

## COMMISSION DECISION

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)

(Only the French text is authentic)

(64/160/EEC)

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 Annex B ter to the 'Conditions générales d'application des tarifs pour le transport des marchandises' (CGATM) of the SNCF, in its present form as published in the rates and conditions of 10 June 1963 (*Journal Officiel de la République française* No 131 of 6 June 1963);

Having regard to the opinions expressed by the Governments of the Member States concerned during the consultation undertaken by the Commission pursuant to Article 80 (2) of the Treaty on 29 October and 5 December 1963;

## I

Whereas Annex B ter to the CGATM is included in the SNCF's goods tariff reform of 1 October 1962, which was the subject of an Opinion delivered on 24 September 1962 by the Commission pursuant to Article 2 of the Council Decision of 21 March 1962. In that Opinion of 24 September 1962 the Commission reserved to itself the detailed examination of the different tariff rates and in particular of the correctives, in the light of Articles 79 and 80 of the Treaty;

Whereas Annex B ter to the CGATM lays down special provisions to be applied to certain goods dispatched or received at stations situated in given regions;

Whereas special provisions are applied to certain goods mainly important to the rural economy, such as live animals, agricultural products, building materials, etc.;

Whereas Annex B ter is for the benefit of all consignors or consignees in areas served by SNCF stations situated in the regions set out in that Annex;

Whereas at present reductions apply in respect of the following departments; Aveyron, Cantal, Charente-Maritime, Corrèze, Côtes-du-Nord, Creuse, Deux-Sèvres, Finistère, Haute-Loire, Hautes-Alpes, Ile-et-Vilaine, Lot, Lozère, Morbihan, Puy-de-Dôme, Tarn and Vendée, and also in respect of certain specified stations in the departments of Allier, Ardèche, the Dordogne, Haute-Vienne and the Loire Atlantique;

Whereas that tariff applies in respect of goods traffic between the regions concerned and other countries;

Whereas the reductions applied in accordance with Annex B ter, depending on the transport link, the product transported and the method of dispatch, amount to 5, 10, or 15 % of the standard rates applicable since 1 October 1962;

Whereas the effect of such reduction is that rates for the transport concerned, on certain transport links, are lower than those in force before 1 October 1962, and whereas this is also generally true for the whole of Brittany;

Whereas, as regards the economic effects on the SNCF of the maintenance of Annex B ter, carriage under the terms of Annex B ter rose in 1961 to 5 778 000 metric tons, and whereas the SNCF receives no direct compensation from public funds for loss of revenue resulting from application of those terms;

Whereas in 1962 the tonnage carried under the terms of Annex B ter rose to 1.2 % of the total goods traffic of the SNCF, and whereas the resultant revenue represented 3.2 % of the total revenue of the SNCF;

Whereas Annex B ter was introduced on 1 October 1962, at the same time as the tariff reform, and was

extended on 25 October 1962 to apply to Brittany and on 10 June 1963 to apply to the eight departments of Aveyron, Cantal, Creuse, Haute-Loire, Hautes-Alpes, Lozère, Puy-de-Dôme and Tarn, in which, until that date, the previous tariff rates had continued to apply;

## II

Whereas the French Government has recognized that the provisions of Annex B ter which, from 1 October 1962 and 10 June 1963 respectively, involved a reduction of tariff rates to a level lower than that in force before those dates, may constitute measures falling within the scope of Article 80 (1) of the Treaty; whereas it has therefore requested the Commission to authorize the maintenance of Annex B ter, in accordance with Article 80 (2);

Whereas the tariff rates in question apply to carriage within the Community, including domestic traffic of a Member State;

Whereas Annex B ter to the CGATM, since it was introduced by regulation, must be considered as a measure imposed by the State within the meaning of Article 80 (1) of the Treaty;

Whereas Annex B ter to the CGATM constitutes a support for the economy of the regions concerned which corresponds to the measurable difference between the previous tariff rates and those of the Annex;

Whereas this support operates in favour of particular undertakings or industries, that is to say undertakings or industries determined on the basis of their geographical situation;

Whereas on the other hand it is not claimed that Annex B ter contains tariffs fixed to meet competition as referred to in Article 80 (3);

Whereas, consequently, the provisions of Annex B ter to the CGATM come within the scope of Article 80 (1); whereas the Commission must therefore make a decision in accordance with Article 80 (2), on the request by the French Government for authorization to continue to apply Annex B ter to the CGATM;

## III

Whereas the arguments put forward by the French Government in support of its request are basically the following:

- the recasting of 1 October 1962 by the SNCF of the goods rates was designed to relate the price of each transport operation to its actual cost by means of:
  - a system of weighting of tariff rates by distance, related to the technical characteristics of the routes used;
  - the elimination from the network, as regards calculation of distances, of sections either disused or closed to goods traffic;
  - the abolition of the system of indexing stations;
- the tariff reform must be studied as a whole, in conjunction with the correctives which formed an integral part thereof;
- distance-related weighting, which forms part of the new rates and conditions, made a positive contribution to French regional development, since most regions possess one or more well equipped local lines on which goods trains could circulate at modest cost; in other ways also the new rates and conditions served the same end, namely, by making the scale of charges more markedly degressive as regards long-distance traffic which is distinctly advantageous for peripheral regions such as the Midi méditerranéen and Aquitaine, and by abolishing the indexing of stations which improves the situation of secondary localities on major lines;
- it has emerged from a public inquiry that outright application of the new rates and conditions might entail an excessive additional burden on isolated regions or regions situated in compact mountain masses, where it is often very costly for the railway to give adequate service or even to penetrate at all; such regions are low productivity areas whose industries, far from progressing at the same rate as the rest of the country, often find it difficult to remain in business; the most vulnerable industries, and in particular those spread over a wide area (large scale cultivation, stock farming and light industry that is the greater part of the output of such regions), would therefore have been seriously affected by increased tariff rates resulting from increases in short distance rates and from the extension of tariff distances imposed on lines operating in mountainous areas;
- to apply the reform without correctives should therefore have been prejudicial to lines where running costs are increased owing to the physical characteristics of the region, and in particular lines serving mountainous areas, short distance (less than 200 km) traffic, and small consignments as compared with complete wagon-loads;
- unless regional correctives were applied, the economy of the less developed regions could be endangered by the reform, since the regions involved are in many cases mountainous districts with a generally inadequate road network and therefore dependent on the railway even for short-distance traffic, and in which production is organized in such a way that a substantial part of the traffic consists of small consignments; there was a risk that regional imbalance would be dangerously increased by the tariff reform;

- the regional correctives therefore represented the counter-balance to a basic reform which ran the risk of having undesirable economic effects on certain types of traffic or certain areas;
- the reform as a whole was discussed with representatives of the other modes of transport who had raised no objection;
- in the long term, the economic development appropriate to the physical characteristics of these areas could be promoted by the establishment of more extensive goods transport served by road without measures of support being required; in the meantime, the areas concerned should not be allowed to suffer too great a loss; such a danger is the more real in that the tariff reform occurred precisely at a time when the economies of the Member States of the common market were coming into contact, involving the risk of encouraging the concentration of activities in an industrial centre enjoying obvious geographical, technical and human advantages;
- the French Government had consequently introduced reductions of 10 or 15 %, called 'regional correctives', in favour of certain categories of consignments dispatched from or received in various carefully defined areas;
- goods to which such correctives apply are defined in relation to the problems of each of the areas concerned; the products involved were primarily derived from or intended for agriculture and the food industry;
- the choice of areas to which such tariff support was granted was based on a detailed examination of the effects of the reform on the different lines or regions concerned, with reference to the general criteria of French regional policy; the general tariff reductions were reserved to areas prejudiced by the introduction of the reform in a way which could not be made good by other means;
- the areas chosen were those which combined the three following characteristics:
  - (1) Unfavourable geographical conditions by reason either of the outlying location of those areas in relation to the dynamic centres of the national economy and to the poles of development in the Community (Brittany and the southern side of the Massif Central), or of their marked isolation, where such areas are cut off from the richer areas by inadequately developed compact mountain masses (Auvergne, Limousin, and certain Alpine valleys);
  - (2) Inadequate communication routes (the interior of Brittany, the Massif Central, and certain central western rural areas);
  - (3) Widely scattered economic activities, which are generally the rule in predominantly agricultural areas. In thirteen of the departments to which regional correctives apply, over 50 % of the active population were employed in

agriculture. Except for the central western area, the population in all the areas chosen had decreased between 1936 and 1963 while the French population as a whole had increased by 10 %. Furthermore, whereas real income in France increased by 10 % between 1955/56 and 1958, Alsace, Brittany, Limousin, Auvergne, and Poitou-Charentes showed a rate of increase of less than 8 %;

#### IV

Whereas in making its examination, pursuant to Article 80 (2) of the Treaty, of Annex B ter to the 'Conditions générales d'application des tarifs pour le transport des marchandises' (CGATM) of the SNCF the Commission must take into account both the preamble thereof and the general objectives defined in Articles 2 and 3 of the Treaty, and further clarified in the preamble to the Treaty; whereas it emerges from those provisions that a harmonious development of economic activities must be promoted throughout the Community by reducing the differences existing between the various regions and the backwardness of the less favoured regions, of which the areas concerned form part; whereas under Article 80 (2), it is the duty of the Commission to take account in particular of the requirements of an appropriate regional economic policy and of the needs of underdeveloped areas;

