

COMMISSION DECISION

authorizing Special Tariff No 201 of the Italian State Railways

(Only the Italian text is authentic)

THE COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITY,

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

Having regard to the Protocol on Italy annexed to that Treaty;

Having regard to Tariff No 201 of the Italian Railways (FS) in its current version, as laid down in *Decreto di legge* No 9 of 25 January 1940, promulgated as Law No 674 of 13 May 1940, concerning powers in respect of the introduction, amendment and discontinuance of goods rates on the FS, and in subsequent decrees enacted under that Law;

Having regard to the views of the Member States concerned as expressed when they were consulted by the Commission in Brussels on 13 November 1961 in accordance with Article 80 (2);

I

Whereas Tariff No 201 applies to the carriage of certain agricultural produce – in particular fruit and vegetables – and fishery products, and to the carriage of certain prepared foodstuffs such as margarine, preserved meats, fruit and vegetables, oils and non-alcoholic syrups;

Whereas the tariff operates to the advantage of all consignors in the area served by stations on or to the south of the Italian Railway Rome-Pescara line, including those in the Italian islands; whereas that line corresponds approximately to the economic and administrative boundary of the Mezzogiorno;

Whereas the tariff applies to the carriage of goods to all stations on the Italian Railway network; whereas under Italian Railway tariff rules a tariff applicable to carriage to all stations likewise applies to carriage to frontier points; whereas in consequence consignments are also covered by this tariff when consigned for export and in such case Tariff No 201 applies concurrently with General Export Tariff No 251;

Whereas, as regards the extent of the reductions under Tariff No 201, Tariff No 201 gives reductions as compared with the normally applicable FS Tariff No 103 of up to 37.5 % for citrus fruit and up to 29 % for other products; whereas these disparities arise from the way in which rates are differentiated according to the tonnage loaded per truck, to the nature of the goods and their cost-sensitivity, and to distance;

Whereas, as regards carriage of goods for export overland, Tariff Nos 201 and 251 applied concurrently give reductions as compared with Tariff Nos 103 and 251 of between 27.5 % and 40 % for citrus fruit, of between 5 % and 18 % for other fruit, of up to 25 % for fresh vegetables and of up to 20 % for other products;

Whereas, as regards the amount of these reductions, the reduction per kilogramme of goods carried varies, for example:

- for cauliflowers, from Lit 0.83 for carriage from Apulia to Milan to Lit 1.27 for carriage as far as Munich (including reduction under Tariff No 251);
- for lettuces from Campania, from Lit 2.22 to 3.65;
- for grapes from Apulia, from Lit 0.83 to 1.28;
- for oranges from Sicily, from Lit 2.50 to 2.62;

Whereas, as regards the extent of the support resulting from these reductions, since production costs are relatively low, the sensitivity of prices of these products to transport costs is accordingly high; whereas moreover agricultural produce from southern Italy has to be carried over long distances, and at times in special vehicles, before it can be marketed;

Whereas, as regards the effects of Tariff No 201 on competition between modes of transport, the major proportion of transport operations eligible to benefit under the tariff is carried out by the FS, particularly in the case of long-distance transport; whereas, because of technical considerations peculiar to the carriage of vegetables and citrus and other fruit over long distances (sensitivity to atmospheric conditions;

the fact that these are perishable foodstuffs, which by their nature and the type of packaging required call for a large loading space and, in most cases, refrigeration plant; use of ferries between Sicily or Sardinia and the mainland, etc.) a relatively small proportion is carried by the other two modes of transport (road transport and coastal shipping);

Whereas, as regards the impact of the retention of Tariff No 201 on the internal finances of the FS, the volume of goods carried by the FS under Tariff No 201 in the financial year 1960/61 amounted to 1 250 411 metric tons and approximately 1.4 thousand million metric tons/km, but the FS receive compensation out of State funds equal to a substantial proportion of the loss in revenue arising from the operation of the said tariff;

II

Whereas, without prejudice to the applicability to Tariff No 201 of Article 80, the Italian Government has submitted in accordance with that Article – in case the Commission should consider it to be applicable – an application for authorization to retain in operation FS Special Tariff No 201;

Whereas the tariff applies to the carriage of goods within the Community, which includes a Member State's domestic traffic; whereas the tariff must be regarded as a State-imposed measure within the meaning of Article 80 (1), since it is laid down by national laws and regulations; whereas the tariff constitutes support for agriculture in Southern Italy corresponding to the objectively measurable difference between rates under the normal tariffs and those under Special Tariff No 201; whereas this support is given to specific industries, namely agricultural undertakings situated on or to the south of the Rome-Pescara line or in the Italian islands; whereas, bearing in mind the object of Article 80, agriculture must be regarded as being an industry within the meaning of paragraph 1 of that Article, whereas in consequence Tariff No 201 comes within the scope of Article 80;

Whereas it is not even claimed that Tariff No 201 is a tariff fixed to meet competition within the meaning of Article 80 (3);

Whereas it is therefore for the Commission to decide, in accordance with Article 80 (2), on the application submitted by the Italian Government for authorization, in so far as this may be required, to retain in operation Tariff No 201;

