forces the Italian enterprises to react more rapidly to modifications of the price-lists of their competitors, it does not, however, seriously infringe upon the special protection provided for them.

(5°) From the preceding it follows that none of the opposed provisions, as mentioned above under 3 and 4, violates the Treaty or the Convention containing the Transitional Provisions.

There is, therefore, no reason to answer the question whether and under what conditions the enterprises and the Associations of enterprises can oppose a general Decision of the High Authority on the ground of Violation of the Treaty.

(6°) In Plaintiff's opinion there is an infraction of the rules of good administration and therefore an indication for Détournement de pouvoir in the fact that the High Authority in the motivation of the Decisions in question has neglected to pronounce a judgment with regard to the dissenting opinions expressed in the consultative bodies. The Court does not agree with this opinion. Under Article 15 of the Treaty the High Authority is required to " motivate " its Decisions and to " refer to " the opinions which the High Authority is to obtain. It follows that the High Authority has to indicate the motives which led it to issue the regulations in question and that it is obliged to mention that the opinions required by the Treaty have been given. However the Treaty does not require it to mention—and hence certainly not to refute—the dissenting opinions expressed by the consultative bodies or by certain of their members. This omission, therefore, which Plaintiff reproaches the High Authority cannot be considered as a proof, not even a beginning of a proof in support of the ground of Détournement de pouvoir.

(7°) The Court rejects the request for the exhibition of all the documents concerning the case: the documents which Defendant has exhibited suffice in the present case to inform the Court about the objectives pursued by the High Authority.

III. *Costs*

As Defendant has been proved wrong with regard to its principal claim which sought a declaration of inadmissibility (" improponibilità ") of the Appeal, the Court deems just to compensate the costs, in accordance with Article 60, paragraph 2 of the Rules of the Court.

Having regard to the pleadings;

Having heard the parties;

Having heard the findings of the Advocate General;

Having regard to Articles 31, 33, 48, 60 and 80 of the Treaty;

Having regard to the Protocole on the Statute of the Court;

Having regard to the Rules of the Court and to the Rules of the Court concerning the Costs;

THE COURT

rejecting all further submissions and all submissions to the contrary,
finds and decides:

There is no ground for pronouncing Judgment on the Appeal for annulment submitted against Article 1 of Decision No. 2-54 of the High Authority and against Decision No. 3-54 of the High Authority.

The Appeal for annulment submitted against Decision No. 1-54 of the High Authority and against Articles 2 and 3 of Decision No. 2-54 of the High Authority is rejected.

The costs are compensated. Each party carries its own costs.

Thus done and judged by the Court, in Luxemburg, on February 10th, 1955.

PILOTTI, SERRARENS, HAMMES, RIESE, DELVAUX, RUEFF, van KLEFFENS.

Read in public session, in Luxemburg, on February 11th, 1955.

The President, M. PILOTTI

The Judge Rapporteur, O. RIESE

The Registrar, A. VAN HOUTTE

CORRIGENDUM

JUDGMENT OF THE COURT

(Official Gazette of January 11th, 1955, p. 25)

IN THE CASE No. 2-54: GOVERNMENT OF THE ITALIAN REPUBLIC *vs* THE HIGH AUTHORITY

(French translation)

Instead of:

which claim was reduced at the public hearings to annulment of Article 1 of Decision 2-54 and of Decision No. 3-54;

read:

which claim was reduced at the public hearings to annulment of Article 1 of Decision No. 1-54, of Articles 1, 2 and 3 of Decision No. 2-54 and of Decision No. 3-54;

BUDGET ESTIMATES

OF THE ADMINISTRATIVE EXPENDITURE OF THE INSTITUTIONS OF THE COMMUNITY FOR THE FINANCIAL YEAR 1954-1955

(in Belgian francs)

Decision No. 8-54 of the Committee of Presidents set up under Article 78, paragraph 3 of the Treaty, authorizing transfers in the Budget Estimates of the administrative expenditure of the High Authority and the Court of Justice

The Presidents of the four institutions of the Community,

HAVING regard to Article 78, paragraph 3 of the Treaty,

DECIDE:

(1) to authorize the High Authority to make the following transfer in the budget estimates of its administrative expenditure for the third financial year ending June 30th, 1955:

(*a*) Under HEAD I: EMOLUMENTS, ALLOWANCES AND SOCIAL CHARGES	
Trsf. from Sub-head 11: Personnel...	2,000,000
to Sub-head 12: Overtime and temporary staff	2,000,000
(*b*) Trsf. from HEAD II: OPERATION OF SERVICES	
Sub-head 23: Expenditure on publications and information	1,300,000
to HEAD I: EMOLUMENTS, ALLOWANCES AND SOCIAL CHARGES	
Sub-head 10: President, Vice-Presidents and Members of the High Authority	245,900
and to HEAD IV: EXTRAORDINARY EXPENDITURE	
Sub-head 41: Expenses in connection with the assumption and relinquishment of their duties by the President and Members of the High Authority	1,054,100

(2) to authorize the Court of Justice to make the following transfer in the budget estimates of its administrative expenditure for the third financial year ending June 30, 1955:

Under HEAD I: EMOLUMENTS, ALLOWANCES AND SOCIAL CHARGES

Trsf. from Sub-head 11: Personnel	500,000
to Sub-head 12: Temporary staff	500,000

This decision was deliberated and adopted by the Presidents of the four institutions meeting in Committee at Luxembourg on February 9, 1955.

The President of the Court of Justice
M. PILOTTI

For the President of the High Authority (absent)
P. FINET

For the President of the Common Assembly (absent)
J. FOHRMANN

The President in office of the Council of Ministers
E. BATTISTA

ISSUE No. 6, FOURTH YEAR, DATED MARCH 16, 1955

THE HIGH AUTHORITY

DECISIONS

Decision No. 4–55, March 14, 1955, concerning a special authorization exempting the Nord/Pas-de-Calais collieries from the High Authority's Decisions Nos. 3–53 and 6–54 concerning the methods of quotation applicable to sales of coal in the Common Market

THE HIGH AUTHORITY,

HAVING regard to Article 60, paragraph 2 (*b*) of the Treaty;

HAVING regard to Decisions Nos. 3–53 and 6–54, of February 12, 1953, and March 19, 1954 (*Official Gazette, February* 12), 1953, *p.* 21, *and March* 24, 1954, *p.* 252)[1] concerning the methods of quotation applicable to sales of coal in the Common Market;

WHEREAS for the Nord/Pas-de-Calais collieries, the marketing of certain grades of *charbon maigre* has become increasingly difficult in recent months, and the consequent accumulation of pithead stocks is likely to have an adverse effect on the level of production;

WHEREAS this situation, which is exceptional in comparison with the other coalfields, could lead to an abnormal falling-off in employment, so that it is desirable that measures should be taken to remedy this without causing serious detriment to other coalfields;

[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

WHEREAS such measures would create openings for the marketing of *charbon maigre* in the German Federal Republic and the Netherlands;

WHEREAS, in consequence of the price-level and geographical position of the Nord/Pas-de-Calais coalfield, sales to the German Federal Republic and the Netherlands are possible only if the Nord/Pas-de-Calais enterprises are allowed to deviate from their scheduled prices in respect of deliveries to those areas;

WHEREAS such deviation from scheduled prices requires a special authorization granting exemption from Decisions Nos. 3–53 and 6–54 (which rule, in principle, in regard to coal, that delivered prices must not be aligned with the delivered prices of other enterprises in the Common Market), while at the same time, if the aim of these decisions is to be properly fulfilled, such an exceptional measure requires to be of limited duration and to apply to particular areas, quantities and grades only;

after consultation with the Consultative Committee,

DECIDES:

Article 1

Decisions Nos. 3–53 and 6–54 notwithstanding, the collieries of the Nord/Pas-de-Calais coalfield are hereby authorized to allow rebates on their scheduled prices in accordance with the table below, in respect of the grades of *charbon maigre* produced by them listed in column 1, and for tonnages not exceeding 150,000 metric tons, the maximum rebate allowable to be that which will align the delivered prices at the points of destination enumerated in column 2 with the delivered prices at the same points of destination for deliveries by the enterprises enumerated in column 3.

Grade	Point of destination	Deliveries with which alignments are permissible
Column 1	Column 2	Column 3
Grains maigres 6/10 industrie ... Fines lavées maigres	In Zone I	From enterprises in the Ruhr coalfield.
Fines brutes maigres	In Zone I	From enterprises in the Dutch Limburg coalfield.
Grains maigres industrie 6/10 ... Fines lavées maigres Fines brutes maigres	In Zones II and III	From enterprises in the Ruhr coalfield.

Article 2

The selling zones shall be as follows:

Zone I

In the Netherlands, an area bounded to the south by:

—the Haringvliet,

—the Hollandsch Diep,

—the railway line Moerdijk-Zevenbergschen Hoek-'s Hertogenbosch-Nijmegen, including Nijmegen itself;

to the east by:

—an imaginary line from Nijmegen to the point of separation of the Rhine and the IJsel,

—the river IJsel as far as the railway bridge near Zwolle,

—the railway line from the bridge over the IJsel towards Meppel as far as the river Vecht,

—the river Vecht,

—the Zwarte Water,

—the IJselmeer.

Zone II

In the German Federal Republic,

—Land Bremen

—Land Hamburg

—Land Schleswig-Holstein.

Zone III

In the German Federal Republic,

—Land Baden-Württemberg;

—in Land Hesse:

—the areas south of the river Main,

—the points on the north bank of the Main,

—the city of Wiesbaden;

—in Land Rhineland-Palatinate:

—the points on the Rhine south of Mainz, including Mainz itself.

Article 3

The delivered price shall be the scheduled price of the enterprise or selling organization, plus the transport costs to the point of destination and any other costs and charges to be borne by the purchaser.

Article 4

This decision, which shall be applicable up to and including May 15, 1955, shall come into force within the Community upon the fifth day following its publication in the *Official Gazette of the European Coal and Steel Community*.

This decision was deliberated and adopted by the High Authority at its meeting on March 14, 1955.

For the High Authority,

(Sgd.) JEAN MONNET,

President

INFORMATION

Letter sent by the High Authority to the Government of the French Republic on March 5, 1955, concerning the maintenance of subsidies on imported coking coal

MONSIEUR LE PRÉSIDENT,

By your letter No. CA/1663, of December 2, 1954, you requested us to extend the authorization of the subsidies on coking coal, which were due to expire on December 31, 1954, and in doing so to reconsider the proposals put forward by you in your letter No. CA/791, of June 17, 1954.

The High Authority has made a further study of the problem and has in particular considered the effects of the system proposed by the French Government, according to which the subsidy paid per ton would include a coking bonus which would be granted not, as heretofore, on the basis of the tonnage of coking coal imported to supply the iron and steel industries of France and the Saar, but on the throughput tonnage of the coking-plants.

