II

(Acts whose publication is not obligatory)

CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL

of 23 October 2001

terminating the Agreement of 21 March 1955 on the establishment of through international railway tariffs for the carriage of coal and steel

(2001/764/ECSC)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN COAL AND STEEL COMMUNITY, MEETING WITHIN THE COUNCIL,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Articles 14 and 70 thereof, and to the Convention on the Transitional Provisions, and in particular Article 10, second and third paragraphs, point 2 thereof,

Having regard to Article 54(b) of the 1969 Vienna Convention on the Law of Treaties,

Having regard to the 1955 Agreement on the establishment of through international railway tariffs for the carriage of coal and steel (hereinafter referred to as 'the 1955 Agreement'),

Whereas:

(1) The 1955 Agreement does not contain any provisions for its termination.

(2) The Commission has adopted a communication concerning the termination of the 1955 Agreement.

(3) In the report annexed to the revision of the 1955 Agreement in preparation for the 5th Supplementary Agreement to the 1955 Agreement, certain national delegations asked that, in conjunction with the railways, the possibility of subsequently terminating the Agreement be examined.

(4) In particular Article 5 of Council Directive 91/440/EEC [1], and Council Directives 95/18/EC [2] and 95/19/EC [3], seek to make rail transport more efficient and competitive compared with other modes of transport, while guaranteeing rail enterprises independent-operator status enabling them to operate in accordance with commercial principles and to adapt to market needs.

(5) Account should be taken of the evaluation of the economic situation, set forth in the abovementioned Commission communication.

(6) The 1955 Agreement and the ECSC tariff 9001, established by the said Agreement, are de facto no longer applied.

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[1] Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways (OJ L 237, 24.8.1991, p. 25). Directive as last amended by Directive 2001/12/EC of the European Parliament and of the Council (OJ L 75, 15.3.2001, p. 1).

[2] Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings (OJ L 143, 27.6.1995, p. 70). Directive as last amended by Directive 2001/13/EC of the European Parliament and of the Council (OJ L 75, 15.3.2001, p. 26).

[3] Council Directive 95/19/EC of 19 June 1995 on the allocation of railway infrastructure capacity and the charging of infrastructure fees (OJ L 143, 27.6.1995, p. 75).

(7) The European Commission should denounce the Agreement of 28 July 1956 on the setting of through international railway tariffs for the carriage of coal and steel in transit through Swiss territory [1], in accordance with the mandate given by the Decision of the Conference of the Representatives of the Governments of the Member States of 17 June 1999, in conjunction with the termination of the 1955 Agreement,

HAVE DECIDED AS FOLLOWS:

Article 1

The Agreement of 21 March 1955 on the establishment of through international railway tariffs for the carriage of coal and steel shall be terminated within six months of the entry into force of this Decision.

Article 2

The Secretary-General of the Council shall inform the European Commission as soon as possible of the termination of the 1955 Agreement.

Article 3

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Done at Luxembourg, 23 October 2001.

The President

A. NEYTS-UYTTEBROECK

[1] OJ 17, 29.5.1957, p. 223/57.