



Council of the  
European Union

Brussels, 18 August 2021  
(OR. en)

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**Interinstitutional File:  
2021/0271(NLE)**

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**TRANS 505**

**PROPOSAL**

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From: Secretary-General of the European Commission, signed by Ms Martine  
DEPREZ, Director

date of receipt: 17 August 2021

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council  
of the European Union

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No. Cion doc.: COM(2021) 478 final

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Subject: ANNEX to the Proposal for a Council Decision on the position to be  
taken 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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Delegations will find attached document COM(2021) 478 final.

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Encl.: COM(2021) 478 final



Brussels, 17.8.2021  
COM(2021) 478 final

ANNEX

**ANNEX**

**to the**

**Proposal for a Council Decision**

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

## ANNEX

### 1. INTRODUCTION

The 15<sup>th</sup> session of the General Assembly of the Intergovernmental Organisation for International Carriage by Rail (OTIF) will take place on 28 and 29 September 2021. The meeting documents are available on the website of OTIF at the following link:

[http://extranet.otif.org/fr/?page\\_id=140](http://extranet.otif.org/fr/?page_id=140)

### 2. POSITION OF THE UNION ON CERTAIN AGENDA ITEMS

#### **Agenda Item 1 – Election of the Chair and Vice-Chair**

<i>Document(s):</i>	None
<i>Competence:</i>	Union (shared)
<i>Exercise of voting rights:</i>	Member States
<i>Position:</i>	None

#### **Agenda Item 2 – Adoption of the agenda**

<i>Document(s):</i>	SG-21009-AG 15/2
<i>Competence:</i>	Union (shared and exclusive)
<i>Exercise of voting rights:</i>	Union
<i>Position:</i>	In favour of the adoption of the draft agenda

#### **Agenda Item 3 – Formation of the Credentials Committee**

<i>Document(s):</i>	None
<i>Competence:</i>	Union (shared)
<i>Exercise of voting rights:</i>	Member States
<i>Position:</i>	None

#### **Agenda Item 4 – Organisation of the work and designation of any Committees considered necessary**

<i>Document(s):</i>	None
<i>Competence:</i>	Union (shared)
<i>Exercise of voting rights:</i>	Member States
<i>Position:</i>	None

#### **Agenda Item 5 – Status of the Convention and OTIF membership**

<i>Document(s):</i>	SG-21010-AG15/5
<i>Competence:</i>	Union (shared)
<i>Exercise of voting rights:</i>	Not applicable
<i>Position:</i>	None

## Agenda Item 6 – Election of a Secretary General for the period from 1 January 2022 to 31 December 2024

<i>Document(s):</i>	Restricted distribution
<i>Competence:</i>	Union (shared)
<i>Exercise of voting rights:</i>	Member States
<i>Position:</i>	None

## Agenda Item 7 – OTIF long-term strategy

<i>Document(s):</i>	SG-21017-AG 15/7
<i>Competence:</i>	Union (shared and exclusive)
<i>Exercise of voting rights:</i>	Union
<i>Position:</i>	<p>Support the initiative of the Secretary General to develop a long-term strategy for OTIF.</p> <p>Take note of the Secretary General’s report and appreciate that the comments provided by the EU during the consultation process have been effectively taken into account.</p> <p>Support the proposal for decision by the General Assembly to:</p> <ul style="list-style-type: none"> <li>- instruct the Secretary General to prepare a revised draft proposal for a long-term strategy, which should be based on the draft sent with circular letter SG-21001 (see Annex 1) and updated in accordance with the Secretary General’s reaction to the feedback received in the consultation (part D of document SG-21017-AG 15/7) and with the results of the discussions at the 15th General Assembly, and</li> <li>- instruct the Secretary General in consultation with OTIF organs to prepare a long-term strategy for OTIF and submit it for adoption to the next ordinary session of the General Assembly which is scheduled for autumn 2024.</li> </ul> <p>During the further discussions within OTIF on this matter, the Union is to strive to ensure that the long-term OTIF strategy is consistent with the EU Strategy for Connecting Europe and Asia, and relevant EU rail transport policy objectives, that the formulation of long-term strategic objectives for OTIF covers adequately the aims of the organisation and does not lead to adding new objectives to OTIF and/or to formulating an interpretation of existing objectives implying an extension of OTIF competences, that the potential impact of the long-term strategy on OTIF’s organisation and resources is assessed and documented as part of the proposal for a revised draft proposal, that the strategy, once adopted, is primarily implemented with the use of existing tools and procedures, as established in COTIF (work programme, budget, management reports, activities of the</p>

	organs, etc.).
<i>Comments:</i>	The EU contribution to the consultation organised on the draft proposal for OTIF's long-term strategy was submitted to the OTIF Secretariat on 17.3.2021 and is reproduced in Annex of SG-21017-AG 15/7. The EU welcomed the initiative but suggested that the draft strategy is not sufficiently developed. More background analysis and discussion at expert level is needed. The starting point should be the analysis of the existing situation in international rail transport, including the mapping of current and emerging challenges, and the consideration of relevant legal, economic, environmental and technological evidence.

