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OF THE

EUROPEAN

COAL AND STEEL COMMUNITY

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THE COMMON ASSEMBLY

Annex to the Official Gazette

QUESTIONS AND REPLIES

Question No. 21, put by Mr. A. Carcaterra, Member of the Common Assembly

(November 30, 1954)

A. What steps does the High Authority propose to take, during this period of expanding markets, to reduce or restrict monopoly operation by agreements (cartels) in regard to the selling of coal?

B. Does the High Authority deem it necessary to set on record the emergence of a serious shortage within the meaning of Article 59 of the Treaty? And does it feel that this could be done before the launching of anti-trust operations?

C. Does the High Authority perhaps consider it possible to make do, until such a shortage has been duly recorded, with the maximum-price system, even though that system does not ensure that consumers receive the requisite quantities?

Reply by the High Authority

(January 7, 1955)

A. This question is obviously inspired by the idea that the Community coal market is marked by a shortage.

It should be noted in this connection that in recent weeks the German hard-coal areas have, in fact, considerably reduced their stocks. In France, however, pithead stocks at the end of October still totalled some 8 m. metric tons of coal, including 3.5 m. metric tons of saleable coal, while in Belgium there were some 4 m. metric tons of saleable coal. As late as October 30, some shifts were still having to go unworked in the French coalfields. In the interim, slight decreases in stocks were recorded in France and Belgium.

It is, on the other hand, fully realized that there exists a certain tightness in certain categories and grades. This is due, among other things, to the fact that consumers who have hitherto obtained their supplies from third countries are once more displaying interest in Community coal, in consequence of the rise in freight rates, and are ordering (undoubtedly for purely psychological reasons) tonnages several times as great as they really require. This has led to a considerable increase in marketing problems for the selling enterprises or organizations.

Furthermore, at this particular time of year the position in regard to deliveries may sometimes be affected by transport difficulties due to seasonal and weather conditions.

The High Authority will see to it that selling organizations do not introduce any measures to fix allocation quotas or to impose discriminatory methods in regard to deliveries.

B. As will be seen from the foregoing, the High Authority does not consider that there is at present any need to apply Article 59. It will continue to keep

a close watch on the state of the market, in order that it may take action at the appropriate moment should the supply situation really deteriorate into a serious shortage.

There is no relation between application of Article 65 in regard to agreements, and recourse to action under Article 59. Should it be necessary to apply Article 59 before a decision was issued regarding the selling agreements in the Community, the High Authority would make the requisite arrangements to enforce allocations in accordance with Article 59.

C. The fixing of maximum prices under Article 61 does not presuppose any serious shortage, or, consequently, the previous application of Article 59. It certainly cannot lead to increased availabilities in certain categories and grades.

Were a serious shortage to arise, maximum prices would not in themselves be sufficient to ensure the supplying of the Common Market. The maximum-price system does not, *per se*, debar producers or their selling organizations from making their own arrangements for the marketing of their production. (See also explanations in reply to first question). The danger that the selling organizations might abuse their position by increasing availabilities of coal from third countries could also be palliated by the setting-up of a compensation fund for such coal (in order to guard against a rise in the price of imported coal, which would undoubtedly go up in the event of a shortage). As this is an additional measure for obviating improper allocation, it would in the last resort be possible to apply Article 59.

Question No. 22 put by Mr. Teresio Guglielmono, Member of the Common Assembly

(December 1, 1954)

Whereas the High Authority's coal policy has not given rise to any impediment or difficulty for coal consumers meeting their requirements by drawing on sources of supply in third countries;

whereas, in consequence, the High Authority has achieved a more or less international price-level for the European coal market;

whereas, notwithstanding, during the present period of appreciably increased demand for hard coal in the European producing markets (notably Germany), Italy has been meeting with certain difficulties in obtaining the quantities of high-quality coal formerly supplied her by the Ruhr Coal Joint Organization (Gemeinschaftsorganisation Ruhrkoble);

having regard to the fact that the maximum prices fixed by the High Authority for the current year do not in themselves constitute adequate action for the elimination of this impediment to the supplying of the Italian market, and that, on the other hand, the High Authority's proposed policy against agreements has not yet taken concrete shape, in the form of measures to safeguard consumers.

