

COMMISSION OPINION

of 15 December 1982

addressed to the French Government on a draft framework law on inland transport

(82/864/EEC)

In accordance with Article 1 of the Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States⁽¹⁾, as amended by the Decision of 22 November 1973⁽²⁾, the French Government sent the Commission, under cover of a letter of 17 December 1982 from its Permanent Representation to the European Communities, the text of a draft framework law on inland transport.

The letter from the French Permanent Representation reached the Commission on 20 September 1982 and, in accordance with Article 1 of the Council Decision referred to above, was also sent to the other Member States.

At the Commission's initiative, an information meeting with representatives of the French Government was held in Brussels on 11 October 1982 and, on the same date and pursuant to Article 2 (3) of the said Decision, the other Member States were consulted on the provisions in question.

Under Article 2 (1) of the Council Decision the Commission hereby delivers the following opinion:

1. The Commission has taken note with interest of the draft framework law on inland transport submitted to it by the French Government for examination and consultation. The Commission notes the said government's statement that the aim of the draft law is to make a more efficient transport service available to the public at large and to permit new action, under an overall plan, to overcome the difficulties at present experienced in the transport sector in France.

2. As provided in the Council Decision, the Commission intends to limit its examination of the draft law to those aspects liable to interfere with action taken under the common transport policy provided for by the Treaty establishing the European Economic Community. It is therefore in this light, and more

particularly that of any repercussions the guidelines under consideration may have on intra-Community transport operations that this opinion is issued. The Commission did not go into the national aspects of the draft law except in so far as these impinge on the implementation of the Treaty or of Community rules and regulations.

3. The Commission approves the French Government's initiative of creating, by legislative means, a general framework for a global policy for the internal carriage of goods and people. As, however, this draft law only sets out fundamental principles, creates the means and defines the procedures for this action the Commission must reserve its definitive opinion until it has examined, with regard to the common transport policy, the measures for appropriation implied by the implementation of this framework.

4. As regards Title I of the draft law, comprising general provisions applicable to the various modes of transport, the Commission:

— notes with interest the affirmation of the right to passenger transport, with freedom of choice for users (Article 1);

— considers that the policy objectives, namely to ensure the harmonious and complementary development of the various modes of private and public transport taking into account real economic costs, and to establish the basis for fair competition between modes of transport and between undertakings (Article 3), are in line with the common transport policy guidelines;

— approves the amendments the French Government has made to Articles 1 and 3 to ensure that the national guidelines fit into the European framework, to the effect that the inland transport system promotes 'the expansion of international, and in particular European, trade', and that the overall transport policy 'contributes to the development and improvement of European transport policy';

— notes the French Government's plans to decentralize transport affairs and to introduce transport plans drawn up on an intermodal basis (Article 4);

⁽¹⁾ OJ No 23, 3. 4. 1962, p. 720/62.

⁽²⁾ OJ No L 347, 17. 12. 1973, p. 48.