III

Whereas the Italian Government puts forward the following arguments in support of its application:

The importance of agriculture in southern Italy and the islands is evidenced by the fact that of a total

population of 18 million, or one-third of the total population of Italy, 42.8 % are engaged in agriculture as against 25.4 % in northern and central Italy, and that the agricultural output of the area south of the Rome-Pescara line amounts to 56.3 % of Italian agriculture output as a whole, of that amount 16.4 % is marketed locally, 28.2 % in other Italian markets and 11.7 % in markets outside Italy, this 11.7 % consists as to 5.1 % of citrus fruit, as to 2.8 % of other fruit and as to 3.8 % of vegetables;

Tariff No 201 dates from the early days of Italian railway tariff policy and has always constituted a support measure for southern Italy; this basic principle has in no way been affected by successive adjustments in matters of detail made in the course of nearly a century to allow for general political and economic developments;

The Italian Government has moreover instituted a vast programme for the economic development of the *Mezzogiorno*, where the per capita national product is only one-third of the national average, and more particularly for agricultural development; this programme provides for coordination of various measures, mainly political, financial and fiscal; a special State institution, the *Casse del Mezzogiorno*, is responsible for giving effect to this programme;

According to the arguments advanced by the Italian Government in support of the retention of Special Tariff No 201, the latter, together with other special tariffs and a series of measures in widely varying spheres, contributes to the development of the underdeveloped regions of Italy; the aim is, through modernization of agriculture in these areas, together with progressive industrialization, to raise the standard of living to the average obtaining in Western Europe; this is not merely an economic task but also a social task of the utmost importance, the political aspects of which should not be overlooked; to abolish or amend the tariff is not at present possible, since it is indissolubly bound up with the other measures in a carefully thought-out system of mutually complementary and interacting aids; the attainment of these objectives would be jeopardized if the Italian Government were prevented from employing all means hitherto at its disposal to resolve the problem in a field where the success of such means can be ensured only by their coordinated and simultaneous application;

The Italian Government furthermore points to the impossibility of replacing the tariff by direct subsidies, for example by direct aids to users based on the transport charges borne by them; in its view, the tariff is the simplest and most reliable method for effectively bringing the benefit of reduced transport costs to those sectors of the economy for which this support measure was instituted, and any other system would involve considerable extra expenditure for its administration and thus constitute a far heavier

burden on public funds, while not affording the same degree of certainty and effectiveness;

IV

Whereas, in examining the matter as required by Article 80 (2), the Commission must take account both of the considerations expressly set out in that provision and of the general objectives stated in Articles 2 and 3 of the Treaty, as interpreted in the light of the Preamble thereto, and also, in this instance, of the provisions of the Protocol on Italy; whereas it is clear from these texts that harmonious economic development in the Community as a whole entails a reduction both in the disparities between its various regions and in the relative backwardness of the less favoured regions, of which southern Italy is one, and that it is for the Community's institutions to employ the means and procedures at its disposal under the Treaty to facilitate the Italian Government's implementation of its ten-year plan for economic expansion directed *inter alia* at that region; whereas the Commission should have these considerations in mind when examining transport rates and conditions to which Article 80 (1) applies, since paragraph 2 of that Article requires it to take account in particular of the requirements of an appropriate regional economic policy and of the needs of underdeveloped areas;

Whereas investigation shows that the area to which Tariff No 201 applies falls within the underdeveloped region of southern Italy covered by the *Cassa del Mezzogiorno* programme for economic expansion, development of employment opportunities and improvement of living standards; whereas the importance of agricultural production to the implementation of this programme is not disputed; whereas, bearing in mind the geographically remote situation of southern Italy, it is reasonable that the aid necessary to that region should cover the carriage of goods and hence Tariff No 201 appears to be a form of support appropriate to the objectives in view;

Whereas Tariff No 201 as now in force has not been shown to affect the conditions of competition as regards agricultural produce in a manner not justified by the needs of the underdeveloped area in question;

Whereas there is no evidence from the examination carried out in accordance with Article 80 (2) that Special Tariff No 201 has any unfavourable effects on competition between the different modes of transport within the meaning of that provision;

Whereas for the foregoing reasons the continued application of Tariff No 201 may be authorized;

Whereas, while granting authorization for an indeterminate period, the Commission retains the power to amend or revoke such authorization if it finds, of its own accord or at the request of a Member State, that authorization is no longer justified; whereas in particular the effects of the operation of the Council Regulation for the progressive establishment of a common organization of the market in fruit and vegetables may lead the Commission to reconsider this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Application of the Italian State Railways Special Tariff No 201, as in force on 13 November 1961, is hereby authorized with effect from 1 January 1962.

Article 2

This Decision may be amended or repealed if the Commission, acting of its own accord or at the request of a Member State, finds that it is no longer justified, having regard in particular to the effects of the operation of the Council Regulation for the progressive establishment of a common organization of the market in fruit and vegetables.

Article 3

This Decision is addressed to the Republic of Italy.

Done at Brussels, 16 February 1962.

For the Commission

The President

W. HALLSTEIN