DECISIONS

COUNCIL DECISION (EU) 2015/1734

of 18 September 2015

establishing the position to be adopted on behalf of the European Union at the 12th General Assembly of the Intergovernmental Organisation for International Carriage by Rail (OTIF) as regards certain amendments to the Convention concerning International Carriage by Rail (COTIF) and to its Appendices

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Union acceded to the Convention concerning International Carriage by Rail of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999 ('COTIF Convention'), by virtue of Council Decision 2013/103/EU ([1]).

(2) All Member States, with the exception of Cyprus and Malta are contracting parties to and apply the COTIF Convention.

(3) The General Assembly set up in accordance with point (a) of Article 13§ 1of the COTIF Convention ('General Assembly'), at its 12th session due to take place from 29 to 30 September 2015, is expected to decide upon certain amendments to the COTIF Convention as well as to its Appendices D (Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic — CUV), F (Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic — APTU) and G (Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic — ATMF).

(4) The position of the Union on certain items should be adopted under Article 218(9) of the Treaty, since the decisions on those amendments to be taken by the General Assembly are acts having legal effects and their subject matter falls under Union competence.

(5) The amendments to the COTIF Convention have the objectives of updating the tasks of the Committee of Technical Experts and a reference to the definition of 'keeper' in line with Union law, and of modifying certain rules concerning the financing, auditing, and reporting of the Intergovernmental Organisation for International Carriage by Rail (OTIF), as well as certain minor administrative changes.

(6) The amendments to Appendix D (CUV) presented by the Secretary-General of OTIF have the objective of clarifying the roles of the keeper and the entity in charge of maintenance in the contracts of use of vehicles in international rail traffic.

(7) The amendments to Appendices F (APTU) and G (ATMF) aim at clarifying their scope by the deletion of the reference to 'other railway material'.

([1]) Council Decision 2013/103/EU of 16 June 2011 on the signing and conclusion of the Agreement between the European Union and the Intergovernmental Organisation for International Carriage by Rail on the Accession of the European Union to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999 (OJ L 51, 23.2.2013, p. 1).

(8) The amendments to Appendices D (CUV), F (APTU) and G (ATMF) to the COTIF Convention, as well as certain amendments to the COTIF Convention itself fall under Union competence and are in line with the law and with the strategic objectives of the Union, and should therefore be supported by the Union.

(9) The position of the Union at the 12th General Assembly should therefore be based on the Annex to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be adopted on behalf of the European Union at the 12th General Assembly in the framework of the COTIF Convention shall be in accordance with the Annex to this Decision.

2. Minor changes to the documents mentioned in the Annex to this Decision may be agreed upon by the representatives of the Union in the General Assembly without further decision of the Council.

Article 2

The Decisions of the 12th General Assembly, once adopted, shall be published in the *Official Journal of the European Union*, indicating their entry into force.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 18 September 2015.

For the Council
The President
C. DIESCHBOURG

ANNEX

1. Referenced documents

Documents concerning the revision of COTIF and of its Appendices are available on the website of OTIF:

http://www.otif.org/en/law/general-assembly/working-documents-concerning-revision-of-cotif.html.

2. Comments and positions on the agenda items

Item 1. Election of the Chairman and Vice-Chairmen

Document: none.

Exercising voting rights: MS.

Coordinated position: none.

Item 2. Adoption of the agenda

Documents: AG 12/2, AG 12/2 Add.1.

Exercising voting rights: MS.

Coordinated position: none.

Item 3. Formation of the Credentials Committee

Document: none.

Exercising voting rights: MS.

Coordinated position: none.

Item 4. Organisation of the work and designation of any Committees considered necessary

Document: none.

Exercising voting rights: MS.

Coordinated position: none.

Item 5. Election of a Secretary-General for the period from 1 January 2016 to 31 December 2018

Documents: AG 12/5, AG 12/5.1, AG 12/5.2.

Exercising voting rights: MS.

Coordinated position: none.

Both candidates for the post are from EU Member States (Austria and France).

Item 6. Members of OTIF — general situation

Document: AG 12/6.

Exercising voting rights: not applicable.

Coordinated position: none.

Item 7. Budget framework

Documents: AG 12/7.1, AG 12/7.2.

Exercising voting rights: MS.

Coordinated position: none.

Item 8. Partial revision of COTIF — Basic Convention

Documents: AG 12/8, AG 12/8 Add. 1, AG 12/8 Add. 2.

Exercising voting rights: MS.

