

Treaty establishing the European Coal and Steel Community (Paris, 18 April 1951) — Consolidated version 1992

Caption: Treaty establishing the European Coal and Steel Community as amended by the Treaty of Maastricht of 7 February 1992.

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Consolidation CVCE.

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Treaty constituting the European Coal and Steel Community

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[Consolidated version including the amendments of the Treaty of Maastricht of 7 February 1992].

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

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

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

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

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

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

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

THE PRESIDENT OF THE GERMAN FEDERAL REPUBLIC:

DR. Konrad ADENAUER, Chancellor and Minister for Foreign Affairs;

HIS ROYAL HIGHNESS THE PRINCE ROYAL OF BELGIUM:

MR. Paul VAN ZEELAND, Minister for Foreign Affairs,

MR. Joseph MEURICE, Minister for Foreign Trade;

THE PRESIDENT OF THE FRENCH REPUBLIC:

MR. Robert SCHUMAN, Minister for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

MR. Carlo SFORZA, Minister for Foreign Affairs;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG:

MR. Joseph BECH, Minister for Foreign Affairs;

HER ROYAL HIGHNESS THE QUEEN OF THE NETHERLANDS:

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

MR. J. R. M. VAN DEN BRINK, Minister of Economic Affairs;

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

TITLE ONE — The European Coal and Steel Community

Article 1

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

Article 2

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

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

Article 3

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

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

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

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

Article 4

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

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

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

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

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

Article 5

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

To this end, the Community will:

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

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

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

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

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

Article 6

The Community shall have juridical personality.

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

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

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

TITLE TWO — The Institutions of the Community

Article 7

The institutions of the Community shall be:

- a COMMISSION (hereinafter referred to as ‘the Commission’);
- a COMMON ASSEMBLY (hereinafter referred to as ‘the European Parliament’);
- a SPECIAL COUNCIL OF MINISTERS (hereinafter referred to as “the Council”);
- a COURT OF JUSTICE;
- a COURT OF AUDITORS.

The Commission shall be assisted by a Consultative Committee.

CHAPTER I — The Commission

Article 8

The Commission shall be responsible for assuring the fulfilment of the purposes stated in the present Treaty under the terms thereof.

Article 9

1. The Commission shall consist of seventeen 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 these 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, after consulting the European Parliament, the person they intend to appoint as President of the Commission.

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

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

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

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

Article 11

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 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 the execution of its responsibilities under the present Treaty and in accordance with the provisions thereof, the Commission shall issue decisions, recommendations and opinions.

Decisions shall be binding in all their details.

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

Opinions shall not be binding.

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

Article 15

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

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

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

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

Article 16

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

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

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

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

Article 17

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

There shall be created a Consultative Committee, attached to the Commission. It shall consist of not less than seventy-two and not more than ninety-six members, and shall include producers, workers and consumers and dealers in equal numbers.

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

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

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

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

The 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 any case it deems proper. It shall be required to do so whenever such consultation is prescribed by the present Treaty.

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

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

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

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

CHAPTER II — The European Parliament

Article 20

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

Article 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

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

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

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

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

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

Belgium	24
Denmark	16
Germany	81
Greece	24
Spain	60
France	81
Ireland	15
Italy	81
Luxembourg	6
Netherlands	25
Portugal	24
United Kingdom	81].

3. The European Parliament shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in 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.

Article 22

The European Parliament shall hold an annual session. It shall convene regularly on the second Tuesday in March.

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

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

Article 23

The European Parliament shall designate its President and officers from among its membership.

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

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

CHAPTER III — The Council

Article 26

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

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

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

Article 27

The Council shall 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 following order of Member States:

— for a first cycle of six years: Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Portugal, United Kingdom;

— for the following cycle of six years: Denmark, Belgium, Greece, Germany, France, Spain, Italy, Ireland, Netherlands, Luxembourg, United Kingdom, Portugal.

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, that 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-ninth 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-ninth 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, 78e 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 the Member States, including the votes of the representatives of two Member States which each produce at least one-ninth of the total value of the coal and steel output of the Community. However, for the purpose of applying Articles 78, 78b and 78e of this Treaty which require a qualified majority, the votes of the members of the Council are weighted as follows:

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

For their adoption, acts shall require at least 54 votes in favour, cast by not less than eight 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.

