II

*(Acts whose publication is not obligatory)*

# COMMISSION

## COMMISSION DECISION

**of 18 December 1975**

**amending Commission Decision 71/293/ECSC of 22 July 1971 on the authorization of special Deutsche Bundesbahn tariffs in favour of coal and steel producers in the Saar**

**(Only the German text is authentic)**

(76/166/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community (ECSC), and in particular Articles 2 to 5 and 70 thereof,

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Whereas the Commission, in its Decision 71/293/ECSC of 22 July 1971 [1], approved the application by the Deutsche Bundesbahn of special tariff Nos 188, 196, 197, 263, 270, 273 and tariff No 9133 in favour of coal and steel producers in the Saar for a period of nine years up to 31 December 1979, on condition :

— that by 31 December 1975 the percentage reduction on existing tariffs normally applicable is not greater than that represented by the special tariffs authorized by Decision 69/238/ECSC of 9 July 1969 [2],

— that subsequently the percentage reductions shall be decreased by at least 20 % on 1 January each year from 1976 to 1979 and completely abolished by 1 January 1980,

— that the Deutsche Bundesbahn special tariffs Nos 207, 208, 209, 280, 281 and the special rates of tariff No 1231 (now 5092) extending the special tariffs approved in Article 1 to the relevant frontier points, shall be applied during the same periods at corresponding rates ;

Whereas, in discussions with the Commission on 1 October and 7 November 1975 and by verbal note of 2 December 1975 from its Permanent Representative, the German Government requested that the five-stage reduction of special rates provided for in the above-mentioned Commission Decision should not begin until 1 January 1978, in view of the effects of the economic crisis, which are particularly grave in the Saar ; whereas it also proposes using the intermediate period of two years for considering how to achieve for the Saar permanent and more effective aid in particular to contribute to achievement of the aims of Article 2 of the ECSC Treaty.

Whereas in support of its request the German Government points out that :

— despite the very high investments between 1968 and 1975 in the restructuring of the Saar's industry, particularly with a view to the creation of new industries outside the coal and steel sector, the coal and steel industry continues to play an important role in the Saar's economy. It is therefore necessary to maintain the competitivity of this industry.

(1) OJ No L 179, 9. 8. 1971, p. 33.
(2) OJ No L 192, 5. 8. 1969, p. 1.

— in the long run it will be possible to eliminate the competitive disadvantages of the Saar coal and steel industry only by building a waterway connection, such as exists in all other regions with a similar economic structure. The Government therefore decided on 30 May 1973 to canalize the Saar up to its confluence with the Moselle. The requisite financial decisions have been taken and the necessary works have begun. The central authorities have provided funds for 1976-77, but the effects of the current economic situation on the Government's finances make it necessary to extend the timetable for the work ;

— it would however be pointless to build the canal if in the meantime the competitivity of the Saar's coal and steel industry were further reduced by the abolition of the Deutsche Bundesbahn's special tariffs,

— because of the application of the special tariffs the Saar's coal and steel industry was able to maintain an adequate share of total German production until 1974. It was therefore able to invest at the same rate as other German mining regions and thereby expand and modernize its production and processing facilities and thus maintain jobs,

— the Saar's coal and steel industry has been unable to make the subsequent investments for 1976/77 in view of the economic difficulties caused by a drastic fall in production and sales. The restructuring measures launched on the basis of the Commission Decision of 1971 have therefore been suspended for the foreseeable future,

— it has become difficult to solve the continuing structural problems because of the current economic situation, especially as this has affected the Saar's coal and steel industry to an extent greater than the average in the Federal Republic, because of the Saar's geographical position ;

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Whereas the Commission stated in its 1971 Decision that the unfavourable competitive position of the Saar's coal and steel producers was not a result of natural conditions of location but could largely be attributed to action by the public authorities, mainly in the field of transport infrastructure ; whereas this situation required a restructuring of the industry and an adjustment of production and sales ; whereas this required relatively long periods of time and the taking of measures whose effects would be felt only after several years ;

Whereas the Commission took the view that aid in the form of special tariffs could ease this reorganization and adjustment ; whereas this aid should not however be regarded as permanent compensation to the Saar's coal and steel industry, to be continued as long as the disadvantages arising from the shortcomings of the waterway infrastructure remained unchanged ;

Whereas the Commission accordingly approved the application of the DB special tariffs in favour of coal and steel producers in the Saar for a period of nine years, with a gradual reduction of the special rates during the last four years ; whereas it took this decision on the basis of the economic situation in 1971 and the then foreseeable development of the industries in question ;

Whereas the Saar's coal and steel industry has, up to 1975, made considerable investment with a view to the modernization of its production and processing facilities ;

Whereas, because of the fall in production and sales in 1975 it has not yet been possible to proceed with the investments planned for 1976 ; whereas a large proportion of these cannot be made as planned ;

Whereas the current restructuring and adjustment programmes are being delayed for these reasons ; whereas the results foreseeable and anticipated at the time of the 1971 Commission Decision will not be achieved in 1976 ;

Whereas if in addition to this delaying of investment the aid granted by the Deutsche Bundesbahn in the form of freight concessions is scaled down after 1 January 1976, the position of the Saar's coal and steel industry will be made still more difficult, and it will not be able to make an adequate adjustment within the period prescribed ; whereas in these circumstances it appears justified to postpone for two years the start of the gradual scaling down of freight concessions ; whereas it has however not been established that the development of the Saars's coal and steel industry within the framework of the general development of the Community coal and steel market requires a corresponding extension of the overall period during which the tariff aid is to be granted,

HAS ADOPTED THIS DECISION :

*Article 1*

The Commission Decision of 22 July 1971 authorizing the application of the Deutsche Bundesbahn special tariff Nos 188, 196, 197, 263, 270, 273 and

tariff No 9133 in favour of coal and steel producers in the Saar is amended as follows :

1. In Article 1 (1) '31 December 1975' is replaced by '31 December 1977'.

2. Article 1 (2) shall read as follows :

'During a further period of two years, on condition that the said reductions shall be decreased by at least one-third on 1 January 1978, by at least two-thirds on 1 January 1979 and completely abolished by 1 January 1980.'

*Article 2*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 18 December 1975.

*For the Commission*

Carlo SCARASCIA MUGNOZZA

*Vice-President*