adopted, 850 kilowatt-hours per ton of steel produced, is close to that found in other cases, in which a ruling has already been given or which are presently in progress.

Two remarks however require to be made. To the undertaking, which, in order to discount this figure, put forward the special difficulties which it encountered, the High Authority replies that the experts took account of all those factors when they fixed the ratio of kilowatt-hours to metric tons of steel with a margin large enough to encompass the difficulties in question. This is possible but not certain and by definition a flat rate cannot reflect all the special features of the cases. Furthermore, as I have already indicated, the High Authority seems to have left out of account the undertaking's own arisings of ferrous scrap for re-use and of the existence of stock in fixing a flat rate ratio between the input of purchased scrap and the production of steel. But although the undertaking draws attention to this alteration in the method of assessment, it does not however base any particular argument upon it.

Although the High Authority's decision therefore seems to be beyond criticism in principle, perhaps a certain margin of uncertainty in fact remains. Is it sufficient to justify an order for the additional measures of inquiry requested by Preo e Figli? The applicant would like to prove by witnesses that the running-in period lasted from October 1956 to the end of 1957, that during this period and even afterwards many mistakes were made, that the undertaking experienced difficulties in the training and use of its work force, and that other circumstances, such as, for example, the materials used also contributed to bring about an excessive consumption of electricity.

I do not however think that a ruling should be given in favour of this request, for several reasons. We know that, until the day before the oral proceedings, the undertaking had every opportunity to have examined on the spot the special circumstances on which it now wishes to rely, as other undertakings have succeeded in doing, and it declined the opportunity offered it. Today it still limits itself to bringing before you mere allegations quite unsupported by any shred of evidence. The complete lack of evidence was sufficient in the *Barge* Case, 14/64 of 16 February 1965, for you to refuse the additional measures of inquiry which were requested. Finally, it appears to me hazardous to endeavour to establish the accuracy of facts as remote in time as these by means of witnesses who are mostly employees of the undertaking.

Finally I am of the opinion:

— that Preo e Figli's application should be dismissed; and

— that the applicant should bear the costs.

ORDER OF THE PRESIDENT OF THE COURT
12 FEBRUARY 1965[1]

In Case 2/65 R

FERRIERA ERNESTO PREO E FIGLI, Società in Nome Collettivo, having its registered office in Venezia-Marghera, represented and assisted by Raoul Levis of the Venice

1 — Language of the Case: Italian.

Bar and of the Corte di Cassazione, Rome, with an address for service in Luxembourg at the Chambers of Camille Wagner, 31 rue des Roses,

applicant,

v

HIGH AUTHORITY OF THE EUROPEAN COAL AND STEEL COMMUNITY, represented by its Legal Adviser, Italo Telchini, acting as Agent, with an address for service in Luxembourg at its offices, 2 place de Metz,

defendant,

Application for the suspension of the operation of two individual decisions of the High Authority concerning the contributions due by the applicant undertaking under the scheme for the equalization of imported ferrous scrap.

Facts

Whereas the applicant undertaking, by application lodged at the Court Registry on 15 January 1965, sought the annulment of two decisions of the High Authority of 13 November 1964, the first of which fixes the tonnage of the applicant's ferrous scrap chargeable for the period from 1 October 1956 to 30 November 1958 and the second of which, on the basis of this figure, requires it to pay the sum of 55 700 153 lire by way of equalization contributions;

Whereas by a separate document, lodged at the Registry on 25 January 1965, the applicant requested the Court, before giving a ruling on the substance of the case, to order the suspension of the operation of the two decisions contested in the main action;

Whereas by a document lodged on 29 January 1965, the defendant contended that the present application should be dismissed as inadmissible or, in any event, as unfounded, and that the decision on costs should be reserved for the final judgment;

Whereas pursuant to Article 83 (2) of the Rules of Procedure an application for suspension shall state 'the subject matter of the dispute, the circumstances giving rise to urgency and the factual and legal grounds establishing a *prima facie* case for the interim measures' applied for;

Whereas the application for suspension in this case does not comply with these requirements;

Whereas it states no circumstance of such a nature as to prove a case of urgency nor does it put forward any grounds capable of establishing a case for granting the suspension requested;

Whereas the application is therefore inadmissible;

On those grounds,

Having regard to the Treaty establishing the European Coal and Steel Community, especially Articles 33, 36, 39 and 92;
Having regard to the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community;
Having regard to the Rules of Procedure of the Court of Justice of the European Communities, especially Articles 69, 83, 84, 85 and 86,

THE PRESIDENT OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

hereby orders:

1. **The application is dismissed;**
2. **The costs are reserved.**

Luxembourg, 12 February 1965.

A. Van Houtte
Registrar

Ch. L. Hammes
President