



Brussels, 8 November 2023

CM 5248/23

TRANS

COMMUNICATION

WRITTEN PROCEDURE

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Subject: **END OF THE WRITTEN PROCEDURE**

Council Decision on the position to be taken on behalf of the European Union at the 5th session of the OTIF ad hoc Committee on Legal Affairs and International Cooperation

– Adoption

Delegations are informed that the written procedure, opened by CM 5223/23 of 8 November 2023 was completed on 8 November 2023 at 17:30 and that all delegations voted in favour of the adoption of the Council Decision on the position to be taken on behalf of the European Union at the 5th session of the OTIF ad hoc Committee on Legal Affairs and International Cooperation, as set out in documents ST 14672/23 and ST 14672/23 ADD 1.

The required qualified majority has been reached. Therefore, the above Council Decision is adopted.

A statement by the Commission is reproduced in the Annex to this CM.

The above statement will be included in the summary of acts adopted by the written procedure as a statement to be entered in the Council minutes, in accordance with the third subparagraph of Article 12(1) of the Council's Rules of Procedure.

Statement by the Commission

The Commission considers that the decisions of the OTIF ad hoc Committee on Legal Affairs and International Cooperation at its 5th session regarding:

- the advisory opinion concerning the application of the CUI UR to service facilities, and in particular the interaction between OTIF rules and the Union legislation on the matter of the definition of railway infrastructure;
- the digitalisation of international freight transport documents;
- the use of electronic signature in official communications between OTIF and its members;
and
- the legal protection of OTIF's name, abbreviations logo and works

concern specific areas for which the EU has exclusive competence. Indeed, the envisioned acts of the Committee risk affecting Union rules or altering their scope for the purpose of Article 3(2) TFEU, as explained in the explanatory memorandum of the Commission's proposal (COM(2023) 687 final). Therefore, pursuant to paragraph 3.1 of Annex III to Council Decision 2013/103/EU, the Union should vote on those agenda items.

In addition, the approval of the agenda, which includes matters of both exclusive and shared competence, the handbook on COTIF and its implementation and application by international associations, and the decision to be taken by the ad hoc Committee on the involvement of registered stakeholders in the ad hoc Committee, which concern a horizontal nature, fall under both shared and exclusive competence of the Union, with the centre of gravity falling predominantly under the Union's exclusive competence. Therefore, pursuant to paragraph 3.3 of Annex III to Council Decision 2013/103/EU, the Union should vote on those agenda items.

The Commission is to express the Union positions and to vote on behalf of the Union in OTIF ad hoc Committee on Legal Affairs and International Cooperation, pursuant to Article 17(1) TEU and Annex III to Council Decision 2013/103/EU.

The Commission reserves all its rights as regards the above.
