

ACC AC15/TN4 10000/148/1966

FINANC
DEC. 1943 -

10000/148/1966

FINANCE - CLAIMS ETC
DEC. 1943 - NOV. 1944

(Transalation)

15/38

MINISTRY OF COMMUNICATIONS

Legislative Office

Gabinetto

Rome 15 nov. 1944

N. UL/I6/I44/

Ans. to Tn./15 of the 9 th of nov.44.

Object: Circular letter to Railway Staff, pursuant the L.L.Decree of the 17th of aug.44 N.I89.

In reference to the L.L.Decree of the 17th of aug.1944 N.I89, it is not intended to violate the principals of the Law by backdating, but for the purpose to exonerate the Italian Railway Administration from continuous and known facts of "forza maggiore" constituted by war events, that disorganized, as nearly as completely (from the 1st of JAN. 1943) the railway service. Though remaining the responsibility to the Administration, even in cases where, for the eventual mistake of her own agents, no such war events have taken place.

The circular letter mentioned, prearranged by the offices of the Direzione Generale, Allthough neglecting to express the fundamental principals of the Law, dispositions have been given to give serious attention to all, probable claimant, and with a careful investigation to stabilize the truthfulness of the war-damage, if dependant from the carelessness of the Administration, which, in such cases, will pay regularly the claimant.

002

Of course, it is difficult to determine exactly the casuistry.

However, instructions given to the Direzione Generale for the that the Commission suggests.

1695

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Of course, it is difficult to determine exactly the casuistry.

However, instructions given to the Direzione Generale for the modification of the circular letter, as that Sub-Commission suggests, and will remit you a copy of the modifications done.

IL MINISTRO

ACP/nf

15/37

HEADQUARTERS ALLIED COMMISSION
APO 394
Transportation Sub-Commission

Tel. 478701

9 November 1944

Our Ref. AC/TN/15/

your ref: C.O.1 Segr. ICCA/264/5

TO : H.E. Cerabona
Ministry of Communications
and: U/S Italian State Rys

SUBJECT : Circular to Railway Staff pursuant to
legislative Decree D.D.L. 189.

1 This Sub-Commission is somewhat disturbed at the fact that the fundamental principles of Italian law have been abrogated in this Decree by back dating the application to a date previous to the arrival of Allied Armies in Italy.

2 It is also felt that the circular might be carefully re-drafted to give some measure of relief to the trader in the onus placed upon him in making his claim.

3 It is felt that a defined classification of what a claimant can do to rebut the presumption of 'force majeure' maintained by the railway might help to give a claimant some hope of maintaining a satisfactory claim in some cases.

3691

D.S. ADAMS
Colonel, C.E.
Director, Tn. Sub.Comm.

HEADQUARTERS ALLIED COMMISSION
ART 394
LEGAL SUB-COMMISSION

15/36

ART/10.

1 Nov. 44.

AG/4104/L.

SUBJECT : Circular pursuant to BDL No. 139.

TO : Transportation Sub-Commission.

1. Reference ~~is~~ your letter AGC Tr/15 dated 28 Oct. 44.

2. This BDL having been sanctioned, promulgated and duly published in the Official Gazette could be changed only by another formal law, and this applies, of course, to the dates fixed in Article 2. However, on 10 Sept. 44 an implementation order was signed providing for application in AMG territory.

3. On the question of interpretation by circular of what would be accepted from a claimant as sufficient proof to rebut the presumption of "force majeure" established in favour of the carriers, it might be possible to relieve the trader of some of his burden by a stipulated rebuttal of the circular.

But this is a technical matter which could only be properly undertaken by an expert versed in the jurisprudence of "carrier" claims.

4. If you were to call the attention of the Ministry to your views on this point some alleviation might be obtainable for the trader without its being necessary to reverse the decree itself.

A. R. Thackran
A. R. THACKRAN, 3633
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

ACE/hl

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

Tel: 478701
Our Ref: ACC.Tn/15

28 October 1944

TO : Legal Sub-Commission
HQ. ACC.

SUBJECT: Circular pursuant to DDL No. 189
Legislative Decree

1. Reference is to your letter ACC 4104/C of 20 Oct. '44.
2. This Sub-Commission is disturbed at the facts revealed in your letter, as the original Decree was not submitted to this Sub-Commission for consideration.
3. Your opinion is sought as to the desirability at this stage of the drawing particular attention of the Government to the fact that the Railways absolve themselves of the onus of proving "Force Majeure" as the cause of loss or damage.
3. It has recently been brought to our notice that the intention to provide a railway Police Force by Decree has been shelved by the Minister of the Interior and in such circumstances the scales appear to be weighed much too favourably for the State as against the Trader.

4. The question of offending against fundamental principles of Italian Law by back dating the date of application also deserves serious consideration, particularly when the date selected is one previous to the disturbance of war by Allied invasion.

5020
D. S. Adams

D.S. ADAMS
Colonel, C.E.

HQ. ACC.

SUBJECT: Circular pursuant to DDL No. 189
Legislative Decree

1. Reference is to your letter AGO 4104/C of 20 Oct. '44.
2. This Sub-Commission is disturbed at the facts revealed in your letter, as the original Decree was not submitted to this Sub-Commission for consideration.
3. Your opinion is sought as to the desirability at this stage of the drawing particular attention of the Government to the fact that the Railways absolve themselves of the onus of proving "Force Majeure" as the cause of loss or damage.
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6623
D. S. Adams

D.S. ADAMS
Colonel, C.E.
Director, En. Sub. Comm.

Translation.

/nf

Lieutenancy decree July 20th 1944

15/34

Appointment of General Di Raimondo as General Director ISR

Umberto di Savoia
Prince of Piemonte
General Lieutenant of the Kingdom.

In virtue of the authority which has been conferred to us;
seen R. Law-decree 22-5-1924 n. 858 and its successive amendments;
heard the Council of Ministers
upon proposal of the Minister of Communication
we have decided and we decide.

Only Article.

General Giovanni di Raimondo is appointed General Director ISR
starting from July 18th 1944.

The proposing Minister is charged to enforce present decree.

Issued at Rome on July 20th 1944.

Umberto di Savoia

Bonomi - Cerabona

3688

1703

/nf

Translation.

Liautenancy Law-Decree n. 189 of Aug. 17th 1944

Exceptional measures concerning the Transportation of freight upon I.S.R.

Umberto di Savoia
Prince of Piemonte
General Lieutenant of the Kingdom

In virtue of the authority which has been conferred to us;
Seen R. Law-decree 21-1-1940 n. 9 converted into Law 13-5-1940 n. 674;
seen Lieut. Law-decree 25-5-1944 n. 151;
seen R. Law-decree 30-10-1943 n. 23 and its successive amendments;
seen the deliberation of the Council of Ministers;
upon proposal of the Minister, State's Secretary for the Communications
in agreement with the Minister of Grace and Justice;
we have sanctioned and we promulge what follows:

Art. 1

For the whole duration of the state of war and to the derogation of the tariff-conditions approved with R. Law-decree 25-1-1940, converted into law 13-5-1940 n. 674, the transportation of freight upon I.S.R. is accepted only at consignee's own peril.

Art. 2

Delayed or missing collection of payments upon delivery, damages partial or total loss of transported goods, non-observance of delivery terms, as per art. 25 - 33 and 35 of a/m tariff-conditions for all transports applied for and operated from January 1st 1943 till the day when this decree becomes effective, shall be considered, except when the contrary can be proved, as having been due to Act of God.