The High Authority recognizes that this change in method makes no difference to the object of the subsidy. In conformity with the policy urged by the French Government and agreed to by the High Authority in its letter of March 8, 1953, that subsidy, while correcting transport disparities, is to enable the coking-plants to work normally, and at the same time make it possible to use a steadily increasing proportion of fines from Lorraine and the Saar in the coking mixture.

The High Authority further notes with satisfaction that the system proposed encourages the consumer to select the source of supply presenting the greatest advantages economically.

It perceives at the same time, however, that the automatic descending scale which distinguished the old system would no longer operate in respect of the coking bonus. For this reason, the High Authority considers it most essential that a flat rate of decrease should be introduced in regard to this bonus. Such a rate will be particularly necessary inasmuch as further studies have revealed that the aim set forth in the letter of March 8, 1953, cannot be achieved at present, as a proportion of 75–80 per cent. of Lorraine and Saar coal in the coking mixture is probably excessive.

In these circumstances, the High Authority has adopted the following provisions:

(1) *Coking bonus*

The French Government is hereby authorized, without prejudice to the provisions set forth in Section 4 below, to subsidize coking coal for coking-plants in France and the Saar, and to set aside part of the total subsidy payable per ton as a coking bonus.

The French Government is required to grant this bonus per ton of coking coal used on the basis of the subsidy paid in the second and third quarters of 1954. The amount of the subsidy thus granted to each coking-plant during that period, in application of the provisions then in force, shall determine the

upper limit of what the coking-plant would have been paid if the subsidy had been granted in accordance with the formula proposed in this letter.

The coking bonus must be lowered to correspond with all price reductions for coal from other Community countries.

In addition, it should be noted that, in accordance with the provisions contained in the letter of March 8, 1953, the cost of consumption of Lorraine and Saar coal is considered as brought to parity with that of German coal (allowance being made for differences in quality) where the discrepancy in favour of the German coal is Ffr. 1,018 above the Lorraine coal and Ffr. 700 above the Saar coal. If the prices of coal from Lorraine and the Saar were to rise in such a way as to reduce these discrepancies, the selling prices of German coal would have to be raised accordingly.

(2) *Residual subsidy*

The residual subsidy must be automatically lowered to correspond with any net reduction in delivered prices consequent upon a reduction in transport costs due

—either to measures to be adopted in connection with the introduction of international through-rates,

—or to any other modification of the tariff system.

Should the reductions in transport costs exceed the amount of the residual subsidy, the coking bonus must be lowered to correspond with the gain thus obtained. Finally, the subsidy as defined must not be allowed to bring the price delivered Thionville of Ruhr coking coal transported by water via Strasbourg below the price delivered Thionville of the same coking coal transported by rail.

(3) *Flat rate of decrease for the coking bonus*

The High Authority wishes to inform the French Government now that it has resolved to take a decision (to come into force on January 1, 1956) making the subsidy per throughput ton as defined in section 1 above subject to a decreasing scale.

(4) *Steps in the elimination of the subsidy*

The High Authority would recall that the system outlined in the letter of March 8, 1953, was intended to lead to the abolition of subsidies on coking coal by March 31, 1957.

In accordance with the provisions enumerated in the foregoing paragraphs,

—the descending scale referred to in Section 3 above,

—the scale of subsidies for such coking-plants on the coast and in the Paris region as are supplied by water,

—and all factors deemed essential to the application of these decisions

will be established by the High Authority after these questions have been fully studied by its Market Division in collaboration with the relevant French authorities.

The descending scale which is to ensure that the subsidies are entirely done away with by March 31, 1957, must be established not later than December 31, 1955.

Will you be so good as to provide the High Authority with all requisite information, and continue to notify it every three months of any changes in the cost of coking coal delivered to consumers' works.

(5) *General provisions*

The provisions set forth in the letter of March 8, 1953, no longer apply to the fixing of subsidies on coking coal insofar as they are at variance with the stipulations of this letter.

The High Authority reserves the right to reconsider the foregoing provisions in the event of any appreciable change in the general conditions of competition in the Common Market.

Please accept, Monsieur le Président, the expression of my high esteem.

Letter sent by the High Authority to the Government of the French Republic on March 5, 1955, concerning the maintenance of subsidies on imported coke.

MONSIEUR LE PRÉSIDENT,

By your letter No. CA/1662, of December 2, 1954, you requested us to extend the period of validity of the provisions contained in the letter dated March 8, 1953, in respect of the subsidies on smelting coke. You state that the development of the situation has made it possible to abolish the subsidy for most imported coke, so that it is now payable only for two entry points, Wasserbillig and Strasbourg, on limited tonnages and in a comparatively small amount per ton. You note that the subsidy on coke transported via Wasserbillig will be automatically discontinued upon the abolition of the break in rates (" split tariffs ").

In recognition of these circumstances, I have the honour to inform you that the High Authority has agreed to renew the authorization of

(1) the subsidy on coke transported via Wasserbillig, up to such time as that subsidy shall be discontinued in consequence of the transport measures introduced;

(2) the subsidy on coke transported via Strasbourg, up to such time as the subsidy on coke transported via Wasserbillig shall be discontinued, on the understanding that the abolition of the Wasserbillig subsidy shall be followed by a further examination of the subsidy at present payable on coke transported via Strasbourg.

This renewal is, of course, subject to the same conditions as the original authorization, given in the letter of March 8, 1953, the High Authority reserving the right to reconsider these subsidies in the event of any appreciable change in the general conditions of competition in the Common Market, and to do so in any case not later than December, 1955.

Please accept, Monsieur le Président, the expression of my high esteem.

THE COMMON ASSEMBLY

Annex to the Official Gazette

QUESTIONS AND REPLIES

Question No. 23, put by M. Michel Debré, Member of the Common Assembly

(*February* 10, 1955)

What interpretation does the President of the High Authority place upon the Treaty establishing the European Coal and Steel Community, which would justify his decision to remain at his post after the expiry of his term of office ?

Reply by the High Authority

(*March* 4, 1955)

The High Authority and its President had no option in the matter. Every Member of the High Authority, even though his term of office may have expired, is obliged to continue in office until his successor is appointed. Article 10 of the Treaty in its last paragraph provides that " except in the case of removal under the provisions of the second paragraph of Article 12, the Members of the High Authority shall remain in office until their replacement ".

The High Authority considers that, in the absence of any rule to the contrary, the principle expressly set forth in the provision just quoted must be applied to the President and Vice-Presidents of the High Authority where, as in the present instance, their successors have not yet been appointed by the Governments on the expiry of their term of office.

Under Article 16, paragraph 3 of the Treaty, the President of the High Authority has powers and responsibilities of his own, complementary to those of the High Authority itself, which it is equally essential should be exercised without any break in continuity. Furthermore, only if the President and Vice-Presidents continue in office until they are replaced is it possible to ensure that these powers and responsibilities are exercised by the persons thereto appointed by the Governments.

THE COURT OF JUSTICE

OFFICIAL NOTICES

Complaint by the Government of the Grand Duchy of Luxembourg against the High Authority, dated March 5, 1955 (Case No. 2–55)

On March 5, 1955, a complaint was lodged before the Court of Justice against the High Authority of the European Coal and Steel Community by the Government of the Grand Duchy of Luxembourg, represented by Monsieur Pierre Pescatore, Legal Counsellor to the Ministry of Foreign Affairs, with elected domicile at the Ministry of Foreign Affairs, 5 rue Notre-Dame, Luxembourg.

The complaints request

" that,

" having regard to the High Authority's decision of January 7, 1955, concerning the Office Commercial du Ravitaillement du Grand-Duché de Luxembourg, which was communicated to the Luxembourg Government on January 8, 1955;

" having regard to Article 88 of the Treaty of April 18, 1951, establishing the European Coal and Steel Community;

" it may please the Court

" to reserve the High Authority's decision of January 7, 1955, concerning the Office Commercial du Ravitaillement du Grand-Duché de Luxembourg;

" and to award the costs and expenses of this action against the High Authority ".

ISSUE No. 7, FOURTH YEAR, DATED MARCH 28, 1955

THE HIGH AUTHORITY

DECISIONS

Decision No. 5/55, March 23, 1955, extending Decision No. 7/54, of March 19, 1954, concerning the authorization of zone-delivered prices for sales by enterprises in the Lower Saxony coalfield

THE HIGH AUTHORITY,

HAVING regard to Section 24 of the Convention;

HAVING regard to Decision No. 7/54 concerning the authorization of zone-delivered prices for sales by enterprises in the Lower Saxony coalfield, dated March 19, 1954 (*Official Gazette of the Community, March 24, 1954, p. 253*)[1];

WHEREAS the reasons for the above decision retain their cogency in respect of the coal year 1955–56,

DECIDES:

Article 1

Decision No. 7/54 is hereby extended up to and including March 31, 1956.

Article 2

This decision shall come into force within the Community on April 1, 1955.

This decision was deliberated and adopted by the High Authority at its session on March 23, 1955.

For the High Authority

JEAN MONNET,

President.

[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

Decision No. 6/55, March 23, 1955, concerning the authorization of zone-delivered prices for the sale of brown-coal briquettes (BKB) by enterprises in the Helmstedt coalfield

THE HIGH AUTHORITY,

HAVING regard to Section 24 of the Convention;

WHEREAS the enterprises of the Helmstedt lignite coalfield were authorized, by Decision No. 8/54, of March 19, 1954 (*Official Gazette* of the Community, March 24, 1954, p. 254)[1], to charge zone-delivered prices for sales of brown-coal briquettes in certain areas of the German Federal Republic;

WHEREAS the reasons for the above decision retain their cogency in respect of the coal year 1955–56;

WHEREAS, however, the progressive development of the Common Market necessitates a corresponding reduction of selling zones and rebates,

DECIDES :

Article 1

(1) The enterprises of the Helmstedt lignite coalfield are hereby authorized, in respect of deliveries of brown-coal briquettes (basing point Offleben) in the selling zones listed below, to grant the following rebates on their scheduled prices:

(2) The selling zones shall be the following:

Zone I

This zone shall be bounded to the east by the " zonal border ", then by the railway line Wittingen (zonal border)—Neudorf/Platendorf, an imaginary line Müden/Diekhorst-Wathlingen (exclusive)—Immensen/Arpke-Hämelerwald, the railway line towards Hönnersum, an imaginary line from Gross-Düngen to the railway line towards Salzdetfurth, and an imaginary line Bockenem-Lutter-Dörnten-Vienenburg (zonal border).

Unless otherwise stated, all the points mentioned shall fall within price zone I.

Rebate: nil.

Zone II

This zone shall be bounded by the " zonal border " Neu-Darchau–Bavendorf – Bienenbüttel – Timmerloh – Wolterdingen – Neuenkirchen – Wittorf – Holtum–Langwedel–Siedenburg–Steyerberg–Stolzenau, the Land border between Lower Saxony and Westphalia as far as Fürstenberg (exclusive), and an imaginary line Sievershausen–Edemissen–Edesheim–Badenhausen–Kamschlacken back to the " zonal border ".

