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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	ST 11953/21
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Subject:	Council Decision establishing the position to be adopted on behalf of the European Union within the 15th General Assembly of the Intergovernmental Organisation for International Carriage by Rail (OTIF) – Adoption

I. INTRODUCTION

1. The Commission submitted to the Council on 17 August 2021 the above-mentioned proposal. The General Assembly of the Intergovernmental Organisation for International Carriage by Rail (OTIF) holds ordinary sessions every three years. At this year's agenda are, among other points, strategic discussions, the election of the Secretary-General, matters concerning dependent bodies and several changes to the rules of procedure of OTIF. The meeting will be held in Berne, Switzerland, on 28 and 29 September 2021, with the possibility of remote participation.
2. OTIF has 52 members, of which 25 are EU Member States. The Union has acceded to the Convention governing OTIF in 2011 by virtue of Council Decision 2013/103/EU of 16 June 2011.

II. WORK AT THE PREPARATORY BODY

3. The Working Party on Land Transport first examined the proposal in the informal meeting of its members on 6 September 2021. Several delegations entered scrutiny reservations and expressed doubts concerning the assignment of competences and voting rights for some of the agenda items for the General Assembly, as well as in respect of some of the draft Union positions. Four delegations made comments in writing.¹
4. Facilitated by a Presidency compromise,² the Working Party continued its discussion on 17 September 2021, in informal meeting. While the discussion converged towards a compromise on most of the issues contested, two issues remained, one concerning the description of competences in the Annex to the draft Decision containing the EU positions, one concerning agenda item 9 for the General Assembly, in so far as it deals with language requirements for selecting a Secretary-General of OTIF.
5. In respect of the first main issue, the participants reached the following understanding: In case that the competence is indicated as “Union (shared)”, the Union shares competence with its Member States and has not yet exercised it. In case that the competence is indicated as “Union (shared and exclusive)”, the item falls partly into shared, partly into exclusive competence. In the latter case, in accordance with point 3.3 of Annex III to Council Decision 2013/103/EU, the decision on voting rights is taken in light of where the preponderance of the competence lies, and the Union position will be expressed by the Presidency and the Commission, whereby Member States, after due coordination, may speak to support or develop it.
6. In view of the second open issue, the Working Party returned to the file on 20 September 2021.³ While some delegations supported the Presidency compromise, others could not. The views differed both in terms of the minimum number of languages to be required, and in terms of highlighting any of them. Despite further efforts, it resulted to be impossible to agree on a compromise line for a Union position, and, therefore, the Presidency concluded that no Union position was found on this specific aspect of the new rules on a selection procedure.

¹ See documents ST 11554/21 and WK 10410/2021+ ADD1, ADD2, ADD4.

² See document 11596/21 + ADD 1.

³ See document 11953/21.

III. CONCLUSIONS

7. The Permanent Representatives Committee is invited to endorse the draft Decision as resulting from the preparatory deliberations and to submit it for adoption by the Council at its meeting on 28 September 2021, as presented in documents 11576/21 and 11579/21, revised by the lawyer-linguists.⁴
8. The Presidency encourages all relevant Member States to participate in the OTIF General Assembly to exercise their voting rights and to contribute to the debates that will shape the short and medium-term prospects of OTIF.
9. Once adopted, the European Parliament will be informed about the Council Decision.

⁴ Due to time constraints, the lawyer-linguist documents will be available in one language on 21 September 2021, early afternoon, and in other languages on 24 September 2021.