COMMISSION DECISION

of 22 May 1974

authorizing the application of special tariff measures to the carriage by rail of Lorraine iron ore to the Saar

(Only the German and French texts are authentic)

(74/302/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 Decision No 13/67 [1] of 7 June 1967, the High Authority of the ECSC authorized the application, until 31 December 1971, of reduced rates to the carriage by rail of Lorraine iron ore to the Saar;

Whereas, by letters dated 18 January 1973 and 21 February 1973 from the Offices of the Permanent Representatives of France and Germany respectively to the European Communities, the French and German Governments, 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, until 31 December 1976 to the carriage under consideration:

— over the French section, a reduction of 1·01 FF/metric ton as provided for in special Franco-German Tariff No 3101, of which 0·33 FF/metric ton would be subsidised by the French Government and 0·68 FF/metric ton by the SNCF;

— over the German section, a reduction of 0·48 DM/metric ton, in the form of a tariff subsidy granted pursuant to the Directives of 17 October 1967, in their version of 1 December 1972, from the German Minister for Economic Affairs.

Whereas the two governments invoke in particular the fact that the advantage provided by these measures to the Lorraine iron ore producers is necessary for the economic stability of the Lorraine/Saar region and especially for the stability of that region's heavy industry; whereas the SNCF has a commercial interest in continuing to carry some 4 million metric tons per year, currently threatened by competition from ore carried by other means of transport at favourable prices;

Whereas, since the two Member States concerned apply separate rates for their respective sections of the journey, the tariff measures in question constitute 'special internal rates and conditions' within the meaning of the fourth paragraph of Article 70 of the ECSC Treaty;

Whereas these rates and conditions, while constituting an advantage for the iron mines of Lorraine, have not been found to affect the market position of purchases in the Saar; and that purchasers in the Saar have the alternative of replacing Lorraine ore by ore from other sources under conditions which are at least similarly favourable;

Whereas, as regards the iron mines of Lorraine, limited State aid to supplement the efforts being made by undertakings themselves is justified in the light of present market conditions;

Whereas such aid will make it easier to adjust to new conditions of production and sale and to lay down long-term guidelines for mining activities in Lorraine in the light of ascertainable market trends;

Whereas, the aforesaid subsidy contributes to the avoidance of disturbances in labour markets in a region which, because of its economic structure, is faced with special employment problems;

Whereas, moreover, a reduction in deliveries of ore from Lorraine to the Saar would be harmful to economic relations which, in the interest not only of the two Governments but also of the Community as a whole, should be preserved;

Whereas the amount of the tariff aid meets the required objective;

Whereas the application of these tariff reductions has no disturbing effect upon the functioning of the common market;

Whereas in these circumstances the continued application of the special tariff is compatible with the principles of the Treaty establishing the ECSC;

Whereas the measures take the form of a tariff subsidy; whereas it is consequently necessary to limit the duration of their application and to progressively reduce their importance in order that they do not become, for those benefitting from them, a long-lasting compensation for their difficulties and that they are a real incitement to these latter to overcome their difficulties;

[1] OJ No 116, 17. 6. 1967, p. 2249/67.

Whereas the aforesaid subsidy has already been applied without degressivity for more than seven years and whereas if the request of the interested governments is met this will lead to this measure being unchanged for a total period of 10 years;

Whereas, in addition, in the previous decisions concerning the special rates applicable to the carriage of French iron ore, in particular the Decisions of 4 January 1973 extending the authority for the application of two special tariff measures to the rail carriage of Lorraine iron ore to Belgium and Luxembourg [1] and the authorization of three special tariffs for the carriage of iron ore from Western France to Belgium, Luxembourg and the Saar [2] the Commission has with the agreement of the interested Member States, considered all these measures as an undivided whole in the rate structure;

Whereas, by its Decisions of 4 January 1973, the Commission limited the authorization of the measures taken by these decisions until 31 December 1974, considering it necessary to review them within two years at the most;

Whereas if the measures applied to the carriage of Lorraine ore to the Saar were authorized for a longer period the result would be differential treatment on the one hand, between the various mines even within the Lorraine orefield because the same mines do not furnish all the three countries and, on the other hand, between the Lorraine orefield and the mining area in the West of France;

Whereas it is therefore necessary likewise, to restrict these measures to 31 December 1974;

Whereas the Commission must reserve the right to review its decision whenever the circumstances giving rise to it vary or no longer apply,

HAS ADOPTED THIS DECISION:

Article 1

Authorization is hereby given, until 31 December 1974, for the application to the carriage by rail of Lorraine iron ore to the Saar of Franco-German Tariff No 3101 and of the German tariff subsidy (Frachthilfe) granted pursuant to the Directives from the Bundesminister für Wirtschaft.

Article 2

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

Article 3

This Decision is addressed to the Federal Republic of Germany and to the French Republic.

Done at Brussels, 22 May 1974.

For the Commission

The President

François-Xavier ORTOLI

[1] OJ No L 83, 30. 3. 1973, p. 36.
[2] OJ No L 83, 30. 3. 1973, p. 38.