Unless otherwise stated, all the points mentioned shall fall within price zone II.

[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

Rebate: DM 4.—per metric ton.

Zone III

This zone shall include the remainder of the selling area.

Rebate: DM 7.– per metric ton.

Article 2

This decision, which shall be applicable up to, but not after March 31, 1956, shall come into force within the Community on April 1, 1955.

This decision was deliberated and adopted by the High Authority at its session on March 23, 1955.

For the High Authority,
JEAN MONNET,
President.

Decision No. 7/55, March 23, 1955, extending and amending Decision No. 9/54, of March 19, 1954, concerning the authorization of zone-delivered prices for the enterprises of the Aachen (Aix-la-Chapelle) coalfield

THE HIGH AUTHORITY,

HAVING regard to Section 24 of the Convention;

HAVING regard to Decision No. 9/54 concerning the authorization of zone-delivered prices for the enterprises of the Aachen (Aix-la-Chapelle) coalfield, dated March 19th, 1954 (*Official Gazette of the Community, March 24, 1954, p. 255*);[1]

WHEREAS the reasons for the above decision retain their cogency in respect of the coal year 1955–56;

WHEREAS, however, the progressive development of the Common Market makes it possible to reduce the selling zones;

DECIDES :

Article 1

Decision No. 9/54 is hereby extended up to and including March 31, 1956, without prejudice to the provisions of Article 2 below.

Article 2

Article 1, paragraph 2, *Zone I*, subsection (*a*) of Decision No. 9/54, shall be amended as follows:

" (*a*) in the Regierungsbezirk Düsseldorf, the Stadtkreise and Landkreise München-Gladbach, Neuss, Rheydt, Viersen, Grevenbroich-Neuss ".

Article 3

This decision shall come into force within the Community on April 1, 1955.

This decision was deliberated and adopted by the High Authority at its session on March 23, 1955.

For the High Authority,
JEAN MONNET,
President.

[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

Decision No. 8/55, March 23, 1955, extending Decisions Nos. 10/54 and 11/54, of March 19, 1954, concerning the authorization of zone-delivered prices for sales by the Houillères du Bassin de Lorraine and the Saarbergwerke, Saarbrücken, to Southern Germany

THE HIGH AUTHORITY

HAVING regard to Section 24 of the Convention;

HAVING regard to Decisions Nos. 10/54 and 11/54 concerning the authorization of zone-delivered prices for sales by the Houillères du Bassin de Lorraine and the Saarbergwerke, Saarbrücken, to Southern Germany, dated March 19, 1954 (*Official Gazette, March* 24, 1954, *pp.* 256–60);[1]

WHEREAS the reasons for the above decisions retain their cogency in respect of the coal year 1955–56;

WHEREAS the amended transport rates to come into force on May 1, 1955, may have repercussions upon sales by these enterprises to Southern Germany, necessitating an alteration in the present price z

WHEREAS, accordingly, the above decisions must be extended up to May 31, 1955, in order that the effects of the new transport rates may be studied, and, if necessary, the decisions adjusted to the situation resulting therefrom;

DECIDES :

Article 1

Decisions Nos. 10/54 and 11/54 are hereby extended up to and including May 31, 1955.

Article 2

This decision shall come into force within the Community on April 1, 1955.

This decision was deliberated and adopted by the High Authority at its session on March 23, 1955.

For the High Authority,
JEAN MONNET,
President.

Decision No. 9/55, March 23, 1955, extending Decisions No. 12/54, of March 19, 1954, and No. 35/54, of July 15, 1954, concerning the authorization of zone-delivered prices for sales by the Houillères du Bassin de Lorraine to certain areas in France

THE HIGH AUTHORITY,

HAVING regard to Section 24 of the Convention;

HAVING regard to Decision No. 12/54 concerning the authorization of zone-delivered prices for sales by the Houillères du Bassin de Lorraine to certain areas in France, dated March 19, 1954 (*Official Gazette of the Community, March 24, 1954, p. 261*),[1] together with Decision No. 35/54 concerning

[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

a supplementary authorization of zone-delivered prices for sales by the Houillères du Bassin de Lorraine to certain areas in France, dated July 15, 1954 (*Official Gazette of the Community, July 20, 1954, p. 445*);[1]

WHEREAS the reasons for the above decision retain their cogency in respect of the coal year 1955–56;

DECIDES :

Article 1

Decisions Nos. 12/54 and 35/54 are hereby extended up to and including March 31, 1956.

Article 2

This decision shall come into force within the Community on April 1, 1955.

This decision was deliberated and adopted by the High Authority at its session on March 23, 1955.

For the High Authority,
JEAN MONNET,
President.

Decision No. 10/55, March 23, 1955, extending Decision No. 13/54, of March 19, 1954, concerning the authorization of zone-delivered prices for sales by the Saarbergwerke, Saarbrucken, to certain areas in France.

THE HIGH AUTHORITY,

HAVING regard to Section 24 of the Convention;

HAVING regard to Decision No. 13/54 concerning the authorization of zone-delivered prices for sales by the Saarbergwerke, Saarbrücken, to certain areas in France, dated March 19, 1954 (*Official Gazette, March 24, 1954, p. 262*);[1]

WHEREAS the reasons for this decision retain their cogency at the present time;

WHEREAS, however, any extension of this decision must not go beyond May 31, 1955, in order that on or before that date, the present boundaries of the price zones may be adjusted to such modifications as may occur in France in the delivered prices of competing enterprises;

WHEREAS the Houillères du Bassin de Lorraine are likewise to be regarded as a competing enterprise in certain areas falling within the present boundaries of those zones;

DECIDES :

Article 1

Decision No. 13/54 is hereby extended up to and including May 31, 1955, without prejudice to the provisions of Article 2 below.

[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

Article 2

Article 1, subsection (1) of Decision No. 13/54 is hereby amended as follows:

The term " of the Nord/Pas-de-Calais coalfield " should read " of the Nord/Pas-de-Calais and Lorraine coalfields ".

Article 3

This decision shall come into force within the Community on April 1, 1955.

This decision was deliberated and adopted by the High Authority at its meeting on March 23, 1955.

For the High Authority,
JEAN MONNET,
President.

Decision No. 11/55, March 23, 1955, extending Decision No. 14/54, of March 19, 1954, concerning the authorization of zone-delivered prices for sales of hard-coal coke by coking-plants located in Belgium

THE HIGH AUTHORITY,

HAVING regard to Section 24 of the Convention;

HAVING regard to Decision No. 14/54 concerning the authorization of zone-delivered prices for sales of hard-coal coke by coking-plants located in Belgium, dated March 19, 1954 (*Official Gazette of the Community, March 24, 1954, p. 263*);[1]

WHEREAS the reasons for this decision retain their cogency at the present time;

WHEREAS, however, the delivered prices with which the coking-plants in Belgium align their own prices will be affected by the modifications introduced by competing enterprises in respect of their prices ex-works, and by the amended transport rates to come into force on May 1, 1955;

WHEREAS, accordingly, the above decision must be extended up to May 31, 1955, in order that the effects of the new transport rates may be studied, and, if necessary, the decision adjusted to the new situation;

DECIDES :

Article 1

Decision No. 14/54 is hereby extended up to and including May 31, 1955.

Article 2

This decision shall come into force within the Community on April 1, 1595.

This decision was deliberated and adopted by the High Authority at its session on March 23, 1955.

For the High Authority,
JEAN MONNET,
President.

[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

Decision No. 12/55, March 26, 1955, concerning the fixing of maximum prices for sales of coal by the enterprises of the Ruhr coalfield

THE HIGH AUTHORITY,

HAVING regard to Articles 61 and 63, paragraph 2 of the Treaty;

HAVING regard to Decision No. 4/53, of February 12, 1953, concerning the conditions for the publication of the price-schedules and conditions of sale applied by the enterprises of the coalmining and iron-ore industries (*Official Gazette of the Community, February 12, 1953, p. 21*);[1]

HAVING regard to Decision No. 30/53, of May 2, 1953, concerning practices forbidden in the Common Market for coal and steel under Article 60, paragraph 1, of the Treaty (*Official Gazette of the Community, May 4, 1953, p. 109*),[1] and, in particular, to Article 5 of that decision;

WHEREAS the present position in regard to supply and demand in the Common Market for coal (allowance being made for the supply of coal from third countries) reveals a tendency towards an increase in prices, while at the same time the enterprises of the Ruhr coalfield have announced that they propose to raise the selling prices charged by them hitherto;

WHEREAS the conditions of competition arising out of the structure of the coal market are still having the same effects on prices as led to the fixing of maximum prices in the Ruhr coalfield for the coal year 1954–55;

WHEREAS this situation in the Common Market for coal gives reason to suppose that prices will develop in a manner inconsistent with the principle of lowest possible prices set forth in Article 3 (*c*) of the Treaty, whence it is recognized to be necessary, in order to ensure that this principle is duly observed, that maximum prices should be fixed for certain types and grades of coal;

WHEREAS, however, in view of the provisions in Article 5 of the Treaty prescribing that action by the High Authority in the market must be taken only when circumstances make it absolutely necessary, it would appear adequate for the purpose to fix maximum prices only for the Ruhr coalfield;

WHEREAS, in determining the level of maximum prices, it is important both to respect the provisions set forth in Article 3 of the Treaty, particularly in paragraph (*c*) of that article, and to bear in mind, in view of Article 61, paragraph 2, the competitive capacity of both the coal and steel and the consumer industries, and whereas the findings of the studies undertaken to ascertain this do not suggest that the present price-level should be modified;

WHEREAS the rules laid down regarding the fixing of maximum prices must be applied both by the selling and organizations and agents and by the enterprises themselves,

after consultation with the Consultative Committee and the Council,

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[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

DECIDES :

Article 1

The provisions of this decision shall be applicable to sales of coal by enterprises of the Ruhr coalfield within the Common Market.

Article 2

Enterprises must not exceed the following maximum prices for their sales of coal:

Types	Maximum prices for certain grades	Limits for all other grades
Gasflammkohlen ...	—	DM. 52.32
Fettkohlen	Koksfeinkohlen ... ... DM. 48.48	DM. 52.32
Esskohlen	Essfeinkohlen ... ... DM. 44.16	DM. 72.—
Magerkohlen ...	Magerfeinkohlen ... ... DM. 44.16	DM. 78.72
Anthrazit	Anthrazitfeinkohlen ... ... DM. 44.16	DM. 93.12
Koks	Hochofenkoks over 80 m.m. ... DM. 59.52	—
Briketts	—	DM. 65.28

These maximum prices shall be exclusive of turnover tax.

Article 3

The prices in this decision shall be taken as maximum selling prices ex-mine per metric ton.

