

## Treaty establishing the European Coal and Steel Community (Paris, 18 April 1951)

**Caption:** On 18 April 1951, in Paris, the Foreign Ministers of Belgium, the Federal Republic of Germany (FRG), France, Italy, Luxembourg and the Netherlands sign the Treaty establishing the European Coal and Steel Community (ECSC). From left to right: Paul van Zeeland (B), Joseph Bech (L), Joseph Meurice (B), Count Carlo Sforza (I), Robert Schuman (F), Konrad Adenauer (FRG), Dirk Stikker (NL) and Johannes van den Brink (NL).

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

CONSIDERING that world peace may be safeguarded only by creative efforts equal to the dangers which menace it;

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

CONSCIOUS of the fact that Europe can be built only by concrete actions which create a real solidarity and by the establishment of common bases for economic development;

DESIROUS of assisting through the expansion of their basic production in raising the standard of living and in furthering the works of peace;

RESOLVED to substitute for historic rivalries a fusion of their essential interests; to establish, by creating an economic community, the foundation of a broad and independent community among peoples long divided by bloody conflicts; and to lay the bases of institutions capable of giving direction to their future common destiny;

HAVE DECIDED to create a European Coal and Steel Community and to this end have designated as plenipotentiaries:

THE PRESIDENT OF THE GERMAN FEDERAL REPUBLIC:  
DR. Konrad ADENAUER, Chancellor and Minister for Foreign Affairs;

HIS ROYAL HIGHNESS THE PRINCE ROYAL OF BELGIUM:  
MR. Paul VAN ZEELAND, Minister for Foreign Affairs,  
MR. Joseph MEURICE, Minister for Foreign Trade;

THE PRESIDENT OF THE FRENCH REPUBLIC:  
MR. Robert SCHUMAN, Minister for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:  
MR. Carlo SFORZA, Minister for Foreign Affairs;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG:  
MR. Joseph BECH, Minister for Foreign Affairs;

HER ROYAL HIGHNESS THE QUEEN OF THE NETHERLANDS:  
MR. D. U. STIKKER, Minister for Foreign Affairs,  
MR. J. R. M. VAN DEN BRINK, Minister of Economic Affairs;

WHICH, having exchanged their powers, found in good and due form, have agreed to the following provisions.

## **TITLE ONE - The European Coal and Steel Community**

### **Article 1**

By the present Treaty the HIGH CONTRACTING PARTIES institute among themselves a EUROPEAN COAL AND STEEL COMMUNITY, based on a common market, common objectives, and common institutions.

### **Article 2**

The mission of the European Coal and Steel Community is to contribute to economic expansion, the development of employment and the improvement of the standard of living in the participating countries through the institution, in harmony with the general economy of the member States, of a common market as defined in Article 4.

The Community must progressively establish conditions which will in themselves assure the most rational distribution of production at the highest possible level of productivity, while safeguarding the continuity of employment and avoiding the creation of fundamental and persistent disturbances in the economies of the member States.

### **Article 3**

Within the framework of their respective powers and responsibilities and in the common interest, the institutions of the Community shall:

- (a) see that the common market is regularly supplied, taking account of the needs of third countries;
- (b) assure to all consumers in comparable positions within the common market equal access to the sources of production;
- (c) seek the establishment of the lowest prices which are possible without requiring any corresponding rise either in the prices charged by the same enterprises in other transactions or in the price-level as a whole in another period, while at the same time permitting necessary amortization and providing normal possibilities of remuneration for capital invested;
- (d) see that conditions are maintained which will encourage enterprises to expand and improve their ability to produce and to promote a policy of rational development of natural resources, avoiding inconsiderate exhaustion of such resources;

(e) promote the improvement of the living and working conditions of the labor force in each of the industries under its jurisdiction so as to make possible the equalization of such conditions in an upward direction;

(f) further the development of international trade and see that equitable limits are observed in prices charged on external markets;

(g) promote the regular expansion and the modernization of production as well as the improvement of its quality, under conditions which preclude any protection against competing industries except where justified by illegitimate action on the part of such industries or in their favor.

#### **Article 4**

The following are recognized to be incompatible with the common market for coal and steel, and are, therefore, abolished and prohibited within the Community in the manner set forth in the present Treaty:

(a) import and export duties, or charges with an equivalent effect, and quantitative restrictions on the movement of coal and steel;

(b) measures or practices discriminating among producers, among buyers or among consumers, specifically as concerns prices, delivery terms and transportation rates, as well as measures or practices which hamper the buyer in the free choice of his supplier;

(c) subsidies or state assistance, or special charges imposed by the state, in any form whatsoever;

(d) restrictive practices tending towards the division of markets or the exploitation of the consumer.

#### **Article 5**

The Community shall accomplish its mission, under the conditions provided for in the present Treaty, with limited direct intervention.

To this end, the Community will:

- enlighten and facilitate the action of the interested parties by collecting information, organizing consultations and defining general objectives;

- place financial means at the disposal of enterprises for their investments and participate in the expenses of readaptation;

- assure the establishment, the maintenance and the observance of normal conditions of competition and take direct action with respect to production and the operation of the market only when circumstances make it absolutely necessary;

- publish the justifications for its action and take the necessary measures to ensure observance of the rules set forth in the present Treaty.

The institutions of the Community shall carry out these activities with as little administrative machinery as possible and in close cooperation with the interested parties.

## **Article 6**

The Community shall have juridical personality.

In its international relationships, the Community shall enjoy the juridical capacity necessary to the exercise of its functions and the attainment of its ends.

In each of the member States, the Community shall enjoy the most extensive juridical capacity which is recognized for legal persons of the nationality of the country in question. Specifically, it may acquire and transfer real and personal property, and may sue and be sued in its own name.

The Community shall be represented by its institutions, each one of them acting within the framework of its own powers and responsibilities.

## **TITLE TWO - The Institutions of the Community**

### **Article 7**

The institutions of the Community shall be as follows:

- a HIGH AUTHORITY, assisted by a *Consultative Committee*;
- a COMMON ASSEMBLY, hereafter referred to as « the Assembly »;
- a SPECIAL COUNCIL, composed of MINISTERS, hereafter referred to as « the Council »;
- a COURT OF JUSTICE, hereafter referred to as « the Court ».

## **CHAPTER I – The High Authority**

### **Article 8**

The High Authority shall be responsible for assuring the fulfillment of the purposes stated in the present Treaty under the terms thereof.

### **Article 9**

The High Authority shall be composed of nine members designated for six years and chosen for their general competence.

A member shall be eligible for reappointment. The number of members of the High Authority may be reduced by unanimous decision of the Council.

Only nationals of the member States may be members of the High Authority.

The High Authority may not include more than two members of the same nationality.

The members of the High Authority shall exercise their functions in complete independence, in the general interest of the Community. In the fulfillment of their duties, they shall neither solicit nor accept instructions from any government or from any organization. They will abstain from all conduct incompatible with the supranational character of their functions.

Each member State agrees to respect this supranational character and to make no effort to influence the members of the High Authority in the execution of their duties.

The members of the High Authority may not exercise any business or professional activities, paid or unpaid, nor acquire or hold, directly or indirectly, any interest in any business related to coal and steel during their term of office or for a period of three years thereafter.

## **Article 10**

The governments of the member States shall designate eight members of the High Authority by agreement among themselves. These eight members will elect a ninth member, who shall be deemed elected if he receives at least five votes.

The members thus designated will remain in office for six years following the date of the establishment of the common market.

In case a vacancy should occur during this first period for one of the reasons set forth in Article 12, it will be filled under the provisions of the third paragraph of that article, by common agreement among the governments of the member States.

If, during the same period, the provisions of the third paragraph of Article 24 should be applied, the members of the High Authority shall be replaced under the provisions of the first paragraph of the present article.

At the expiration of this period, a complete redesignation shall take place, and the nine members shall be designated as follows: the governments of the member States, in the absence of unanimous agreement, will designate eight members by a five-sixths majority; the ninth will be chosen by vote of these eight under the terms of the first paragraph of the present article. The same procedure shall apply to a complete redesignation rendered necessary by application of Article 24.

One third of the members of the High Authority shall be redesignated every two years.

Whenever a complete redesignation shall occur, the sequence of retirement shall be immediately determined by lot on the initiative of the President of the Council.

The regular redesignations resulting from the expiration of the two-year periods shall be made alternately in the following order: by designation of the governments of the member States under the terms of the fifth paragraph of the present article, and by vote of the remaining members of the High Authority under the terms of the first paragraph.

If vacancies should occur for one of the reasons provided in Article 12, these shall be filled under the

provisions of the third paragraph of that article, alternatively, in the following order: by designation of the governments of the member States under the terms of the fifth paragraph of the present article, and by vote of the remaining members of the High Authority in accordance with the provisions of the first paragraph.

