COMMISSION DECISION

of 4 January 1973

authorizing three special tariffs for the carriage of iron ore from Western France to Belgium, Luxembourg and the Saar

(Only the French text is authentic)

(73/49/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community and in particular Articles 2 to 5 and 70 thereof;

Whereas, by a letter (ref. 1329) dated 5 November 1970 from the Office of the Permanent Representative of France to the European Communities, the French Government, pursuant to the fourth paragraph of Article 70 of the ECSC Treaty, addressed to the Commission of the European Communities a request for authority to apply the reduced Franco-Luxembourg Tariff No 3530.05 to the carriage of iron ore along the French Railways (SNCF) section of the journey from Rougé to Rodange;

Whereas, by a letter (ref. 7.2.31) dated 14 December 1970 from the Office of the Permanent Representative of Luxembourg to the European Communities, the Luxembourg Government requested authority to apply a reduced tariff on the Luxembourg Railways (CFL) section of the same journey;

Whereas, by a letter (ref. OA/mj) dated 29 December 1971 from the Office of the Permanent Representative of France to the European Communities, the French Government confirming its letter of 5 November 1970 further requested authority to apply to the carriage or iron ore from Western France, that is from the mines of Rougé, Segré and Halouse: to Belgium, the Franco-Belgian Tariff No 3232.01; to Luxembourg and the Saar, over a new extended route, Tariff No 3530.05 and the Franco-German Tariff No 3101, Part III, Scales 2 (a) and 2 (b) respectively;

Whereas the French and Luxembourg Governments base their requests on the ground that reduced tariffs would be of particular benefit to the railways in helping them to retain a heavy traffic-load; whereas, without these measures, the iron ore from the mines of Western France would not withstand the competition from richer ore transported by other routes; whereas, therefore, it is to be feared that, as a result especially of general rate increases by the SNCF, steelmakers in Belgium, Luxembourg and the Saar would make more use of ore from other sources; whereas the trend in traffic confirms this danger, the volume of traffic to which the proposed tariff measures relate having fallen from 500 000 tons (200 000 to Belgium, 88 000 to Luxembourg and 200 000 to the Saar) in 1970 to about 330 000 tons in 1971; whereas despite the reduced tariffs it would still be profitable for the railways to carry the ore in question and thus help to improve their financial situation;

Whereas under the fourth paragraph of Article 70 of the ECSC Treaty the application of special tariffs in the interest of coal- or steel-producing undertakings requires the prior agreement of the Commission; whereas this provision refers not only to special tariffs adopted in the interest of these undertakings but to all special tariffs, whatever the reason for adopting them, which benefit one or more of these undertakings; whereas the agreement of the Commission will be granted so long as the special tariffs accord with the principles of the Treaty, and whereas it will, as a general rule, be presumed that they do so accord whenever the special tariff is warranted by the particular circumstances of the transport market; whereas, however, upon considering the application of a tariff measure, a carrier's interest in retaining a specific traffic load ought no longer to be taken into account whenever such measure would be prejudicial to the proper functioning of the common market in coal and steel in accordance with the provisions of the ECSC Treaty;

Whereas the tariff measures under consideration fall within the fourth paragraph of Article 70 of the ECSC Treaty by reason of their limited application and because they benefit the mines of Halouse, Segré and Rougé;

Whereas, as regards the interest of the railways, there exists in this case a real risk of loss of traffic already threatened by the fact that the steel undertakings can obtain their ore supplies by other routes and from other sources; whereas the keenness of the

competition is apparent from the considerable drop in sales of ore from Western France despite the tariff reductions already allowed; whereas, however, the threatened traffic is still of consequence and is profitable to the railways, which carry it under favourable conditions by whole trains, and to some extent according to prearranged schedules;

Whereas the indisputable interest which the tariff measures hold for the railways is in no way prejudicial to the proper functioning of the common market in coal and steel in accordance with the ECSC Treaty;

Whereas the competitive position of iron-ore producers of the Community is in no way affected by the tariff measures; whereas other iron ore produced in the Community cannot be substituted for the ore from Western France, which consist of different chemical substances and are mixed with other ore, particularly Lorraine ore;

Whereas the competitive position within the common market of steel undertakings in Belgium, Luxembourg and the Saar is not affected by the application of special tariffs, inasmuch as these undertakings can obtain ore by other routes on no less favourable terms;

Whereas the tariff measures have, besides, the effect of ensuring continued employment in the mining areas of Normandy and in the departments of Loire-Atlantique and Maine-et-Loire, thus keeping social disturbances at bay in regions classified, by reason of their economic structural problems, as French development areas;

Whereas in the circumstances the tariff measures are in accordance with the principles of the Treaty;

Whereas the Commission must reserve the right to review its decision whenever the circumstances giving rise to it vary or no longer apply; whereas it feels that these measures and the authority to apply them should be reviewed within two years at most, even if no such change has taken place; whereas they should therefore be authorized for a limited period only;

HAS DECIDED AS FOLLOWS:

Article 1

Authority is given until 31 December 1974 for the application of the Franco-Belgian Tariff No 3232.01, the Franco-Luxembourg Tariff No 3530.05 and the Franco-German Tariff No 3101, Part III, Scales 2 (a) and 2 (b), to the carriage of iron ore from Western France to Belgium, Luxembourg and the Saar.

Article 2

This Decision may be amended or repealed if the Commission considers that it is no longer warranted.

Article 3

This Decision is addressed to the French Republic and, as regards its application to the Franco-Luxembourg Tariff No 3530.05, to the Grand Duchy of Luxembourg.

Done at Brussels, 4 January 1973.

For the Commission

The President

S. L. MANSHOLT