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## COMMISSION DECISION

## authorizing item 7 of the Appendix to the Goods Tariff 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 item 7 of the Appendix to the Goods Tariff of the Italian State Railways (FS) in its current version, as laid down in *Decreto di legge* No 9 of 1 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, in Law No 634 of 27 July 1957 and in the Minister of Transport Decree No 5272 of 2 May 1958;

Having regard to the views expressed by the Italian Government in the course of the consultations held by the Commission in Brussels on 13 November 1961 in accordance with Article 80 (2);

## I

Whereas item 7 of the Appendix to the Goods Tariff of the Italian State Railways (FS), which is designed to promote the industrialization of southern Italy and the Italian islands, applies to goods, and in particular to machinery (whether manufactured in Italy or abroad), to be used in the construction, development or modernization of the plant and equipment of industrial undertakings; whereas such machinery must be intended for permanent use in these undertakings and must be necessary to their normal production;

Whereas the Annex applies to goods consigned from abroad or from any station on the Italian railway network to undertakings in southern Italy, the Italian islands or certain areas of Latium and the Marches; whereas the provisions in question give, as compared with the normal tariffs, reductions of between 10 % and 50 % according to the distance covered in Italy;

Whereas the volume of goods carried by the FS on these terms in the financial year 1960/61 amounted

to 235 018 metric tons and 254 million metric tons/km, and whereas the FS receive compensation out of State funds equal to a substantial proportion of the loss in revenue resulting from the operation of this measure;

## II

Whereas, without prejudice to the applicability to the tariff provision in question 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 item 7 of the Appendix to the FS Goods Tariff;

Whereas the said tariff provision applies to the carriage of goods within the Community, which includes a Member State's domestic traffic; whereas it 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 it constitutes support for industrial production in southern Italy corresponding to the objectively measurable difference between rates under the normal tariffs and those under item 7 of the Appendix to the FS Goods Tariff; whereas this support is given to specific industries, namely undertakings situated in the area to which the provision applies; whereas in consequence this tariff provision comes within the scope of Article 80 (1);

Whereas it is not even claimed that the tariff provision 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 item 7 of the Appendix to the FS Goods Tariff;

## III

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

This tariff provision reflects the change that has taken place in Italian regional policy over the years. The original scheme was to promote, by means of State aid, an expansion which, through the development of agriculture and improvement of the transport network, would raise the general economy of these regions to the level of northern Italy; this scheme has proved inadequate. The realization that if the aims pursued are to be achieved State intervention is equally necessary in the industrial field has led to the present vast programme for the general industrialization of southern Italy. Underlying this programme is the conviction that the problem of the *Mezzogiorno* depends for its solution not only on aid to agriculture but also, essentially, on industrial progress. Only by creating an industry suited to the potential of southern Italy and making full use of the hitherto unused labour potential, can the real income of the population in these areas be effectively raised.

This tariff provision, together with other special tariffs and a whole series of measures in widely varying spheres, contributes to the aims set out above; 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 this provision 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;

#### IV

Whereas in examining item 7 of the FS Goods Tariff, as required by Article 80 (2), the Commission must take account both of the considerations expressly set out in that provision and also 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 the purpose of item 7 of the Appendix to the FS Goods Tariff is to promote the industrialization of certain economically underdeveloped regions of Italy, thus leading to a progressive improvement in production capacity in those regions and to a constant raising of the living standard of the population, in particular by the creation of new employment;

Whereas it is thus established that the aforesaid tariff reductions under item 7 of the FS Goods Tariff are both useful and necessary; 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 item 7 of the Appendix to the FS Goods Tariff appears to be a form of support appropriate to the objectives in view;

Whereas item 7 of the Appendix to the FS Goods Tariff as now in force has not been shown to affect competition as regards the products concerned in a manner not justified by the needs of the underdeveloped area in question; whereas the tariff provisions apply equally to products from the other Member States, thus enabling all producers within the European Economic Community to contribute without discrimination to the capital equipment of industry in southern Italy; whereas the tariff reductions, being scaled according to distance, even operate to the advantage of non-Italian suppliers;

Whereas there is no evidence from the examination carried out in accordance with Article 80 (2) that item 7 of the Appendix to the FS Goods Tariff has any deleterious effects on competition between the different modes of transport within the meaning of that provision;

Whereas for the foregoing reasons the continued application of item 7 of the Appendix to the FS Goods Tariff 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,

HAS ADOPTED THIS DECISION:

#### Article 1

Application of item 7 of the Appendix to the Goods Tariff of the Italian State Railways, 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 re-

quest of a Member State, finds that it is no longer justified.

Done at Brussels, 16 February 1962.

*Article 3*

This Decision is addressed to the Republic of Italy.

*For the Commission*

*The President*

W. HALLSTEIN