- has no objection to the proposals relating to public service obligations (Article 5), or to the conditions subject to which public transport operations are to be conducted (Articles 6 to 8);
 - reminds the French Government that the implementing measures in respect of the operation of the transport market and social matters (Articles 6 to 13) must be compatible with current Community rules;
 - notes that the draft law attaches great importance to compliance with the social legislation in the field of transport, and that this is to be expressed in the strict application and effective surveillance of Community rules in this field;
 - notes the measures advocated, particularly as regards the responsibility of the various operators for infringements of the social and safety rules and as far as the invalidity of the contractual clauses is concerned resulting in non-compliance with the maximum distance that may be travelled and the length of time that may be worked;
 - notes that the idea of infrastructure planning (Articles 14 and 15) on the basis of an analysis of socio-economic benefit is in line with the approach underlying the Community's work in this field. Nevertheless, the Commission would draw attention to the fact that, where medium-term projects are concerned, the master plans will probably not provide sufficient information to contribute, at Community level, to an exchange of information on plans and programmes (Article 5 of the Council Decision of 20 February 1978 instituting a consultation procedure and setting up a committee in the field of transport infrastructure⁽¹⁾), and that in this connection it will be necessary to have information on French planning policy guidelines in general.
5. As regards Title II of the draft law, comprising provisions to each mode of transport, the Commission:
- (a) in connection with rail transport (Articles 18 to 26):
- notes the French Government's intention to:
 - amend the legal status of the SNCF as from 1 January 1983 by creating a public industrial and commercial undertaking which will keep the name of its predecessor,
 - maintain the SNCF's administrative autonomy under a new set of articles and conditions defining its position, and a programme contract, and
 - ensure that the SNCF receives financial aid from the State particularly with a view to improving the railway's finances;
 - reminds the French Government that, although these measures are in line with the common transport policy, the said government must comply with the relevant Community rules, particularly Council Regulations (EEC) No 1191/69⁽²⁾, (EEC) No 1192/69⁽³⁾ and (EEC) No 1107/70⁽⁴⁾, as amended by Regulations (EEC) No 1473/75⁽⁵⁾ and (EEC) No 1658/82⁽⁶⁾, as well as Council Decisions 75/327/EEC⁽⁷⁾ and 82/529/EEC⁽⁸⁾, when preparing the measures to implement the law, particularly those concerning the articles and conditions, the programme contract and finance laws;
- (b) in connection with road transport (Articles 29 to 39):
- notes that, as long as the specific provisions advocated are based on the general principles enunciated in the first section, they will be compatible with the aims of the common transport policy;
 - notes the French Government's intention of encouraging road haulage to develop along lines dictated by its inherent advantages whilst at the same time ensuring cooperation between road haulage undertakings and between the latter and other modes of transport;
- (c) in connection with inland waterway transport (Articles 40 to 42):
- notes that inland waterway transport will be the subject of a development plan comprising a master plan for the waterways and a series of economic and social measures in line with the aims of the framework law;
 - notes in particular the establishment of a national chamber for small waterway undertakings which, as part of a structural policy for waterways, could represent an interesting initiative;
- (d) in connection with air transport (Articles 43 and 44):
- notes that the proposed amendments to existing national laws do not give rise to any objections in relation to the common transport policy.

(1) OJ No L 54, 25. 2. 1978.

(2) OJ No L 156, 28. 6. 1969, p. 1.

(3) OJ No L 156, 28. 6. 1969, p. 8.

(4) OJ No L 130, 15. 6. 1970, p. 1.

(5) OJ No L 152, 12. 6. 1975, p. 1.

(6) OJ No L 184, 29. 6. 1982, p. 1.

(7) OJ No L 152, 12. 6. 1975, p. 3.

(8) OJ No L 234, 9. 8. 1982, p. 5.

6. As regards Title III of the draft law (Articles 45 to 48), comprising miscellaneous provisions, the Commission :

- notes that, according to the information provided, in the definition of inland transport given in Article 45 the aim is to clarify specific cases arising either out of the special situation of non-metropolitan territories or the possible application of international treaties or agreements to national inland transport ;
- nevertheless draws the attention of the French Government to the ambiguity of the wording of Article 45 as it stands, since it is not clear how this definition can be related to the Community dimension or what is, for example, the position of a transport operation starting and finishing on French territory but passing through the territory of one or more other Member States on the way ;
- therefore asks the French Government to amend the text of the draft law so as to remove the ambiguity. This amendment should state that the law will be applied without prejudice to the objections arising from the Treaty setting up the European Economic Community and the other international treaties and arguments concerning this matter.

7. The Commission notes that the draft law submitted to it comprises guidelines for the national policy on inland transport and that it is not possible to make a full assessment of the scope of the law until the relevant implementing measures are also known. The Commission therefore requests the French Government to communicate the said implementing measures in good time in accordance with the procedure for prior examination and consultation laid down in the Council Decision of 21 March 1962.

8. The Commission is informing the other Member States of this opinion.

Done at Brussels, 15 December 1982.

For the Commission

Giorgios CONTOGEOGRIS

Member of the Commission