3687

Art. 3

For the same period as per art. 1, the term as referred to in first sub-paragraph of art. 34 of a/m tariff-conditions is prorogued up to 180 days.

Above term, whenever concerned transports have been applied for or operated over IGH lines running, even partially, through territories which have not yet been restituted to the Italian administration, elapses from the day when said territories are restituted.

Art. 4

The rules of present decree can be enforced also for the transports of goods lines in concession to private enterprises whenever

seen in art. 1. Law-decree 25-1-1943 n. 23 and its successive amendments; seen R. Law-decree 30-10-1943 n. 23 and its successive amendments; seen the deliberation of the Council of Ministers; upon proposal of the Minister, State's Secretary for the Communications in agreement with the Minister of Grace and Justice; we have sanctioned and we promulge what follows:

Art. 1

For the whole duration of the state of war and to the derogation of the tariff-conditions approved with R. Law-decree 25-1-1940, converted into law 13-5-1940 n. 674, the transportation of freight upon I.G.R. is accepted only at consignee's own peril.

Art. 2

Delayed or missing collection of payments upon delivery, damages, partial or total loss of transported goods, non-observance of delivery terms, as per art. 25 - 53 and 55 of a/m tariff-conditions for all transports applied for and operated from January 1st 1943 till the day when this decree becomes effective, shall be considered, except when the contrary can be proved, as having been due to Act of God.

Art. 3

For the same period as per art. 1, the term as referred to in first sub-paragraph of art. 54 of a/m tariff-conditions is prolonged up to 180 days.

Above term, whenever concerned transports have been applied for or operated over ISR lines running, even partially, through territories which have not yet been restituted to the Italian administration, lapses from the day when said territories are restituted.

Art. 4

The rules of present decree can be enforced also for the transports operated over lines in concession to private enterprises whenever said lines observe the same tariff-conditions which are valid for ISR lines.

Art. 5

Present decree becomes effective on the day of its publication upon Gazzetta Ufficiale del Regno. Whoever it may concern, is ordered to observe present decree and to make others observe it like a law of the State.

Issued at Rome on Aug. 17th 1944

Umberto di Savoia
Bonomi - Cerabona - Tupini

3687

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission

ACP/nf

File
15/33

Tel. 478701

20 October 1944

ACC/TH/15

TO : Capt. E.S. DEAN
Tn. Sub.Comm.
Region IV

SUBJECT : Theft of Freight.

- 1 Herewith attached is communication received from Food Sub.Comm. ACC. regarding theft of olive oil while in transit.
- 2 Please make investigation of this theft and submit complete report on police arrangements to this office.

For Arthur Cap
D.S. ADAMS
Colonel, C.S.
Director, Tn. Sub.Comm.

3686

Copy to: Food Sub.Comm.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Food Sub Commission
Apo 394

HE/ks

ACC/74-11/74-10/FOOD

11 October 1944

SUBJECT : Thefts of Olive oil.

TO : Transportation Sub Commission (att. Railway Division).

1. The following two cases of theft of oil in drums from railway wagons in transit are brought to your notice in the hope that steps may be taken to prevent such stealing of olive oil, which is assuming dimensions far beyond ordinary "pilfering":

2. On about 1st October wagon # 10331428^{arrived} at Ostiense Station from Naples where it had been loaded with drums of olive oil. The loading took place under the supervision of 2 British checkers from Food Sub Commission Depot Naples.

3. The seals on the wagon had been tampered with in transit and on opening it it was found that 5 drums of olive oil had been removed, viz:

Drum Nr.	81	Gross weight	kgs	231½	tare	kilos	52½	3685
"	87	"	"	230	"	"	50½	
"	94	"	"	211	"	"	27	
"	97	"	"	235½	"	"	51½	
"	98	"	"	220½	"	"	23½	
				-----			-----	
				kgs 1128½			kilos 205	net loss 923 kgs
						-----		-----

4. On the 3d of October at Olea Romana Siding, Ostiense, wagon # 1007940 containing 41 drums of olive oil (verified by Railway Official who resealed the wagon) was moved to Tuscolana Station by train O.L. at 3.05 a.m., on 4/10/44 (Gaslini siding). On arrival at Tuscolana it was discovered that the seals had been broken. On the drums being counted it was found that there were 38 instead of 41, so three had been stolen between the time the wagon left Ostiense and its arrival at Tuscolana.

5. I understand that before Allied Occupation all merchandise in railway vehicles stationing at any transit yard was guarded by members of the "Milizia Ferroviaria".

6. No such protection seems to be provided nowadays.

7. The approximate total value of these 8 drums of oil stolen is Lire 35.000 and unless adequate steps are taken to prevent such thefts, the losses will reach very important figures both in money and in kind.

Director Food Sub Commission

W. J. LECG
Colonel

[Signature]

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
A/C 394

15/31
ART/la.
20 Oct 44.

ACC/4404/1.

SUBJECT : Circular pursuant to DDL No. 139.

TO : Transportation Sub-Commission.

1. Reference is made to your ACC Tn/15 dated 14 October 1944.
2. From an examination of the original Italian text it results that there is no objection as to the form nor as to the manner of interpretation of the decree in question by the circular.
3. As you have invited comment and the examination of the circular involves a perusal of the law, the following observation is made :

The State railways are to all intents and purposes relieved during the continuance of a State of War from normal statutory responsibilities as common carriers, and moreover (contrary to the fundamental principles of Italian law) this protection is made retroactive to 1 Jan 43 with all the consequences that this implies in regard to contractual obligations entered into up to 9 Sept 44.

The burden of proof is placed upon the consignor to rebut the presumption created in favour of the railways that loss, damage or delay is due to "force majeure" (vide Article 2 DDL).

3684

A. R. Mackay

A. R. MACKAY,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

ACP/hl

File 15/30

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

14 October 1944

Tel. 478701
Our Ref: ACC.Tn/15/

TO : Legal Sub-Commission, HQ. ACC.

SUBJECT: Legislative Decree

Reference is to your letter ACC/4104/L of
7 October 1944.

Copy of original Italian text is attached
hereto.

adp
D.S. ADAMS
Colonel, C.E.
Director, Tn. Sub. Comm.

Enclosure: 1
(letter from Min. of Comm.)

3683

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

15/29

ATP/ra.
7 Oct 44.

ACC/4404/L.

SUBJECT : Circular relating to D.L.L. No. 189.

TO : Transportation Sub-Commission.

1. Referring to your ACC/Tn/15 of 4 Oct 44 and annexures, it is not possible to gain an accurate idea of the objects and scope of the circular from the imperfect translation supplied.

2. If you will kindly furnish a copy of the Italian text at the same time indicating from the point of view of your Sub-Commission (a) the objectivity of the circular, (b) any objections or queries it is desired to raise, we shall be better able to comment usefully upon it.

A. R. Thackrah

A. R. THACKRAH,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

3682

ACP/fd

15/28

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

Tele : 476701

4 October 1944

ACC Tn/15/

SUBJECT : Luogotenenziale Legislative Decree N. 189 dated
17 August 1944

TO : Legal Sub-Commission

1. Attached hereto is a translation of a letter sent
by the I.S.R. Headquarters to their various Divisional Chiefs
in respect of liability for claims.

2. Your comments thereon in due course will be
appreciated.

f. a. p.
D.S. ADAMS
Colonel, C.E.,
Director, Tn. S/C.

3681

Translation
Ministry of Communications
I S-R General Direction

Subject:

Circular letters' distribution

Rome 28 Sept. 1944 29 SET. 1944 15/27
our ref. C 01 Segr. Ycea (864/5)

To Allied Control Commission

To Direction General M.R.S.
Building

For your knowledge, we forward you the attached copies of the circular letter dated 14 Sept. 1944 file C 242/5251/2, regarding the Decree 17 August 1944 n.189 which modifies the responsibility regimen connected with goods transportations.