Article 4

Enterprises may, in accordance with regulations in force and with common practice in regard to turnover tax, include the amount of such tax in their scheduled prices.

Article 5 of the High Authority's Decision No. 30/53, of May 2, 1953, shall not be affected by these provisions.

Article 5

Enterprises may add in with their scheduled prices, in accordance with the provisions of Decision No. 4/53, of February 12, 1953,

(*a*) seasonal increases;

(*b*) quality bonuses;

(*c*) the amount payable by them as compensation levy under Sections 25 and 26 of the Convention and the relevant decisions of the High Authority;

(*d*) the amount payable by them as incentive tax for miners' housing, under the West German law of October 23, 1951 (*Bundesgesetzblatt I, p. 865*), as amended by the law of October 29, 1954 (*Bundesgesetzblatt I, p. 297*).

Article 6

Enterprises must fix their conditions of sale in such a manner as to oblige their selling organizations and agents to conform, in respect of their price-schedules, with the prices laid down in this decision.

Enterprises shall be held responsible for any violation of the above obligation by their selling organizations or agents.

Article 7

This decision, which shall be applicable up to but not after, March 31, 1956, shall come into force within the Community on April 1, 1955.

This decision was deliberated and adopted by the High Authority at its session on March 26, 1955.

For the High Authority,

JEAN MONNET,

President.

Decision No. 13/55, March 26, 1955, extending Decision No. 15/54 of March 19, 1954, concerning the establishment of price-schedules for enterprises in the Belgian coalfields, and Decision No. 27/54 amending the annex to Decision No. 15/54

THE HIGH AUTHORITY,

HAVING regard to Section 26, 2, *a* of the Convention;

HAVING regard to Decision No. 15/54 of March 19, 1954, concerning the establishment of price-schedules for enterprises in the Belgian coalfields (*Official Gazette of the Community, March 24, 1954, p. 264*),[1] and Decision No. 27/54 of May 12, 1954, amending the annex to the said Decision No. 15/54 (*Official Gazette of the Community, May 20, 1954, p. 365*);[1]

WHEREAS the examination and study now going on in connection with the nexus of problems presented by the alterations to the Belgian compensation scheme demands that the price-schedule for Belgian coal now in force be extended;

DECIDES :

Article 1

Decisions Nos. 15/54 and 27/54 are hereby extended up to and including April 30, 1955.

Article 2

This decision shall come into force within the Community on April 1, 1955.

This decision was deliberated and adopted by the High Authority at its session on March 26, 1955.

For the High Authority,

JEAN MONNET,

President.

[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

INFORMATION

Letter sent by the High Authority to the Government on the French Republic on March 23, 1955, concerning the subsidies on sales of Saar and Lorraine coal to Southern Germany

MONSIEUR LE PRÉSIDENT,

By your letter No. CA/532, of March 12, 1955, you requested the High Authority to extend the authorization (due to expire on March 31, 1955) to maintain the subsidies on deliveries of Saar and Lorraine coal to Southern Germany.

The High Authority considers that the changes in delivered prices resulting from the amended transport rates to be introduced on May 1, 1955, are likely to affect the sales by the Bassins de Lorraine and the Saarbergwerke to Southern Germany.

In view of this contingency, the High Authority has extended for a period of two months the authorization granted to the Saarbergwerke and the Houillères du Bassin de Lorraine to charge zone-delivered prices.

In accordance with this provision, the High Authority has decided to extend the authorization of the subsidies in question up to and including May 31, 1955.

In the meantime, the High Authority will examine the situation further.

Please accept, Monsieur le Président, the expression of my high esteem.

Letter sent by the High Authority to the French Government on March 23, 1955, concerning subsidies on coal delivered to briquetting-works not owned by mines

MONSIEUR LE PRÉSIDENT,

By your letter No. CA/531, of March 12, 1955, you requested the High Authority to extend for the coal year 1955–56 the authorization (due to expire on March 31, 1955) to maintain the subsidies on coal delivered to briquetting-works not owned by mines.

You point out that the amounts of the subsidies have been reduced during the last few years, and that, in your view, this policy should be pursued in accordance with a definite plan.

The High Authority is now making a detailed examination of the questions raised by these subsidies. Without prejudice to its eventual findings and final decision, it has decided to extend the authorization to maintain the subsidies in question provisionally up to and including May 31, 1955.

The subsidies thus authorized on deliveries of coal to briquetting-works not owned by mines must not, during the period of application of this authorization, exceed the amount which would result for the period in question from the application of Article 1, 1, *b* of Decision No. 16/54, of March 20, 1954.

The High Authority proposes to consult the Special Council of Ministers in April or May, 1955, and thereafter to take a final decision concerning your request.

Please accept, Monsieur le Président, the expression of my high esteem.

Letter sent by the High Authority to the Government of the Kingdom of the Netherlands on March 23, 1955, concerning the compensation scheme in respect of household coal in the Netherlands

MY DEAR MINISTER,

The representatives of the Netherlands Government recently pointed out that it appeared to be absolutely essential to extend the compensation arrangements for ovoids delivered to the Netherlands, up to the end of April.

They stated that these arrangements could be abolished after April 30, 1955, when space-heating would come to an end.

In the circumstances, the High Authority has the honour to inform the Netherlands Government that the period of application of the arrangements in question is hereby extended up to and including April 30, 1955.

Please accept,

THE COUNCIL OF MINISTERS

DECISIONS AND OPINIONS

AGREEMENT by the Council, under Article 54, paragraph 2 of the Treaty, to the granting of loans for financing the building of houses for workers in the industries of the Community, to borrowers other than the enterprises themselves

By letters dated February 3 and 14, 1955, the High Authority, requested the Council for the unanimous agreement necessary in accordance with Article 54, paragraph 2 of the Treaty to enable loans to be granted for financing the building of houses for workers in the industries of the Community, to borrowers other than the enterprises themselves, on the understanding that the request was in connection only with such loans as could be made as part of an initial programme limited to twenty-five million E.P.U. units of account derived both from the American loan and from any other loans contracted by the High Authority.

The Council, at its twenty-third session on March 21 and 22, 1955, gave the agreement requested by the High Authority.

For the Council,
M. RASQUIN,
President.

AGREEMENT by the Council, under Article 55, paragraph 2 (c) of the Treaty, to the appropriation of forty thousand E.P.U. units of account, derived from the levy, for the internationalization of the periodical " L'Ossature Métallique " (Acier-Stahl-Steel)

By letter dated February 2, 1955, the High Authority, in accordance with Article 55, paragraph 2 (*c*) of the Treaty, requested the Council for its agreement to the appropriation of forty thousand E.P.U. units of account, derived from the levy, for the internationalization of the periodical *L'Ossature Métallique* (*Acier-Stahl-Steel*).

The Council, at its twenty-third session on March 21 and 22, 1955, gave its agreement to the High Authority's proposal in the terms recorded in the minutes of its deliberations.

For the Council,
M. RASQUIN,
President.

AGREEMENT by the Council, under Article 55, paragraph 2 (c) of the Treaty, to the appropriation of two hundred thousand E.P.U. units of account, derived from the levy, to help finance a survey of technical conditions in steel-rolling

By letter dated March 12, 1955, the High Authority, in accordance with Article 55, paragraph 2 (*c*) of the Treaty, requested the Council for its agreement to the appropriation of two hundred thousand E.P.U. units of account, derived from the levy, to help finance a survey of technical conditions in steel-rolling to be carried out in co-operation with enterprises and research-centres in all the countries of the Community.

The Council, at its twenty-third session on March 21 and 22, 1955, gave its agreement to the High Authority's proposal.

For the Council,
M. RASQUIN,
President.

CONSULTATION requested by the High Authority, under Article 61, paragraph 1 (a) of the Treaty, on the advisability of fixing maximum prices for coal within the Common Market, and the level of the prices to be determined by such a measure

By letter dated March 2, 1955, the High Authority asked to consult the Special Council of Ministers, under Article 61, paragraph 1 (*a*) of the Treaty, on the advisability of fixing maximum prices for coal within the Common Market, and the level of the prices to be determined by such a measure.

The consultation requested was given by the Council at its twenty-third session on March 21 and 22, 1955.

A verbatim record of this consultation is contained in the minutes of the deliberations of the Council.

CONSULTATION requested by the High Authority, under Article 61, paragraph 1 (a) of the Treaty, on the advisability of fixing maximum prices for scrap within the Common Market, and the level of the prices to be determined by such a measure

By letter dated January 31, 1955, the High Authority asked to consult the Special Council of Ministers, under Article 61, paragraph 1 (*a*) of the Treaty, on the advisability of fixing maximum prices for scrap within the Common Market, and the level of the prices to be determined by such a measure.

The consultation requested was given by the Council at its twenty-third session on March 21 and 22, 1955.

A verbatim record of this consultation is contained in the minutes of the deliberations of the Council.

THE COURT OF JUSTICE

JUDGMENT OF THE COURT

IN THE CASE No. 6–54 : THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS *vs* THE HIGH AUTHORITY

(TRANSLATION, the Dutch text being authoritative)

In the case

the GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS
which has chosen as its address for service the seat of its Legation in Luxemburg,

Plaintiff

represented by Professor Dr. J. H. W. VERZIJL, Professor at the State University in Utrecht, Professor Dr. G. M. VERRIJN STUART, Professor at the Municipal University in Amsterdam,
as Agents,
vs

the HIGH AUTHORITY OF THE EUROPEAN COAL AND STEEL COMMUNITY,
which has chosen as its address for service its office, 2 Place de Metz Luxemburg,

Defendant

represented by its legal adviser Dr. W. MUCH,
as Agent,
assisted by Professor G. van HECKE, Barrister at the Court of Appeal, in Brussels, Professor at the University of Louvain,

concerning the Appeal for annulment of the Decisions of the High Authority No. 18–54, 19–54 and 20–54, of March 20th, 1954.

THE COURT

composed of

President PILOTTI
Presidents of the Chambers SERRARENS and HAMMES,
Judges RIESE, DELVAUX, RUEFF and van KLEFFENS,

Advocate General: ROEMER,
Registrar: VAN HOUTTE,

delivers the following

JUDGMENT

As regards the Procedure and the Arguments of the Parties:

Whereas the procedure has been the following:

(1) The Government of the Kingdom of the Netherlands, giving as its address for service in the present case the seat of its Legation in Luxemburg, has filed on May 7th, 1954, in the Registry of the Court, through its Envoy Extraordinary and Minister Plenipotentiary in Luxemburg, an Application for annulment of three Decisions of the High Authority of March 20th, 1954, published in the Official Gazette of the Community (p. 267 and following) [1] under the No. 18–54, 19–54 and 20–54; Plaintiff asks: " That the Court may annul the Decisions of the High Authority of March 20th, 1954, No. 18–54, containing the principles for the fixation of maximum prices for the sale of coal inside the common market by enterprises in the Ruhr Basin and the Basin Nord and Pas-de-Calais, No. 19–54 concerning the establishing of the price-lists for the enterprises in the Ruhr Basin, and No. 20–54 concerning the establishing of the price-lists for the enterprises in the Basin Nord and Pas-de-Calais."