I, the undersigned, hereby desire to be informed

what action the High Authority proposes to take to ensure that Italian consumers may have freer access to the most economical sources of coal supply in the Community, in quantities at least as considerable as those obtained in previous years.

Reply by the High Authority

(January 7, 1955)

Practical experience has always confirmed that supply and demand on the coal market never tally exactly. There is almost always a surplus in some grades and a deficit in others.

Under the conditions at present governing the market, a producer who does not feel able to make offers covering a whole year does not thereupon debar purchasers from free access to the sources of supply, and such conduct could not be regarded as discrimination. What he does do is to calculate carefully just how much he can manage, and to seek to avoid undertaking any commitments for a period he cannot forecast with accuracy.

As a rule, producers base their arrangements for the disposal of their tonnages on considerations of commercial advantage, where no actual instructions have been issued to them by the authorities. In this case likewise, there could be no reason to set down such a practice as amounting to discrimination or allocation.

It is impossible to grasp the position in regard to deliveries from a study of the figures for one month or for one quarter only. With the Ruhr in particular, the situation as concerns the supplying of the Italian market with Ruhr coal can only be visualized where the figures for the full coal year are available.

The expansion of demand on the European producing markets may be explained by the following factor: orders have increased as a result of the general trade situation, and at the same time producers not belonging to the Community are less able to meet requirements, so that the consequence has been a rise in the delivered prices of coal from third countries on the European market. This development has caused consumers to turn once again increasingly to Community producers for their supplies.

The conception of "freer access" does not figure in the Treaty. All that the Treaty requires (Article 3b) is that all consumers in comparable positions shall have equal access to the sources of production. The High Authority can therefore only take action where producers are observed to be applying discriminatory methods in the disposal of their tonnages. This ban on discrimination is equally applicable to producers selling their production themselves and to producers grouped in a joint selling organization.

THE COUNCIL OF MINISTERS

DECISIONS AND OPINIONS

DECISION

amending the Decision fixing the emoluments, allowances and pensions of the President, Judges, Court Advocates and Clerk of the Court of Justice

THE COUNCIL

HAVING regard to Article 29 of the Treaty, and to Articles 5, 13 and 15 of the Protocol on the Code of the Court of Justice;

HAVING regard to the decision fixing the emoluments, allowances and pensions of the President, Judges, Court Advocates and Clerk of the Court of Justice, adopted by the Council at its seventeenth session, on June 24, 1954;

HAVING regard to the proposal put forward by the Committee set up in accordance with Article 78, paragraph 3 of the Treaty;

DECIDES :

Article 1

Article 3 of the decision fixing the emoluments, allowances and pensions of the President, Judges, Court Advocates and Clerk of the Court of Justice is hereby rescinded.

Article 2

Article 7 of the decision fixing the emoluments, allowances and pensions of the President, Judges, Court Advocates and Clerk of the Court of Justice shall be superseded by the following Articles:

Article 7:

Any member who is rendered incapable of fulfilling his duties, either by disability or by sickness, and who for that reason resigns, or is discharged from, his office, as also any member affected by such incapacity upon the normal expiry of his term of office, shall be entitled to the following benefits:

If, at the end of the period during which he has been drawing the temporary allowance provided for under Article 4, his incapacity is found to be of a permanent nature, he shall thereafter be entitled to a life pension, the annual amount of which shall be calculated in accordance with the scale laid down in Article 6, with a minimum of 25 per cent. of his last annual emoluments. He shall be entitled to the maximum rate of pension if his incapacity is the consequence of a disability or disease contracted in the course of his duties.