Director General
signed Di Raimondo

ng28

3680

Translation

Ministry of Communications No. 14 Sept. 1944
I S R - General Direction
Commercial and Traffic Service

our ref. C. 242/3251/2

Subject:

"Luogotenenziale Legislative
Decree N. 189 dated 17 August
1944
To Commercial and Traffic Sections of
Rome - Naples - Florence - Ancona - Bari
Regio Calabria and Palermo -
Cagliari I.S.R. Delegation

Rules, modifying the responsibility regimen connected with goods transportation have been issued with the "Luogotenenziale Legislative Decree" N. 189 dated August 17 - 1944 - This Decree, already published on Official Gazette n. 53, dated 8 Sept. 1944, will be taken over by a next I S R. Official Bulletin.

While your attention is invited on said decree with the purpose to secure uniformity of opinions in practical application of such disposition, we beg you to fulfill the following dispositions:

1) All the pending claims regarding either delay of failed cashing of the C O D and damage, either total or partial loss of goods, or inobservance of time allowed for delivery concerning transportations accepted between January 1st 1943 and September 7th 1944, and for which we have not indemnified the damage, are now to be examined in connection with the new rules issued by this decree. In case of such claims dismissal the dispositions of the above mentioned decree are to be cited to the Claimants on the reply. The dismissal is to be performed in all the cases in which the claimants have not provided or are not going to provide to invalidate, bringing efficient and positive evidences, the irresponsibility presumption stated on our behalf, evincing, besides, the full evidence of the real cause of the damage and the imputability to a specific I S R administration guilt.

It is understood: a) that concerning such evidences and documentations fair dealings criteriums cannot be allowed. b) that it is possible, however, to esteem the results of minutes (form OH 100) in case that these results, not only invalidate the force major fact, but bring efficient

Rules, modifying the responsibility regimen connected with goods transportation have been issued with the "Inogetenensiable Legislative Decree" N.199 dated August 17 - 1944 - This Decree, already published on Official Gazette n.53, dated 3 Sept. 1944, will be taken over by a next I S R. Official Bulletin.

While your attention is invited on said decree with the purpose to secure uniformity of opinions in practical application of such disposition, we beg you to fulfill the following dispositions:

1) All the pending claims regarding either delay of failed carrying of the C C D and damage, either total or partial loss of goods, or inobservance of time allowed for delivery concerning transportations accepted between January 1st 1943 and September 7th 1944, and for which we have not indemnified the damage, are now to be examined in connection with the new rules issued by this decree. In case of such claims dismissal the dispositions of the above mentioned decree are to be cited to the Claimants on the reply. The dismissal is to be performed in all the cases in which the claimants have not provided or are not going to provide to invalidate, bringing efficient and positive evidences, the irresponsibility presumption stated on our behalf, avicing, besides, the full evidence of the real cause of the damage and the imputability to a specific I S R Administration guilt.

It is understood: a) that concerning such evidences and documentations fair dealings criteriums cannot be allowed. b) that it is possible, however, to esteem the results of minutes (form CH 100) in case that these results, not only invalidate the force major fact, but bring efficient evidence of the common carrier guilt and excluding, absolutely the existence of any causality connection between the harmful action and the presumed

./.

force major fact. It is pointed out, too, that testing the results, the above referred evidences and documentations, are to be considered the exceptional circumstances in which the transportations have been operated and the I S R Administration impossibility to secure a regular service operation.

Doubtfull cases are to be submitted to this General Director to avoid diversity of decisions.

2) Dispositions, whereof the above para. are to be fulfilled, too, for the claims regarding abnormalities of transports accepted afterwards september 7th 1944, as, according to the above mentioned decree, such transportations are operated at parties' own risk. This clause states the common carrier's irresponsibility presumption, the claimant having of course the duty to invalidate such presumption, enjoining surely that the damage is consequent to a specific I R S guilt.

3) The controversies, regarding the abnormalities for consignments accepted before January 1st 1943 are to be on the contrary handled and carried out according to the dispositions followed up to this time - that is to say the usual responsibility foreseen by the Conditions and Rates now in force, as no responsibility limitative rule is foreseen by the said Decree concerning such transportations. But it is very necessary, considering the strict necessity, considering the strict necessity to limit, at this particular moment, and as much as possible, the burden connected with indemnities payment. It is understood therefore, that in the handling and carrying of these controversies are to be collected and tested, as much as possible, circumstances, proper to leave out, or at least to limit, I.S.R. Administration and the consequent payment of indemnity (as art. 52 and following of Conditions and Rates.)

4) All the controversies submitted to this Seat either for

to avoid diversity of decisions.

2) Dispositions, whereby the above para. are to be fulfilled, too, for the claims regarding abnormalities of transports accepted afterwards September 7th 1944, as, according to the above mentioned decree, such transportations are operated at parties' own risk. This clause states the common carrier's irresponsibility presumption, the claimant having of course the duty to invalidate such presumption, S. evidencing surely that the damage is consequent to a specific I R S guilt.

3) The controversies, regarding the abnormalities for consignment accepted before January 1st 1943 are to be on the contrary handled and carried out according to the dispositions followed up to this time - that is to say the usual responsibility foreseen by the Conditions and Rates now in force, as no responsibility limitative rule is foreseen by the said Decree concerning such transportations. But it is very necessary, considering the strict necessity, considering the strict necessity to limit, at this particular moment, and as much as possible, the burden connected with indemnities payment. It is understood therefore, that in the handling and carrying of these controversies are to be collected and tested, as much as possible, circumstances, proper to leave out, or at least to limit, I.S.R. Administration and the consequent payment of indemnity (as art. 52 and following of Conditions and Rates.)

4) All the controversies submitted to the Seat either for opinion or to be carried out or for issuing of the competent authorities are to be wholly drawn up, evidenced by documents, and accompanied with a detailed report to get a prompt and definitive solution.

- 3 -

We recommend too, to draw up, with the utmost accuracy, the verification minutes Form CH 100 - Such minutes are to be drawn with the utmost objectivity, accuracy and heedfulness and are to include only real fact elements and no subjective appreciation.

It is understood, too, that such consignment acceptance on senders' own risk, (as foreseen by the above referred Decree) does not permit to require from senders either special declaration of warranty or exoneration from responsibility. Therefore, such declarations are not to be required, requesting only the simple guarantee declaration foreseen by art.23 (Conditions and Rates) for specifically stated cases.

It is necessary, at last, to point out that the delay of 160 days of the term (para.1 - art.64 of the Conditions and Rates), as foreseen by the above referred Decree, allows to proceed timely for the settlement of the claims by administrative way.

Therefore, we recommend that the utmost accuracy and speed are to be used, carrying out the relative proceedings, to avoid unjustified delays.

Please acknowledge receipt.

The Service Chief

J. Savagnone

3677

cu/ng26

Copy from

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

Con Sec. (for Transp. C.)
ART/pa 10366

12 June 1944

4-933

15/86

REFERENCE : 4014/4/L.
SUBJECT : Loss or damage to Goods in transit.
TO : Transportation Sub-Commission, HQ, ACC, Naples.

NO TRACE.