In all cases provided for in the present article where a member is designated by the governments by a five-sixths majority or by vote of the members of the High Authority, each government shall have a veto right under the following conditions:

If a government has used its right of veto with respect to two persons in the case of an individual redesignation and of four persons in the case of a general or biennial redesignation, any other exercise of that right on the same occasion may be referred to the Court by another government; the Court may declare the veto null and void if it considers it abusive.

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.

### **Article 11**

The President and the Vice President of the High Authority shall be designated from among the membership of the High Authority for two years, in accordance with the procedure provided for the designation of the members of the High Authority by the governments of the member States. They may be reelected.

Except in the case of a complete redesignation of the membership of the High Authority, the designation of the President and Vice President shall be made after consultation with the High Authority.

### **Article 12**

In addition to the provisions for regular redesignation, the terms of office of a member of the High Authority may be terminated by death or resignation.

Members who no longer fulfill the conditions necessary to the exercise of their functions or who have committed a gross fault may be removed from office by the Court on petition by the High Authority or the Council.

In the cases provided in the present Article, the member in question shall be replaced for the remainder of his term, under the provisions of Article 10. There shall be no such replacement if the remainder of his term is less than three months.

### **Article 13**

The High Authority shall act by vote of a majority of its membership.

Its quorum shall be fixed by its rules of procedure. However, this quorum must be greater than one-half of its membership.

### **Article 14**

In the execution of its responsibilities under the present Treaty and in accordance with the provisions



thereof, the High Authority shall issue decisions, recommendations and opinions.

Decisions shall be binding in all their details.

Recommendations shall be binding with respect to the objectives which they specify but shall leave to those to whom they are directed the choice of appropriate means for attaining these objectives.

Opinions shall not be binding.

When the High Authority is empowered to issue a decision, it may limit itself to making a recommendation.

#### **Article 15**

The decisions, recommendations and opinions of the High Authority shall state the reasons therefor, and shall take note of the opinions which the High Authority is required to obtain.

When such decisions and recommendations are individual in character, they shall be binding on the interested party upon their notification to him.

In other cases, they shall take effect automatically upon publication.

The High Authority shall determine the manner in which the provisions of the present article are to be carried out.

#### **Article 16**

The High Authority shall take all appropriate measures of an internal nature to assure the functioning of its services.

It may institute study Groups and specifically an economic study Group.

Within the framework of general organizational regulations established by the High Authority, the President of the High Authority shall be responsible for the administration of its services, and shall insure the execution of the acts of the High Authority.

#### **Article 17**

The High Authority shall publish annually, at least a month before the meeting of the Assembly, a general report on the activities of the Community and on its administrative expenditures.

#### **Article 18**

There shall be created a Consultative Committee, attached to the High Authority. It shall consist of not less than thirty and not more than fifty-one members, and shall include producers, workers and consumers and dealers in equal numbers.

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

As concerns producers and workers, the Council shall designate the representative organizations among which it shall allocate the seats to be filled. Each organization shall be asked to draw up a list comprising twice the number of seats allocated to it. Designations shall be made from this list.

The members of the Consultative Committee shall be designated in their individual capacity. They shall not be bound by any mandate or instruction from the organizations which proposed them as candidates.

A President and officers shall be elected for one-year terms by the Consultative Committee from its own membership. The Committee shall fix its own rules of procedure.

The allowances of members of the Consultative Committee shall be determined by the Council on proposal by the High Authority.

### **Article 19**

The High Authority may consult the Consultative Committee in any case it deems proper. It shall be required to do so whenever such consultation is prescribed by the present Treaty.

The High Authority shall submit to the Consultative Committee the general objectives and programs established under the terms of Article 46, and shall keep the Committee informed of the broad lines of its action under the terms of Articles 54, 65 and 66.

If the High Authority deems it necessary, it shall give the Consultative Committee a period in which to present its opinion of not less than ten days from the date of the notification to that effect addressed to the President of the Committee.

The Consultative Committee shall be convoked by its President, either at the request of the High Authority or at the request of a majority of its members, for the purpose of discussing a given question.

The minutes of the meetings shall be transmitted to the High Authority and to the Council at the same time as the opinions of the Committee.

## **CHAPTER II – The Assembly**

### **Article 20**

The Assembly, composed of representatives of the peoples of the member States of the Community, shall exercise the supervisory powers which are granted to it by the present Treaty.

### **Article 21**

The Assembly shall be composed of delegates whom the parliaments of each of the member States shall be called upon to designate once a year from among their own membership, or who shall be elected by direct universal suffrage, according to the procedure determined by each respective High Contracting Party.

The number of delegates is fixed as follows:

Germany	18
Belgium	10
France	18
Italy	18
Luxembourg	4
Netherlands	10

The representatives of the people of the Saar are included in the number of delegates attributed to France.

## **Article 22**

The Assembly shall hold an annual session. It shall convene regularly on the second Tuesday in May. Its session may not last beyond the end of the then current fiscal year.

The Assembly may be convoked in extraordinary session on the request of the Council in order to state its opinion on such questions as may be put to it by the Council.

It may also meet in extraordinary session on the request of a majority of its members or of the High Authority.

## **Article 23**

The Assembly shall designate its President and officers from among its membership.

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

The High Authority shall reply orally or in writing to all questions put to it by the Assembly or its members.

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

## **Article 24**

The Assembly shall discuss in open session the general report submitted to it by the High Authority.

If a motion of censure on the report is presented to the Assembly, a vote may be taken thereon only after a period of not less than three days following its introduction, and such vote shall be by open ballot.

If the motion of censure is adopted by two-thirds of the members present and voting, representing a majority of the total membership, the members of the High Authority must resign in a body. They shall continue to carry out current business until their replacement in accordance with Article 10.

## **Article 25**

The Assembly shall fix its own rules of procedure, by vote of a majority of its total membership.

The acts of the Assembly shall be published in a manner to be prescribed in such rules of procedure.

## **CHAPTER III – The Council**

### **Article 26**

The Council shall exercise its functions in the events and in the manner provided in the present Treaty, in particular with a view to harmonizing the action of the High Authority and that of the governments, which are responsible for the general economic policy of their countries.

To this end, the Council and the High Authority shall consult together and exchange information.

The Council may request the High Authority to examine all proposals and measures which it may deem necessary or appropriate for the realization of the common objectives.

### **Article 27**

The Council shall be composed of representatives of the member States. Each State shall designate thereto one of the members of its government.

The Presidency of the Council shall be exercised for a term of three months by each member of the Council in rotation in the alphabetical order of the member States.

### **Article 28**

Meetings of the Council shall be called by its President on the request of a State or of the High Authority.

When the Council is consulted by the High Authority, it may deliberate without necessarily proceeding to a vote. The minutes of its meetings shall be forwarded to the High Authority.

Wherever the present Treaty requires the concurrence of the Council, this concurrence shall be deemed to have been granted if the proposal submitted by the High Authority is approved:

- by an absolute majority of the representatives of the member States, including the vote of the representative of one of the States which produces at least twenty percent of the total value of coal and steel produced in the Community;
- or, in case of an equal division of votes, and if the High Authority maintains its proposal after a second reading, by the representatives of two member States, each of which produces at least twenty percent of the total value of coal and steel in the Community.

Wherever the present Treaty requires a unanimous decision or unanimous concurrence, such decision or concurrence will be adopted if supported by the votes of all of the members of the Council.

The decisions of the Council, other than those which require a qualified majority or a unanimous vote, will be taken by a vote of the majority of the total membership. This majority shall be deemed to exist if it includes the absolute majority of the representatives of the member States including the vote of the representative of one of the States which produces at least twenty percent of the total value of coal and steel produced in the Community.

In case of a vote, any member of the Council may act as proxy for not more than one other member.

The Council shall communicate with the member States through the intermediary of its President.

The acts of the Council shall be published under a procedure which it shall establish.

#### **Article 29**

The Council shall fix the salaries, allowances and pensions of the President and members of the High Authority, and of the President, the judges, the Court advocates and the clerk of the Court.

#### **Article 30**

The Council shall establish its own rules of procedure.

### **CHAPTER IV - The Court**

#### **Article 31**

The function of the Court is to ensure the rule of law in the interpretation and application of the present Treaty and of its implementing regulations.

#### **Article 32**

The Court shall be composed of seven judges, appointed for six years by agreement among the governments of the member States from among persons of recognized independence and competence.

A partial change in membership of the Court shall occur every three years, affecting alternatively three members and four members. The three members whose terms expire at the end of the first period of three years shall be designated by lot.

Judges shall be eligible for reappointment.

The number of judges may be increased by unanimous vote of the Council on proposal by the Court.

The judges shall designate one of their number as President for a three-year term.

#### **Article 33**

The Court shall have jurisdiction over appeals by a member State or by the Council for the annulment of decisions and recommendations of the High Authority on the grounds of lack of legal competence, substantial procedural violations, violation of the Treaty or of any rule of law relating to its application, or abuse of power. However, the Court may not review the conclusions of the High Authority, drawn from economic facts and circumstances, which formed the basis of such decisions or recommendations, except where the High Authority is alleged to have abused its powers or to have clearly misinterpreted the provisions of the Treaty or of a rule of law relating to its application.