If, at the end of the period during which he has been drawing the temporary allowance provided for under Article 4, he is still incapacitated but this incapacity is not found to be of a permanent nature, he shall then be entitled, from that date and until such time as he shall have recovered, to a payment the annual amount of which shall be equal to a percentage of his last annual emoluments, such percentage to be fixed at 50 per cent. where the disability

or disease has been contracted in the course of his duties, and at 25 per cent. in other cases. This annual payment shall be superseded by a life pension, calculated on the same basis as that provided for in the 1st paragraph, when the incapacity is found to persist and the member has reached, or passed, the age of 65, or when seven years have elapsed since such payments started.

The granting of a life pension under this Article shall preclude the granting of the life pension provided for under Article 5.

Article 7a:

Any member receiving a physical injury as the result of an accident sustained, or a disease contracted, in the course of his duties shall, in so far as he is not drawing one or other of the life pensions provided for under Article 7, receive an annual payment from the date of expiry of the period during which he has been drawing the temporary allowance provided for under Article 4, which payment shall terminate upon the completion of his 65th year. The annual amount of this payment shall be equal to a percentage of his last annual emoluments, but shall not exceed 50 per cent. thereof. The percentage shall be determined upon the basis of a medical report, and shall equal one-half of the reduction in earning capacity in an occupation commensurate with the qualifications of the member concerned.

The annual payments provided for under Articles 7 and 7a may not be drawn simultaneously. Where the member may have a claim to both annual payments, only the larger of the two amounts shall be payable.

Article 7b:

Any member sustaining an accident or contracting a disease in the course of his duties shall be entitled to the reimbursement of all expenses incurred in connection with medical, surgical, orthopaedic, hospital and/or nursing-home treatment, medicaments, prostheses, radiography, massage, transport in case of injury, and similar unavoidable expenses arising from such accident or disease.

Article 7c:

To the extent to which it is liable, the Community shall be subrogated to all the rights of the member or members concerned in any legal proceedings against third parties, where such parties are responsible for any accident involving the application of Article 7, 7a or 7b.

Article 3

The words “ visée à l'article 5 ” shall be inserted after the words “ pension à vie ” in Article 8 of the decision fixing the emoluments, allowances and pensions of the President, Judges, Court Advocates and Clerk of the Court of Justice.

Article 4

The words “ en vertu de la présente décision ” shall be inserted after the words “ ancien membre bénéficiant ” in Article 10, paragraph 5 of the decision fixing the emoluments, allowances and pensions of the President, Judges, Court Advocates and Clerk of the Court of Justice.

Article 5

The words “ les rentes ” shall be inserted after the words “ les indemnités transitoires ” in Article 12 of the decision fixing the emoluments, allowances and pensions of the President, Judges, Court Advocates and Clerk of the Court of Justice.

Article 6

This decision shall come into force with effect from July 1, 1954.

This decision was adopted by the Council at its twenty-first session, on December 7 and 8, 1954.

For the Council,

(Sgd.) AUJOLAT,

President.

INFORMATION

Notice of decision concerning the application of Article 69 of the Treaty

The representatives of the Governments of the member States of the European Coal and Steel Community, at a meeting of the Council on December 7 and 8, 1954, adopted a “ Decision concerning the application of Article 69 of the Treaty of April 18, 1951, establishing the European Coal and Steel Community ”.

This decision, which is recorded in the minutes of the deliberations of the Council of Ministers, will be published in the Official Gazette of the Community as soon as the Secretary-General of the Council has received from all the member States official notification that it is applicable under the provisions of their own internal legal codes, and will come into force after twenty days have elapsed from the date of its publication in the Official Gazette.

THE COURT OF JUSTICE

OFFICIAL NOTICES

Complaint by the Groupement des Industries Sidérurgiques Luxembourgeoises, Société Coopérative, of Luxembourg, against the High Authority; dated December 23, 1954 (case No. 9/54).