Coordinated position:

Amendments for Article 3 (International cooperation) to be supported (editorial change to replace the reference to the 'European Communities' with a reference to the 'European Union').

Amendments for Article 12 (Execution of judgements. Attachment) to be supported as it amends the definition of 'keeper' in line with EU law.

Amendments for Article 20 (Committee of Technical Experts) to be supported as they are necessary to update the Uniform Rules APTU and ATMF in order to keep them in line with EU law.

Other amendments: no EU position.

Item 9. Partial Revision of Appendix B (CIM UR)

Document: AG 12/9.

Exercising voting rights: MS.

Coordinated position: to take note of the Secretary-General's report on the progress and continuation of the work on revising this Appendix.

Item 10. Partial revision of Appendix D (CUV UR)

Documents: AG 12/10, AG 12/10 Add. 1, AG 12/10 Add. 2, AG 12/10 Add. 3.

Exercising voting rights: EU.

Coordinated position:

Amendments to Article 9 and to the Explanatory Report to be supported, in line with the EU position represented at the 25th session of the Revision Committee of OTIF ([1]), as they clarify the roles of the keeper and of the entity in charge of maintenance in line with EU law.

The new Article 1a proposed by Germany in document AG 12/10 Add. 3 was discussed and supported by an EU working group of representatives of Member States and of the railway sector which met on 26 November 2014. A similar provision also exists in CIM (Article 2 — Prescriptions of public law). Thus, this proposal is to be supported as well.

([1]) Council Decision of 24 June 2014 establishing the position to be adopted on behalf of the European Union at the 25th session of the OTIF Revision Committee as regards certain amendments to the Convention concerning International Carriage by Rail (COTIF) and to the Appendices thereto (2014/699/EU) (OJ L 293, 9.10.2014, p. 26).

Item 11. Partial revision of Appendix F (APTU UR)

Document: AG 12/11.

Exercising voting rights: EU.

Coordinated position: amendment to Article 3 aimed at the clarification of the scope by the deletion of 'other railway material' and the relevant modification of the Explanatory Report to be supported.

Item 12. Revision of Appendix G (ATMF UR)

Document: AG 12/12.

Exercising voting rights: EU.

Coordinated position: amendments to Articles 1 and 3 aimed at the clarification of the scope by the deletion of 'other railway material' and the relevant modification of the Explanatory Report to be supported.

Item 13. Revised and consolidated Explanatory Report

Documents: AG 12/13, AG 12/13 Add.1-10.

Exercising voting rights: MS.

Coordinated position: to note the revised and consolidated Explanatory Report and to mandate the Secretary-General to include the explanations adopted by this General Assembly which relate to the amendments to COTIF and its Appendices adopted by this General Assembly. However, the phrase '… apply to the activities of the ECM, or …' is to be deleted in the explanations on Article 3a, 10, second sentence. Furthermore, in the German version the explanations on Article 15, 1, second sentence should be amended as follows:

> 'In Übereinstimmung mit den gängigen Verfahren verschiedener Vertragsstaaten und zur expliziteren Klarstellung der Pflichten des Halters, obliegt dem Halter die Verpflichtung, den ihm zugeordneten Fahrzeugen eine ECM zuzuweisen.'

Item 14. Unified Railway Law

Document: AG 12/14.

Exercising voting rights: MS.

Coordinated position: none.

Item 15. Report on the activities of the Administrative Committee in the period between 1 October 2012 and 30 September 2015

Document: AG 12/15.

Exercising voting rights: MS.

Coordinated position: none.

Item 16. Election of the Administrative Committee for the period between 1 October 2015 and 30 September 2018 (composition and chair)

Document: AG 12/16.

Exercising voting rights: MS.

Coordinated position: none.

Item 17. Provisional date of the 13th General Assembly

Document: none.

Exercising voting rights: not applicable.

Coordinated position: none.

Item 18. Any other business

Document: not available.

Exercising voting rights: to be decided ('tbd') on the spot if necessary.

Coordinated position: tbd on the spot if necessary.

Item 19. Any General Assembly mandates

Document: not available.

Exercising voting rights: tbd on the spot if necessary.

Coordinated position: tbd on the spot if necessary.

Item 20. Committee reports, if necessary

Document: not available.

Exercising voting rights: tbd on the spot if necessary.

Coordinated position: tbd on the spot if necessary.

Item 21. Adoption of decisions, mandates, recommendations and other General Assembly documents (final document)

Document: not available.

Exercising voting rights: MS.

Coordinated position: tbd on the spot.