The enterprises, or the associations referred to in Article 48, shall have the right of appeal on the same grounds against individual decisions and recommendations concerning them, or against general decisions and recommendations which they deem to involve an abuse of power affecting them.

The appeals provided for in the first two paragraphs of the present article must be taken within one month from the date of the notification or the publication, as the case may be, of the decision or recommendation.

#### **Article 34**

If the Court should annul a decision or recommendation of the High Authority, the matter shall be remanded to the High Authority. The latter must take the necessary measures in order to give effect to the judgment of annulment. In case a decision or recommendation is adjudged by the Court to involve a fault for which the Community is liable, and causes a direct and particular injury to an enterprise or a group of enterprises, the High Authority must take such measures, within the powers granted to it by the present Treaty, as will assure an equitable redress for the injury resulting directly from the decision or recommendation which has been annulled, and, to the extent necessary, must grant a reasonable indemnity.

If the High Authority fails to take within a reasonable period the measures required to give effect to a judgment of annulment, an appeal for damages may be brought before the Court.

#### **Article 35**

In the cases where the High Authority is required by a provision of the present Treaty or of implementing regulations to issue a decision or recommendation, and fails to fulfill this obligation, such omission may be brought to its attention by the States, the Council or the enterprises and associations, as the case may be.

The same shall be true if the High Authority refrains from issuing a decision or recommendation which it is empowered to issue by a provision of the present Treaty or implementing regulations, where such failure to act constitutes an abuse of power.

If at the end of a period of two months the High Authority has not issued any decision or recommendation, an appeal may be brought before the Court, within a period of one month, against the implicit negative decision which is presumed to result from such failure to act.

#### **Article 36**

Prior to imposing a pecuniary sanction or fixing a daily penalty payment provided for in the present Treaty, the High Authority shall give the interested enterprise an opportunity to present its views.

An appeal to the general jurisdiction of the Court may be taken from the pecuniary sanctions and daily penalty payments imposed under the provisions of the present Treaty.

In support of such an appeal, and under the terms of the first paragraph of Article 33 of the present Treaty, the petitioners may contest the regularity of the decisions and recommendations which they are charged with violating.

#### **Article 37**

If a member State shall deem that in a given case an action of the High Authority, or a failure by it to act, is of such a nature as to provoke fundamental and persistent disturbances in the economy of such State, it may bring the matter to the attention of the High Authority.

The latter, after having obtained the opinion of the Council, will recognize the existence of such situation, if any, and decide on the measures to be taken, under the terms of the present Treaty, to correct such situation while at the same time safeguarding the essential interests of the Community.

When an appeal is taken to the Court under the provisions of the present Article against such decision or against the explicit or implicit decision refusing to recognize the existence of the situation mentioned above, the Court shall review the sufficiency of the grounds of such decision.

In case of annulment, the High Authority shall decide, within the framework of the Court's judgment, the measures to be taken to fulfill the objectives set forth in the second paragraph of the present article.

### **Article 38**

On the petition of a member State or of the High Authority, the Court may annul the acts of the Assembly or of the Council.

The petition must be submitted within one month from the publication of such act of the Assembly or of the notification of such act of the Council to the member States or to the High Authority.

Such an appeal may be based only on the grounds of lack of legal competence or substantial procedural violations.

### **Article 39**

Appeals to the Court shall not have the effect of suspending the execution of a decision or a recommendation.

However, if in its judgment circumstances demand, the Court may order the suspension of the execution of the decision or recommendation in question.

It may prescribe any other necessary provisional measures.

### **Article 40**

Subject to the provisions of the first paragraph of Article 34, the Court shall have jurisdiction to assess damages against the Community, at the request of the injured party, in cases where injury results from a fault involved in an official act of the Community in execution of the present Treaty.

It shall also have jurisdiction to assess damages against any official or employee of the Community, in cases where injury results from a personal fault of such official or employee in the performance of his duties. If the injured party is unable to recover such damages from such official or employee, the Court may assess an equitable indemnity against the Community.

All other litigation between the Community and third parties, other than that relating to the application of the provisions of the present Treaty and implementing regulations, shall be brought before the national tribunals.

#### **Article 41**

When the validity of acts of the High Authority or the Council is contested in litigation before a national tribunal, such issue shall be certified to the Court, which shall have exclusive jurisdiction to rule thereon.

#### **Article 42**

The Court shall have such jurisdiction as may be provided by any clause to such effect in a public or private contract to which the Community is a party or which is undertaken for its account.

#### **Article 43**

The Court shall have jurisdiction in any other case provided for in a supplementary provision of the Treaty.

It may also exercise jurisdiction in any case relating to the objects of the present Treaty, where the laws of a member State grant such jurisdiction to it.

#### **Article 44**

The judgments of the Court shall be executory on the territory of the member States under the terms of Article 92 below.

#### **Article 45**

The Code of the Court shall be contained in a Protocol annexed to the present Treaty.

### **TITLE THREE - Economic and Social Provisions**

#### **CHAPTER I – General Provisions**

#### **Article 46**

The High Authority may at any time consult the governments, the various interested parties (enterprises, workers, consumers and dealers) and their associations, as well as any experts.

Enterprises, workers, consumers and dealers, and their associations, may present any suggestions or observations to the High Authority on questions which concern them.

In order to provide guidance for the action of all of the interested parties in the achievement of the purposes assigned to the Community, and to determine its own action within the framework of the present Treaty, the High Authority shall, by means of the consultations mentioned above:

(1) carry on a permanent study of markets and price tendencies;



(2) periodically draw up non-compulsory program forecasts dealing with production, consumption, exports and imports;

(3) periodically work out general programs with respect to modernization, the long-term orientation of manufacturing and the expansion of productive capacity;

(4) at the request of the interested governments, participate in the study of the possibilities of reemployment, either in existing industries or through the creation of new activities, of workers set at liberty by the evolution of the market or by technical transformations;

(5) gather all information necessary to the appraisal of the possibilities of improving the living and working conditions of the labor force in the industries under its jurisdiction, and of the risks which menace such living conditions.

It shall publish the general objectives and programs after having submitted them to the Consultative Committee.

It may make public the studies and information mentioned above.

#### **Article 47**

The High Authority may gather such information as may be necessary to the accomplishment of its mission. It may have the necessary verifications carried out.

The High Authority shall not divulge information which by its nature is considered a professional secret, and in particular information pertaining to the commercial relations or the breakdown of the costs of production of enterprises. With this reservation, it shall publish such data as may be useful to governments or to any other interested parties.

The High Authority may impose fines and daily penalty payments upon those enterprises which evade their obligations resulting from decisions made in application of the provisions of the present article, or which knowingly furnish false information. The maximum amount of such fines shall be one percent of the annual turnover and the maximum amount of such penalty payments shall be five percent of the average daily turnover for each day the violation continues.

Any violation by the High Authority of professional secrecy which has caused damage to an enterprise may be the subject of a suit for damages before the Court under the conditions provided for in Article 40.

#### **Article 48**

The right of enterprises to form associations is not affected by the present Treaty. Membership in such associations must be voluntary. The associations may engage in any activity which is not contrary to the provisions of the present Treaty or to the decisions or recommendations of the High Authority.

In cases where the present Treaty requires the consultation of the Consultative Committee, any association has the right to submit to the High Authority, within the time limits fixed by the latter, the observations of its members on the action envisaged.

The High Authority will normally call upon producers' associations to obtain information which it requires or to facilitate the fulfillment of its tasks, provided that the associations in question either permit the qualified representatives of the workers and consumers to participate in the leadership of these associations or in consultative committees affiliated to them, or in any other way give a satisfactory place in their organization to the expression of the workers' and consumers' interests.

The associations referred to in the preceding paragraph shall be obliged to furnish the High Authority with such information on their activity as the High Authority may deem necessary. The observations mentioned in the second paragraph of the present article and the information furnished under the fourth paragraph shall also be forwarded by the associations to the government concerned.

## **CHAPTER II – Financial Provisions**

### **Article 49**

The High Authority is empowered to procure the funds necessary to the accomplishment of its mission:

- by placing levies on the production of coal and steel;
- by borrowing.

It may also receive grants.

### **Article 50**

1. The levies are intended to cover:

- the administrative expenses provided for in Article 78;
- the non-reimbursable assistance provided for in Article 56, concerning readaptation;
- as concerns the financial facilities provided for in Articles 54 and 56, and after recourse to the reserve fund, any portion of the servicing charges on the High Authority's obligations which cannot be covered by receipts from the servicing of loans granted by the High Authority, as well as payments which might be required by virtue of the operation of the Authority's guarantee on loans obtained directly by the enterprises;
- expenditures to encourage technical and economic research as provided for in section 2 of Article 55.