On December 23, 1954, a complaint was lodged before the Court of Justice by the Groupement des Industries Sidérurgiques Luxembourgeoises, Société Coopérative, of Luxembourg, represented by Maître Alex Bonn, barrister-at-law, of Luxembourg, with elected domicile at Côte d'Eich 22, at Luxembourg.

The Groupement des Industries Sidérurgiques Luxembourgeoises had, on July 14, 1954, addressed a letter to the President of the High Authority setting out the desiderata enumerated in the following submissions, to which the High Authority failed to accede on October 11, 1954, when the said Groupement lodged a complaint before the Court of Justice in accordance with Article 35 of the Treaty. (See *Official Gazette*, 3rd year, No. 20, of November 15, 1954, p. 38, under "The Court of Justice: Official Notices".)

The High Authority having, on November 27, 1954, issued a reply deemed by the Groupement des Industries Sidérurgiques Luxembourgeoises to be in the negative, the said Groupement in a further petition, dated December 23, 1954, requests that it may please the Court:

“to find this complaint (lodged only to the extent that it may be necessary) presented in due and proper form;

to find it proven on its merits;

by upholding the complaint of October 11, 1954, a ruling on whose submissions is the chief head of this petition, to rescind to the extent that it may be necessary the negative decision of the High Authority (contained in its letter of November 27, 1954) regarding the petition of the Groupement des Industries Sidérurgiques Luxembourgeoises of July 14, 1954;

accordingly, to find that the High Authority shall be required to order, by way of a decision or recommendation:

- (1) the cessation of the activities of the Office Commercial du Ravitaillement as sole importer of coal in the Grand Duchy of Luxembourg;
- (2) the prohibition and abolition of the compensation fund attached to the Office Commercial du Ravitaillement under the *arrêté ministériel* of March 8, 1954:

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

Complaint by the Association des Utilisateurs de Charbon du Grand-Duché de Luxembourg, a non-profit-making association, of Luxembourg, against the High Authority; dated December 23, 1954. (case No. 10/54)

On December 23, 1954, a complaint was lodged before the Court of Justice by the Association des Utilisateurs de Charbon du Grand-Duché de Luxembourg, a non-profit-making association, of Luxembourg, represented by Maître Alex Bonn, barrister-at-law, of Luxembourg, with elected domicile at Côte d'Eich 22, at Luxembourg.

The Association des Utilisateurs de Charbon du Grand-Duché de Luxembourg had, on July 20, 1954, addressed a letter to the President of the High Authority setting out the desiderata enumerated in the following submissions, to which the High Authority failed to accede on October 16, 1954, when the said Association lodged a complaint before the Court of Justice in accordance with Article 35 of the Treaty. (See *Official Gazette*, 3rd year, No. 20, of November 15, 1954, p. 38, under "The Court of Justice: Official Notices".)

The High Authority having, on November 27, 1954, issued a reply deemed by the Association des Utilisateurs de Charbon du Grand-Duché de Luxembourg to be in the negative, the said Association, in its further petition dated December 23, 1954, requests that it may please the Court:

"to find this complaint (lodged only to the extent that it may be necessary) presented in due and proper form;

to find it proven on its merits;

by upholding the complaint of October 16, 1954, a ruling on whose submissions is the chief head of this petition, to rescind to the extent that it may be necessary the negative decision of the High Authority (contained in its letter of November 27, 1954) regarding the petition of the Association des Utilisateurs de Charbon du Grand-Duché de Luxembourg of July 20, 1954;

accordingly, to find that the High Authority shall be required to order, by way of a decision or recommendation:

- (1) the cessation of the activities of the Office Commercial du Ravitaillement as sole importer of coal in the Grand Duchy of Luxembourg;
- (2) the prohibition and abolition of the compensation fund attached to the Office Commercial du Ravitaillement under the *arrêté ministériel* of March 8, 1954;

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

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