

COMMISSION DECISION**of 9 July 1971****authorizing a Tariff Agreement between the SNCF and the Société métallurgique de Normandie (SMN) on the carriage of iron ore between certain French railway stations****(Only the French text is authentic)****(71/275/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;

Whereas by letter No 13-130 of 4 November 1970 from its Permanent Delegation the French Government requested the prior agreement of the Commission of the European Communities for the SNCF's Tariff Agreement No 2978 P;

Whereas the Tariff Agreement is applicable to the carriage of iron ore by full train-loads from the Halouze mine served by Chatellier station (Orne) up to Caen (Calvados), whence the ore is carried to the SMN works at Colombelles by private railway from Soument to Caen;

Whereas the Tariff Agreement provides for a reduction of 17.5 % on the prices laid down in scale 431 C which are normally applicable to the carriage of such products by virtue of Tariff No 13, Chapter 2 (1);

Whereas the French Government has invoked, in support of the Tariff Agreement, the SNCF's particular interest in retaining an important source of traffic; whereas without the traffic reduction the iron ore from the Halouze mine would not be able to compete against richer and cheaper ores carried by other means; whereas there would then be a risk, particularly in view of the increase in railway tariffs early in 1970 by about 12 %, that SMN would, as it did before 1969, use the latter ores; whereas, in spite of the reductions, carriage would remain profitable for the SNCF and would contribute to the improvement of its operating results;

Whereas the fourth paragraph of Article 70 of the ECSC Treaty provides that the prior agreement of the Commission is required for the application of

special rates and conditions in the interest of one or more coal- and steel-producing undertakings; whereas that provision relates not only to special tariffs adopted in the interest of such undertakings, but also to any special tariffs which, whatever the reason for their introduction, happen to be of advantage to one or more of them; whereas the agreement of the Commission must be given if the special tariffs comply with the principles of the Treaty and whereas such compliance may as a general rule be presumed where the special tariffs are justified specifically by the conditions of the transport market; whereas the interest of a carrier in applying a special tariff in order to retain certain traffic must, however, be disregarded if the proper functioning of the common market in coal and steel, as laid down by the ECSC Treaty, so requires;

Whereas, by virtue of its restricted scope and the fact that it actually benefits the Halouze iron ore mine, Tariff Agreement No 2978 P of the SNCF comes under the fourth paragraph of Article 70 of the ECSC Treaty;

Whereas, as regards the interests of the SNCF, there is a real danger that traffic will disappear in view of the possibility that SMN may obtain supplies of ore from other sources, as it previously did in 1969; whereas this is an important source of traffic undertaken by SNCF on favourable terms by full train-loads according to a pre-determined programme; whereas in these circumstances the railways' interest in the application of the tariff reduction envisaged cannot be denied;

Whereas, bearing in mind the present competitive position of iron ore mining in the Community and the need to safeguard continued employment in the industry, a special tariff measure contemplated by the carrier in his own interest, the application of which is beneficial to certain iron ore mines, may be considered as being in accordance with the principles of the Treaty establishing the European Coal and

Steel Community, provided that it does not distort competition within the common market;

Whereas competition between the mines in the Community will not be affected by the tariff measures, since, on the one hand, as far as the Normandy mines are concerned, the Halouze mine delivers to SMN only when its requirements cannot be met by supplies from the Soumont mine which is owned by the aforementioned undertaking and, on the other hand, the small quantities supplied to SMN by the mines located in the Departments of Loire-Atlantique and Maine-et-Loire consist of ores of different quality; whereas the other mines in the Community are unlikely to supply this market owing to their distance from SMN;

Whereas, having regard to the fact that SMN is able to obtain supplies of ore from other sources on at least comparable terms, the competitiveness of that works in the common market will not be affected by the application of the special tariff measure;

Whereas the Tariff Agreement also contributes to maintaining continuity of employment in the Normandy mining area, thereby lessening the risk of social disturbances in an area which, on account of its economic problems, is part of the French development areas;

Whereas, under these conditions, the special tariff measure is in accordance with the principles of the ECSC Treaty;

Whereas the Commission must be free to review its decision if factors on which it is based change or no longer obtain,

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

The Tariff Agreement No 2978 P concluded between the SNCF and the Société métallurgique de Normandie for the carriage of iron ore from Chatellier station to Caen is authorized.

Article 2

If the Commission considers this Decision to be no longer justified, it shall be amended or repealed.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 9 July 1971.

For the Commission

The President

Franco M. MALFATTI