**Agenda item 8, a) – Report on the activities of the ad hoc Committee on Cooperation and the Working Group of Legal Experts**

<i>Document(s):</i>	SG-21018-AG 15/8.1
<i>Competence:</i>	Union (shared and exclusive)
<i>Exercise of voting rights:</i>	Union
<i>Position:</i>	<p>Take note of the report on the activities of the ad hoc Committee on Cooperation and the Working Group of Legal Experts and recognise the importance of continuing and streamlining the work of these two bodies.</p> <p>Support the General Assembly's decision to merge the ad hoc Committee on Cooperation and the Working Group of Legal Experts into a single ad hoc Committee on Legal Affairs and International Cooperation.</p> <p>Approve the proposed mandate of the ad hoc Committee on Legal Affairs and International Cooperation, for a first period of three years, and provided that it includes the requirement to coordinate its activities with the organs defined in Article 13 § 1 of COTIF. If this requirements would not be accepted by the General Assembly, the Union should make a unilateral declaration stating that it is the understanding of the European Union that this ad hoc Committee should coordinate its activities with the organs defined in Article 13 § 1 of COTIF.</p>
<i>Comments:</i>	The report presented by the Secretary General indicates that the ad hoc Committee on Cooperation and the Working Group of Legal Experts have effectively fulfilled their mandates and demonstrated their value in the context of developing OTIF law and strengthening international cooperation. At their 4 <sup>th</sup> sessions in April 2021, the two bodies agreed on a joint proposal to reorganise their work in future and to reduce the administrative burden, through the establishment of a single ad hoc Committee.

**Agenda item 8, b) – Monitoring and assessment of legal instruments**

<i>Document(s):</i>	SG-21019-AG 15/8.2
<i>Competence:</i>	Union (shared and exclusive)
<i>Exercise of voting rights:</i>	Union
<i>Position:</i>	Support the adoption of the draft Decision on the monitoring and assessment of legal instruments.  Support the approval of the Explanatory Notes on the draft Decision on the monitoring and assessment of legal instruments.
<i>Comments:</i>	The proposed draft decision sets out the necessary legal provisions for the organisation and implementation of the monitoring and assessment policy of OTIF legal instruments (scope, planning and prioritisation, cooperation, data collection, assessment and follow-up), in line with the objectives of OTIF's Work Programme.

**Agenda item 8, c) – Modification of the General Assembly's Rules of Procedure regarding participation and representation (credentials)**

<i>Document(s):</i>	SG-21020-AG 15/8.3
<i>Competence:</i>	Union (shared and exclusive)
<i>Exercise of voting rights:</i>	Union
<i>Position:</i>	Support the adoption of the amendments to Articles 4 to 7 of the Rules of Procedure of the General Assembly.  Support the approval of the Explanatory Notes on Articles 4 to 7 of Rules of Procedure of the General Assembly.
<i>Comments:</i>	The Working Group of Legal Experts prepared proposals to amend the provisions of the General Assembly's Rules of Procedure concerning credentials, with a view to improving and clarifying them.

**Agenda item 8, d) – UNECE initiative on Unified Railway Law**

<i>Document(s):</i>	SG-21021-AG 15/8.4
<i>Competence:</i>	Union (shared and exclusive)
<i>Exercise of voting rights:</i>	Union
<i>Position:</i>	Take note the Secretary General's report and the conclusions of the Working Group of Legal Experts on the possible approaches to the unification of railway law;  Agree with the proposal for decision by the General Assembly to: <ul style="list-style-type: none"><li>- support the formation and adoption of an interface law between COTIF/CIM and SMGS to facilitate international rail freight transport between Europe and Asia, provided that this interface law must not conflict with the CIM UR</li></ul>

