

## Treaty establishing the European Coal and Steel Community (Paris, 18 April 1951) — Consolidated version 1997

**Caption:** Treaty establishing the European Coal and Steel Community as amended by the Treaty of Amsterdam of 2 October 1997.

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## Treaty establishing the European Coal and Steel Community

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[Consolidated version including the amendments of the Treaty of Amsterdam of 2 October 1997].

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

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

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

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

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

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

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

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Dr Konrad ADENAUER, Chancellor and Minister for Foreign Affairs;

HIS ROYAL HIGHNESS THE PRINCE ROYAL OF BELGIUM:

Mr Paul VAN ZEELAND, Minister for Foreign Affairs,

Mr Joseph MEURICE, Minister for Foreign Trade;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Mr Robert SCHUMAN, Minister for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Mr Carlo SFORZA, Minister for Foreign Affairs;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG:

Mr Joseph BECH, Minister for Foreign Affairs;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

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

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

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

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

### **Article 1**

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

### **Article 2**

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

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

### **Article 3**

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

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

favour.

#### **Article 4**

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

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

#### **Article 5**

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

To this end the Community shall:

- provide guidance and assistance for the parties concerned, by obtaining information, organizing consultations and laying down general objectives;
- place financial resources at the disposal of undertakings for their investment and bear part of the cost of readaptation;
- ensure the establishment, maintenance and observance of normal competitive conditions and exert direct influence upon production or upon the market only when circumstances so require;
- publish the reasons for its actions and take the necessary measures to ensure the observance of the rules laid down in this Treaty.

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

#### **Article 6**

The Community shall have legal personality.

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

In each of the Member States, the Community shall enjoy the most extensive legal capacity accorded to

legal persons constituted in that State; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

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

## **TITLE II - The institutions of the Community**

### **Article 7**

The institutions of the Community shall be:

- a ‘COMMISSION’;
- a ‘EUROPEAN PARLIAMENT’;
- a ‘COUNCIL’;
- a COURT OF JUSTICE;
- a COURT OF AUDITORS.

The Commission shall be assisted by a Consultative Committee.

## **CHAPTER 1 - The Commission**

### **Article 8**

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

### **Article 9**

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

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

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

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

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

In the performance of these duties, they shall neither seek nor take instructions from any government or

from any other body. They shall refrain from any action incompatible with their duties. Each Member State undertakes to respect this principle and not to seek to influence the Members of the Commission in the performance of their tasks.

The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of the obligations, the Court of Justice may, on application by the Council or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 12a or deprived of his right to a pension or other benefits in its stead.

### **Article 10**

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

Their term of office shall be renewable.

2. The governments of the Member States shall nominate by common accord the person they intend to appoint as President of the Commission; the nomination shall be approved by the European Parliament.

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

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

### **Article 11**

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

### **Article 12**

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

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

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

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

#### **Article 12a**

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

#### **Article 13**

The Commission shall work under the political guidance of its President.

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

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

#### **Article 14**

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

Decisions shall be binding in their entirety.

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

Opinions shall have no binding force.

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

#### **Article 15**

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

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

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

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

#### **Article 16**

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



of cooperation.

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

#### **Article 17**

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

#### **Article 18**

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

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

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

#### **Article 19**

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

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

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

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

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

### **CHAPTER 2 - The European Parliament**

#### **Article 20**

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

The number of Members of the European Parliament shall not exceed seven hundred.

#### **Article 20a**

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

#### **Article 20b**

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

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

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

#### **Article 20c**

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

#### **Article 20d**

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

In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a Member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he shall refer the matter to the institution concerned, which shall have a period of three months in which to inform him of its views. The Ombudsman shall then forward a report to the European Parliament and the institution concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

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

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

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

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

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

## Article 21

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

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

Belgium	25
Denmark	16
Germany	99
Greece	25
Spain	64
France	87
Ireland	15
Italy	87
Luxembourg	6
Netherlands	31
Austria	21
Portugal	25
Finland	16
Sweden	22
United Kingdom	87.