2. The levies are assessed annually on the various products according to their average value; the rate of levy may not exceed one percent unless previously authorized by a two-thirds majority of the Council. The method of assessment and collection shall be fixed by a general decision of the High Authority taken after consulting the Council; to the extent possible, cumulative taxation shall be avoided.

3. The High Authority may impose increases of not more than 5 percent per quarter-year of delay in payment upon enterprises which do not obey the decisions which it may issue in application of the present article.

## **Article 51**

1. The funds obtained by borrowing may be used by the High Authority only to grant loans.

The issuance of the obligations of the High Authority on the markets of member States shall be subject to the regulations in effect on these markets.

In case the High Authority shall deem the guarantee of member governments necessary in order to contract loans, it shall approach the interested government or governments after consulting the Council. No government shall be required to give its guarantee.

2. In accordance with the terms of Article 54, the High Authority may guarantee loans granted directly to enterprises by third parties.

3. The High Authority may adjust its terms for loans or guarantees in order to build up a reserve fund, for the sole purpose of reducing the size of the levy provided for in the third sub-paragraph of section 1 of Article 50; the sums thus accumulated may not be used in any manner to grant loans to enterprises.

The High Authority itself shall not perform the operations of a banking nature which may be required to carry out its financial missions.

## **Article 52**

The member States shall take all necessary measures to assure the free transfer within the territories mentioned in the first paragraph of Article 79, and through the channels employed for commercial payments, of funds derived from levies, from pecuniary sanctions of all kinds, and from the reserve fund, to the extent necessary to their use for the purposes set forth in the present Treaty.

The methods of transfer among member States, as well as to third countries, of funds resulting from the other financial operations effected by the High Authority or under its guarantee shall be the subject of agreements concluded by the High Authority with the interested governments or the competent bodies; no member State which applies exchange controls shall be obliged to assure any such transfers to which it has not explicitly agreed.

## **Article 53**

Without prejudice to the provisions of Article 58 and of Chapter V of Title Three, the High Authority may:

(a) after consulting the Consultative Committee and the Council, authorize the institution, under conditions which it shall determine and under its control, of any financial mechanisms common to several enterprises which are deemed necessary for the accomplishment of the missions defined in Article 3 and compatible with the provisions of the present Treaty and particularly of Article 65;

(b) with the concurrence of the Council acting by unanimous vote, institute itself any financial mechanism satisfying the same purposes as referred to above.

Mechanisms of the same nature instituted or maintained, by the member States shall be reported to the High

Authority which, after consulting the Consultative Committee and the Council, shall address to the interested States the necessary recommendations, in case such mechanisms should be wholly or partly contrary to the application of the present Treaty.

### **CHAPTER III – Investments and financial assistance**

#### **Article 54**

The High Authority may facilitate the carrying out of investment programs by granting loans to enterprises or by giving its guarantee to loans which they may obtain elsewhere.

With the concurrence of the Council acting by unanimous vote, the High Authority may assist by the same means in financing works and installations which contribute directly and principally to increase production, lower production costs or facilitate marketing of products subject to its jurisdiction.

In order to encourage a coordinated development of investments, the High Authority may, in accordance with the provisions of Article 47, require enterprises to submit individual programs in advance, either by a special demand addressed to the enterprise concerned or by a decision defining the nature and the size of the programs which must be submitted.

Within the framework of the general programs described in Article 46, the High Authority may, after having given the interested parties an opportunity to present their views, issue an opinion on such programs, accompanied by a justification. It is obliged to issue such an opinion when so requested by an enterprise. The High Authority shall notify the enterprise of its opinion and shall bring it to the attention of the government concerned. The list of opinions shall be made public.

If the High Authority finds that the financing of a program or the operation of the installations which it entails would require subsidies, assistance, protection or discrimination contrary to the present Treaty, the unfavorable opinion taken by virtue of this justification shall have the force of a decision as defined in Article 14, and shall have the effect of prohibiting the enterprise concerned from resort to resources other than its own funds to put such program into effect.

The High Authority may impose fines not exceeding the sums unduly devoted to realization of the program in question on enterprises which violate the provisions of the above paragraph.

#### **Article 55**

1. The High Authority shall encourage technical and economic research concerning the production and the development of consumption of coal and steel, as well as labor safety in these industries. To this end, it shall establish all appropriate contacts among existing research organizations.

2. After consultation with the Consultative Committee, the High Authority may initiate and facilitate the development of such research work:

(a) by encouraging joint financing by the interested enterprises; or

(b) by earmarking for that purpose any grants it may receive; or

(c) with the concurrence of the Council by earmarking for that purpose funds derived from the levies provided for in Article 50, without, however, going beyond the ceiling defined in section 2 of that article.

The results of the research financed under the conditions set forth in subparagraphs (b) and (c) above shall be placed at the disposal of all interested parties in the Community.

3. The High Authority shall make all useful suggestions for the dissemination of technical improvements, particularly with regard to the exchange of patents and the granting of licenses.

#### **Article 56**

If the introduction of technical processes or new equipment within the framework of the general programs of the High Authority, should lead to an exceptional reduction in labor requirements in the coal or steel industries, creating special difficulties in one or more areas for the re-employment of the workers released, the High Authority, on the request of the interested governments:

(a) will consult the Consultative Committee;

(b) may facilitate, in accordance with the methods provided for in Article 54, the financing of such programs as it may approve for the creation, either in the industries subject to its jurisdiction or, with the concurrence of the Council, in any other industry, of new and economically sound activities capable of assuring productive employment to the workers thus released;

(c) will grant non-reimbursable assistance to contribute to:

- the payment of indemnities to tide the workers over until they can obtain new employment;
- the granting of allowances to the workers for reinstallation expenses;
- the financing of technical retraining for workers who are led to change their employment.

The High Authority shall condition the granting of non-reimbursable assistance on the payment by the interested State of a special contribution at least equal to such assistance, unless a two-thirds majority of the Council authorizes an exception to this rule.

#### **CHAPTER IV – Production**

#### **Article 57**

In the field of production, the High Authority shall give preference to the indirect means of action at its disposal, such as:

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

## Article 58

1. In case of a decline in demand, if the High Authority deems that the Community is faced with a period of manifest crisis and that the means of action provided for in Article 57 are not sufficient to cope with that situation, it shall, after consulting the Consultative Committee and with the concurrence of the Council, establish a system of production quotas, accompanied, to the extent necessary, by the measures provided for in Article 74.

If the High Authority fails to act, one of the member States may bring the matter to the attention of the Council which, acting by unanimous vote, may require the High Authority to establish a system of quotas.

2. The High Authority, after consultation with the enterprises and their associations, shall establish quotas on an equitable basis in accordance with the principles defined in Articles 2, 3 and 4. The High Authority may in particular regulate the rate of operation of the enterprises by appropriate levies on tonnages exceeding a reference level defined by a general decision.

The sums thus obtained will be earmarked for the support of those enterprises whose production rate has dropped below the level envisaged, particularly in order to ensure as far as possible the maintenance of employment in those enterprises.

3. The system of quotas shall be terminated automatically upon a proposal to the Council by the High Authority after consulting the Consultative Committee, or by the government of one of the member States, except in the case of a contrary decision of the Council; such decision must be taken by unanimous vote, if the proposal originates with the High Authority, or by simple majority if the proposal originates with a government. The termination of the quota system shall be published by the High Authority.

4. The High Authority may impose upon enterprises violating the decisions taken by it in application of the present article, fines not to exceed a sum equal to the value of the irregular production.

## Article 59

1. If, after consulting the Consultative Committee, the High Authority finds that the Community is faced with a serious shortage of certain or all of the products subject to its jurisdiction, and that the means of action provided for in Article 57 do not enable it to cope with the situation, it shall bring this situation to the attention of the Council, and, unless the Council decides otherwise by unanimous vote, shall propose the necessary measures.

If the High Authority fails to take any initiative, one of the member States may bring the matter before the Council, which by unanimous decision may recognize the existence of the situation mentioned above.

2. Acting by unanimous vote, on the basis of proposals by and in consultation with the High Authority, the Council shall establish consumption priorities and determine the allocation of the coal and steel resources of the Community among the industries subject to its jurisdiction, exports, and other consumption.

On the basis of the consumption priorities thus determined, the High Authority shall, after consulting the enterprises concerned, establish manufacturing programs which the enterprises shall be required to execute.

3. If the Council fails to reach a unanimous decision on the measures referred to in Section 2, the High Authority will itself proceed to allocate the resources of the Community among the member States on the basis of consumption and exports and independently of the location of production.

The allocation of the resources assigned by the High Authority shall be carried out within each of the member States under the responsibility of the government of that State, which shall consult with the High Authority concerning the portion of such resources to be assigned to export and to the operation of the coal and steel industries.

If the quantities actually exported by a member State are less than the scheduled quantities which were included in the basis for total allocations to the State in question, the High Authority will to the extent necessary redistribute among the member States the additional availabilities for consumption thus created, whenever a new allocation is made.