- have we a copy?*
1. Reference is made to your letter No. ACC Trn/15/23 dated 31 May 1944 and ours of 25 Jan. 1944 quoted by you.
 2. As previously stated, it is not possible to advise fully on the technical aspect of this problem until this Sub-Commission is in possession of the information asked for in para 1 of our above quoted letter.
 3. What seems certain, however, is that under the existing conditions of exploitation the Allies have reserved for themselves the right to the services in question from the Italian railway system, although it is not known whether the exercise of such rights enables to railways to claim any derogation by virtue of their bylaws from their statutory obligations as common carriers under the Civil Code .
 4. In view of the foregoing it is agreed that your comment in para 3 provides the practical answer.



A. R. Thackrah

A. R. THACKRAH,
Lt. Col.,
for Chief Legal Officer .

2876

14 June 54

HEADQUARTERS
ALLIED CONTROL COMMISSION
Food Sub-Commission
A.P.O. 394

15/25
AWT/am

10 June 1944

ACC/53-1/FOOD

SUBJECT: Losses in transit by rail

TO : Transportation Sub-Commission, HQ., ACC

1. Reference your ACC Tn/15/21 of 23 May 44.
2. Generally the regions or any areas receiving commodities by rail are in a better position to report on losses than this headquarters which has knowledge only of those losses during transit which are reported to it by such receiving regions or areas.
3. It is probably safe to say that nearly every rail shipment involves some loss. For example, following losses from Naples to Capua during March are typical:

Flour	13 tons
Soap	11 cases
Milk	6 cases
4. During 16-30 April losses of about 5 tons flour were sustained during shipment from Naples to Sparanise.

W. J. Legg
W. J. LEGG
Colonel
Chief, Food Sub-Commission

3675

ACP/eth

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

Our Reference : ACC Ta/15/ *724*

Date : 27 May 44

TO : D.C.M.C. (M) Movements,
H.Q., A.A.I. CMT.

SUBJECT : Pilferage of Goods in Transit.

Information is sought as to system of guarding freight on trains in West and South-West Italy, also traffic passing to Army railheads.

See file 32 - (Train Guards) for reply.

L.E. VINING,
Lieut-Colonel,
Director, Transportation Sub-Commission, ACC.

acp.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

WSW/rg

Our reference : ACC Tn/15/23.

Date : 31 May 44.

TO : Legal Sub-Commission.
HQ. A.C.C.

SUBJECT : Loss or damage to goods in transit.

1. There is attached:-

- i. Copy of letter, May 6, S.A. Mastini to Food Sub-Commission complaining of an endorsement required by I.S.R. bills of lading purporting to release the railway from liability for certain loss or damages to goods in transit.
- ii. Copy of letter of Food Sub-Commission dated 11 May 44 transmitting (i) above and recommending against waiver.
- iii. Copies of correspondence with I.S.R. (by this Sub-Commission) developing application and I.S.R. explanation of the endorsement.

2. With the thought that the question presented may be purely one for settlement between shipper and the I.S.R. according to their own devices, the matter is referred for opinion as to whether ACC legally has any jurisdiction in the premises.

3. We are inclined to the view that the more practical remedy for pilferage (which seems to be the main point sought) is stricter policing, rather than lean on pecuniary liability. Such was the view indicated in your letter, 20 Jan 44, reference ACC/L/341/3, on the question of liability of Italian Railways for loss and damage of goods in railway transit, belonging to Allied Forces.


L.E. VINING,
Lieut-Colonel,
Director, Transportation Sub-Commission, ACC.

3674

Immaginazione

Naples 20th May 1944.

Central Commerce Office

SUBJECT : Reclamation for losses and damages in the railway's transportations.

To ACC. Transportation Sub-Commission
APO 394

Report to your letter n. ACC/Tn/15 18th of May :

1. The point CT.200+2100-270 of orders' paper n.14 emitted at 31th march 1944 by the Movement and Trade Sections of Naples, says : "As, at present, our administration cannot exercise the complete and normale surveillance on the transportation, that belongs to vector it is necessary to settle, with a contract, the Railway's irresponsibility for retarded consignments and as partial as total wants.

For that reason, we settle the dependent Setting, that accept goods' expeditions let the senders write or sign this declaration, on the letters and the copys : "I declare I discharge the Railway's Administration from any responsibility about the retarded consignment or as partial as total wants".

2. Also in the other two (Bari and Reggio) compartments we request this declaration from the senders. In Sicily this precaution has not yet adopted, but it is disposed already.

3. Reason which justify this measure

a) This administration has received a very great deal of reclamations for want of goods, transported when the bombardments of railway's lines, besides that destroyed great goods' quantities, rendered very difficult the continuation of transports to station where they were addressed.

For this reason, the Railway's administration will remain in the legality's limits, but it is obliged to put a limit to many compensations' requests.

b) The Italian Railways administration at present may not, exercise on the Implantations and by the side of the lines the necessary vigilance to guarantee the goods against the robbery's attempt, that are numerous for customs' laxity and the Civil Police's agent's scarcity.

c) Beside, the irregular trains circulation and the order to give the precedence to military trains cause retarding, pauses and sometimes false setting out; consequently it is very difficult to deliver the goods at the settled limits.

- 2 -

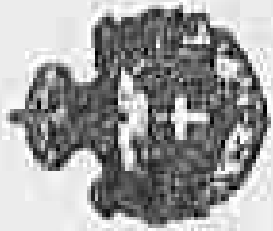
d) If the Railway demands to sender the exoneration of its own responsibility, it do not means the goods are forsaken or the men belonging to transportations neglect their duty, because the disciplinary sanctions, that also before were the only and efficacious impediment, are in force.

Beside, the sender's declaration do not suppress completely the Railway's responsibility, because this is obliged always to the compensation, in case the lost or the retarded consignment is caused by it.

4. As soon as in the Railway's lines and platforms will be renewed and the goods' transportations will be normal, we will not request the above mentioned declaration.

3672

BEST COPY POSSIBLE



MINISTERO DELLE COMUNICAZIONI
SOTTOSEGRETARIATO DI STATO

FERROVIE - MOTORIZZAZIONE CIVILE
TRASPORTI IN CONCESSIONE

Ufficio Centrale Comm/le

OGGETTO:

Redemi per perdite e danni
sui trasporti ferroviari.

all.

Napoli, BARI 20 maggio 19

N. G. 111713/C-19

al N. del

ALLA COMMISSIONE ALIBATA DI CONTROLLO
Sottocommissioni Trasporti
P. M. 394

Riferimento alla vostra lettera n°ACC/Tn/15 del 18 corrente.

1°) Il punto CT.200-2100-270 del foglio disposizioni n°14 emesso in data 31 marzo c.a. dalle Sezioni Movimento e Commerciale di Napoli, dice:

Data la impossibilità in cui allo stato trovasi la nostra Amministrazione di esercitare la completa e normale sorveglianza sui trasporti che compete al vettore, si rende necessario stabilire, contrattualmente, la irresponsabilità della Ferrovia per ritardata rese e mancanze sia parziali che totali.

Pertanto, si dispone ai dipendenti Impianti che accettano spedizioni di merci di far apporre o firmare dai mittenti la seguente dichiarazione, sia sulle lettere di vettura che sui duplicati: "DICHIARO DI ESONERARE L'AMMINISTRAZIONE FERROVIARIA DA QUALSIASI RESPONSABILITÀ CIRCA LA RITARDATA RESE O MANCANZE SIA PARZIALI CHE TOTALI".

2°) Anche negli ^{altri} due Compartimenti di Bari e Reggio C. viene richiesta tale dichiarazione agli espositori. - In Sicilia non è stato finora adottata tale misura, ma essa è stata già disposta.