In the event of amendments to this paragraph, the number of representatives elected in each Member State must ensure appropriate representation of the peoples of the States brought together in the Community.

3. Representatives shall be elected for a term of five years.

4. The European Parliament shall draw up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

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

5. The European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting unanimously, lay down the regulations and general conditions governing the performance of the duties of its Members.

## **Article 22**

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

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

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

## **Article 23**

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

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

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

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

## **Article 24**

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

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

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

## **Article 25**

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

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

## **CHAPTER 3 - The Council**

**Article 26**

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

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

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

**Article 27**

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

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

**Article 27a**

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

**Article 28**

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

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

— of an absolute majority of the representatives of the Member States, including the votes of the representatives of two Member States which each produce at least one tenth of the total value of the coal and steel output of the Community; or

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

Wherever this Treaty requires a unanimous decision or unanimous assent, such decision or assent shall have been duly given if all the members of the Council vote in favour. However, for the purposes of applying Articles 21, 32, 32a, 45b and 78h of this Treaty, and Article 16, the third paragraph of Article 20, the fifth paragraph of Article 28 and Article 44 of the Protocol on the Statute of the Court of Justice, abstention by members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

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

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

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

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

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

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

### **Article 29**

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

### **Article 30**

1. A committee consisting of the Permanent Representatives of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.

2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General, High Representative for the common foreign and security policy, who shall be assisted by a Deputy Secretary-General responsible for the running of the General Secretariat. The Secretary-General and the Deputy Secretary-General shall be appointed by the Council acting unanimously.

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

3. The Council shall adopt its Rules of Procedure.'

## **CHAPTER 4 - The Court of Justice**

### **Article 31**

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

### **Article 32**

The Court of Justice shall consist of 15 Judges.

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

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

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

### **Article 32a**

The Court of Justice shall be assisted by eight Advocates General. However, a ninth Advocate General shall be appointed as from 1 January 1995 until 6 October 2000.

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

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

### **Article 32b**

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

Every three years there shall be a partial replacement of the Judges. Eight and seven Judges shall be replaced

alternately.

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

Retiring Judges and Advocates General shall be eligible for reappointment.

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

### **Article 32c**

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

### **Article 32d**

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

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

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

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

### **Article 33**

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



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

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

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

#### **Article 34**

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

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

#### **Article 35**

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

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

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

#### **Article 36**

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

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

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

**Article 37**

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

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

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

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

**Article 38**

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

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

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

**Article 39**

Actions brought before the Court shall not have suspensory effect.

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

The Court may prescribe any other necessary interim measures.

**Article 40**

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

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

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

#### **Article 41**

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

#### **Article 42**

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

#### **Article 43**

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

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

#### **Article 44**

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

#### **Article 45**

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

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

### **CHAPTER 5 - The Court of Auditors**

#### **Article 45a**

The Court of Auditors shall carry out the audit.

#### **Article 45b**

1. The Court of Auditors shall consist of 15 Members.
2. The Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

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

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

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

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

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

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

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

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

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

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

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

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

#### **Article 45c**

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

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

be published in the *Official Journal of the European Communities*.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound. In doing so, it shall report in particular on any cases of irregularity.

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

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

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

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Community, on the premises of any body which manages revenue or expenditure on behalf of the Community and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions of the Community, any bodies managing revenue or expenditure on behalf of the Community, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

In respect of the European Investment Bank's activity in managing Community expenditure and revenue, the Court's rights of access to information held by the Bank shall be governed by an agreement between the Court, the Bank and the Commission. In the absence of an agreement, the Court shall nevertheless have access to information necessary for the audit of Community expenditure and revenue managed by the Bank.

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

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

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

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

5. The Court of Auditors shall also draw up a separate annual report stating whether the accounting other than that for the expenditure and revenue referred to in paragraph 1 and the financial management by the

Commission relating thereto have been effected in a regular manner. It shall draw up this report within six months of the end of the financial year to which the accounts refer and shall submit it to the Commission and the Council. The Commission shall forward it to the European Parliament.