If a relative reduction in the quantities directed by a government to the coal and steel industries leads to a reduction in production of one of these products in the Community, the allocation of that product to the member State in question at the time of a new allocation shall be reduced to the same extent as the reduction in production for which it is responsible.

4. In all cases, the High Authority, acting on the basis of studies undertaken in consultation with the enterprises and their associations, shall be responsible for allocating equitably among enterprises the quantities earmarked for the industries under its jurisdiction.

5. In the situation described in Section 1 of the present article, the High Authority may, after consulting the Consultative Committee and with the concurrence of the Council, decide on the establishment in all member States of restrictions on exports to third countries in conformity with the provisions of Article 57; in the absence of any initiative on the part of the High Authority, the Council may take such a decision by unanimous vote upon the proposal of a government.

6. The High Authority may terminate the system set up in conformity with the present Article after consultation with the Consultative Committee and the Council. It may not override a unanimous vote of the Council opposing such termination.

If the High Authority fails to take any initiative, the Council may, by unanimous vote, terminate the system of allocation.

7. The High Authority may impose upon enterprises which violate the decisions taken in application of the present article, fines not to exceed in amount twice the value of the manufactures or deliveries prescribed and not executed or diverted from their proper use.

## **CHAPTER V – Prices**

### **Article 60**

1. Pricing practices contrary to the provisions of Articles 2, 3 and 4 are prohibited, particularly:

- unfair competitive practices, in particular purely temporary or purely local price reductions whose purpose

is to acquire a monopoly position within the common market;

- discriminatory practices involving the application by a seller within the single market of unequal conditions to comparable transactions, especially according to the nationality of the buyer.

After consultation with the Consultative Committee and the Council, the High Authority may define the practices covered by this prohibition.

2. For the above purposes:

(a) the prices scales and conditions of sales to be applied by enterprises within the single market shall be made public to the extent and in the form prescribed by the High Authority after consultation with the Consultative Committee; if the High Authority deems that an enterprise has chosen an abnormal base point for its price quotations, in particular one which makes it possible to evade the provisions of subparagraph (b) below, it will make the appropriate recommendations to that enterprise.

(b) the prices charged by an enterprise within the common market, calculated on the base of the point chosen for the enterprise's price scale must not as a result of the methods of quotation:

- be higher than the price indicated by the price scale in question for a comparable transaction; or

- be less than this price by a margin greater than:

- either the margin which would make it possible to align the offer in question on that price scale, set up on the basis of another point, which procures for the buyer the lowest price at the place of delivery;

- or a limit fixed by the High Authority for each category of products, after consultation with the Consultative Committee, taking into account the origin and destination of such products.

These decisions shall be taken when they appear necessary to avoid disturbances in all or any part of the common market, or disequilibria which would result from a divergence between the methods of price quotation used for a product and for the materials which enter into its manufacture.

These decisions shall not prevent enterprises from aligning their quotations on the prices offered by enterprises outside the Community, provided that such transactions are reported to the High Authority; the latter may, in case of abuse, limit or eliminate the right of the enterprises in question to benefit from this exception.

## **Article 61**

On the basis of studies undertaken in cooperation with the enterprises and their associations in accordance with the provisions of the first paragraph of Article 46 and the third paragraph of Article 48, and after consultation with the Consultative Committee and the Council as to the advisability of these measures as well as concerning the price level which they determine, the High Authority may fix for one or more products subject to its jurisdiction:

(a) maximum prices within the common market, if it deems that such a decision is necessary to attain the objectives defined in Article 3 and particularly in paragraph (c) thereof;



(b) minimum prices within the common market, if it deems that a manifest crisis exists or .is imminent and that such a decision is necessary to attain the objectives defined in Article 3;

(c) after consultation with the enterprises concerned or their associations, and according to methods adapted to the nature of the export markets, minimum or maximum export prices, if such action can be effectively supervised and appears necessary either because of dangers to the enterprises on account of the situation of the market or to pursue in international economic relations the objective defined in Article 3 paragraph (f), without prejudice, in the case of minimum prices, to the application of the measures provided for in the last paragraph of section 2 of Article 60.

In fixing price limits the High Authority shall take into account the need to assure the ability to compete both of the coal and steel industries and of the consuming industries, in accordance with the principles defined in Article 3, paragraph (c).

If the High Authority should fail to act under the circumstances described above, the government of one of the member States may refer the matter to the Council; the latter may, by unanimous decision, invite the High Authority to fix such maximum or minimum prices.

## **Article 62**

If the High Authority should deem that such an action would be the most appropriate one in order to prevent the price of coal from being established at the level of the production costs of the most costly mine whose production is temporarily required to assure accomplishment of the missions defined in Article 3, the High Authority may, after consulting the Consultative Committee, authorize compensations:

- among enterprises of the same basin to which the same price scales are applicable;
- after consulting the Council, among enterprises situated in different basins.

Such compensations may, in addition, be undertaken under the terms of Article 53.

## **Article 63**

1. If the High Authority finds that discrimination is being systematically practised by buyers, particularly as concerns orders placed by government subsidiaries, it shall make the necessary recommendations to the governments concerned.

2. To the extent that it finds necessary, the High Authority may decide that:

(a) enterprises shall establish their conditions of sale in such a way that their customers or their agents shall be obliged to conform to the rules established by the High Authority in application of the provisions of this Chapter;

(b) enterprises shall be made responsible for infractions committed by their direct agents or by dealers acting on behalf such enterprises.

In case of a violation committed by a buyer against the obligations so contracted, the High Authority may limit the right of the enterprises of the Community to deal with the said buyer, to a degree which may entail temporary deprivation of access to the market in case of repeated infractions. In this case, and without prejudice to the provisions of Article 33, the buyer may appeal to the Court.

3. In addition, the High Authority is empowered to address to the member States such recommendations as may be necessary to ensure that any enterprise or organization engaged in distribution of coal or steel shall respect the rules established in application of Section 1 of Article 60.

## Article 64

The High Authority may impose upon enterprises which violate the provisions of the present Chapter or the decisions taken in application thereof, fines not to exceed twice the value of the irregular sales. In case of second offense, the above maximum may be doubled.

## CHAPTER VI – Agreements and concentrations

### Article 65

1. There are hereby forbidden all agreements among enterprises, all decisions of associations of enterprises, and all concerted practices, which would tend, directly or indirectly, to prevent, restrict or impede the normal operation of competition within the common market, and in particular:

- (a) to fix or influence prices;
- (b) to restrict or control production, technical development or investments;
- (c) to allocate markets, products, customers or sources of supply.

2. However, the High Authority will authorize enterprises to agree among themselves to specialize in the production of, or to engage in joint buying or selling of specified products, if the High Authority finds:

- (a) that such specialization or such joint buying or selling will contribute to a substantial improvement in the production or marketing of the products in question; and
- (b) that the agreement in question is essential to achieve such effects, and does not impose any restriction not necessary for that purpose; and
- (c) that it is not susceptible of giving the interested enterprises the power to influence prices, or to control or limit production or marketing of an appreciable part of the products in question within the common market, or of protecting them from effective competition by other enterprises within the common market.

If the High Authority should recognize that certain agreements are strictly analogous in their nature and effects to the agreements mentioned above, taking into account the application of the present section to distributing enterprises, it will authorize such agreements if it further recognizes that they satisfy the same conditions.

An authorization may be made subject to specified conditions and may be limited in time. If so limited, the High Authority will renew it once or several times if it finds that at the time of renewal the conditions stated in paragraph (a) to (c) above are still fulfilled.

The High Authority will revoke or modify the authorization if it finds that as a result of changes in circumstances the agreement no longer fulfills the conditions set forth above, or that the actual effects of the agreement or of the operations under it are contrary to the conditions required for its approval.

The decisions granting, modifying, refusing or revoking an authorization shall be published along with their justification; the limitations contained in the second paragraph of Article 47 shall not be applicable to such

publication.

3. The High Authority may obtain, in accordance with the provisions of Article 47, any information necessary to the application of the present article, either by a special request addressed to the interested parties or by a regulation defining the nature of the agreements, decisions or practices which must be communicated to it.

4. Any agreement or decision which is prohibited by virtue of Section 1 of the present article shall be automatically void and may not be invoked before any court or tribunal of the member States.

The High Authority has exclusive competence, subject to appeals to the Court, to rule on the conformity of such agreements or decisions with the provisions of the present article.

5. The High Authority may pronounce against enterprises:

which have concluded an agreement which is automatically void;

which have complied with, enforced or attempted to enforce by arbitration, forfeiture, boycott or any other means, an agreement or decision which is automatically void or an agreement for which approval has been refused or revoked;

which shall have obtained an authorization by means of knowingly false or misleading information; or

which engage in practices contrary to the provisions of Section 1,

fining and daily penalty payments not to exceed double the turnover actually realized on the products which have been the subject of the agreement, decision or practice contrary to the provisions of the present article; if the object of the agreement is to restrict production, technical development or investments, this maximum may be raised to 10 percent of the annual turnover of the enterprises in question, in the case of fines, and 20 percent of the daily turnover in the case of daily penalty payments.