3°) Ragioni che giustificano tale misura:

- a) questa Amministrazione è gravata di un grandissimo numero di reclami per mancanze di merci, oggetto di trasporti effettuati nei periodi in cui gli intensi bombardamenti delle linee ferroviarie, oltre a distruggere ingenti quantità delle merci stesse, rendevano molto difficile il proseguimento dei trasporti fino alle stazioni destinate, dal che ne conseguivano tardate rese e perdite per disguidi o avarie. - Per questo motivo, l'Amministrazione ferroviaria, pur mantenendosi entro i limiti della legalità, deve porre un argine alle numerose domande di risarcimento che le vengono presentate.

b) l'Amministrazione delle Ferrovie Stato non ha per ora la possibilità

Ufficio Centrale Comm/le

OGGETTO:

Redami per perdite e danni
sui trasporti ferroviari.

all.

ALLA COMMISSIONE ALIBATA DI CONTROLLO
Sottocommissione trasporti
P. M. 394

al N. del

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b) l'Amministrazione delle Ferrovie Stato non ha per ora la possibilità di esercitare sugli Impianti e lungo le linee la necessaria vigilanza.

per garantire la merce stessa contro i tentativi di furto, che si vanno estendendo per rilasciatezza nei costumi e per la insufficienza di agenti di P.S.

- c) Inoltre la irregolare circolazione dei treni e l'ordine di dare in ogni caso la precedenza ai treni militari creano ritardi, soste e talvolta falsi istradamenti, rendendo conseguentemente assai difficile la resa della merce spedita, nei termini stabiliti.
- d) L'esonero della propria responsabilità, che la Ferrovia chiede al mittente, non significa che le merci vengono abbandonate al loro destino o che il personale accetto ai trasporti trascuri di fare pienamente il suo dovere, in quanto rimangono in pieno vigore le sanzioni disciplinari, che anche prima costituivano l'unica e veramente efficace remora. Non solo, ma la dichiarazione del mittente non vale ad annullare senz'altro la responsabilità della Ferrovia, perché questa sarà sempre tenuta al risarcimento, qualora la perdita o la tardata resa è causata da sua colpa.
- 4°) Non appena sarà ripristinato sulle linee e negli scali ferroviari un efficace servizio di vigilanza, ed i trasporti delle merci torneranno ad effettuarsi in regime di normalità, non si farà più luogo alla richiesta agli esportatori della suddetta dichiarazione.

IL SOTTOSCRITTO DELLO STATO



Ind. Varnaschi

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

LEV/rg

Our reference: ACC Tn/15/21.

Date : 23 May 44.

TO : Food Sub-Commission,
HQ. A.C.C.

SUBJECT : Pilferages and Losses of ACC Supplies in Transit by Rail.

1. Please let me know if you have any details of shortages due to pilferage on food supplies forwarded by rail.
2. If such details are available, particulars covering the months of March and April are requested, indicating :-
 - (a) Place of origin
 - (b) Destination
 - (c) Commodity
 - (d) Original tonnage
 - (e) Tonnage received at destination.
3. Please say what action has been taken in respect of alleged pilferage.

act. mg.
L.E. VINING,
Lieut-Colonel,
Director, Transportation Sub-Commission, ACC.

2670

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
AEO 394

Our reference : ACC Tn/15/70

Date : 18 May 44.

TO : General di Raimondo,
Undersecretary of State for Italian
Railways and Highways.

SUBJECT : Claims for loss & Damage - Railway Shipments.

1. Our attention has been brought to a notice contained in your
"Disposition Sheet No. 14" (No. C.T. 222 2100 - 270) which states, in part:

"It is directed that stations accepting freight shipments have the
following statement on freight sheets and duplicates, signed by the
shippers: "I declare not to consider the I.R.R. responsible or
liable for delay in delivery of freight nor if it is totally or
partially missing".

2. Please inform this Sub-Commission what territory and lines of rail-
way was included in this notice. Was Sicily included?

3. Will you please also give a statement of the reasons which prompted
this notice.

[Signature]
L.E. VINING,
Lieut-Colonel,
Director, Transportation Sub-Commission, ACC.

3603

CGB/rg

TRANSLATION

15/19

MINISTER OF COMMUNICATIONS
I. S. R.

Disposition Sheet No. 14.

No. M.24-1 AMG - Expenses for Allied Military Hqrs.

Reference as No. 4. of 8 Feb. this office, to be able to refer monthly to the Minister of Finance the amounts owed by Allied Headquarters to this Administration, must have returns, (Model form No. M539 & M542) from every station, showing expenses against them for every line run by the Allies.

Those stations which have reported lines used by the Allies, must send in a report even if negative.

No. C.T. 222 2100-273 (-/3) Freight & Passenger Accounts

Many stations send in passenger and freight reports every 15 days instead of monthly.

Your attention is called to circular inserted in D.S. 165-43 which states that reports must be sent monthly to Traffic Dept. bearing in mind to be punctual and to make sure said reports arrive not later than the 5th of each month.

No. C.T. 222 2100-270 Freight Transportation.

Due to existing conditions, this Administration finds it impossible to supervise and control freight on ISR trains, and therefore finds it necessary to establish, by contract, the non-responsibility of the ISR, for late delivery, lost freight either partially or totally.

Therefore it is directed that stations accepting freight shipments, to have the following statement, of freight sheets and duplicates, signed by all shippers.

"I declare not to consider the ISR responsible or liable for delay in delivery of freight nor if it is totally or partially missing".

3668



Ministero delle Comunicazioni

FERROVIE DELLO STATO

Compartimento di Napoli

Sezione Movimento

Sezione Commerciale e del Traffico

NAPOLI, 31 Marzo 1944

Foglio Disposizioni N. 14

N. M. 136 — Indicazioni sui fogli di corsa.

Nonostante le raccomandazioni fatte con la nota M. 13-1, inserita sul foglio Disposizioni n.° 162 del 10 Dicembre s. a., i fogli di corsa dei treni effettuati sulle linee del Compartimento non vengono compilati con la dovuta precisione ed esattezza.

Nella maggior parte mancano della indicazione voluta sulla testata della specie dei trasporti per i quali i treni vengono effettuati (militari, viaggiatori, operai, merci, carbone, ospedale, vuoti ecc.).

Quasi sempre mancano della indicazione della prestazione utilizzabile (quadro V colonna 6); sui tratti acclivi, sui quali normalmente i treni viaggiano in d. l., viene indicata la prestazione utilizzabile della semplice trazione invece della doppia trazione; non viene indicato se le locomotive viaggianti in doppio attacco vanno per rinforzo o per invito; non viene indicato il numero dei viaggiatori ecc.

Avvertesi che, d'ora in poi, per ogni omissione, saranno puniti senz'altro i responsabili.

N.° M. 23-20-86 — Ricerca carri 414302 - 131473 - 180477.

Reclamasi mancanti arrivo a Sava dei seguenti carri:

414302, contenente 70 traversine e 14 colli di ferro tondo per costruzione, spedito da Napoli P. V. il 12-7 s. a.

131473, contenente 338 mezzanelle legno 1 pompa 1 tubo di gomma e 160 sacchi cemento, spedito il 13 luglio s. a. da Napoli P. V.

180477, contenente 140 sacchi cemento spedito da Pozzuoli il 23 luglio s. a.

Urgono ricerche comunicando notizie sulla sorte subito da detti carri.

3667

N.° M. 21-1 A. M. G. — Spese per conto Comando Militare Alleato.