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

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

3. The Council shall adopt its rules of procedure.

CHAPTER IV — The Court

Article 31

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

Article 32

The Court of Justice shall consist of thirteen Judges.

The Court of Justice shall sit in plenary session. It may, however, form Chambers, each consisting of three or five 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 six Advocates General.

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. Seven and six Judges shall be replaced alternately.

Every three years there shall be a partial replacement of the Advocates General. Three 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 for the purpose of protecting its prerogatives.

Article 34

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

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

Article 35

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

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

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

Article 36

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

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

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

Article 37

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

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

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

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

Article 38

On the petition of a member State or of the Commission, the Court may annul the acts of the European Parliament or of the Council.

The petition must be submitted within one month from the publication of such act of the European Parliament or of the notification of such act of the Council to the member States or to the Commission.

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

Article 39

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

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

It may prescribe any other necessary provisional measures.

Article 40

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

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

Article 42

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

Article 43

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

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

Article 44

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

Article 45

The 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 V — 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 twelve 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.

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

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

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

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

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

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

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

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

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

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

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

9. The provisions of the Protocol on the Privileges and Immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the members of the Court of Auditors.

Article 45c

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

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

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

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

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

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

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

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

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

these institutions to the observations of the Court of Auditors, in the Official Journal of the European Communities.

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

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

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

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

TITLE THREE — Economic and Social Provisions

CHAPTER I — General Provisions

Article 46

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

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

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

- (1) carry on a permanent study of markets and price tendencies;
- (2) periodically draw up non-compulsory program forecasts dealing with production, consumption, exports and imports;
- (3) periodically work out general programs with respect to modernization, the long-term orientation of manufacturing and the expansion of productive capacity;
- (4) at the request of the interested governments, participate in the study of the possibilities of reemployment, either in existing industries or through the creation of new activities, of workers set at liberty by the evolution of the market or by technical transformations;
- (5) gather all information necessary to the appraisal of the possibilities of improving the living and working

conditions of the labor force in the industries under its jurisdiction, and of the risks which menace such living conditions.

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

It may make public the studies and information mentioned above.

Article 47

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

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

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

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

Article 48

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

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

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

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

CHAPTER II — Financial Provisions

Article 49

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

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

It may also receive grants.

Article 50

1. The levies are intended to cover:

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

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

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

Article 51

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

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

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

2. In accordance with the terms of Article 54, the Commission may guarantee loans granted directly to

enterprises by third parties.

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

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

Article 52

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

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

Article 53

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

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

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

Mechanisms of the same nature instituted or maintained, by the member States shall be reported to the Commission which, after consulting the Consultative Committee and the Council, shall address to the interested States the necessary recommendations, in case such mechanisms should be wholly or partly contrary to the application of the present Treaty.

CHAPTER III — Investments and financial assistance

Article 54

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

With the concurrence of the Council acting by unanimous vote, the Commission may assist by the same

means in financing works and installations which contribute directly and principally to increase production, lower production costs or facilitate marketing of products subject to its jurisdiction.

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

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

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

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

Article 55

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

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

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

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

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

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

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

Article 56

If the introduction of technical processes or new equipment within the framework of the general programs of

the Commission, should lead to an exceptional reduction in labor requirements in the coal or steel industries, creating special difficulties in one or more areas for the re-employment of the workers released, the Commission, on the request of the interested governments:

(a) will consult the Consultative Committee;

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

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

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

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

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 IV — Production

Article 57

In the field 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 on prices and commercial policy as provided for in the present Treaty.

Article 58

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

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

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

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

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

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

Article 59

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

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

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

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

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

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

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

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

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

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

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

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

7. The Commission may impose upon enterprises which violate the decisions taken in application of the

present article, fines not to exceed in amount twice the value of the manufactures or deliveries prescribed and not executed or diverted from their proper use.

CHAPTER V — Prices

Article 60

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

- unfair competitive practices, in particular purely temporary or purely local price reductions whose purpose is to acquire a monopoly position within the common market;
- discriminatory practices involving the application by a seller within the single market of unequal conditions to comparable transactions, especially according to the nationality of the buyer.

