COMMISSION DECISION

of 11 October 1979

authorizing special tariff measures for the carriage of certain goods by rail and road in France

(Only the French text is authentic)

(79/874/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Commission Decision 64/160/EEC of 26 February 1964 authorizing the maintenance of Annex B *ter* to the 'Conditions générales d'application des tarifs pour le transport des marchandises' (CGATM) of the Société nationale des chemins de fer français (SNCF) [1],

Having regard to the opinions expressed by the Governments of the Member States during the consultations held by the Commission pursuant to Article 80 (2) of the EEC Treaty,

I

Whereas, in Decision 64/160/EEC, the Commission authorized, for an indefinite period, the application of the provisions of Annex B *ter* to the CGATM of the SNCF as applied on 5 December 1963, but reserved the right to amend or repeal the Decision if it found that it was no longer justified;

Whereas, in the meantime, Annex B *ter* of the SNCF has been recast on several occasions, with the result that other regions have been brought within its scope and certain reductions have been considerably increased;

Whereas, on 25 July 1970, the French Government introduced provisions similar to those of Annex B *ter* into 'Chapitre 2 des tarifs spéciaux — titre V — fascicule 5 du recueil général des tarifs pour les transports routiers de marchandises', for certain products dispatched or received in the departments of Brittany;

Whereas, in a letter from its Permanent Representative to the European Communities dated 8 July 1971, the French Government asked the Commission to authorize the maintenance of these measures for an indefinite period;

Whereas the support tariffs in question constitute aids which, since they affect production and marketing costs, should be abolished pursuant to the Council resolution of 25 May 1971 [2] on the new guidelines for the common agricultural policy; whereas the Commission has re-examined these tariffs;

Whereas during the consultative meetings the French Government informed the Commission that:

— the reasons for applying the tariff measures in question, which had been acknowledged by the Commission when it authorized the tariff measures in 1964, were still valid, in particular as regards the inadequacies of the transport infrastructure serving the regions concerned, but that infrastructure programmes, to be completed within five to seven years, were under way,

— these support measures were therefore only temporary and that a gradual phasing-out of the tariff aid should be allowed,

— it was impossible to determine the effects of the tariff aid on the improvement of agricultural structures, and that the effect of the support tariffs could not be separated from that of other forms of aid,

— the said tariffs were essentially of psychological importance and were, to some extent, regarded by the French producers as compensation for the disadvantages that they claimed to encounter on certain markets as a result of the Italian support tariffs,

— tariff support measures were still indispensable to the development of the regions concerned as back-up measures to supplement the aids granted to these regions under the rural renewal programmes;

Whereas the French authorities have decided to replace the payments made under Annex B *ter* by direct capital investment; whereas the replacement process will be gradual and could already start under the budget for 1979; whereas this change in the scope

(1) OJ No 44, 13. 3. 1964, p. 710/64.

(2) OJ No C 52, 27. 5. 1971, p. 1.

of the system has been negotiated with the regional representatives of Brittany, and the aim is to repeal Annex B *ter*; whereas its repeal may reasonably be expected to take place over five years; whereas the process under way concerns only Brittany for the time being;

II

Whereas the French Government has stated that it is not in a position to affirm that the application of the tariff support measures has improved the strucutures in the recipient sectors; whereas these measures are essentially of psychological importance; whereas, in these circumstances, they would not appear to be the most appropriate means of attaining the objectives pursued; whereas this finding is confirmed by the fact that the competent authorities have decided on the progressive replacement of these tariff measures within a relatively short period;

Whereas the incorporation of these special tariff measures in the road transport tariffs for Brittany has restored equality of treatment as between rail and road transport; whereas an examination has not revealed that the provisions of Annex B *ter* in respect of regions other than Brittany have unfavourable effects on competition between modes of transport;

Whereas it cannot be denied that the support measures concerned have an effect on production and marketing costs, even if this effect is difficult to measure, and, therefore, the maintenance of these measures is not consistent with the Council resolution of 25 May 1971;

Whereas application of Annex B *ter* of the SNCF and of the tariff measures in favour of road transport to and from Brittany constitutes an aid which could affect competition and trade between the Member States and disturb the functioning of the common market; whereas certain Member States have made complaints in this connection, and have requested that these tariff measures be discontinued;

Whereas these measures have been in force for a long time; whereas, in order to avoid an abrupt change, it would therefore be preferable to modify the present tariff situation only gradually, by phasing out the tariff reductions over a reasonable period; whereas this is all the more justified in view of the unfavourable socio-economic situation of the region in question compared with the Community average, in terms of both *per capita* income and level of unemployment;

Whereas, for the reasons set out above, the reductions granted in the Franch tariffs in question may be maintained for the period ending 31 December 1981, and should subsequently be reduced by at least one-third on 1 January 1982 and 1 January 1983 and totally abolished on 1 January 1984;

Whereas the Commission reserves the right to review its Decision if the conditions on which it is based change or no longer apply,

HAS ADOPTED THIS DECISION:

Article 1

Commission Decision 64/160/EEC is hereby repealed.

Article 2

The application of the provisions of Annex B *ter* to the 'Conditions générales d'application des tarifs pour le transport des marchandises par wagon ou par rame' (CGATMV) of the SNCF and of the provisions of 'chapitre 2 des tarifs spéciaux — titre V — fascicule 5 du recueil général des tarifs pour les transports routiers de marchandises' is hereby authorized until 31 December 1983.

Article 3

The authorization referred to in Article 2 shall be subject to the condition that the percentage tariff reductions granted on the normal tariffs are decreased by at least one-third on 1 January 1982 and 1 January 1983 and are completely abolished on 1 January 1984.

Article 4

This Decision shall be amended or repealed if the Commission finds that it is no longer justified.

Article 5

This Decision is addressed to the French Republic.

Done at Brussels, 11 October 1979.

For the Commission

Richard BURKE

Member of the Commission