Whereas it emerged from the inquiry that the provisions of Annex B ter to the CGATM are for the benefit of those underdeveloped areas of the Community whose activity French regional policy is designed to stimulate;

Whereas the need to develop those regions is indicated;

- as regards Brittany, by the fact of its outlying location, under-industrialization and rural over-population;
- more than half the rural population is engaged in agriculture and although in Brittany rich alluvial soil is lacking population density is 10 % higher than that of the rich land of Picardy. Industrially the region is markedly backward; in 1959 industrial electricity consumption per capita was less than one-fifth of the national average. From 1946 to 1952, total emigration rose to more than 220 000 persons, and still reaches 10 000 departures per year;
- as regards the central-western coast (the departments of Vendée, Deux-Sèvres and Charente-Maritime) its economic characteristics, closely related to those of Brittany, with a high rural population density and practically no modern industry.

The non-agricultural labour available, as estimated by the Planning Commission between 1961 and 1966, reaches the same critical level in Vendée and

Deux-Sèvres as in Brittany, hardly exceeding 14 % of the active population. This is the least urbanized part of France; the geography of the region, of which 10 % is marshland, creates difficulties for land use planning in areas which can be developed and for transport links with other provinces because of distance, poor communications to the East, and the need to skirt the Massif Central in order to reach the dynamic centres of the South-East;

- as regards the Massif Central, the region along its southern edge, and some districts of Dordogne and Ardèche, by under-population resulting from heavy and continuing emigration.

Some departments have lost half their population since 1851. In the South and West, the rural density is often less than 20 inhabitants to the square kilometre. Industrial expansion is slow, and traditional agricultural methods are employed on mainly acid soil, whose full potential is however still far from being exploited. The agricultural per capita income of farmers is one of the lowest in France, because of the obsolete agrarian structures and agricultural techniques.

La Causse and the plateau of Millevaches are the most underprivileged areas. Although 50 % of the active population of Limousin is still engaged in agriculture, Auvergne and the southern side of the Massif Central contain a number of small scattered pockets of industry.

The decline of coal-mining has created a difficult situation for the small industrial districts of Decazeville, Carmaux, Brassac, and Saint-Eloy. There are few large undertakings. Specialized industries must sell in far-distant markets; hence the need to solve quickly the communication problem;

- as regards the valleys of the Alps, by the fact that there remain some areas which are poorly served for communications, and in which the railway still has a decisive role, and that agriculture in the isolated valleys of the Hautes-Alpes is not particularly productive;

Whereas, having regard to the particular circumstances of those regions, a specific development policy would appear to be in accordance with the objectives of the Treaty; whereas it is also in the interest of the Community to reduce perceptibly, by measures of support taken by the French Government, the economic and social disparity between highly developed and underdeveloped regions of France;

Whereas, in those circumstances, the provisions of Annex B ter to the CGATM and in particular those

having the effect of applying to certain transport reductions of up to 15 % (Brittany, Hautes-Alpes, Atlantic seaboard, Centre and Midi-Pyrénées) seem to be measures which are now both necessary and appropriate under the regional policy for development in Brittany, the Massif Central, the central-western seaboard, and certain valleys in the Alps and in the Jura; whereas goods which may be carried under the terms of Annex B ter to the CGATM are essential materials, widely used in all branches of industry and agriculture in those regions;

Whereas it has not been proved that Annex B ter to the CGATM affects the competitive position of the products to which it applies to an extent not justified by the needs of the underdeveloped areas concerned; whereas the examination carried out has not revealed that these rates and conditions have unfavourable effects on competition between the different modes of transport;

Whereas, for these reasons, the continued application of Annex B ter to the CGATM may be authorized; whereas the Commission while granting authorization for an indeterminate period, retains the power to amend or revoke this authorization if it finds, of its own accord or at the request of a Member State, that such authorization is no longer justified,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The application of the provisions of Annex B ter to the 'Conditions générales d'application des tarifs pour le transport des marchandises' of the SNCF as applied on 5 December 1963, and taking into account any amendments made thereto since they came into force, is hereby authorized with effect from 1 October 1962.

#### *Article 2*

This Decision may be amended or repealed if the Commission is satisfied, of its own accord or at the request of a Member State, that it is no longer justified.

#### *Article 3*

This Decision is addressed to the French Republic.

Done at Brussels, 26 February 1964.

*For the Commission*

*The President*

Walter HALLSTEIN