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

2. For the above purposes:

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

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

- be higher than the price indicated by the price scale in question for a comparable transaction; or
- be less than this price by a margin greater than:
 - either the margin which would make it possible to align the offer in question on that price scale, set up on the basis of another point, which procures for the buyer the lowest price at the place of delivery;
 - or a limit fixed by the Commission for each category of products, after consultation with the Consultative Committee, taking into account the origin and destination of such products.

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

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

exception.

Article 61

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

- (a) maximum prices within the common market, if it deems that such a decision is necessary to attain the objectives defined in Article 3 and particularly in paragraph (c) thereof;
- (b) minimum prices within the common market, if it deems that a manifest crisis exists or is imminent and that such a decision is necessary to attain the objectives defined in Article 3;
- (c) after consultation with the enterprises concerned or their associations, and according to methods adapted to the nature of the export markets, minimum or maximum export prices, if such action can be effectively supervised and appears necessary either because of dangers to the enterprises on account of the situation of the market or to pursue in international economic relations the objective defined in Article 3 paragraph (f), without prejudice, in the case of minimum prices, to the application of the measures provided for in the last paragraph of section 2 of Article 60.

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

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

Article 62

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

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

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

Article 63

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

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

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

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

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

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

Article 64

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

CHAPTER VI — Agreements and concentrations

Article 65

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

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

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

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

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

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

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

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

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

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

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

5. The Commission may pronounce against enterprises:

which have concluded an agreement which is automatically void;

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

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

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

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

Article 66

1. Except as provided in paragraph 3 below, any transaction which would have in itself the direct or indirect effect of bringing about a concentration, within the territories mentioned in the first paragraph of Article 79, involving enterprises at least one of which falls under the application of Article 80, shall be submitted to a prior authorization of the Commission. This obligation shall be effective whether the operation in question is carried out by a person or an enterprise, or a group of persons or enterprises, whether it concerns a single

product or different products, whether it is effected by merger, acquisition of shares or assets, loan, contract, or any other means of control. For the application of the above provisions, the Commission will define by a regulation, established after consultation with the Council, what constitutes control of an enterprise.

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

— to influence prices, to control or restrain production or marketing, or to impair the maintenance of effective competition in a substantial part of the market for such products; or

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

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

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

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

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

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

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

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

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

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

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

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

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

6. The Commission may impose fines not to exceed:

— 3 percent of the value of the assets acquired or regrouped or to be acquired or regrouped, against physical or juridical persons who shall have violated the obligations provided for in Section 4;

— 10 percent of the value of the assets acquired or regrouped, against physical or juridical persons which shall have violated the obligation provided for in Section 1; after the end of the twelfth month following the transaction, this maximum shall be raised by one-twenty-fourth per month which elapses until the Commission establishes the existence of the violation;

— 10 percent of the value of the assets acquired or regrouped or to be acquired or regrouped, against physical or juridical persons which shall have obtained or attempted to obtain the benefit of the provisions of Section 2 by means of false or misleading information;

— 15 percent of the value of the assets acquired or regrouped, against enterprises subject to its jurisdiction which shall have participated in or lent themselves to the realization of transactions contrary to the provisions of the present article.

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

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

CHAPTER VII — Impairment of the conditions of competition

Article 67

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

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

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

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

3. If the action of the State in question reduces differentials in costs of production by granting a special advantage to, or by imposing special burdens on, coal or steel enterprises coming under its jurisdiction in comparison with the other industries in the same country, the Commission is empowered to address the

necessary recommendations to the State in question, after consulting the Consultative Committee and the Council.

CHAPTER VIII — Wages and movement of labor

Article 68

1. The methods of fixing wages and social benefits in force in the various member States shall not be affected, as regards the coal and steel industries, by the application of the present Treaty, subject to the following provisions.

2. If the Commission notes that abnormally low prices practised by one or several enterprises are the result of wages fixed by these enterprises at an abnormally low level in comparison with the actual wage level in the same region, it shall make the necessary recommendations to the interested enterprises after consulting the Consultative Committee. If the abnormally low wages are the result of governmental decisions, the Commission shall enter into consultation with the interested government; in the absence of agreement and after consulting the Consultative Committee, it may issue a recommendation to the government concerned.