### **TITLE III - Economic and social provisions**

#### **CHAPTER 1 - General provisions**

##### **Article 46**

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

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

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

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

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

It may publish the studies and information mentioned above.

##### **Article 47**

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

The Commission must not disclose information of the kind covered by the obligation of professional

secrecy, in particular information about undertakings, their business relations or their cost components. Subject to this reservation, it shall publish such data as could be useful to governments or to any other parties concerned.

The Commission may impose fines or periodic penalty payments on undertakings which evade their obligations under decisions taken in pursuance of this Article or which knowingly furnish false information. The maximum amount of such fines shall be 1% of the annual turnover, and the maximum amount of such penalty payments shall be 5% of the average daily turnover for each day's delay.

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

#### **Article 48**

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

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

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

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

## **CHAPTER 2 - Financial provisions**

#### **Article 49**

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

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

It may receive gifts.

#### **Article 50**

1. The levies are intended to cover:

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

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

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

4. The portion of the expenditure of the budget of the Communities covered by the levies provided for in Article 49 shall be fixed at 18 million units of account.

The Commission shall submit annually to the Council a report on the basis of which the Council shall examine whether there is reason to adjust this figure to changes in the budget of the Communities. The Council shall act by the majority laid down in the first sentence of the fourth paragraph of Article 28. The adjustment shall be made on the basis of an assessment of developments in expenditure arising from the application of this Treaty.

5. The portion of the levies assigned to cover expenditure under the budget of the Communities shall be allocated by the Commission for the implementation of that budget in accordance with the timetable provided for in the financial regulations adopted pursuant to Article 209(b) of the Treaty establishing the European Community and Article 183(b) of the Treaty establishing the Atomic Energy Community.'.

## **Article 51**

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

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

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

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



parties.

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

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

#### **Article 52**

(Repealed)

#### **Article 53**

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

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

b) with the unanimous assent of the Council, itself make any financial arrangements serving the same purposes.

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

### **CHAPTER 3 - Investment and financial aid**

#### **Article 54**

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

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

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

The Commission may, after giving the parties concerned full opportunity to submit their comments, deliver

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

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

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

### **Article 55**

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

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

a) by inducing joint financing by the undertakings concerned; or

b) by allotting for that purpose any funds received as gifts; or

c) with the assent of the Council, by allotting for that purpose funds derived from the levies provided for in Article 50; the limit laid down in paragraph 2 of that Article must not, however, be exceeded.

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

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

### **Article 56**

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

a) shall obtain the opinion of the Consultative Committee;

b) may facilitate, in the manner laid down in Article 54, either in the industries within its jurisdiction or, with the assent of the Council, in any other industry, the financing of such programmes as it may approve for the creation of new and economically sound activities capable of reabsorbing the redundant workers into productive employment;

c) shall provide non repayable aid towards:

- the payment of tide over allowances to workers;
- the payment of resettlement allowances to workers;
- the financing of vocational retraining for workers having to change their employment.

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

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

a) may facilitate, in the manner laid down in Article 54, either in the industries within its jurisdiction or, with the assent of the Council, in any other industry, the financing of such programmes as it may approve for the creation of new and economically sound activities or for the conversion of existing undertakings capable of reabsorbing the redundant workers into productive employment;

b) may provide non repayable aid towards:

- the payment of tideover allowances to workers;
- the payment of allowances to undertakings to enable them to continue paying such of their workers as may have to be temporarily laid off as a result of the undertakings' change of activity;
- the payment of resettlement allowances to workers;
- the financing of vocational retraining for workers having to change their employment.

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

## **CHAPTER 4 – Production**

### **Article 57**

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

- cooperation with governments to regularize or influence general consumption, particularly that of the public services;

— intervention in regard to prices and commercial policy as provided for in this Treaty.