By two procurations signed by the Ministers of Foreign Affairs and of Economic Affairs, which were filed with the Registry on August 23rd, 1954, the Dutch Government has designated as its Agents Professor Dr. J. H. W. VERZIJL of the Hague and Professor Dr. G. M. VERRIJN STUART of Amsterdam.

(2) After the time-limit for the submission of the Counter-Memorial had been prolonged on the request of the High Authority, whose address for service in the present case is 2 Place de Metz, in Luxemburg, the High Authority filed on June 30th, 1954, within the time-limit, its Counter Memorial in which it asks:

" That the Court may reject as ill-founded the claim of the Government of the Kingdom of the Netherlands of May 7th, 1954, with all legal consequences and costs pertaining to it."

By procuration signed by Mr. Jean MONNET, President of the High Authority, which was filed with the Registry on June 3rd, 1954, Mr. W. MUCH has been designated as Defendant's Agent, and by procuration

[1] This reference applies to the German, French, Italian and Dutch editions of the Official Gazette of the European Coal and Steel Community, published in Luxembourg.

signed by Mr. F. ETZEL, Vice-President of the High Authority, which was filed with the Registry on June 30th, 1954, Professor van HECKE, Barrister at the Court of Appeal in Brussels, has been designated to assist the above mentioned Agent of the High Authority.

(3) The Rejoinder by which Plaintiff maintains its position and arguments has been filed with the Registry on August 31st, 1954, within the time-limit fixed by Order of the President of the Court of July 1st, 1954.

(4) On October 15th, 1954, Defendant filed its Rejoinder within the time-limit fixed by Order of the acting President of the Court of August 31st, 1954; in this Rejoinder Defendant persists in "its previous decisions".

(5) After the case had been assigned to the Second Chamber, the Judge Rapporteur Ch. L. HAMMES, designated by the President of the Court by letter of October 15th, 1954, submitted on November 17th, 1954, the preliminary report provided for in paragraph 2 of Article 34 of the Rules of the Court.

(6) This report terminated with the conclusion that the case needed judicial inquiry in order to have the parties exhibit certain documents and to verify certain facts alleged by the parties; furthermore the report suggested the fixation of a date for the beginning of the inquiry.

(7) On December 1st, 1954, after consultation with the Advocate-General, and with reserve for further inquiry, the Second Chamber issued an Order, by which parties were required to provide separately, before December 13th, 1954, further information concerning certain questions specified in the Order and to produce all the documents pertaining to these questions.

By Order of December 10th, 1954, the time-limit was extended, at the request of the High Authority, to December 16th, 1954.

(8) After the parties had fulfilled the requirements, the Chamber, after consultation with the Advocate-General, declared by Order of December 21st, 1954, in accordance with Article 45, paragraph 1 of the Rules of the Court, that the inquiry was closed.

By the same Order Defendant was required, for completion of the exhibited documents, to produce before December 24th, 1954, certain documents which were specified in the Order.

Furthermore it was decided that parties were to file their final written statement before January 1st, 1955.

The parties complied with this Order within the fixed time-limit.

(9) After the file had been transmitted to the Advocate-General and afterwards to the President of the Court, in accordance with Article 45, paragraph 2 of the Rules of the Court, the President fixed the date of the session for the oral proceedings on February 1st, 1955.

Whereas all the documents of the written procedure together with all the papers in support of these documents have been filed and registered in the Registry of the Court, and have been notified to the parties concerned through the Registrar of the Court;

Whereas the oral proceedings have been as follows:

(1) Public sessions were held on February 1st, 2nd and 4th, 1955;

(2) At the beginning of these sessions the Judge Rapporteur read, in accordance with Article 21 of the Protocole on the Statute of the Court of Justice, his Report; the Court heard the speeches, Rejoinder and Reply of Plaintiff's Agents and Defendant's Advocate; during the proceedings the President of the Court asked the parties, " without prejudice, to the decision concerning the admissibility or the merits of the case " certain questions which are mentioned in the minutes of the sessions; in accordance with Articles 11 and 21 of the Protocole on the Statute on the Court of Justice, the Advocate-General read his findings in which he concluded that the Appeal should be rejected.

(3) In accordance with Article 50, paragraph 2 of the Rules of the Court of Justice, the President of the Court declared closed the oral proceedings and the case was taken under private consideration by the Court.

As regards the Facts

Whereas Plaintiff's Appeal is based on the following facts:

1. The common market for coal, iron ore and scrap iron was created on February 10th, 1953.

2. Especially with regard to coal, the Decisions of the High Authority No. 3–53 and 4–53 of February 12th, 1953, have established rules for the methods of quotation and the conditions under which the price-lists and conditions of sale have to be published.

These Decisions are still in force; they have been completed by Decision No. 30–53 of May 2nd, 1953, modified by Decision No. 1–54 of January 7th, 1954; on the ground of those Decisions the seller is bound by his price-lists and his conditions of sale, except where singular transactions are concerned or when the same deviation is applied to all comparable transactions.

3. Besides these regulations the High Authority has, by its Decision No. 6–54 of March 5th, 1954, fixed maximum prices for coal; these general regulations however are only valid until March 31st, 1954. This Decision established price Limits for

(*a*) certain categories of coal for a certain coal-basin;

(*b*) certain sort of a certain coal-basin;

(*c*) the average price for sorts of each category.

The motives for this differentiation are set forth in the second and fourth paragraph of the preambule of this Decision.

In application of these principles the High Authority has established, by its Decisions No. 7–53 to 24–53, of March 6th, 1953, price-limits for each coal-basin on the ground of its price-list; for the Ruhr-basin this was done by Decision No. 9–53, and for the coal-basin Nord and Pas-de-Calais this was done by Decision No. 13–53.

4. As these regulations were only valid until March 31st, 1954, they have been replaced on March 20th, 1954, by new regulations, namely by Decisions No. 18–54, 19–54 and 20–54, which entered into force on April 1st, 1954, and were to be valid until March 31st, 1955.

These last Decisions form the object of the present dispute.

The modifications introduced in the preceding regulations were the following:

as for the enterprises to which Decision No. 6–53 was applicable, it was limited to the enterprises of the Ruhr-basin and the coal-basin Nord and Pas-de-Calais; on the other side, its validity was extended to March 31st, 1955:

as for the scope of this Decision it was modified by the abrogation of the limit for average prices for sorts of each category while maintaining maximum prices for different categories and certain sorts of coal.

5. The new Decision No. 18–54, which establishes the principles, is based on Articles 61 and 63, paragraph 2 of the Treaty.

The motives of this Decision are the following:

(*a*) generally speaking the development of the common market has made it unnecessary to maintain maximum prices for all the coal-basins of the Community;

(*b*) however, with the actual structure of the common market, if the High Authority abrogated all the maximum prices, the prices for coal would be established by the selling-organisations of the Ruhr-basin and the " Houillères du Nord et Pas-de-Calais ".

Furthermore, owing to the nature and the size of their production, these organisations have a dominating influence upon the common market as a whole.

Consequences could follow from this for the Community which are contrary to the objectives described in Article 3 of the Treaty and particularly with regard to the prices, the production and the employment.

6. In order to attain these objectives the High Authority has judged it necessary to take, for a limited time, the measures in question; while fixing the maximum prices the High Authority has introduced in the previous regulations a certain flexibility as to the practical application of these prices, namely taking into consideration the increase of revenue which was the consequence of the abolition on April 1st, of certain extra charges.

As regard the grounds put forward by the Parties

Whereas the grounds put forward by the parties can be summarized as follows:

Plaintiff opposes Decision No. 18–54 and Decisions 19–54 and 20–54 which were given in application of Decision No. 18–54, on the grounds of violation of the Treaty, obvious ignoring of the provisions of the Treaty, " détournement de pouvoir " and major violation of procedure. Plaintiff puts forward that under the given circumstances prices should have been completely liberated because maximum prices were inadmissible and, moreover, unnecessary, and that the structure of the market should not have been taken into account, as it was contrary to the Treaty. Furthermore, Plaintiff puts forward that, in reality, the High Authority has given

the Decisions in order not to be obliged to act against the selling organisations of the Ruhr-basin and the " Houillères du Nord et Pas-de-Calais "; and finally that the Decisions have not been motivated, at least legally not sufficiently motivated.

Defendant asks the Court to reject the Appeal and to condemn Plaintiff in the costs.

Defendant puts forward that, by virtue of the first paragraph of Article 61, it was absolutely competent to take the Decisions in question; it has used its competence in conformity with the spirit and the system of the Treaty, while it has respected the rules of the procedure.

Parties have supported their grounds with the following arguments:

1. *Regarding violation of the Treaty*

(*a*) In Plaintiff's opinion Decision No. 18-54 violates Articles 5 and 61 of the Treaty, because, as follows from paragraph 6 of the preamble, the High Authority bases its Decision on the possibility that one of the objectives enumerated in Article 3 would not be fulfilled; the High Authority should have stated instead the necessity for its intervention. In particular it should have pointed out what would have been, in fact, the consequences of a liberation of the prices and what objectives would not have been attained if no measures had been taken; namely it should have established that one or more of these objectives would not have been attained in reality if maximum prices had not been fixed; indeed if the High Authority were not required to give such indications, it would have been free to intervene continuously, this would have meant ignoring Article 5 of the Treaty.

As there would be no fear for a price-increase, the fixation of maximum prices constituted an obvious ignoring of Article 61 of the Treaty.

Furthermore Plaintiff puts forward that the influence of the Decision on the prices that were regulated as well as on the prices that were liberated was insufficient to justify the statement that the new prices were appreciably lower than they would have been without the interference of the High Authority.

The High Authority has not proved its statement that maximum prices have been fixed in order to obtain the lowest possible price level in accordance with the market situation and that it has based its decision to fix maximum prices on the supposition that, in case of liberation, the prices would not have markedly fallen.

In Plaintiff's opinion the prices would have fallen after a certain length of time even without interference from the High Authority.

Finally, Plaintiff is of the opinion that the fixation of maximum prices, taking into account the market evolution, was rather harmful because maximum prices have in fact an immobilizing influence.

The High Authority opposes Plaintiff's arguments as follows.

On the base of its studies of the market situation and following negotiations with the producers, the High Authority had come to the conclusion that if the prices were liberated at the moment the previous regulations would cease to operate, the prices would not have been the lowest possible in accordance with Article 3 section c; therefore it was necessary to fix maximum prices.

Defendant admits that an undefined expectation of harmful consequences does not give it the right to act; however, in the economic life there is no absolute certainty and, furthermore, the action of the High Authority should be essentially preventive.

