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DECISION No 21-63

of 11 December 1963

amending Decision No 37-54 of 29 July 1954 on the publication of price lists and conditions of sale applied by undertakings in the steel industry to the sale of special steels

THE HIGH AUTHORITY,

Having regard to Article 60 (2) (a) and Article 63 (2) of the Treaty, and Annex III thereto;

Having regard to Decision No 37-54 of 29 July 1954 on the publication of price lists and conditions of sale applied by undertakings in the steel industry to the sale of special steels within the meaning of Annex III to the Treaty (*Official Journal of the ECSC*, 1 August 1954, pp. 470 *et seq.*) as supplemented by Decision No 33-58 of 1 December 1958 (*Official Journal of the European Communities* of 18 December 1958, pp. 665 *et seq.*);

Whereas experience has shown that Decision No 30-53 whereby the High Authority specified which practices are prohibited by Article 60 (1) of the Treaty did not accurately and fully define the obligations of undertakings with regard to their selling agencies and to middlemen acting on their behalf;

Whereas the High Authority consequently amended Decision No 30-53 by Decision No 19-63 of 11 December 1963;

Whereas it is therefore necessary to adjust the provisions concerning the obligations to which undertakings are subject as regards publication of prices and conditions of sale to the rules as amended by Decision No 19-63;

Whereas in so far as they market their products through selling agencies, steel undertakings are required to ensure that those agencies publish their price lists and conditions of sale in accordance with the provisions of Decision No 37-54; whereas, however, undertakings are authorised to refer to the price lists of their selling agencies instead of publishing their own price lists, and *vice versa*;

Whereas the same rules should apply also to middlemen acting in their own names but distributing

the products of undertakings on behalf of those undertakings (commission agents, agents for goods on consignment);

After consultation with the Consultative Committee;

DECIDES:

Article 1.

Article 2 of Decision No 37-54 shall be amended to read as follows:

'1. Undertakings in the steel industry shall publish their price lists and conditions of sale for special steels within the meaning of Annex III to the Treaty in accordance with the provisions of this Decision.

2. Undertakings which use selling agencies (Article 1 (2) of Decision No 30-53) for the marketing of their products shall ensure that those selling agencies publish price lists and conditions of sale in accordance with the provisions of this Decision.

3. Undertakings in the steel industry may, under the conditions laid down in Article 6, specify that their products are sold on the basis of the price lists and conditions of sale of their selling agency.

The selling agency may likewise specify that products are sold on the basis of the price lists and conditions of sale of the undertaking.'

Article 2

Article 7 of Decision No 37-54 shall be amended to read as follows:

'1. Undertakings and their selling agencies shall require middlemen who sell in their own name but on behalf of the said undertakings and selling agencies (commission agents, agents for goods on

consignment) to comply, as regards price lists and conditions of sale published by them, with the rules laid down in this Decision.

2. Where such middlemen do not publish price lists and conditions of sale, they may discharge their obligation by specifying under the conditions laid down in Article 6 that the price lists and conditions of sale applied by undertakings or their selling agencies, in accordance with this Decision also apply to sales made by them.

3. Undertakings shall be held liable for any infringement of the foregoing obligations by such middlemen.'

Article 3

The following Article 8 shall be inserted after Article 7 in Decision No 37-54:

'1. Undertakings and selling agencies shall frame their conditions of sale in such a way that their customers (dealers) are under an obligation, in the case of resale in the unaltered state otherwise than by sale ex depot, to ensure that their price lists and conditions of sale comply with the rules laid down in this Decision.

2. In so far as the customers (dealers) do not include in their lists their own prices and conditions of sale, they may discharge their

obligation by indicating, under the conditions laid down in Article 6, those items of the price lists and conditions of sale applied by the producer undertaking in accordance with this Decision which apply to sales made by them.'

Article 4

Article 8 of Decision No 37-54, in the wording adopted on 29 July 1954, is hereby repealed.

Article 5

This Decision shall be published in the *Official Journal of the European Communities*. It shall enter into force on 20 January 1964.

The text of Decision No 37-54, as amended by this Decision, shall be published in the form of a Communication in the *Official Journal of the European Communities*.

This Decision was considered and adopted by the High Authority at its meeting on 11 December 1963.

For the High Authority

The President

Dino DEL BO