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European Union

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TRANS 523

## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: COUNCIL DECISION establishing the position to be adopted on behalf of the European Union at the 15th General Assembly of the Intergovernmental Organisation for International Carriage by Rail (OTIF)

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**COUNCIL DECISION (EU) 2021/...**

**of ...**

**establishing the position to be adopted on behalf of the European Union  
at the 15th General Assembly of the Intergovernmental Organisation  
for International Carriage by Rail (OTIF)**

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'), pursuant to Council Decision 2013/103/EU<sup>1</sup>.
- (2) The General Assembly of OTIF was set up in accordance with Article 13 § 1, letter a), of COTIF (the 'General Assembly').
- (3) The Union participates in the General Assembly in accordance with COTIF, the Rules of Procedure of the General Assembly, and the Agreement on the Accession of the Union to COTIF.

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<sup>1</sup> 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).

- (4) At its 15th session due to take place from 28 to 29 September 2021, the General Assembly is expected to decide upon: the preparation of a long-term strategy for OTIF; a proposal for a Regulation on the election and conditions of service of the Secretary-General; a proposal to merge the activities of the *ad hoc* Committee on Cooperation and of the Working Group of Legal Experts into a single *ad hoc* Committee on Legal Affairs and International Cooperation; a proposal for a decision on the monitoring and assessment of OTIF legal instruments; and, proposals for modification of the Rules of Procedure of the General Assembly.
- (5) At that session, the General Assembly is also expected to formulate OTIF's views on the United Nations Economic Commission for Europe (UNECE) initiative on Unified Railway Law, in particular as regards two alternative approaches on the unification of railway law at global level.
- (6) It is appropriate to establish the position to be adopted on behalf of the Union at the 15th General Assembly of OTIF, as the Union is a member of OTIF and the decisions to be taken by the General Assembly have an impact on the functioning and on the development strategy of the organisation.

- (7) The 15th General Assembly will consider the adoption of a legally binding instrument that would regulate the election and conditions of service of the Secretary-General, one of the organs of OTIF set out in Article 13 of COTIF. The new instrument would provide a comprehensive framework covering all main aspects of the subject matter (election principles, qualification criteria, call for application, submission and examination of applications, transparency, voting, conditions of service, etc.).
- (8) As regards the strategic development of OTIF, the Secretary-General proposes to continue and intensify the discussion on a draft proposal for a long-term strategy for OTIF, following the consultation organised at the beginning of 2021. A revised draft proposal would then be submitted for consideration and adoption by the General Assembly at its next ordinary session. The General Assembly will be expected to instruct the Secretary-General to undertake the necessary actions for this purpose.

- (9) The General Assembly will consider the opportunity to merge the activities of the *ad hoc* Committee on Cooperation and of the Working Group of Legal Experts into a single *ad hoc* Committee on Legal Affairs and International Cooperation. It is noted that the institutional framework of OTIF is defined in Title III of COTIF. Pursuant to Article 13 § 2 of COTIF, the General Assembly may decide to establish temporarily other committees for specific tasks. Thus, the proposal of the Secretary-General to establish temporarily an *ad hoc* Committee on Legal Affairs and International Cooperation is to be considered within the OTIF's existing institutional framework.

- (10) In order to better monitor and improve the application of COTIF, the General Assembly is expected to adopt an internal decision on the monitoring and assessment of COTIF's legal framework. The proposed decision operationalises the task of OTIF set out in Article 2 § 1, letter e) of COTIF to keep a watch on the application of all the rules and recommendations (legal instruments) established within the organisation. To that end, the draft decision establishes specific requirements for the Secretary-General of OTIF and for the OTIF members, in particular: the Secretary-General will systematically perform monitoring and assessment of the implementation of COTIF; the OTIF organs will be entitled to initiate monitoring and assessment of the application of a particular legal instrument within the sphere of their competence or the specific provisions thereof; the Secretary-General will be able to initiate monitoring and assessment of any legal instrument; OTIF members will cooperate with the Secretary-General and provide all relevant information for the purpose of monitoring and assessing legal instruments.

- (11) The General Assembly will also consider and adopt a position on the latest developments of UNECE's initiative on Unified Railway Law. In particular, the General Assembly may express its support for the formation and adoption of an interface law to facilitate international rail freight transport between Europe and Asia, provided that such interface law does not conflict with the rules of COTIF. That position would be conveyed to the 74th session of the UNECE Working Party on Rail Transport in November 2021, which is the standing body competent to decide on the next steps of the Unified Railway Law initiative.
- (12) At its 15th session, the General Assembly will also decide on the modification of its rules of procedure. A consolidated version of the rules of procedure will be adopted and should enter into force on the first day after the session.
- (13) The proposed decisions are in line with the law and the strategic objectives of the Union, and should therefore be supported by the Union.
- (14) In accordance with Annex III to Decision 2013/103/EU, the preparation of OTIF meetings extends to on the spot-coordination. Therefore minor changes to this Union position may be agreed during on the spot-coordination without requiring further decision of the Council, in particular in order to be able to react to proposals and developments not taken into account at the time of this Decision,

HAS ADOPTED THIS DECISION:



### *Article 1*

The position to be adopted on behalf of the Union at the 15th General Assembly of the Intergovernmental Organisation for International Carriage by Rail (OTIF) is set out in the Annex.

Minor changes to the position set out in the Annex may be agreed by the representatives of the Union at the General Assembly without further decision of the Council.

### *Article 2*

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

Done at ...,

*For the Council*

*The President*

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