In the present case the negotiations with the coal-producers of the Ruhr have shown, with a probability that was nearly a certitude, that the lowering of prices in accordance with Article 3 section c, would not have taken place without interference and that in any case no significant price-fall would have occurred. It is probable that the tendency to a fall in the prices would have been noticeable in the long run after a certain length of time, but this certainly would not have happened at short term.

As for the coal-basins Nord and Pas-de-Calais, the fear that the prices would not fall originated in the artificial protection which this coal-basin still enjoys; it was therefore necessary to prescribe for this coal-basin the lowest possible prices by fixing maximum prices.

Plaintiff's claim that the conjuncture would in any case have provoked a lowering of the prices, does not rest on any proof; even if this had been the case, the lowering of the price might not have taken place immediately and the High Authority did not want to take this risk.

(*b*) Plaintiff puts forward that the High Authority has violated Article 61 by taking into account the structure of the market which violates the provisions of the Treaty and that the High Authority has thus recognized the existence of an unlawful structure of the market.

This is already inadmissible because Articles 65 and 66 of the Treaty provide for measures against such an unlawful situation; the fact of not taking these measures cannot be a ground for exercising a competence, when this competence was intended for another objective and was only to be exercized when the situation of the market is not influenced by prohibited agreements.

To this Defendant replies that the question whether to fix maximum prices does not depend only upon the economic situation. Because, on the ground of paragraph 12 of the Convention containing the Transitional Provisions, the structure of the market does not violate the Treaty and constitutes an undeniable reality, the High Authority was free and even bound to take it into account in as much as the prices could be influenced by this structure.

The existence of monopolistic organisations justified the fear that these organisations would abuse their dominating position by preventing the establishment of the lowest possible price level. In Defendant's opinion the existence of agreements and concentrations, at the moment the Decisions were taken, was not in opposition with the provisions of the Treaty. As long as the High Authority has not decided to refuse an authorization, the interdiction which is laid down in principle in Article 65 of the Treaty, has no legal consequences for the existing organisations which have submitted an application for an authorization in accordance with Article 3 of Decision No. 37–53 of July 11th, 1953.

2. *As for " Détournement de Pouvoir "*

(*a*) On the ground of the arguments expressed above under (*b*), Plaintiff is of the opinion that the High Authority has at the same time committed a " détournement de pouvoir ". Plaintiff puts forward that in reality the

High Authority gave the Decisions in question in order to be able to act against the activity of certain agreements; this should have been done by using the powers given by Article 65, and not on the ground of the competence which the High Authority possesses by virtue of Article 61 of the Treaty. Furthermore the High Authority should have used these powers to liquidate these organisations without delay.

In this respect Defendant states that it has never been its intention to abstain from taking action against the agreements and enterprises which dominate the market; on the contrary it had already started acting against them; however, this had to be done with much prudence.

Furthermore it immediately has done everything possible by acting against the worst consequences with transitional regulations.

The question whether the High Authority has neglected to take the measure prescribed under Articles 65 and 66 of the Treaty has nothing to do with the present case and could only be the object of an Appeal submitted on the ground of Article 35 of the Treaty.

Subsidiarily Defendant sets forth that a long and difficult process of transformation and adaptation is necessary and that at the moment the Decisions were taken it was not obliged, neither was it able to bring this matter to a successful issue.

(*b*) In Plaintiff's opinion the proof that the High Authority has fixed maximum prices in view of an objective other than the attainment of the lowest possible prices in accordance with Article 3 section c, follows from the fact that the new maximum prices are not significantly lower than the price-lists previously applied by the producers.

Concerning the level of the maximum prices which were fixed by the Decisions in question, Defendant observes that the old and new tables of price limits are not susceptible for comparison on all points; however, from this comparison as well as from the comparison of the old and new price-lists, it results that an important fall of the prices has taken place for these categories which would not have gone down if the prices had been liberated; in the free sector price-increases have even taken place in certain cases.

(*c*) If and in so far as the High Authority feared that production and employment would be hindered by a liberation of the prices, this fear could only have resulted, in Plaintiff's opinion, from the fact that a substantial fall in the prices had to be expected; in that case however the High Authority would have been obliged to fix minimum prices; also from this point of view, therefore, the Decision in question contains a " détournement de pouvoir ".

In this respect Defendant has set forth several times that it had not and could not count upon an immediate fall in prices; therefore Plaintiff's argument has no value because the objective of the Decision in question was to have an immediate effect upon the prices.

3. *As for Major Violation of Procedure*

Plaintiff puts forward that the High Authority has violated major rules of procedure provided for in Article 15 of the Treaty because it did not mention the real motives for its Decision and has therefore not been motivated, or at least not sufficiently from a legal point of view.

In this regard the High Authority recognizes that in its Counter-Memorial it has put forward in support of its Decision certain arguments which it had not mentioned in the preamble of its Decision.

In Plaintiff's opinion the arguments put forward by the High Authority, for the first time in its Counter-Memorial, may not be taken into consideration.

Defendant is of the opinion that the preamble of its Decision fulfills all the requirements where the form is concerned as well as with regard to the contents because it mentions all the essential elements.

The High Authority sets forth that in this matter it must be left free to gradually develop the most appropriate method.

In accordance with Article 15 it has mentioned the facts and the Articles of the Treaty on which it has based its action; there is no obligation for the High Authority to mention the motives of its motives.

In the present case there is certainly no violation of major rules of procedure because further motivation would have no effect upon the contents of the Decision.

4. *As for the competence of the Court to judge economic facts and circumstances*

Plaintiff is of the opinion that the fact of putting forward " détournement de pouvoir " and obvious ignoring of the Treaty is sufficient to permit the Court to control the evaluation made by the High Authority of the economic facts and circumstances.

Defendant opposes Plaintiff's statement that the Court possesses an unlimited competence to judge the opportuneness of the Decision, on the ground that Plaintiff has not put forward sufficient reasons for the existence of " détournement de pouvoir " or obvious ignoring of the Treaty.

It is only by way of an exception that the Court has received the competence to examine the High Authority's evaluation of the situation, based on economic facts and circumstances, which led to such Decision. In the present case Plaintiff opposes its own economic forecast to the one of the High Authority; however, from this, obvious ignoring of the Treaty, does not follow.

As for the Law

A. *Admissibility of the Appeal*

The admissibility of the Appeal has not been questioned and has not met any objection from the Court " ex officio ".

B. *Concerning the Contents of the Appeal*

It should be emphasized that the Appeal opposes Decisions No. 19–54 and No. 20–54 only in so far as they apply the principles laid down in Decision No. 18–54.

C. *Violation of Major Rules of Procedure*

(*a*) Plaintiff opposes Decision No. 18–54, in the first place, on the ground of insufficient motivation, indeed in Plaintiff's opinion, the High Authority has based the justification of its measures upon the mere supposition that the structure of the common market would endanger the fulfilment of the objectives

mentioned in Article 3 of the Treaty. In connection with Article 61 the High Authority should have stated that in its opinion the Decision was required and it should have mentioned what objectives would have been endangered if maximum prices had been completely abrogated;

In Articles 5 and 15 the Treaty gives the general rule that the High Authority has to motivate its decisions and publish its motives, but does not indicate in detail the extent of this obligation, not what forms have to be taken into account;

Article 15, when interpreted in a reasonable way, requires the High Authority to mention in the preamble of its Decision these essential elements of the factual establishments which legally justify the measure in question. The Treaty does not require the High Authority to mention—and even less to refute—the dissenting opinions expressed by the advisory bodies or by certain of their members;

The measures provided for in Article 61 section a of the Treaty may be taken by the High Authority " if it finds that such a Decision is necessary to attain the objectives defined in Article 3 and particularly in section c thereof ". In the Decision in question the High Authority sets forward and bases itself upon such a necessity and mentions that this necessity follows from the existence of certain organisations which exercise such a dominating influence upon the market that every real competition is excluded. In the Decision the High Authority refers expressly to a situation which is harmful for the attainment of the objectives defined in Article 3 and especially with regard to the prices, the production and the employment.

It is true that the motives expressed in the preamble do not clearly indicate which one of the objectives defined in Article 3 is particularly pursued, but these motives can be considered to fulfill the requirements for the application of the measures provided for in Article 61 section a.

It is therefore the opinion of the Court that the motivation of the Decision formally fulfills all the requirements.

(*b*) In deference to the findings of the Advocate-General the Court will have to examine whether the Decisions in question have been given after the rules of procedure which the Treaty provides for the elaboration of a Decision had been fulfilled.

Those rules of procedure are intended to guarantee that the Decisions are taken with the necessary circumspection, so that these rules have to be considered as major rules and consequently the Court will have to investigate if the rules have been observed.

Under Article 61 of the Treaty the Decisions of the High Authority which establish maximum prices have to be given:

(1) " On the basis of studies jointly undertaken with the enterprises and the associations of enterprises, in accordance with the first paragraph of Article 46 and the third paragraph of Article 48 ";

(2) After consultation of the Consultative Committee; and

(3) Of the Council of Ministers.

It appears from the documents submitted that the studies provided for in Article 61 have been undertaken.

It is said in the Decision that the consultation of the Consultative Committee and of the Council of Ministers has taken place.

This mention does not, however, dispense the Court from its obligation to examine whether the requirements concerned have indeed been fulfilled.

The Court has come to the conculsion that in the present case the consultations provided for in the first paragraph of Article 61 have concerned the opportuneness of the proposed measure as well as the level of the prices.

Therefore, in this regard also, none of the rules of procedure required for the validity of the Decision have been violated.

D. *Violation of the Treaty*

(*a*) The Court has further examined the question whether the provisions of Decision No. 18–54 violate paragraph 1 of Article 61 of the Treaty, under which the High Authority has the competence to fix maximum prices " for one or more products subject to its jurisdiction "; the Court ascertains that this Decision has to be in accordance with Article 5 of the Treaty, which prescribes that the High Authority has to limit its intervention to the minimum; this requirement has been fulfilled in the present case. The Treaty makes it possible to fix maximum prices for the common market; this expression simply means that a distinction has to be made between the market of the Community and the export market and was not intended to prohibit measures which could only concern a part of the common market. Moreover, the whole common market is nevertheless influenced, although indirectly by the above mentioned decision.

(*b*) In support of the ground of violation of the Treaty, Plaintiff puts forward that the High Authority, in the preamble of Decision No. 18–54 bases itself on a structure of the market which is illegal under the Treaty and that the High Authority motivates its Decision with the existence of agreements and concentrations which are expressly prohibited by the provision of Articles 65 and 66 of the Treaty.

However, in the opinion of the Court this argument would only be valid if all legal consequences were to be denied on the ground of the Treaty, to the agreements and concentrations which are in opposition with said Articles.

In accordance with paragraph 12, section 2 of the Convention containing the Transitional Provisions, the High Authority has, in due time and under certain conditions, by its Decision No. 37–53 of July 11th, 1953, granted the authorization provided for in Article 65, although under reserve of future prohibition. As paragraph 12 of the above mentioned Convention does not fix any time-limit for the action of the High Authority, the latter possesses during the Transitional period a certain discretionary power in this matter.