## **Article 66**

1. Except as provided in paragraph 3 below, any transaction which would have in itself the direct or indirect effect of bringing about a concentration, within the territories mentioned in the first paragraph of Article 79, involving enterprises at least one of which falls under the application of Article 80, shall be submitted to a prior authorization of the High Authority. This obligation shall be effective whether the operation in question is carried out by a person or an enterprise, or a group of persons or enterprises, whether it concerns a single product or different products, whether it is effected by merger, acquisition of shares or assets, loan, contract, or any other means of control. For the application of the above provisions, the High Authority will define by a regulation, established after consultation with the Council, what constitutes control of an enterprise.

2. The High Authority will grant the authorization referred to in the preceding paragraph if it finds that the transaction in question will not give to the interested persons or enterprises, as concerns those of the products in question which are subject to its jurisdiction, the power:

- to influence prices, to control or restrain production or marketing, or to impair the maintenance of effective

competition in a substantial part of the market for such products; or

- to evade the rules of competition resulting from the application of the present Treaty, particularly by establishing an artificially privileged position involving a material advantage in access to supplies or markets.

In this appreciation, and in accordance with the principle of non-discrimination set forth in sub-paragraph (b) of Article 4, the High Authority will take account of the size of enterprises of the same nature existing in the Community, to the extent it deems justified to avoid or correct the disadvantages resulting from an inequality in the conditions of competition.

The High Authority may subject such an authorization to any conditions which it deems appropriate for the purposes of the present section.

Before taking action on a transaction concerning enterprises of which at least one is not subject to the application of Article 80, the High Authority will request the observations of the interested government.

3. The High Authority will exempt from the requirement of prior authorization those classes of transactions which, by the size of the assets or enterprises which they affect taken together with the nature of the concentration they bring about, must in its opinion be held to conform to the conditions required by Section 2. The regulation established for this purpose with the concurrence of the Council will also fix the conditions to which such exemption is to be subject.

4. Without limiting the applicability of the provisions of Article 47 to enterprises subject to its jurisdiction, the High Authority may obtain from physical or juridical persons who have acquired or regrouped or might acquire or regroup the rights or assets in question, any information necessary to the application of the present article concerning operations which might produce the effect mentioned in Section 1; it may do this either by a regulation established after consultation with the Council which defines the nature of the operations which must be communicated to it, or by a special demand addressed to the interested parties within the framework of such regulation.

5. If a concentration should occur, which the High Authority finds has been effected contrary to the provisions of Section 1 but which it finds nevertheless satisfies the conditions provided in Section 2, it will subject the approval of this concentration to the payment, by the persons who have acquired or regrouped the rights or assets in question, of the fine provided in the second sub-paragraph of Section 6; such payment shall not be less than half of the maximum provided in the said sub-paragraph in any case where it is clear that the authorization should have been requested. In the absence of this payment, the High Authority will apply the measures provided hereafter for concentrations found to be illegal.

If a concentration should occur which the High Authority recognizes cannot satisfy the general or special conditions to which an authorization under Section 2 would be subject, it will establish the illegal character of this concentration by a decision accompanied by a justification; after having allowed the interested parties to present their observations, the High Authority shall order the separation of the enterprises or assets wrongly concentrated or the cessation of common control, as well as any other action which it deems appropriate to re-establish the independent operation of the enterprises or assets in question and to restore normal conditions of competition. Any person directly interested may take an appeal against such decisions under the conditions provided in Article 33. Notwithstanding the provisions of that article, the Court shall be fully competent to judge whether the operation effected is a concentration within the meaning of Section 1

of the present article and of the regulations issued in application of that section. This appeal shall be suspensive. It may not be taken until the measures provided above have been ordered, unless the High Authority should agree to the taking of a separate appeal against the decision declaring the transaction illegal.

The High Authority may at any time, subject to the possible application of the provisions of the third paragraph of Article 39, take or cause to be taken such measures as it may deem necessary to safeguard the interests of competing enterprises and of third parties, and to prevent any action which might impede the execution of its decisions. Unless the Court decides otherwise, appeals shall not suspend the application of such precautionary measures.

The High Authority will grant to the interested parties a reasonable period in which to execute its decisions, at the expiration of which it may begin to impose daily penalty payments not to exceed one tenth of one percent of the value of the rights or assets in question.

Furthermore, if the interested parties fail to fulfill their obligations, the High Authority shall itself take measures of execution and in particular may: suspend the exercise, in enterprises subject to its jurisdiction, of the rights attached to the assets illegally acquired; bring about the designation by judicial authorities of a receiver-administrator for these assets; organize the forced sale of such assets in conditions preserving the legitimate interests of their proprietors; annul, with respect to physical or juridical persons who have acquired the rights or assets in question by the effect of illegal transaction, the acts, decisions, resolutions, or deliberations of the directing organs of enterprises subject to a control which has been irregularly established.

The High Authority is also empowered to address to the interested member States the recommendations necessary to obtain, within the framework of national legislation, the execution of the measures provided for in the preceding paragraphs.

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

6. The High Authority may impose fines not to exceed:

- 3 percent of the value of the assets acquired or regrouped or to be acquired or regrouped, against physical or juridical persons who shall have violated the obligations provided for in Section 4;
- 10 percent of the value of the assets acquired or regrouped, against physical or juridical persons which shall have violated the obligation provided for in Section 1; after the end of the twelfth month following the transaction, this maximum shall be raised by one-twenty-fourth per month which elapses until the High Authority establishes the existence of the violation;
- 10 percent of the value of the assets acquired or regrouped or to be acquired or regrouped, against physical or juridical persons which shall have obtained or attempted to obtain the benefit of the provisions of Section 2 by means of false or misleading information;
- 15 percent of the value of the assets acquired or regrouped, against enterprises subject to its jurisdiction which shall have participated in or lent themselves to the realization of transactions contrary to the provisions of the present article.

Persons who are the object of sanctions provided for in the present paragraph may appeal before the Court under the conditions provided for in Article 36.

7. To the extent necessary, the High Authority is empowered to address to public or private enterprises which, in law or in fact, have or acquire on the market for one of the products subject to its jurisdiction a dominant position which protects them from effective competition in a substantial part of the common market, any recommendations required to prevent the use of such position for purposes contrary to those of the present Treaty. If such recommendations are not fulfilled satisfactorily within a reasonable period, the High Authority will, by decisions taken in consultation with the interested government and under the sanctions provided for in Articles 58, 59 and 64, fix the prices and conditions of sale to be applied by the enterprise in question, or establish manufacturing or delivery programs to be executed by it.

## **CHAPTER VII – Impairment of the conditions of competition**

### **Article 67**

1. Any action of a member State which might have noticeable repercussions on the conditions of competition in the coal and steel industries shall be brought to the attention of the High Authority by the interested government.

2. If such an action is liable to provoke a serious disequilibrium by increasing the differentials in costs of production otherwise than through variations in productivity, the High Authority, after consulting the Consultative Committee and the Council, may take the following measures:

If the action of that State produces harmful effects for coal or steel enterprises coming under the jurisdiction of the State in question, the High Authority may authorize that State to grant to such enterprises assistance, the amount, conditions and duration of which shall be determined in agreement with the High Authority. The same provisions shall be applicable in case of a variation in wages and in working conditions which would have the same effects, even if such variation is not the result of a governmental act.

If the action of that State produces harmful effects for coal or steel enterprises subject to the jurisdiction of other member States, the High Authority may address a recommendation to the State in question with a view to remedying such effects by such measures as that State may deem most compatible with its own economic equilibrium.

3. If the action of the State in question reduces differentials in costs of production by granting a special advantage to, or by imposing special burdens on, coal or steel enterprises coming under its jurisdiction in comparison with the other industries in the same country, the High Authority is empowered to address the necessary recommendations to the State in question, after consulting the Consultative Committee and the Council.

## **CHAPTER VIII – Wages and movement of labor**

### **Article 68**

1. The methods of fixing wages and social benefits in force in the various member States shall not be affected, as regards the coal and steel industries, by the application of the present Treaty, subject to the following provisions.
2. If the High Authority notes that abnormally low prices practised by one or several enterprises are the result of wages fixed by these enterprises at an abnormally low level in comparison with the actual wage level in the same region, it shall make the necessary recommendations to the interested enterprises after consulting the Consultative Committee. If the abnormally low wages are the result of governmental decisions, the High Authority shall enter into consultation with the interested government; in the absence of agreement and after consulting the Consultative Committee, it may issue a recommendation to the government concerned.
3. If the High Authority finds that a lowering of wages is leading to a drop in the standard of living of the labor force and at the same time is being used as a means of permanent economic adjustment by enterprises or as a weapon of competition among enterprises, it shall address to the enterprise or government concerned, after consulting the Consultative Committee, a recommendation intended to assure the labor force of compensatory benefits to be paid for by the enterprise in question.