### **Article 58**

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

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

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

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

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

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

### **Article 59**

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

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

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

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

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

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

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

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

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

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

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

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

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

## **CHAPTER 5 – Prices**

### **Article 60**

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

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

— discriminatory practices involving, within the common market, the application by a seller of dissimilar

conditions to comparable transactions, especially on grounds of the nationality of the buyer.

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

2. For these purposes:

a) the price lists and conditions of sale applied by undertakings within the common market must be made public to the extent and in the manner prescribed by the Commission after consulting the Consultative Committee. If the Commission finds that an undertaking's choice of point on which it bases its price lists is abnormal and in particular makes it possible to evade the provisions of subparagraph (b), it shall make appropriate recommendations to that undertaking;

b) the methods of quotation used must not have the effect that prices charged by an undertaking in the common market, when reduced to their equivalent at the point chosen for its price lists, result in:

— increases over the price shown in the price list in question for a comparable transaction; or

— reductions below that price the amount of which exceeds either:

— the extent enabling the quotation to be aligned on the price list, based on another point which secures the buyer the most advantageous delivered terms; or

— the limits fixed, by decision of the Commission after the Consultative Committee has delivered its opinion, for each category of product, with due regard, where appropriate, for the origin and destination of products.

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

## **Article 61**

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

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

b) fix minimum prices within the common market, if it finds that a manifest crisis exists or is imminent and that such a decision is necessary to attain the objectives set out in Article 3; after consulting the associations to which the undertakings concerned belong, or the undertakings themselves, fix, by methods appropriate to the nature of the export markets, minimum or maximum export

prices, if such an arrangement can be effectively supervised and is necessary both in view of the dangers to the undertakings resulting from the state of the market and in order to secure the acceptance in international economic relations of the objective set out in Article 3(f); any fixing of minimum prices shall be without prejudice to the measures provided for in the last subparagraph of Article 60(2).

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

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

## **Article 62**

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

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

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

## **Article 63**

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

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

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

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

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

**Article 64**

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

**CHAPTER 6 - Agreements and concentrations****Article 65**

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

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

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

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

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

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

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



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

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

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

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

5. On any undertaking which has entered into an agreement which is automatically void, or has enforced or attempted to enforce, by arbitration, penalty, boycott or any other means, an agreement or decision which is automatically void or an agreement for which authorization has been refused or revoked, or has obtained an authorization by means of information which it knew to be false or misleading, or has engaged in practices prohibited by paragraph 1 of this Article, the Commission may impose fines or periodic penalty payments not exceeding twice the turnover on the products which were the subject of the agreement, decision or practice prohibited by this Article; if, however, the purpose of the agreement, decision or practice is to restrict production, technical development or investment, this maximum may be raised to 10% of the annual turnover of the undertakings in question in the case of fines, and 20% of the daily turnover in the case of periodic penalty payments.

## Article 66

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

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

— to determine prices, to control or restrict production or distribution or to hinder effective competition in a substantial part of the market for those products; or

— to evade the rules of competition instituted under this Treaty, in particular by establishing an artificially privileged position involving a substantial advantage in access to supplies or markets.

In assessing whether this is so, the Commission shall, in accordance with the principle of non discrimination laid down in Article 4(b), take account of the size of like undertakings in the Community, to the extent it

considers justified in order to avoid or correct disadvantages resulting from unequal competitive conditions.

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

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

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

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

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

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

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

The Commission shall allow the parties concerned a reasonable period in which to comply with its

decisions, on expiration of which it may impose daily penalty payments not exceeding one tenth of 1% of the value of the rights or assets in question.

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

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

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

6. The Commission may impose fines not exceeding:

— 3% of the value of the assets acquired or regrouped or to be acquired or regrouped, on natural or legal persons who have evaded the obligations laid down in paragraph 4;

— 10% of the value of the assets acquired or regrouped, on natural or legal persons who have evaded the obligations laid down in paragraph 1; this maximum shall be increased by one twenty fourth for each month which elapses after the end of the 12th month following completion of the transaction until the Commission establishes that there has been an infringement;

— 10% of the value of the assets acquired or regrouped or to be acquired or regrouped, on natural or legal persons who have obtained or attempted to obtain authorization under paragraph 2 by means of false or misleading information;

— 15% of the value of the assets acquired or regrouped, on undertakings within its jurisdiction which have engaged in or been party to transactions contrary to the provisions of this Article.

