COMMISSION

COMMISSION DECISION

of 18 September 1991

abolishing the support tariffs applied by the Italian railways to the carriage of bulk ores and products produced and processed in Sicily and Sardinia

(Only the Italian text is authentic)

(91/523/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 80 thereof,

Whereas Italy introduced a system of rail support tariffs for certain goods produced in Sicily and Sardinia in the last paragraph of Article 19 of Law No 887 of 22 December 1984 (1985 Finance Law) (1). This states that a 30 % reduction on Italian railway tariffs shall apply to the carriage of bulk ores from Sicily and Sardinia. A 60 % reduction shall apply to products produced and processed in Sicily and Sardinia. The amount of these reductions shall be borne by the Italian Treasury which shall reimburse the Italian railways any amount due pursuant to Community law;

Whereas this rule, which is of indefinite duration, is, as far as the Commission knows, still in force;

Whereas the application of support tariffs constitutes a form of aid with a direct impact on the selling price of the goods in question; whereas they favour production of these products *vis-à-vis* competitors in other Member States on the Italian and other Member States' markets;

Whereas the tariff reductions in question are granted for an indefinite period; whereas such aid does not promote structural development or help to improve the situation in the regions in question; whereas these measures cannot be justified on regional policy grounds and do not serve the needs of less developed regions; whereas they are hence subject to the prohibition laid down in Article 80 (1) of the EEC Treaty and cannot be exempted therefrom;

Whereas the system of support tariffs introduced by Law No 887 of 22 December 1984 concerns the railways only; whereas, consequently, it creates distortions of competition between modes of transport; whereas this may encourage goods from Sicily and Sardinia to be carried by the railways which offer a combined rail/ferry service with associated ferries;

Whereas this may have a detrimental impact on the significant charge in the competitive position of the other modes of transport; whereas the Commission has taken note of practical examples of such an effect;

Whereas there is a significant imbalance between the volume of freight to and from Sicily and Sardinia; whereas, consequently, under normal conditions of competition, carriers already find it difficult to obtain return loads; whereas these problems will only be aggravated by support tariffs;

Whereas such distortions in competition between modes of transport is not in the interest of the public or the completion of the internal market and is contrary to the Community's common transport policy strategy; whereas the prohibition placed on such tariffs by Article 80 (1) of the EEC Treaty therefore also applies in this case;

Whereas, in accordance with the procedure laid down in Article 80 (2) of the EEC Treaty, the Commission asked the Italian Government for its comments by letter No 52319 of 7 September 1989 and reminder No 53821 of 18 December 1989;

(1) Supplement to *Gazzetta Ufficiale* No 356, 29. 12. 1984.

Whereas by its letter No 57302 of 1 August 1990 the Commission tried to organize a meeting as requested by the Italian authorities;

Whereas by letter No 216 of 15 May 1991 the Italian authorities communicated their comments to the Commission; however, these comments do not give a justification of the support tariffs;

Whereas the Commission has no other information in its possession which would justify authorization,

HAS ADOPTED THIS DECISION:

Article 1

Italy shall abolish the system of support tariffs for the carriage of certain types of goods from Sicily and Sardinia introduced by the last paragraph of Article 19 of Law No 887 of 22 December 1984.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 18 September 1991.

For the Commission

Karel VAN MIERT

Member of the Commission