This provision shall not apply to:

(a.) overall measures taken by a member State to re-establish its external equilibrium, without prejudice in this latter case to the possible application of the provisions of Article 67;

(b) wage decreases resulting from the application of the sliding scale legally or contractually established;

(c) wage decreases brought about by a decrease in the cost of living;

(d) wage decreases to correct abnormal increases previously granted under exceptional circumstances no longer in existence.

4. With the exception of the cases provided for in paragraphs (a) and (b) of the above section, any wage decrease affecting the whole labor force of an enterprise or a sizeable fraction thereof shall be reported to the High Authority.

5. The recommendations provided for in the above sections may be made by the High Authority only after consultation with the Council; such consultation shall not be necessary, however, in the case of recommendations addressed to enterprises smaller than a minimum size to be defined by the High Authority in agreement with the Council.

If, in one of the member States, a modification of the provisions relative to the financing of social security or of the measures for combatting unemployment and the effects thereof, or a variation in wages, produces the effects referred to in Article 67, Sections 2 and 3, the High Authority shall be empowered to apply the provisions of Article 67.

6. If an enterprise should fail to conform to a recommendation made to it by virtue of the present article, the High Authority may impose on it fines and daily penalty payments not to exceed twice the amount of the savings in labor costs unjustifiably effected.

## **Article 69**

1. The member States bind themselves to renounce any restriction based on nationality against the employment in the coal and steel industries of workers of proven qualifications for such industries who possess the nationality of one of the member States; this commitment shall be subject to the limitations imposed by the fundamental needs of health and public order.
2. In order to apply these provisions, the member States will work out a common definition of specialities and conditions of qualification, and will determine by common agreement the limitations provided for in the preceding paragraph. They will also work out technical procedures to make it possible to bring together offers of and demands for employment in the Community as a whole.
3. In addition, for the categories of workers not falling within the provisions of the preceding paragraph and where an expansion of production in the coal and steel industries might be hampered by a shortage of qualified labor, they will adapt their immigration regulations to the extent necessary to eliminate that situation; in particular, they will facilitate the reemployment of workers from the coal and steel industries of other member States.
4. They will prohibit any discrimination in remuneration and working conditions between national workers and immigrant workers, without prejudice to special measures concerning frontier workers; in particular, they will work out among themselves any arrangements necessary so that social security measures do not stand in the way of the movement of labor.
5. The High Authority shall guide and facilitate the application by the member States of the measures taken by virtue of the present article.
6. The present article shall not interfere with the international obligations of the member States.

## **CHAPTER IX – Transport**

### **Article 70**

It is recognized that the establishment of the common market requires the application of such transport rates for coal and steel as will make possible comparable price conditions to consumers in comparable positions.

For traffic among the member States, discriminations in transport rates and conditions of any kind, based on the country of origin or of destination of the products in question, are particularly forbidden. The suppression of these discriminations involves in particular the obligation to apply to the transport of coal and steel, originating in or destined for another country of the Community, the rate scales, prices and tariff provisions of all types applicable to internal transport of the same merchandise over the same route.

The rate scales, prices, and tariff provisions of all sorts applied to the transport of coal and steel within each member State and among the member States shall be published or brought to the knowledge of the High Authority.

The application of special internal tariff measures in the interest of one or several coal- or steel-producing enterprises is subject to the prior agreement of the High Authority, which will assure itself that such



measures conform to the principles of the present Treaty; it may give a temporary or conditional agreement.

Subject to the provisions of the present article, as well as to the other provisions of the present Treaty, commercial policy for transport, particularly the establishment and modification of rates and conditions of transport of any type as well as the arrangement of transport costs required to assure the financial equilibrium of the transport enterprises themselves, remains subject to the legislative or regulatory provisions of each of the member States; the same is true for the measures of coordination or competition among different means of transport or among different routes.

## **CHAPTER X – Commercial policy**

### **Article 71**

Unless otherwise stipulated in the present Treaty, the competence of the governments of the member States with respect to commercial policy shall not be affected by application of the present Treaty.

The powers granted to the Community by the present Treaty concerning commercial policy towards third countries shall not exceed the powers which the member States are free to exercise under the international agreements to which they are parties, subject to the application of the provisions of Article 75.

The governments of the member States will lend each other the necessary assistance in the application of measures recognized by the High Authority as in conformity with the present Treaty and with international agreements in effect. The High Authority may propose to the member States concerned the methods by which this mutual assistance shall be undertaken.

### **Article 72**

Minimum rates, below which the member States are bound not to lower their customs duties on coal and steel with regard to third countries, and maximum rates, above which they are bound not to raise such duties, may be fixed by unanimous decision of the Council upon the proposal of the High Authority, which may act on its own initiative or at the request of a member State.

Between the limits fixed by the said decision, each government will set its tariffs according to its national procedure. The High Authority may, on its own initiative or at the request of one of the member States, issue an opinion suggesting the modification of the tariffs of such participating country.

### **Article 73**

The administration of import and export licensing in relations with third countries shall be the responsibility of the government on the territory of which is located the point of origin for exports or the point of destination for imports.

The High Authority is empowered to supervise the administration and control of such licensing where coal and steel are concerned. After consulting the Council, it will address recommendations to the member States wherever necessary in order either to prevent the measures adopted from having a more restrictive character than is required by the situation justifying their establishment or maintenance, or to insure coordination of measures taken in compliance with the third paragraph of Article 71 and Article 74.

## **Article 74**

In the cases enumerated below, the High Authority is empowered to take all measures in conformity with the present Treaty, in particular with the objectives defined in Article 3, and to make any recommendations to the governments which do not violate the provisions of the second paragraph of Article 71:

(1) if it is established that countries not members of the Community, or enterprises situated in such countries, are engaging in dumping operations or other practices condemned by the Havana Charter;

(2) if a difference between the offers made by enterprises outside the jurisdiction of the Community and those made by enterprises within its jurisdiction is due exclusively to the fact that those of the former are based on competitive conditions contrary to the provisions of the present Treaty;

(3) if one of the products enumerated in Article 81 of the present Treaty is imported into the territory of one or several of the member States of the Community in relatively increased quantities and under such conditions that these imports inflict or threaten to inflict serious damage on production, within the common market, of similar or directly competitive products.

However, recommendations for the establishment of quantitative restrictions may be issued: in the case cited in paragraph (2) above, only with the concurrence of the Council; and in the case cited in paragraph (3) above, only under the conditions set forth in Article 58.

## **Article 75**

The member States bind themselves to keep the High Authority informed of proposed commercial agreements or arrangements to the extent that such agreements relate to coal, steel or the importation of other raw materials and of specialized equipment necessary to the production of coal and steel in the member States.

If a proposed agreement or arrangement should contain clauses interfering with the application of the present Treaty, the High Authority will address the necessary recommendations to the interested State within a period of ten days from the receipt of the communication made to it; it may in any other case issue opinions.

## **TITLE FOUR – General Provisions**

### **Article 76**

Under the conditions set forth in an annexed Protocol, the Community shall enjoy on the territory of the member States the privileges and immunities necessary to the exercise of its functions.

### **Article 77**

The seat of the institutions of the Community shall be fixed by common agreement of the governments of the member States.

## Article 78

1. The fiscal year of the Community shall extend from July 1 to June 30.
2. The administrative expenditures of the Community include the expenditures of the High Authority, including those pertaining to the functioning of the Consultative Committee, and those of the Court, of the Secretariat of the Assembly and of the Secretariat of the Council.
3. Each one of the institutions of the Community shall draw up an estimate of its administrative expenditures, broken down into articles and chapters.

However, the number of employees and the scales of salaries, allowances and pensions, to the extent that they are not fixed by virtue of another provision of the Treaty or an implementing regulation, as well as extraordinary expenditures, shall be determined in advance by a Commission composed of the President of the Court, the President of the High Authority, the President of the Assembly and the President of the Council. The President of the Court shall preside over this Commission.

The Commission of Presidents provided for in the preceding paragraph shall group the estimates of expenditures in a general estimate which will include a special section for the expenditures of each institution.

The adoption of this general estimate shall have the effect of authorizing and obligating the High Authority to collect the corresponding receipts in accordance with the provisions of Article 49. The High Authority shall place the funds estimated as required for the functioning of each of the institutions at the disposal of the President of that institution, who may proceed or give instructions to proceed with the commitment or the settlement of expenditures.

The Commission of Presidents may authorize transfers within chapters and from one chapter to another.

4. The general estimate shall be included in the annual report presented by the High Authority to the Assembly under the provisions of Article 17.
5. If the operations of the High Authority or of the Court make it necessary, the respective President may present to the Commission of Presidents a supplementary estimate, subject to the same rules as the general estimate.
6. The Council shall appoint an Auditor to serve for three years. His term may be renewed. He shall exercise his functions in complete independence. The Auditor may not hold any other post in any institution or agency of the Community.