3. If the Commission finds that a lowering of wages is leading to a drop in the standard of living of the labor force and at the same time is being used as a means of permanent economic adjustment by enterprises or as a weapon of competition among enterprises, it shall address to the enterprise or government concerned, after consulting the Consultative Committee, a recommendation intended to assure the labor force of compensatory benefits to be paid for by the enterprise in question.

This provision shall not apply to:

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

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

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

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

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

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

If, in one of the member States, a modification of the provisions relative to the financing of social security or of the measures for combatting unemployment and the effects thereof, or a variation in wages, produces the

effects referred to in Article 67, Sections 2 and 3, the Commission shall be empowered to apply the provisions of Article 67.

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

Article 69

1. The member States bind themselves to renounce any restriction based on nationality against the employment in the coal and steel industries of workers of proven qualifications for such industries who possess the nationality of one of the member States; this commitment shall be subject to the limitations imposed by the fundamental needs of health and public order.

2. In order to apply these provisions, the member States will work out a common definition of specialities and conditions of qualification, and will determine by common agreement the limitations provided for in the preceding paragraph. They will also work out technical procedures to make it possible to bring together offers of and demands for employment in the Community as a whole.

3. In addition, for the categories of workers not falling within the provisions of the preceding paragraph and where an expansion of production in the coal and steel industries might be hampered by a shortage of qualified labor, they will adapt their immigration regulations to the extent necessary to eliminate that situation; in particular, they will facilitate the reemployment of workers from the coal and steel industries of other member States.

4. They will prohibit any discrimination in remuneration and working conditions between national workers and immigrant workers, without prejudice to special measures concerning frontier workers; in particular, they will work out among themselves any arrangements necessary so that social security measures do not stand in the way of the movement of labor.

5. The Commission shall guide and facilitate the application by the member States of the measures taken by virtue of the present article.

6. The present article shall not interfere with the international obligations of the member States.

CHAPTER IX — Transport

Article 70

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

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

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

The application of special internal tariff measures in the interest of one or several coal- or steel-producing enterprises is subject to the prior agreement of the Commission, which will assure itself that such measures conform to the principles of the present Treaty; it may give a temporary or conditional agreement.

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

CHAPTER X — Commercial policy

Article 71

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

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

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

Article 72

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

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

Article 73

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

destination for imports.

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

Article 74

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

- (1) if it is established that countries not members of the Community, or enterprises situated in such countries, are engaging in dumping operations or other practices condemned by the Havana Charter;
- (2) if a difference between the offers made by enterprises outside the jurisdiction of the Community and those made by enterprises within its jurisdiction is due exclusively to the fact that those of the former are based on competitive conditions contrary to the provisions of the present Treaty;
- (3) if one of the products enumerated in Article 81 of the present Treaty is imported into the territory of one or several of the member States of the Community in relatively increased quantities and under such conditions that these imports inflict or threaten to inflict serious damage on production, within the common market, of similar or directly competitive products.

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

Article 75

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

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

TITLE FOUR — General Provisions

Article 76

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

Article 77

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

Article 78

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

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

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

Article 78d

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 administrative budget. To this end, the Council and the European Parliament in turn shall examine the accounts and the financial statement referred to in Article 78d, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, and any relevant special reports by the Court of Auditors.

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the administrative budget, the European Parliament may ask the Commission to 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 co-ordinate 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 co-operation between the competent departments of their administrations.

Article 79

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

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

Article 80

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

Article 81

The terms ‘ coal ’ and ‘ steel ’ are defined in Annex I to the present Treaty.

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

Article 82

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

Article 83

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

Article 84

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

Article 85

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

Article 86

The member States bind themselves to take all general and specific measures which will assure the execution of their obligations under the decisions and recommendations of the institutions of the Community, and facilitate the accomplishment of the Community's purposes.

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

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

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

Article 87

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

Article 88

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

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

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

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

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

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

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

Article 89

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

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

Article 90

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

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

Article 91

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

Article 92

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

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

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

Article 93

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

Article 94

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

Article 95

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

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

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

These amendments shall be proposed jointly by the Commission and the Council, acting by a ten-twelfths

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

(Repealed)

Article 97

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

Article 98

(Repealed)

Article 99

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

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

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

Article 100

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

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

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

ADENAUER.
Paul VAN ZEELAND.
J. MEURICE.
SCHUMAN.
SFORZA.

Jos. BECH.
STIKKER.
VAN DEN BRINK.