Riferimento al f. d. comp. N.° 4 dell'82 a. s. questa Sede, per essere in grado di comunicare mensilmente al Ministero delle Finanze, le somme dovute dai Comandi Alleati per prestazioni eseguite dalla nostra Amministrazione, nei raccordi da essi occupati, occorre che ogni stazione interessata rimetta a questa Sede, come di consueto, i mod. M. 539 ed M. 542 per ogni raccordo gestito dai prefati Comandi, segnalando tutte le tasse che ad essi fanno carico.

Le stazioni che hanno già segnalato l'utilizzazione dei raccordi, da parte del Comando Alleato, dovranno rimettere i suddetti moduli anche se negativi.

N.° M. P. 1/A. 2-1630 — Esami di abilitazione al T., B. B., G. V. e P. V.

E' indetta la 1^a Sessione ordinaria degli esami di abilitazione ai servizi di stazione: Telegrafo, Biglietti e Bagagli e Merci Grande e Piccola Velocità.

Potranno parteciparvi i Sottorapi, gli Aiutanti, gli Alunni d'ordine, i Guardamerci e, per la sola abilitazione al Telegrafo, i Guardasala.

— 2 —

I Guardamerci dovranno esplicitamente dichiarare, nella domanda di ammissione agli esami, di essere intesi che il conseguimento delle abilitazioni in parola non conferisce loro alcun diritto a promozione, alla quale potranno concorrere solo in base alle disposizioni di cui all'Allegato G. al Regolamento del Personale.

Le domande, redatte in carta semplice dagli agenti tuttora in prova o nella condizione di contrattisti e, in carta bollata da L. 6. — dagli altri, dovranno pervenire a questa Sezione, per la prescritta via gerarchica, non oltre il 15 aprile p. v.

S'invitano i Capi degli Impianti dipendenti a darne subito comunicazione agli interessati.

N. G.T. P. 1/A. 2-16-30 — **Esami di abilitazione al T. B. B., G. V. e P. V.**

Richiamo l'attenzione del dipendente personale su quanto è stato pubblicato dalla Sezione Movimento nel presente foglio in merito allo stesso oggetto.

N.° C.T. 222-2100-273 (43) — **Contabilità merci e viaggiatori.**

Molte stazioni inviano le contabilità merci e viaggiatori ogni 15 giorni anziché ogni mese. Pertanto, con richiamo alla circolare p. n., inserita nel F. D. 165-43 si conferma che le dette contabilità devono essere inviate **mensilmente** ai competenti Reparti Traffico e si raccomanda che l'invio stesso venga fatto con la massima puntualità in modo che le contabilità pervengano non oltre il giorno 5 di ogni mese.

N.° C.T. 300-2709-1451 — **Smarrimento R. 99.**

Si segnala lo smarrimento del mod. R. 99. N. 40 di L. 6850 emesso il 2-9-1943 sulla stazione di Napoli C.le a favore della Ditta Fratelli Gondrand, destinataria della spediz. p. v. 243 del 24-2-42 da Padova a Napoli C.le composta di 276 colli merce varie Kg. 14379 mittente e destinatario F.lli Gondrand.

Si prega curarne il rintraccio e, in caso di risultato positivo, darne comunicazione a questa Sede non oltre il 15 Aprile p. v.

N.° C.T. 222-2100-270 — **Trasporti merci.**

Dato l'impossibilità in cui, allo stato, trovazi la nostra Amministrazione di esercitare la completa e normale sorveglianza sui trasporti che compete al vettore, si rende necessario stabilire, contrattualmente, la irresponsabilità della Ferrovia per ritardata resa e mancanze, sia parziali che totali.

Pertanto, si dispone ai dipendenti impianti che accettano spedizioni di merci di fare apporre e firmare dai mittenti la seguente dichiarazione sia sulla lettera di vettura che sui duplicati:

« Dichiaro di esonerare l'Amministrazione Ferroviaria da qualsiasi responsabilità circa ritardata resa o mancanze sia parziali che totali ».

Il Capo della Sez. Gen. e del Traff.

Dott. CAROZZI

Il Capo della Sezione Movimento

Avv. NISI

3rd Indorsement

Transportation Sub-Commission, ACC.,
C/o Mov & Tr., HQ, A.A.I. (Adm. Echelon),
C.M.F. 29 March 1944.

TO: Transportation Officer, Region III.

1. Returned for appropriate action in accordance with view of Legal Sub-Comm. That "it being contrary to the policy of the Legal Sub-Comm. to concern itself with claims and damages of private persons, or institutions, in Italy, it would seem that the claimant should act on the advice of his own counsel as in other legal matters".

S.A. FITCH,
Colonel,
Director, Transportation Sub-Comm., ACC.

29 March 1944

3666

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

Egon die (for Dir. Gen.)
24 MAR 1944

my

15/17

/rlp.
24 March 1944.

ACC/4011/L.

SUBJECT : Claim for damages for loss of oil.

TO : Director, Internal Transportation Sub-Commission, Rear Hq, ACC.

1. Reference ours ACC/4011/L/L in response to yours ACC TV/15/16, will you please correct paragraph 2 thereof to read as follows:

It being contrary to the policy of the Legal Sub-Commission to concern itself with claims for damages of private persons or institutions, in Italy, it would seem that the claimant should act on the advice of his own counsel as in other legal matters.

25 Mar 35
Gerald R. Upjohn
GERALD R. UPJOHN, *for*
Colonel,
Chief Legal Officer. 3665

2nd. Indorsement.

Internal Transportation Sub-Commission, ACC,
c/o Mov & Tr., H.Q., A.A.I. (Adm. Echelon), C.R.F.

TO : Legal Sub-Commission, ACC, Rear HQ.

Our reference : ACC Tr/15/16

Date : 19 March 44.

1. Reference attached correspondence :
 - (a) Basic communication, Consorzio Agrario Provinciale di Napoli to Transportation Officer, Region III.
 - (b) 1st. Indorsement, Transportation Officer, Region III to Internal Transportation Sub-Commission, ACC.
2. Forwarded to Legal Sub-Commission for advice and ruling.
3. This appears to be a case of the Consorzio Agrario Provinciale di Napoli desiring to recover damages for loss of their oil.

Wool
for S.A. FISH,
Colonel,
Director, Internal Transportation Sub-Commission, ACC.

3664

CONSORZIO AGRARIO PROVINCIALE DI NAPOLI

T R A N S L A T I O N

Ufficio Olio ED/

TO AMG
UFFICIO TRASPORTI
REG III, NAPOLI.

1. March 1944.

We inform to day that at the raccordo Cirio S. Giovanni we have proceeded with the unloading of the above mentioned cistern 9582086 sent by Consorzio Agrario of Bari on the 11. Feb. with qli. 165 of comestible oil.

During the operation of discharge the men handling the railway manouvre at the station of S. Giovanni Barra without any advice pushed all the wagons on the track, therefore part of this oil passing from the cistern into the cans unfortunately got lost. For the above mentioned reason one of the empty cans was also damaged.

Verifying after this accident the weight of the oil into the cans we noticed that this was netto quintals 161.66.500 instead of quintals 165 so that quintals 3.33.500 were lost from the original weight. This loss must be detracted from our situation of loading date 20/2/44 and discharged for quintals 161.66.500 date to day, the quantitative delivered at our warehouse of Naples.

We therefore beg this office to inform us where we have to address ourselves for the compensation of damages as the station could not give us an exact information about this matter.

IL DIRETTORE.

Trans: Dep't S/E.

3603

Extract copy of
Para 6. (a)
Progress Report No.5
January 1944.

15/15

6. FINANCE. (a) RAILWAYS.

(i) The Legal Division of A.C.C. is of the opinion that no useful purpose would be served, under present conditions, in preferring claims against I.S.R. for loss or damage to goods in transit.