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

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

## **CHAPTER 7 - Interference with conditions of competition**

**Article 67**

1. Any action by a Member State which is liable to have appreciable repercussions on conditions of competition in the coal or the steel industry shall be brought to the knowledge of the Commission by the government concerned.

2. If the action is liable, by substantially increasing differences in production costs otherwise than through changes in productivity, to provoke a serious disequilibrium, the Commission, after consulting the Consultative Committee and the Council, may take the following steps:

— if the action taken by that State is having harmful effects on the coal or steel undertakings within the jurisdiction of that State, the Commission may authorize it to grant aid to these undertakings, the amount, conditions and duration of which shall be determined in agreement with the Commission. The same shall apply in the case of any change in wages and working conditions which would have the same effects, even if not resulting from any action by that State;

— if the action taken by that State is having harmful effects on the coal or steel undertakings within the jurisdiction of other Member States, the Commission shall make a recommendation to that State with a view to remedying these effects by such measures as that State may consider most compatible with its own economic equilibrium.

3. If the action taken by that State reduces differences in production costs by allowing special benefits to or imposing special charges on the coal or steel undertakings within its jurisdiction in comparison with the other industries in the same country, the Commission is empowered to make the necessary recommendations to that State after consulting the Consultative Committee and the Council.

**CHAPTER 8 - Wages and movement of workers****Article 68**

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

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

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

This provision shall not apply to:

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

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

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

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

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

## **Article 69**

1. Member States undertake to remove any restriction based on nationality upon the employment in the coal and steel industries of workers who are nationals of Member States and have recognized qualifications in a coalmining or steel making occupation, subject to the limitations imposed by the basic requirements of health and public policy.

2. For the purpose of applying this provision, Member States shall draw up common definitions of skilled trades and qualifications therefor, shall determine by common accord the limitations provided for in paragraph 1, and shall endeavour to work out arrangements on a Community wide basis for bringing offers of employment into touch with applications for employment.

3. In addition, with regard to workers not covered by paragraph 2, they shall, should growth of coal or steel production be hampered by a shortage of suitable labour, adjust their immigration rules to the extent needed to remedy this state of affairs; in particular, they shall facilitate the re employment of workers from the coal and steel industries of other Member States.

4. They shall prohibit any discrimination in remuneration and working conditions between nationals and migrant workers, without prejudice to special measures concerning frontier workers; in particular, they shall endeavour to settle among themselves any matters remaining to be dealt with in order to ensure that social

security arrangements do not inhibit labour mobility.

5. The Commission shall guide and facilitate action by Member States in applying this Article.

6. This Article shall not affect the international obligations of Member States.

## **CHAPTER 9 – Transport**

### **Article 70**

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

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

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

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

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

## **CHAPTER 10 - Commercial policy**

### **Article 71**

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

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

The governments of Member States shall afford each other such mutual assistance as is necessary to

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

#### **Article 72**

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

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

#### **Article 73**

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

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

#### **Article 74**

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

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

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

**Article 75**

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

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

**TITLE IV - General provisions****Article 76**

The Community shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol of 8 April 1965 on the privileges and immunities of the European Communities.

**Article 77**

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

**Article 78**

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

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

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

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

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

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

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



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

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

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

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

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

a) the Council may, acting by a qualified majority, modify any of the amendments adopted by the European Parliament;

b) with regard to the proposed modifications:

— where a modification proposed by the European Parliament does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted;

— where a modification proposed by the European Parliament has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a qualified majority, accept this proposed modification. In the absence of a decision to accept it, the proposed modification shall stand as rejected;

— where, in pursuance of one of the two preceding subparagraphs, the Council has rejected a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft administrative budget or fix another amount.