	<p>and SMGS;</p> <ul style="list-style-type: none"> <li>- instruct the Secretary General to continue to participate in the UNECE work on the project to unify railway law and instruct the ad hoc Committee on legal affairs and international cooperation to monitor the UNECE project concerning the unification of railway law;</li> </ul> <p>Reiterate the decision taken at its 13<sup>th</sup> session, whereby it recognises that it must take a prior decision with regard to participating in the preparation of any new text on international railway law whose scope of application and objectives may conflict or partially coincide with the scope of application of COTIF and the objectives of OTIF.</p>
<i>Comments:</i>	<p>The subject matter concerns the harmonisation and unification of rail transport law for international traffic in Eurasia that is currently managed through two distinct legal regimes: (1) the COTIF administered by OTIF, including its Appendix B “Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (CIM UR)”; (2) the Agreement on International Traffic by Rail (SMGS) administered by the Organisation for Cooperation between Railways (OSJD). The objective of the UNECE Unified Railway Law (URL) initiative is to develop an approach for the unification of rail transport law with the view to improving the efficiency and competitiveness of Euro-Asia rail freight transport services. The experts from the Member States and the Commission, who participated in this activity in UNECE advocated a pragmatic and step-by-step approach, starting, as a first step, with the possible adoption of a “URL contract of carriage’s Convention”, which could co-exist with relevant rules of OTIF and OSJD. Such interface law between COTIF/CIM and SMGS would fill a gap in the international regulations for international carriage when neither the CIM UR nor SMGS can be applied over the entire journey (traffic between Europe and Asia).</p>

#### **Agenda item 9 – Rules on the election and conditions of service of the Secretary General**

<i>Document(s):</i>	SG-21022-AG 15/9
<i>Competence:</i>	Union (shared and exclusive)
<i>Exercise of voting rights:</i>	Union
<i>Position:</i>	Support the adoption of the draft Regulation on the election and conditions of service of the Secretary General but request that Article 5 (Qualification criteria) is amended as follows: “ <i>knowledge of all three working languages of OTIF, with the ability to draft easily and fluently in one of the working languages</i> ”.

	<p>Support the approval of the Explanatory Notes on the draft Regulation, as modified in session if necessary to reflect the above proposal for amendment to Article 5 of the draft Regulation.</p> <p>Support the adoption of the amendments to Articles 10 and 22 of the Rules of Procedure of the General Assembly and support the approval of the Explanatory Notes on Articles 10 and 22 of the Rules of Procedure of the General Assembly.</p> <p>Support the adoption of the amendments to Articles 10 and 22 of General Assembly's Rules of Procedure and the approval of the Explanatory Notes on Articles 10 and 22 of General Assembly's Rules of Procedure that relate to the election and conditions of service of the Secretary General.</p>
<i>Comments:</i>	<p>Unlike the qualification criteria previously applied for applicants to the post of OTIF Secretary General (knowledge of all three working languages of OTIF, with the ability to draft easily and fluently in one of the working languages), the proposed regulation puts explicitly the emphasis on the knowledge of the English language. In addition, the knowledge of only two of the OTIF working languages would be required.</p>

### **Agenda Item 10 – Modification of the Rules of Procedure of the General Assembly**

<i>Document(s):</i>	SG-21024-AG 15/10
<i>Competence:</i>	Union (shared and exclusive)
<i>Exercise of voting rights:</i>	Union
<i>Position:</i>	<p>Support the adoption of the amendments to Articles 4 to 7, 10, 22 and 28 of the Rules of Procedure of the General Assembly and replaces the Rules of Procedure with the consolidated version set out in Annex 1 of SG-21024-AG 15/10.</p> <p>Support the approval of the Explanatory Notes on Articles 4 to 7, 10 and 22 of the Rules of Procedure of the General Assembly and replaces the Explanatory Notes with the consolidated version set out in Annex 2 of SG-21024-AG 15/10.</p>
<i>Comments:</i>	<p>As indicated under agenda items 8, point c), and 9, the General Assembly will decide on proposals for modification of the General Assembly's Rules of Procedure. A consolidated version of all amendments should be submitted for consideration and adoption by the General Assembly.</p>

### **Agenda Item 11 – Budget framework**

<i>Document(s):</i>	Restricted distribution
<i>Competence:</i>	Member States
<i>Exercise of voting rights:</i>	Member States



<i>Position:</i>	None
<i>Comments:</i>	Pursuant to Article 4 of the EU-OTIF accession agreement, " <i>The Union shall not contribute to the budget of OTIF and shall not take part in decisions concerning that budget.</i> "

**Agenda Item 12 – Report on the activities of the Administrative Committee in the period between 1 October 2018 and 30 September 2021**

<i>Document(s):</i>	Restricted distribution
<i>Competence:</i>	Union (shared)
<i>Exercise of voting rights:</i>	Member States
<i>Position:</i>	None

**Agenda Item 13 – Election of the Administrative Committee for the period between 1 October 2018 and 30 September 2021 (composition and chair)**

<i>Document(s):</i>	Restricted distribution
<i>Competence:</i>	Union (shared)
<i>Exercise of voting rights:</i>	Member States
<i>Position:</i>	None

**Agenda Item 18 – Adoption of decisions, mandates, recommendations and other General Assembly documents (final document)**

<i>Document(s):</i>	Restricted distribution
<i>Competence:</i>	Union (shared and exclusive)
<i>Exercise of voting rights:</i>	Union
<i>Position:</i>	As specified under relevant agenda items.