(ii) In view of the Armistice Terms, the following matters were referred through D.G.,M.R.S. to the I.S.R.:-

- (i) Cost of fittings etc., supplied by contractors for Commander-in-Chief's train.
- (ii) Claim by Beri Division of I.S.R. for payment for use of private sidings by Allied Forces.

3662

Internal Transportation Sub-Commission, ACC.
 C/O Nov 2 In.
 ARML Advanced Administrative Echelon,
 C.M.P.

Our reference : ACC Tn/15/14

Date : 3 Feb 44.

TO : H.Q. ACC., Salerno Detachment,
 Communications Sec. for Capt. Stone, USNR.

SUBJECT : Claims Against Italian Railways for Loss & Damage.

1. Reference your Tn/EL/1-49, dated 20 Jan 44.

2. The documentation under which Allied Railway traffic is moved is accomplished by use of the regular army warrant-form AM497. A copy of that form is attached, together with a copy of AM4. Adv. Adm. Ech. Working Instruction No. 14, dated 15 Nov. 43, which governs the present procedure with in the jurisdiction of that instruction. There is also attached a draft of ACC In Memorandum No. 3, which is expected to be issued immediately, implementing the use of the same form, according to the detailed plan laid out in the Memorandum, covering the movement of AMG/ACC traffic by rail. The procedure is practically the same as that set out in Working Instruction No. 14, except that ACC In Memorandum No. 3 makes the additional requirement that the railway station master at point of origin signs the warrant, and that any over, short, or damage to the consignment be noted at destination. These additional requirements were inserted with the view of thereby producing a basic record which would support any proper claim against the railway for loss or damage suffered while consignment was in transit.

3. We have been unable to ascertain the context or the scope of Section 1689 of the penal code referred to.

4. The matter of "by-laws for the particular railways concerned" is not understood, inasmuch as the question of claims is meant to apply to all railways, both state owned and privately owned.

5. This question of claims was initially raised by and in of interest to operational forces, who are presently not requiring the signature of the railway station-master on the warrant. (see para 2.) This fact is called to attention with the thought that it might make a difference in the ultimate decision as to whether the railways may be held liable on the loss and damage question.

6. We have asked the operational forces for their present views. In the meantime, may we have further guidance on the question put, as to liability of the railways, and the policy to be pursued concerning loss and damage to Allied Force goods while in transit via Italian Railways.

Colonel.

1. Reference your 1a/21/1-49, dated 29 Jan 49.

2. The documentation under which Allied Railway traffic is moved is accomplished by use of the regular army warrant-form AWM 97. A copy of that form is attached, together with a copy of AFM 48r. 24h. Working Instruction No. 14, dated 15 Nov. 43, which governs the present procedure with in the jurisdiction of that instruction. There is also attached a draft of ACC In Memorandum No. 3, which is expected to be issued immediately, implementing the use of the same form, according to the detailed plan laid out in the memorandum, covering the movement of AG/ACC traffic by rail. The procedure is practically the same as that set out in Working Instruction No. 14, except that ACC In Memorandum No. 2 makes the additional requirement that the railway stationmaster at point of origin signs the warrant, and that any over, short, or damage to the consignment be noted at destination. These additional requirements were inserted with the view of thereby producing a basic record which would support any proper claim against the railway for loss or damage suffered while consignment was in transit.

3. We have been unable to ascertain the context or the scope of Section 1683 of the penal code referred to.

4. The matter of "by-laws for the particular railways concerned" is not understood, inasmuch as the question of claims is meant to apply to all railways, both state owned and privately owned.

5. This question of claims was initially raised by matters of interest to operational forces, who are presently not requiring the signature of the railway stationmaster on the warrant. (see para 2.) This fact is called to attention with the thought that it might make a difference in the ultimate decision as to whether the railways may be held liable on the loss and damage questions.

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Colonel,
Chief of Internal Transportation Sub-Commission, ACC.

CC-Economic & Admin. Section
(H.A. ACC., main file)

Internal Transportation Sub-Commission, ACC.

C/o Nov & Tn.,

AHQ Advanced Administrative Echelon,

C.M.P.

Our reference : ACC Tn/15/12

Date : 25 Jan 44.

TO : D.M. (Pr)..

AHQ Adv. Adm. Ech.

SUBJECT : Claims for Loss and Damage in Transit
Against Italian State Railway:

1. Reference your Tn A/F/1 dated 25 Jan 44.
2. Enclosed are copies of letters as follows:-
 - (A) ACC Tn/8/ dated 6 December 43, from this Sub-Commission to HQ., ACC, requesting legal ruling on this matter.
 - (B) ACC/1/341/3 dated 20 Jan 44, from Chief Legal Advisor ACC, to Communications Section ACC, giving provisional legal opinion.
 - (C) Tn/21/1-49 dated 20 Jan 44 from Communications Section ACC to this Sub-Commission, in reply to letter (A) above.
3. The delay in securing information on this matter is regretted. Letters (B) and (C) above only arrived today.
4. Will you please indicate your views on the next step to be taken, if any, in light of the opinion expressed by the Chief Legal Officer ACC in letter (A).

585

[Signature]

Colonel,
Chief of Internal Transportation Sub-Commission, ACC.

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3. The delay in securing information on this matter is regretted. Letters (B) and (C) above only arrived today.
4. Will you please indicate your views on the next step to be taken, if any, in light of the opinion expressed by the Chief Legal Officer ACC in letter (A).

28-0

[Signature]

Colonel,
Sub-Commission, ACC.

Chief of Internal Transportation

*Sup. Encl. to me from
Please file in file
Have views on above
submitted to ACC (a)
let. sent from
Sub-Commission to ACC
(b) ACC/1/341/3 dated 20 Jan 44
Tr/21/1-49 dated 20 Jan 44
from Communications Section ACC
to this Sub-Commission in reply to
letter (A) above.*

15/11

Transportation (British)

Adv. Adm. Ech. Allied Force Headquarters

Subject:- Claims for Loss and Damage in Transit
Against Italian State Railway.

Tn.A/P/1

To:-

Internal Transportation Sub-Committee, A.C.C.,
Attached Mov. & Tn.,
Adv. Adm. Echelon, A.F.H.Q.

25 Jan 44

Further to your ACC. TN/15/4 of 27 DEC. '43, will you
please inform me when a decision on this matter may be expected.



Brig.,
Director of Transportation (Br.)

M/195.17

36.3

Internal Transportation Sub-Commission, ACC.,
C/o Mov & Tr.,
AFHQ Advanced Administrative Echelon,
C.M.F.

Our reference : ACC Tn/15/8

Date : 17 Jan 44.

TO : HQ., ACC.,
(For Vice President, Communications Section).

SUBJECT: Claims against Italian Railways for loss, damage, etc.

1. Further to our reference ACC Tn/9/1 dated 6 Dec 43.,
submitting legal question on above subject.
2. A reply on this matter is requested as soon as possible
please.

W.H. Colonel,
Internal Transportation Sub-Commission, ACC.

*Pursuant to communication, Col. Fitch with Lt Col. Culmer,
Legal Sec. ACC, copies of reference named in para 1, above,
delivered to Lt Col. Culmer, Procurement Bldg, 21/1/44-07¹⁵ hrs,
by Maj. Wadley. Col. Culmer's office had not previously
seen letter requesting opinion. They will endeavor to
get a reply to this office promptly.*

W.H. 21/1

3638

Internal Transportation Sub-Commission, ACC.,
C/o Mov & Tn.,
AFHQ Advanced Administrative Echelon,
C.M.F.

