DECISION No 2-54

of 7 January 1954

amending Decision No 31-53 of 2 May 1953 on the publication of price lists and conditions of sale applied by undertakings in the steel industry

THE HIGH AUTHORITY,

Having regard to Article 60 (2) (a) of the Treaty;

Having regard to Decision No 31-53 of 2 May 1953 on the publication of price lists and conditions of sale applied by undertakings in the steel industry *(Official Journal* of 4 May 1953, p. 111);

Whereas the publication of prices and conditions of sale, which is necessary for purposes of application rules of competition laid down by the Treaty, must be effected in a manner compatible with freedom to determine steel prices in the light of market trends and of the needs of commercial relations;

Whereas, therefore, the published price lists must reflect the price level existing on the market;

Whereas, however, undertakings should not be obliged to adjust forthwith their price lists on account of minor or temporary fluctuations in the steel market;

Whereas also undertakings will the more easily be able to amend their published price lists if the time limits set for applying a new price list are made as short as possible;

Whereas furthermore a transaction in the course of an undertaking's activities may have exceptional characteristics by virtue of which it is excluded, on the undertaking's own responsibility, from the categories set out in its price list;

Whereas finally the special conditions of production and sale of certain fine carbon steels not falling within Annex III of the Treaty make it difficult to draw up price lists, and whereas publication of price lists would have no practical value since transactions in such steels are not comparable;

After consulting the Consultative Committee;

DECIDES:

Article 1

The following Article, numbered Article 1a, shall be inserted in Decision No 31-53 of 2 May 1953:

'Article 1a

Amendments to price lists shall be published whenever there is a mean variation either upward or downward, calculated as shown below, between effective market prices and published prices of more than 2·5% in the basic prices applicable under the published price lists to transactions that have taken place. The mean price variation shall be calculated, in each category of products having the same basic price in the price list, by reference to the whole of the transactions that have taken place during the preceding sixty days.

It shall be arrived at by relating the total of variations that have taken place, whether in respect of the basic price or of all other real price components, to the tonnage sold multiplied by the published basic prices. These basic prices shall, for each transaction, be as shown in the last published price list.

However, where a transaction in the course of an undertaking's activities has exceptional characteristics by virtue of which it is excluded from the categories set out in the price list, the special conditions applied thereto shall be disregarded in calculating the mean price variation.

Undertakings must be able to prove that the price variations put into effect within these limits have not resulted in discrimination against any comparable transaction.'

Article 2

The following provisions shall be substituted for Article 2 (f) of Decision No 31-53:

'(f) Where applicable, rebates and increases not covered by the penultimate paragraph of Article 1a and in particular:

— quantity discounts, whether allowed on specification on the whole of an order, on tonnage bought from the seller over a period, or on the basis of the buyer's total purchases;

— loyalty discounts;

— discounts, rebates and all forms of payment to dealers or selling agencies;

— discounts for seconds.'

Article 3

A time limit of one day shall be substituted for the time limit of five days prescribed by Article 4 (1) (a) of Decision No 31-53.

Article 4

The following Article, numbered Article 7, shall be added to Decision No 31-53:

'*Article 7*

In derogation from the foregoing provisions, basic prices and extras applicable to sales of the products hereunder shall be exempt from inclusion in the price lists and conditions of sale:

(a) steels of non-standard character containing less than 0·6% of carbon, the chemical and mechanical properties of which are not of themselves sufficient to enable comparisons to be made between them;

(b) steels of like character, known as "physical" or "magnetic" steels, having certain electrical and magnetic properties.'

Article 5

This Decision shall enter into force within the Community on 1 February 1954.

This Decision was considered and adopted by the High Authority at its meeting on 7 January 1954.

For the High Authority

The President

Jean MONNET

DECISION No 24-54

of 6 May 1954

laying down in implementation of Article 66 (1) of the Treaty a regulation on what constitutes control of an undertaking

THE HIGH AUTHORITY,

Having regard to Article 66 of the Treaty;

Whereas by virtue of Article 66 (1) the High Authority must by regulation determine what constitutes control of an undertaking;

Whereas control may reside either in persons in whom certain rights are vested or in those who are entitled to exercise such rights with complete freedom;

After consulting the Council of Ministers;

DECIDES:

Article 1

The rights or contracts specified below shall constitute the elements of control of an undertaking, where either separately or jointly, and having regard to the considerations of fact or law involved, they make it possible to determine how an undertaking shall operate as regards production, prices, investments, supplies, sales and appropriation of profits:

(1) Ownership or the right to use all or part of the assets of an undertaking;

(2) Rights or contracts which confer power to influence the composition, voting or decisions of the organs of an undertaking;

(3) Rights or contracts which enable any person, by himself or in association with others, to manage the business of an undertaking;

(4) Contracts made with an undertaking concerning the computation or appropriation of its profits;

(5) Contracts made with an undertaking concerning the whole or an important part of its supplies or outlets, where the duration of these contracts or