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

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

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

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

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

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

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

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

- the trend, in terms of volume, of the gross national product within the Community;
- the average variation in the budgets of the Member States;

and

- the trend of the cost of living during the preceding financial year.

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

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

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

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

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

#### **Article 78a**

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

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

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

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

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

#### **Article 78b**

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

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

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

If the decision relates to expenditure which does not necessarily result from this Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the European Parliament; within 30 days the European Parliament, acting by a majority of its Members and three fifths of the votes cast, may adopt a different decision on the expenditure in excess of the one twelfth referred to in paragraph 1. This

part of the decision of the Council shall be suspended until the European Parliament has taken its decision. If within the said period the European Parliament has not taken a decision which differs from the decision of the Council, the latter shall be deemed to be finally adopted.

#### **Article 78c**

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

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

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

#### **Article 78d**

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

#### **Article 78e**

(Repealed)

#### **Article 78f**

(Repealed)

#### **Article 78g**

1. The European Parliament, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts and the financial statement referred to in Article 78d, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, the statement of assurance referred to in Article 45c(1), second subparagraph, and any relevant special reports by the Court of Auditors.

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

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

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

#### **Article 78h**

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

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

#### **Article 78i**

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

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

#### **Article 79**

This Treaty shall apply to the European territories of the High Contracting Parties. It shall also apply to European territories for whose external relations a signatory State is responsible.

The provisions of this Treaty shall apply to the Åland Islands in accordance with the provisions of Protocol No 2 of the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

Notwithstanding the preceding paragraphs:

- a) This Treaty shall not apply to the Faeroe Islands.
- b) This Treaty shall not apply to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus.

c) This Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Decision of the Council of the European Communities of 22 January 1972 concerning the accession of new Member States to the European Coal and Steel Community.

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

#### **Article 80**

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

#### **Article 81**

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

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

#### **Article 82**

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

#### **Article 83**

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

#### **Article 84**

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

#### **Article 85**

(Repealed)

#### **Article 86**

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

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

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

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

#### **Article 87**

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

#### **Article 88**

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

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

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

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

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

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

#### **Article 89**

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

The Court shall also have jurisdiction in any dispute between Member States which relates to the subject

matter of this Treaty, if the dispute is submitted to it under a special agreement between the parties.

#### **Article 90**

If failure to fulfil an obligation under this Treaty on the part of an undertaking also constitutes an infringement of its obligations under the law of its State and judicial or administrative action is being taken under that law against the undertaking, the State in question shall so inform the Commission, which may defer its decision.

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

#### **Article 91**

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

#### **Article 92**

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

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

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

#### **Article 93**

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

#### **Article 94**

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

#### **Article 95**

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



Article 5, one of the objectives of the Community set out in Articles 2, 3 and 4, the decision may be taken or the recommendation made with the unanimous assent of the Council and after the Consultative Committee has been consulted.

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

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

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

#### **Article 96**

1. Where a decision has been taken to suspend the voting rights of the representative of the government of a Member State in accordance with Article F.1(2) of the Treaty on European Union, these voting rights shall also be suspended with regard to this Treaty.

2. Moreover, where the existence of a serious and persistent breach by a Member State of principles mentioned in Article F(1) of the Treaty on European Union has been determined in accordance with Article F.1(1) of that Treaty, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Treaty to the Member State in question. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under this Treaty shall in any case continue to be binding on that State.

3. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken in accordance with paragraph 2 in response to changes in the situation which led to their being imposed.

4. When taking decisions referred to in paragraphs 2 and 3, the Council shall act without taking into account the votes of the representative of the government of the Member State in question. By way of derogation from Article 28, fourth paragraph, a qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 28, fourth paragraph.

This paragraph shall also apply in the event of voting rights being suspended in accordance with paragraph 1. In such cases, a decision requiring unanimity shall be taken without the vote of the representative of the government of the Member State in question.

#### **Article 97**

This Treaty shall expire on 23 July 2002.

#### **Article 98**

(Repealed)

#### **Article 99**

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

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

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

#### **Article 100**

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

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

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

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