Our reference : ACC Tn/15/7

Date : 30 Dec 43.

TO Director of Transportation (Br).,
AFHQ Advanced Administrative Echelon,
C.M.F.

SUBJECT : Ferrovie Calabro Lucane Passenger Train Charges.

The account transmitted with your letter of 21 Dec 43 reference Tn A/F/1 is returned as a matter not pertaining to this office.

While the enclosure does not disclose full information, it does indicate that the movements were for the account of Allied Forces, and at least in part were covered by warrants. Consequently, the movement would appear to come within those provisions of the Armistice as stated in Message AFHQ No 8860 10 Nov 43, which require the Italian authorities to make all transport facilities available to the use of the Allies without charge.

W. W. W. W.
Colonel,
Internal Transportation Sub-Commission, ACC.

3657

Recd 1630 28/12 *Opened*

1-280/23-12

15/6

Transportation (British)
Adv. Adm. Ech. Allied Forces Headquarters.

Subject: -Ferrovie Calabro Lucane Passenger Train
Charges.

Tn. A/F/1.
21 Dec '43.

To: -Internal Transportation Sub-Committee, A.C.C. ✓
Attached Mov and Tn.
Adv. Adm. Ech. A.F.H.Q.

The attached account has been received for movement of personnel by railway, and is forwarded for necessary action.

A certificate that the personnel were transported is also attached.

[Signature] *194502*

[Signature] Brig.
Director of Transportation (Br).

9856

Recd
1630 hrs
28/12

11/5

L/124/el

HEADQUARTERS
A.M.G., PALERMO

TO : Chief of Internal Transportation Sub-Commission, A.C.C., attached Movement & Transportation, A.F.H.Q. Advanced Administrative Echelon, C.M.F.
FROM : Lt. Col. O.H. Lindberg, Internal Transportation Sub-Commission Rep. at H.Q. A.M.G.
SUBJECT : Claims against Italian Railways for loss, damage, etc.
DATE : 16 December 1943.

1. I return your letter dated 6th inst. (your ref. ACC Tn/9) and enclosure, which were handed to me on 14th inst.

2. I have made enquiries, but find all the Legal Officers of H.Q. A.C.C. have left, but I was informed the papers should be passed on to Lt. Col. Wilmer, who is now in Naples.

O. Lindberg

Lt. Col.
Internal Transportation Sub-Commission
Representative at H.Q. A.M.G.
Palermo.

{ ENCL.(1): } Total.
1. Ltr. } 2.

285

*Sent back to HQ ACC - in envelope marked for "Brindisi"
endorsed to be sent by ~~most~~ quickest means, accompanied
by note saying orig. letter returned to sender apparently
through error*
Wacker
28-12-43

15/4
Internal Transportation Sub-Commission, ACC.,
c/o Mov & Tr.,
AFHQ Advanced Administrative Echelon.
C.M.F.

Our Reference : ACC Tr/15/4
Date : 27 Dec 43.

TO : Tr. (Br). AFHQ.,
Adv. Adm. Ech.

SUBJECT : Claims against Italian Railways for loss, damage, etc.

1. Reference your Tr.A/F/1 dated 23 Dec 43.
Decision on above subject is awaiting reply to request for
opinion on legal questions involved, which was submitted 6th. Dec 43.
Letter tracing for that opinion has gone forward today.

[Signature] Colonel,
Chief of Internal Transportation Sub-Commission, ACC.

3654

Internal Transportation Sub-Commission, ACC.,
c/o Mov & Tn.,
AFHQ Advanced Administrative Echelon.
C.M.F.

Our Reference : ACC Tn/15/3
Date : 27 Dec 43.

TO : H.Q., Allied Control Commission.
(for Vice President, Communications Section).

SUBJECT : Claims against Italian Railways for loss, damage, etc.

1. Further to our reference ACC Tn/15/1 dated 6 Dec 43, submitting legal question on above subject.
2. Inquiry has been received from Tn. (Br) AFHQ Adv. Adm. Ech. as to when decision may be expected. Information on which to base reply will be appreciated.

W. L. L. L. Colonel,
Chief of Internal Transportation Sub-Commission, ACC.

Recd 0900 26/12/43 15/2
Transportation (British).

Adv. Adm. Ech. Allied Force Headquarters.

SUBJECT:-

Claims For Loss and Damage in Transit
to be Preferred by Allied Forces
Against The Italian State Railway.

To:-

Internal Transportation Sub-Committee, A.C.C.
Attached Mov. & In.
Adv. Adm. Ech. A.F.H.Q.

26/12/43
Tn;A/F/1
23/12/43

Further to my even reference dated 5th. Dec. 43
(handed to Major Walker) respecting the above, may I please be
informed when a decision may be expected.



MAJOR

CV Brig.

Director of Transportation .

3672

1 7 4 7 1

Attached V & Tn.,
AFHQ Advanced Administrative Echelon, 15/1
C.M.F.

Our reference: ACC Tn/9/

TO : H.Q., Allied Control Commission,
(for Vice President, Communications Section)

FROM : Chief of Internal Transportation Sub Commission, ACC.

SUBJECT: Claims against Italian Railways for loss, damage, etc.,

DATE : 5 December, 1943.

1. The legal question arises as to whether the liability, as defined under Italian law, of a common carrier by railway may be asserted against Italian Railways in respect of incidents of carriage normally a proper basis for claim, such as loss, damage or injuries to a subject of carriage transported on behalf of the Allied Forces by such railways when under Italian operation.

2. It is requested that a ruling on the legal question here presented be obtained and furnished this office as soon as possible for guidance and necessary action of all concerned.

3. In considering this question attention is directed to (a) the terms and policy of use by the Allies of Italian transportation facilities as defined in Message (MOBAGO, 10 Nov. 43), copy attached, wherein the provision is contained, that no payments will be made, except where operationally essential, in respect of them by the Allied Forces, and (b) the fact that certain funds operationally essential have already been advanced to Italian Railroads, and that further advances doubtless will be required. Portions of such advances might have to be used by Italian Railway Administration to meet any legitimate claims referred to in para 1 above, if it is decided that such claims are to be made.

Colonel,
Internal Transportation Sub Commission, ACC.

COPY.

SECRET BRITISH MUST SECRET

AFTER MESSAGE CENTRE

OUTGOING MESSAGE

PRIORITY.

TO: (FOR ACTION) PLAMBO.

NO 8860

1. Under terms of Armistice with Italian Government the Italian authorities will make available for Allied use all naval, military and air installations, power stations, oil refineries, public utility services, all ports and harbours, all transport and intercommunication installation facilities and equipment and all such other installations facilities or stocks as may be required by the United Nations. Italian Government will also make available such other local resources or services as the United Nations may require.

2. No contracts will therefore be entered into in respect of any of the items referred in 1 nor will any payments be made (except where operationally essential) in respect of them by the Allied Forces.

3. Exceptions to this general rule are wages for direct ly employed labour may be paid and payments made for day to day purchases of supplies or minor utilisation of equipment and facilities where impossible to operate normal procedure of provision through medium of Italian Government.

Further instructions in course of preparation:

ORIGINATOR : CAO AUTHENTICATION: H.M. GAIN, LT. GEN.

INFORMATION: GCS
G4 A
G4 B
1 (MAINT)
2 (AE)
DST
B & TH
RET SEU
LCS
TH (B)
DML
FIN ADV
AG RECORDS
MCS

SUMMARY

NO OUT 2939 10NOV 43 1054A NO 8860

at/Van

1-749