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## DECISION No 10/67

of 7 June 1967

**on the authorization of a special internal tariff applicable to the transport of solid fuel to certain departments situated in the Atlantic zone south of the Loire**

**THE HIGH AUTHORITY,**

Having regard to Articles 2 to 5 and 70 of the Treaty establishing the European Coal and Steel Community;

Having regard to the letter from the French Government of 21 March 1967 seeking the prior agreement of the High Authority to include a special internal tariff under Chapter 11 (1) in tariff No 7 of the Société nationale des chemins de fer français (SNCF), relating to the carriage of coal and briquettes from the Aquitaine, Auvergne, Cévennes and Hérault coalfields or from briquette works situated in the Basses-Pyrénées, Charente-Maritime, Gironde, Landes, Loire-Atlantique and Vendée Departments to the Basses-Pyrénées, Charente, Charente-Maritime, Deux-Sèvres, Dordogne, Gironde, Landes, Loire-Atlantique, Maine-et-Loire, Vendée and Vienne Departments,

Whereas the French Government has claimed that this tariff is in the interest of the carrier; whereas it has stated, in particular, that the main concern of the SNCF as a carrier is to avoid losing a proportion of the solid fuels traffic from the Centre-Midi mines and the substitution therefor either of coal which would be sent by other means of transport or whose transport would be less profitable to the SNCF, or of other sources of energy which would not require carriage by rail (mineral oil products, gas from Lacq), and that consequently an appropriate measure must be taken for this fuel traffic;

Whereas the special internal tariff measure under consideration was last published in the 'Journal Official de la République française' on 18 April 1967;

Whereas the proposed tariff reduction varies from 13 to 22 % as compared with the normally applicable tariff;

Whereas, as regards the carrier's interests, the SNCF runs the risk of considerable reduction in, or the loss of, an annual traffic of several hundred thousand tons since users in the said departments in the At-

lantic zone south of the Loire can obtain fuel from other sources or fuel carried by other means of transport;

Whereas the traffic in question will continue to be remunerative for the carrier by reason of its volume, its technical characteristics and the proposed tariff;

Whereas it can be agreed in these circumstances that the SNCF has an interest in the application of the proposed special tariff;

Whereas the fourth paragraph of Article 70 of the Treaty relates not only to special tariffs adopted in the interest of coal and steel producing undertakings, but to any special tariffs which, whatever the reason for their introduction, happen to be of advantage to one or more of such undertakings; whereas the agreement of the High Authority must be given if the special tariffs comply with the principles of the Treaty and whereas such compliance may be presumed where the special tariffs are justified specifically by the conditions of the transport market; whereas the interest of a carrier in applying a special internal tariff in order to retain certain traffic must, however, be disregarded if the proper functioning of the common market as laid down in the Treaty so requires;

Whereas it is not in dispute that in present circumstances users in the said departments in the Atlantic zone south of the Loire can obtain supplies of fuel by other means of transport on at least equally favourable terms, so that the competitive position of these users in the common market will not be affected by application of the special tariff;

Whereas apart from the interest which the proposed tariff has for the carrier, its application will also benefit the producers of coal and briquettes in the Centre-Midi;

Whereas, having regard to the present competitive position of coal producers in the Community in general and of those in the Centre-Midi in particular,

and to the necessity of safeguarding continuity of employment, a special internal tariff, favouring coal producers, may be considered as being in conformity with the principles of the Treaty so long as it does not distort competition in the common market between Community coal producers;

Whereas the application of the tariff is not in fact likely to distort competition between Community producers as regards deliveries to the said Departments in the Atlantic zone south of the Loire;

Whereas, in these circumstances, the proposed special tariff is not contrary to the principles of the Treaty;

Whereas the High Authority can only judge that tariff in relation to present circumstances and must reserve the right to review its decision, if it should prove to be no longer justified,

DECIDES:

*Article 1*

The inclusion of the special internal tariff under Chapter 11 (1) in tariff No 7 of the Société nationale des chemins de fer français relating to the carriage of coal and briquettes from the Aquitaine, Auvergne, Cévennes and Hérault coalfields or from briquette

works situated in the Basses-Pyrénées, Charente-Maritime, Auvergne, Cévennes and Hérault Departments to the Basses-Pyrénées, Charente, Charente-Maritime, Deux-Sèvres, Dordogne, Gironde, Landes, Loire-Atlantique, Maine-et-Loire, Vendée and Vienne Departments in the Atlantic zone south of the Loire, is hereby authorized.

*Article 2*

Should the factors in which the authorization in Article 1 is based no longer obtain, this authorization shall be amended or withdrawn.

*Article 3*

This Decision shall take effect on the date of its notification to the Government of the French Republic.

It shall be published in the *Official Journal of the European Communities*.

This authorization was considered and adopted by the High Authority at its meeting on 7 June 1967.

*For the High Authority*

*The Vice-President*

**A. COPPE**