The Auditor shall make an annual report on the regularity of the accounting operations and of the financial management of the various institutions. He shall make this report within six months following the end of the fiscal year to which the accounts pertain, and shall communicate it to the Commission of Presidents.

The High Authority shall transmit this report to the Assembly at the same time as the report provided for in Article 17 of the Treaty.

## Article 79

The present Treaty is applicable to the European territories of the member States. It is also applicable to those European territories whose foreign relations are assumed by a member State; an exchange of letters between the government of the German Federal Republic and the government of the French Republic concerning the Saar is annexed to the present Treaty.

Each High Contracting Party binds itself to extend to the other member States the preferential measures which it enjoys with respect to coal and steel in the non-European territories subject to its jurisdiction.

#### **Article 80**

The term enterprise, as used in the present Treaty, refers to any enterprise engaged in production in the field of coal and steel within the territories mentioned in the first paragraph of Article 79; and in addition, as concerns Articles 65 and 66 as well as information required for their application and appeals based upon them, to any enterprise or organization regularly engaged in distribution other than sale to domestic consumers or to artisan industries.

#### **Article 81**

The terms « coal » and « steel » are defined in Annex I to the present Treaty.

Additions may be made to the lists set forth in this annex by unanimous decision of the Council.

#### **Article 82**

The turnover which shall serve as basis for the calculation of the fines and daily penalty payments applicable to enterprises by virtue of the present Treaty shall be the turnover on the products subject to the jurisdiction of the High Authority.

#### **Article 83**

The establishment of the Community does not in any way prejudice the regime of ownership of the enterprises subject to the provisions of the present Treaty.

#### **Article 84**

In the provisions of the present Treaty, the words « present Treaty » shall be understood as referring to the clauses of the said Treaty and its annexes, of the annexed Protocols, and of the Convention containing the Transitional Provisions.

#### **Article 85**

The initial and transitional measures agreed upon by the High Contracting Parties with a view to permitting the application of the provisions of the present Treaty are set forth in an annexed Convention.

#### **Article 86**

The member States bind themselves to take all general and specific measures which will assure the

execution of their obligations under the decisions and recommendations of the institutions of the Community, and facilitate the accomplishment of the Community's purposes.

The member States bind themselves to refrain from any measures which are incompatible with the existence of the common market referred to in Articles 1 and 4.

To the extent of their competence, the member States will take all appropriate measures to assure the international payments arising out of trade in coal and steel within the common market; they will lend assistance to each other to facilitate such payments.

Officials of the High Authority charged with verifying information shall enjoy on the territories of the member States, to the extent necessary for the accomplishment of their mission, such rights and powers as are granted by the laws of such States to officials of its own tax services. The missions and the status of the officials charged with them shall be duly communicated to the State in question. Officials of such State may, at the request of such State or of the High Authority, assist those of the High Authority in carrying out their mission.

#### **Article 87**

The High Contracting Parties agree not to avail themselves of any treaties, conventions or agreements existing among them to submit any difference arising out of the interpretation or application of the present Treaty to a method of settlement other than those provided for herein.

#### **Article 88**

If the High Authority deems that a State is delinquent with respect to one of the obligations incumbent upon it by virtue of the present Treaty, it will, after permitting the State in question to present its views, take note of the delinquency in a decision accompanied by a justification. It will allow the State in question a period of time within which to provide for the execution of its obligation.

Such State may appeal to the Court's plenary jurisdiction within a period of two months from the notification of the decision.

If the State has not taken steps for the fulfillment of its obligation within the period fixed by the High Authority, or if its appeal has been rejected, the High Authority may, with the concurrence of the Council acting by a 2/3 majority:

(a) suspend the payment of sums which the High Authority may owe to the State in question under the present Treaty;

(b) adopt measures or authorize the other member States to adopt measures involving an exception to the provisions of Article 4, so as to correct the effects of the delinquency in question.

An appeal to the Court's plenary jurisdiction may be brought against the decisions taken in application of paragraphs (a) and (b) within two months following their notification.

If these measures should prove inoperative, the High Authority will lay the matter before the Council.

## **Article 89**

Any dispute among member States concerning the application of the present Treaty, which cannot be settled by another procedure provided for in the present Treaty, may be submitted to the Court at the request of one of the States parties to the dispute.

The Court shall also have jurisdiction to settle any dispute among member States related to the purpose of the present Treaty, if such dispute is submitted to it by virtue of an agreement to arbitrate.

## **Article 90**

If an act committed by an enterprise in violation of the present Treaty also constitutes a violation of an obligation under the legislation of the State to which the enterprise in question is subject, and if legal or administrative action is instituted against the enterprise in question under such legislation, the State in question shall so inform the High Authority, which may suspend action in the premises.

If the High Authority suspends action, it shall be kept informed of the status of the proceedings and permitted to produce any pertinent documents, expert advice and evidence. It shall also be informed of the final decision taken in the case, and shall take account of this decision in determining any sanctions which it may be led to pronounce.

## **Article 91**

If an enterprise does not make within the prescribed time-limit a payment for which it is liable to the High Authority either by virtue of a provision of the present Treaty or the agreements in application thereof or by virtue of a fine or a daily penalty payment imposed by the High Authority, the latter may suspend settlement of sums due by the High Authority to the said enterprise up to the amount of the payment in question.

## **Article 92**

The decisions of the High Authority imposing financial obligations on enterprises are executory.

They shall be enforced on the territory of member States through the legal procedures in effect in each of these States, after the writ of execution in use in the State on the territory of which the decision is to be carried out has been placed upon them; this shall be done with no other formality than the certification of the authenticity of such decisions. The execution of these formalities shall be the responsibility of a Minister which each of the governments shall designate for this purpose.

Enforcement of such decisions can be suspended only by a decision of the Court.

## **Article 93**

The High Authority will maintain whatever relationships appear useful with the United Nations and the Organization for European Economic Cooperation, and will keep these organizations regularly informed of the activity of the Community.

## **Article 94**

The relations of the institutions of the Community with the Council of Europe will be assured under the terms of an annexed Protocol.

### **Article 95**

In all cases not expressly provided for in the present Treaty in which a decision or a recommendation of the High Authority appears necessary to fulfill, in the operation of the common market for coal and steel and in accordance with the provisions of Article 5 above, one of the purposes of the Community as defined in Articles 2, 3 and 4, such decision or recommendation may be taken subject to the unanimous concurrence of the Council and after consultation with the Consultative Committee.

The same decision or recommendation, taken in the same manner, shall fix any sanctions to be applied.

If, following the expiration of the transition period provided for by the Convention containing the transitional provisions, unforeseen difficulties which are brought out by experience in the means of application of the present Treaty, or a profound change in the economic or technical conditions which affects the common coal and steel market directly, should make necessary an adaptation of the rules concerning the exercise by the High Authority of the powers which are conferred upon it, appropriate modifications may be made provided that they do not modify the provisions of Articles 2, 3 and 4, or the relationship among the powers of the High Authority and the other institutions of the Community.

These modifications will be proposed jointly by the High Authority and the Council acting by a five-sixths majority. They shall then be submitted to the opinion of the Court. In its examination, the Court may look into all elements of law and fact. If the Court should recognize that they conform to the provisions of the preceding paragraph, such proposals shall be transmitted to the Assembly. They will enter into force if they are approved by the Assembly acting by a majority of three-quarters of the members present and voting comprising two-thirds of the total membership.

### **Article 96**

Following the expiration of the transition period, the government of each member State and the High Authority may propose amendments to the present Treaty. Such proposals will be submitted to the Council. If the Council, acting by a two-thirds majority, approves a conference of representatives of the governments of the member States, such a conference shall be immediately convoked by the President of the Council, with a view to agreeing on any modifications to be made in the provisions of the Treaty.

Such amendments will enter into force after having been ratified by all of the member States in conformity with their respective constitutional rules.

### **Article 97**

The present Treaty is concluded for a period of fifty years from the date of its entry into force.

### **Article 98**

Any European State may request to accede to the present Treaty. It shall address its request to the Council, which shall act by unanimous vote after having obtained the opinion of the High Authority. Also by a unanimous vote, the Council shall fix the terms of accession. It shall become effective on the day the

instrument of accession is received by the government acting as depository of the Treaty.

#### **Article 99**

The present Treaty shall be ratified by all the member States in accordance with their respective constitutional rules; the instruments of ratification shall be deposited with the Government of the French Republic.

The Treaty shall enter into force on the date of the deposit of the instrument of ratification of the last signatory nation to accomplish that formality.

In the event that all the instruments of ratification have not been deposited within a period of six months following the signature of the present Treaty, the governments of the States which have effected such deposit will consult among themselves on the measures to be taken.

#### **Article 100**

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

IN WITNESS WHEREOF the undersigned Plenipotentiaries have placed their signatures and seals at the end of the present Treaty.

Done at Paris, the eighteenth of April one thousand nine hundred and fifty-one.

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