In Plaintiff's opinion a structure of the market in violation of the Treaty follows from the fact that the coal-basin Nord and Pas-de-Calais exercises a dominating influence upon the French market; Plaintiff states that the High Authority can only act against such a situation on the ground of Article 66, paragraph 7 of the Treaty.

However, the existence of a situation which can eventually justify the application of Article 66, paragraph 7, does not in itself prevent the High Authority from using the competence which is given it by Article 61, section a. From this it follows that the action of the High Authority cannot be criticized

on the ground of the Treaty, when the High Authority uses the powers it has under Article 61 of the Treaty to act against certain consequences which are attached to the maintenance of agreements and concentrations, consequences regarding the level of the prices on the common market and also the fulfilment of the objectives described in Article 3.

(*c*) In support of the ground of violation of the Treaty Plaintiff reproaches the High Authority that in its Decision it has based itself on the general objectives of the Treaty while the Decision, in Plaintiff's opinion, cannot be justified by such a general reference because the special provisions of Article 61, section a concern certain cases clearly described in that Article. However, this reasoning cannot be accepted by the Court as Article 61 itself specifically refers to the objectives mentioned in Article 3.

(*d*) Plaintiff opposes Decision No. 18–54 on the ground that it is based on motives which are in fact inexact, because, in Plaintiff's opinion it was not necessary to fix maximum prices at a moment when the prices were already showing a tendency to fall because of the development of the market; furthermore such maximum prices could only cause in any case an immobilization of the prices, but not a fall in the prices; moreover, the production and the employment could only be endangered by a fall in prices and, if measures had to be taken to avoid this danger, this could only have been done by fixing minimum prices.

Regarding these arguments a distinction has to be made between the ascertainment by the High Authority of the economic facts and circumstances which led to the Decision on one side, and the drawing of consequences from these facts by the evaluation of the general situation which results from these facts on the other side.

In the Decision in question the High Authority has ascertained that the prices for coal, notwithstanding the existing tendency of the prices, would be fixed, because of the structure of the market, by the selling organizations of the Ruhr basin and by the " Houillères du Nord et du Pas-de-Calais "; furthermore by means of documents submitted to the Court (– Division Market of the High Authority, of February 3rd and 15th, 1954, No. 728 and 6523–) and which contents were not questioned by Plaintiff, the High Authority has shown that there certainly did not exist, in the French and German coal-basins, a tendency towards a general price-fall and that the producers instead stated that they wanted to keep the prices at the existing levels. From these documents it also follows that more in particular the representatives of the mines in the Ruhr basin strongly opposed during and after the consultations the High Authority's propositions for a lowering of the prices, and that the representatives of the coal-basins Nord and Pas-de-Calais after having considered the possibility of a price-increase which however they rejected, declared that even in case of liberation of the prices they would apply the existing prices adapted to the proposed modifications; this declaration however was not of such binding nature that it made unnecessary every fixation of maximum prices.

On the ground of the existing situation the High Authority has concluded that, in its opinion, it was necessary to fix maximum prices; this conclusion is opposed by Plaintiff who states that these measures could not, under the existing circumstances, create or provoke a lowering of the prices, but could only cause an immobilization of the prices; therefore Plaintiff opposes the grounds of the Decision.

The Court cannot examine the evaluation of the situation, based on economic facts and circumstances which led to the Decisions, unless the High Authority is alleged to have committed a " détournement de pouvoir " or to have obviously ignored the provisions of the Treaty. A study of the market situation which would include an evaluation of structural and conjunctural elements, would inevitably lead to such an examination.

It is therefore necessary to examine the general implication of the two conditions which have to be fulfilled in order to make it possible to examine the economic grounds of the Decision; these conditions are obvious ignoring of the provisions of the Treaty and " détournement de pouvoir ". The Court will have to examine if these conditions are fulfilled in the present case.

E. *Obvious Ignoring of the Provisions of the Treaty*

It should be pointed out that the argument that the Provisions of the Treaty have been obviously ignored has not been put forward by Plaintiff as a separate ground for annulment, but only to bring the Court to examine the appreciation of the situation in the present case; based on the economic facts and circumstances.

Under Article 33 it is not required that the above mentioned argument should be fully proved before the Court can start such an examination, because if such a proof were given, annulment on the ground of violation of the Treaty would already have to be pronounced on this ground. On the other hand it is insufficient to simply state obvious ignoring of the provisions of the Treaty in order to give the Court the opportunity to submit also the evaluation of the economic facts and circumstances to its juridical control, because otherwise the provision of Article 33 would become meaningless. The Court is of the opinion that it is required, and also sufficient, that the argument be supported by indications from which it can follow that the argument is well-founded. In the present case such indications have been given; therefore it is necessary to investigate whether or not they constitute an obvious ignoring.

The word " obvious " supposes that the provisions of the Treaty have been ignored to such an extent, that this ignoring seems to follow from an evaluation of the economic situation which led to the Decision and which evaluation is obviously wrong when seen in the light of the provisions of the Treaty. In the present case the existence of " obvious " ignoring can only be accepted if the Court ascertains that an economic situation exists, from which it follows, at first sight, that there was absolutely no necessity for taking the Decision in question for the achievement of the objectives described in Article 3 of the Treaty, more in particular under section c of that Article.

In the Decision in question the High Authority states that maximum prices were indispensable, because of the structure of the market, to achieve the objectives described in Article 3 of the Treaty: this is a priori not in opposition with the letter nor with the spirit of the provisions of section a of Article 61 which, contrarily to the provisions of section b contains no requirements of conjunctural nature. The Court is of the opinion that Plaintiff's argument that maximum prices in reality become the minimum which stabilizes and immobilizes the prices, does not, prima facie, exclude all necessity for maximum prices; it is, therefore, not possible to conclude on the ground of this argument that there exists an obvious ignoring of the Treaty.

Furthermore the Court has to examine whether it follows from the level of the prices fixed by the High Authority, that the Decision in question was not necessary. From the comparative price-list jointly established by the parties it appears that the new prices are certainly not equal to the previous ones; furthermore Defendant states that the liberated prices have increased in a certain way; this statement has not been opposed by Plaintiff. The Court is therefore of the opinion that it does not follow from the findings concerning the above mentioned subject that there obviously existed no necessity.

With regard to the objectives of Article 3 of the Treaty, it neither follows prima facie from the level of the prices fixed by the High Authority that the given Decisions were not necessary. Under this Article the High Authority has to make sure that certain economic circumstances are realized, and this can justify preventive action by the High Authority, notwithstanding certain reassuring declarations from the producers, because the producers do not indicate for how long they are to be bound by these declarations. It is true, on the other hand, that in this respect the provisions of section (*c*) of Article 3 provide for the establishment of the lowest possible price level, but from this it does not follow that an absolute minimum has to be pursued, but rather a price-level that of course has to be the lowest possible in accordance with the provisions of Article 3, section (*c*), that is to say that it has been established while also taking into account the other objectives which Article 3 of the Treaty imposes upon the High Authority.

F. "*Détournement de Pouvoir*"

Plaintiff puts forward that the High Authority, when it established maximum prices, by virtue of Article 61 of the Treaty, did not so much intend to attain the objectives which it mentions, i.e. a lowering of the prices, but that the High Authority rather intended to act against agreements and concentrations. Therefore the High Authority has used the competences which it has under Article 61 for another objective than the one for which those competences have been given.

Proofs regarding the motives which led to the Decision can be found in the preparations preceding the Decision, among which are the deliberations of the Consultative Committee, and of the Council of Ministers, it could also be found in the fact that the new prices, because of their relation with the price-lists in force before April 1st, 1954, are in opposition with the objectives which follow from the Decision or which have been admitted by the High Authority. From the documents submitted by the parties, it does not follow, however, that the High Authority has pursued other non-published objectives. The argument founded on the statement that the new prices are equal or nearly equal to the previous prices has already been rejected by the Court when it examined the argument of obvious ignoring of the Treaty. Furthermore, the fixation of the prices at the existing level was not necessarily meaningless because the possibility of a price-increase remained inherent to the structure of the market. Moreover the High Authority bases itself on the existence of a situation which caused concern for the development of the price level. Therefore it is not possible to consider the Decision in question as a measure intended to pursue objectives in opposition with the aim for which the competence to fix maximum prices has been given to the High Authority.

The Court is therefore of the opinion that the Decision in question is not vitiated by "détournement de pouvoir".

As regards the Costs

On the ground of Article 60 of the Rules of the Court of Justice, a party which is proved wrong shall be condemned in the costs. Therefore Plaintiff has to be condemned in the costs.

Having considered the Pleadings;

Having heard the parties;

Having heard the findings of the Advocate-General;

Having regard to Articles 3, 5, 33, 35, 61, 65, 66 and 84 of the Treaty and paragraph 12 of the Convention containing the Transitional Provisions;

Having regard to the Protocol on the Statute of the Court of Justice;

Having regard to the Rules of the Court and the Rules of the Court concerning the Costs;

THE COURT

rejecting all further submissions and submissions to the contrary, finds and decides,

The Appeal for annulment of Decisions No. 18-54, 19-54 and 20-54 of the High Authority of March 20th, 1954, is rejected;

Plaintiff is condemned in the Costs.

Thus done and judged by the Court, and signed in Luxemburg on March 18th, 1955,

PILOTTI, SERRARENS, HAMMES, RIESE, DELVAUX, RUEFF, VAN KLEFFENS.

Read in public session in Luxemburg on March 21st, 1955.

The President, M. PILOTTI.

The Judge Rapporteur, CH. L. HAMMES.

The Registrar,

A. VAN HOUTTE.

DECISIONS

JUDICIAL YEAR, 1955

Election of the Presidents and composition of the chambers

The Court of Justice, in its meeting of March 22nd, 1955, has elected for the judicial year 1955:

President of the first chamber: the Judge L. Delvaux,

President of the second chamber: the Judge A. van Kleffens.

When the President of the Court is absent, the Presidency of the Court is assumed, in accordance with the Rules of the Court, by the Presidents of the chambers, in the above mentioned order.

The Court has formed the chambers as follows:

the first chamber: President: Delvaux,
Judges: Serrarens and Riese;

the second chamber: President: van Kleffens,
Judges: Rueff and Hammes.

The Court has designated for the judicial year 1955:

as Advocate General of the first chamber: Lagrange;

as Advocate General of the second chamber: Roemer.

The President,
Massimo PILOTTI.

ISSUE No. 8, FOURTH YEAR, DATED MARCH 30, 1955

THE HIGH AUTHORITY

DECISIONS

Decision No. 14/55, March 26, 1955, establishing financial arrangements to ensure a regular flow of scrap to the Common Market

THE HIGH AUTHORITY,

HAVING regard to Article 53, paragraph 1 (*b*) of the Treaty;

HAVING regard to Article 65, paragraph 2 and to Article 80 of the Treaty;

WHEREAS the internal scrap resources of the Community are insufficient to ensure that current consumption requirements are met and at the same time consumers' stocks built up to a level consistent with the normal functioning of the enterprise, so that it is necessary to have recourse to imports from third countries, and to employ demolition scrap and bought scrap;

WHEREAS, if there is to be a regular and equitable supply of scrap, it is essential that these tonnages should be made available to Common Market consumers at prices as near as may be to those charged within the Community;

WHEREAS the existing compensation arrangements in respect of imported scrap have proved inadequate in their present form;

WHEREAS any compensation arrangements established with the object of facilitating a regular flow of scrap to the Common Market must take into account the supply situation in the different parts of the Community, on the basis of overall estimates (revised at regular intervals) of resources and requirements;

WHEREAS the discrepancies, in respect of purchases of scrap within the Community, between estimates and actual purchases, might affect the regular flow of scrap, and can be effectively and speedily corrected only provided the compensation arrangements enable a certain tonnage of immediately available imported scrap to be retained temporarily to cover deficiencies;

WHEREAS, with this end in view, the pig-iron and steel-producing enterprises belonging to the Joint Office of Scrap Consumers must be in a position to purchase jointly from third countries tonnages which are subsequently to be made available to consumers, within the overall estimates and on the responsibility of the High Authority;

WHEREAS these jointly purchased tonnages are subject to the compensation arrangements, so that this transaction is in accordance with the conditions required under Article 65, paragraph 2 of the Treaty, and whereas, in particular, it is not more restrictive than is necessary for the purpose and, by reason of the powers vested in the High Authority, does not enable the enterprises concerned to control or limit prices, production or sales in the Common Market;

WHEREAS the High Authority is responsible for the proper functioning of the financial arrangements; and, therefore, must at all times be in a position to take effective action;

WHEREAS, furthermore, a combined and vigorous effort must be made to reduce scrap consumption by means of an increase in the use of pig-iron, and whereas, accordingly, appropriate measures need to be taken, the details of which are to be settled later by a decision in conformity with Article 53, paragraph 1 (*b*) of the Treaty;

WHEREAS all the measures to be taken are of benefit to all consumers of bought scrap in the Community, inasmuch as they help to ensure the rational supplying of the Common Market, and whereas it is, therefore, reasonable that the consumers as a whole should have to bear the financial charges involved;

with the unanimous agreement of the Council of Ministers to the establishment of the compensation arrangements,

DECIDES:

Article 1

Financial arrangements shall be established to provide price compensation for scrap imported from third countries or similarly acquired (shipbreaking and other bought scrap), and for scrap savings.

Subject to the ultimate responsibility of the High Authority, the operation of the aforesaid arrangements shall be administered by the Joint Office of Scrap Consumers (hereinafter referred to as the " Joint Office ") and the Compensation Office for Imported Scrap (hereinafter referred to as the " Compensation Office "), set up and legally registered on April 24, 1953.

Article 2

The scrap-consuming enterprises referred to in Article 80 of the Treaty shall be under obligation to pay the contributions required

(*a*) to compensate the price of scrap imported from third countries or similarly acquired, such obligation to be binding in respect of the tonnages purchased during the period of application of this decision;

(*b*) to provide the funds needed for the purchase of scrap from third countries on behalf of consumers to be designated later, on the understanding that, in principle, the normal sources of credit shall be drawn upon, such obligation to be binding in respect of the tonnages purchased during the period of application of this decision;

(*c*) to enable bonuses to be granted, during the period of application of this decision, on scrap saved by means of an increase in the use of pig-iron.

Article 3

The amount payable in such contributions shall be calculated in proportion to the tonnages of bought scrap received during the period of application of this decision by each enterprise, minus its own sales. Where enterprises are using scrap on contract work, these provisions shall apply to the tonnages of scrap received for this purpose.

The rate of contribution and the accounting period shall be fixed by the Compensation Office, subject to the application of Article 9 below.

Article 4

The Compensation Office shall notify the enterprises of the amounts of the contributions payable and the dates on which they fall due. It shall be authorized to collect such payments.

In default of payment when due, the Compensation Office shall request the High Authority to take action. The High Authority may then take a decision which shall be enforceable.

Article 5

The Joint Office shall be empowered to suggest to the Compensation Office

(*a*) the tonnages of scrap imported from third countries or similarly acquired for which compensation may be granted;

(*b*) the conditions on which enterprises may be granted compensation, in particular that governing the use in certain areas of the Community of scrap imported or similarly acquired, in conformity with overall estimates revised at regular intervals according to the supply situation in the different parts of the Community. In making these overall estimates and granting compensation, the following priorities shall be observed:

covering of current consumption requirements,
correction of discrepancies between estimates and actual deliveries,
building-up of stocks;

(*c*) the maximum import price;

(*d*) the rate of compensation, which may be fixed either for the date of order or for the date of delivery;

(*e*) the critera for calculating the saving in scrap resulting from an increase in the use of pig-iron;

(*f*) the amount of the bonus to be granted in respect of such savings.

Upon the Compensation Office's agreeing to these suggestions, the Joint Office shall be empowered to negotiate purchases for the joint account, although purchase contracts shall be concluded directly between the sellers and consumers concerned.

In so far as such a measure may prove necessary for the regular supplying of the Common Market, the Joint Office may also conclude purchase contracts directly on behalf of consumers to be designated later. Such tonnages must, however, be allocated not later than at the time of their arrival in the Community to such consumers as are eligible in accordance with the overall estimates.

Article 6

The Compensation Office shall be the executive body in respect of the financial arrangements established under this decision.

It shall be empowered to deal with those matters concerning it mentioned in Articles 3 and 4 above.

Article 7

The articles of the Joint Office and the Compensation Office shall be amended in conformity with this decision.

Article 8

The High Authority shall appoint a permanent representative and a deputy permanent representative to work with the Joint Office and the Compensation Office.

The permanent representative or his deputy shall attend all board and general meetings of the Joint Office and of the Compensation Office.

The permanent representative or his deputy shall forthwith forward to the High Authority the decisions adopted by these bodies, and shall notify the High Authority of all matters calling for a ruling by it under Article 9 below.

Article 9

The decisions of the Joint Office and the Compensation Office shall be adopted unanimously by their respective boards in regard to matters coming under their own jurisdiction, and by the two boards together in regard to matters coming under their joint jurisdiction. The permanent representative of the High Authority or his deputy may, however, cause such decisions to be made subject to the approval of the High Authority.

Where no unanimous decision is forthcoming from the board of the Joint Office and/or that of the Compensation Office in respect of the measures provided for in Articles 3, 4 and 5, paragraph 1 above, the decision shall be taken by the High Authority.

The High Authority, its permanent representative or his deputy may request that the Joint Office and the Compensation Office be convened within not

more than ten days, and notify them of any proposal advanced. If the meeting does not take place within ten days, the High Authority may itself take a decision in respect of the proposals concerned.

Article 10

The steps whereby the measures provided for in this decision in regard to the saving of scrap by means of an increased use of pig-iron are to be put into effect will be laid down in a further decision to be taken not later than June 15, 1955, in conformity with Article 53, paragraph 1 (*b*) of the Treaty.

Article 11

This decision shall come into force within the Community on April 1, 1955. It shall be valid up to an including March 31, 1956.

It shall, moreover, be valid in respect of tonnages of scrap purchased from third countries before, but imported after, the date upon which it came into force.

[Decision No. 22/54, extended by Decision No. 2/55, shall cease to have effect as from April 1, 1955.]

This decision was deliberated and adopted by the High Authority at its session on March 26, 1955.

For the High Authority,

JEAN MONNET,

President.

INFORMATION

STATEMENT by the High Authority at the session of the Council on March 21 and 22, 1955, on the situation in the scrap market

In co-operation with the Council, the High Authority has striven to find a practical and flexible solution to the problem raised by the present state of the scrap market. It intended to ensure a balance between resources and requirements, as well as equitable supplies, for the various areas of the Community, by drawing mainly on imported scrap covered by the compensation scheme in order to ensure such balance and equitable supplies.

If, in actual practice, it should be found that the price-level in the Common Market and the operation of the system adopted are not in conformity with the principles agreed upon between the High Authority and the Council, or if unforeseen contingencies should bring about an appreciable change in conditions of supply, the High Authority would inform the Council forthwith, and discuss with it the measures by which it proposed to deal with the situation. In any event, it proposes to the Council that a meeting be held in September, at which it will report on the operation of the system in the light of the principles just noted.

THE COUNCIL OF MINISTERS

DECISIONS AND OPINIONS

AGREEMENT by the Council, under Article 53 (*b*) of the Treaty, to a draft decision establishing financial arrangements to ensure a regular flow of scrap to the Common Market

By letter dated March 17, 1955, the High Authority requested the Special Council of Ministers, under Article 53(*b*) of the Treaty, for the agreement required to enable it to establish financial arrangements ensuring a regular flow of scrap to the Common Market.

The Council at its twenty-third session, on March 21 and 22, 1955, unanimously agreed to the High Authority's proposal, in the terms recorded in the minutes of its deliberations.

For the Council,

M. RASQUIN,

President.

CONSULTATION requested by the High Authority, under Section 2, 4 of the Convention containing the Transitional Provisions, on the measures to be taken to offset the effects of the disparities between internal and international water-transport rates on the price of coal imported into France.

By letter dated March 17, 1955, the High Authority asked to consult the Special Council of Ministers, in virtue of Section 2, 4 of the Convention containing the Transitional Provisions, on the measures to be taken to offset the effects of the disparities between internal and international water-transport rates on the price of coal imported into France.

The consultation requested was given by the Council at its session on March 21 and 22, 1955.

A verbatim record of this consultation is contained in the minutes of the deliberations of the Council.

THE COURT OF JUSTICE

OFFICIAL NOTICES

Petition for the interpretation of a judgment, lodged by the Associazione Industrie Siderurgiche Italiane (Assider) on March 22, 1955 (Case No. 5/55)

On March 22, 1955, a " petition for the interpretation of a judgment against the High Authority of the European Coal and Steel Community " was lodged before the Court of Justice by the Associazione Industrie Siderurgiche Italiane (Assider), of Milan, with elected domicile at the office of Dr. Guido Rietti, and represented by its chairman, Sig. Dandolo Francesco Rebua, assisted by Prof. Cesare Grassetti, barrister-at-law, of the Milan Bar and the Court of Appeal, Rome.

The petitioners request

> " an interpretation of item 11 under Heading II (' as for Decision 2/54 ') in Part A of the grounds given for the Court's Judgment in the case No. 2/54 (*Official Gazette of the Community*, *January* 11, 1955, *p.* 40), to which the Court's Judgment in the case No. 3/54 refers ".

(82136) Wt. P.8519-2 K16 6/55 D.L.

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