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**Changes to legislation:** There are currently no known outstanding effects for the Council Decision 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 (Text with EEA relevance) (2013/103/EU), ANNEX III. (See end of Document for details)

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## ANNEX III

### INTERNAL ARRANGEMENTS FOR THE COUNCIL, THE MEMBER STATES AND THE COMMISSION IN PROCEEDINGS UNDER OTIF

Bearing in mind the requirement of unity of the international representation of the Union and its Member States in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union and the case law of the Court of Justice of the European Union also at the stage of implementation of international obligations, the Council, the Member States and the Commission will apply the following internal arrangements:

#### 1. Scope

These internal arrangements will apply to any meeting of any of the bodies set up under OTIF. Any reference to a 'meeting' in these arrangements is understood to include *mutatis mutandis* a reference also to other proceedings, such as a written procedure.

#### 2. Coordination procedure

- 2.1. To prepare for any OTIF meeting, including but not limited to the meetings of the General Assembly, the Administrative Committee and other Committees, coordination meetings will be held:
  - in Brussels, within the competent Council Working Party (usually the Land Transport Working Party), as early as possible and as many times as necessary ahead of the OTIF meeting and, in addition,
  - on the spot, particularly at the beginning and, if necessary, during and at the end of an OTIF meeting.
- 2.2. The coordination meetings will agree on positions on behalf of the Union only or, where relevant, on behalf of the Union and its Member States. Positions of the Member States relating to their exclusive competence may be subject to coordination at these meetings if so agreed by the Member States.
- 2.3. The coordination meetings will decide on the exercise of responsibilities with respect to statements and voting in relation to each item of the OTIF meeting agenda, on which a statement may be made or a vote is expected.
- 2.4. To prepare the coordination meetings referred to in point 2.1, including draft statements and position papers, preliminary discussions will, if necessary, be held in the appropriate Committee created by the relevant Union rail legislation, namely:
  - the Committee on the transport of dangerous goods for items covered by Appendix C to the Convention; if these items affect rail interoperability, or the common safety approach developed under Directive 2004/49/EC, the Committee on rail interoperability and safety is also to be involved,
  - the Committee on the development of the Union's railways for items covered by Appendices A, B, D or E to the Convention and for other systems of uniform law elaborated by the OTIF,
  - the Committee on rail interoperability and safety for items covered by Appendices F or G to the Convention.
- 2.5. Before any OTIF meeting the Commission will give an indication of which agenda items are subject to Union coordination and will prepare draft statements and position papers to be discussed at coordination meetings.

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2.6. If the Commission and the Member States in coordination meetings cannot agree a common position, including for reasons of disagreement on the repartition of competence, the matter will be referred to the Committee of Permanent Representatives and/or the Council.

### 3. **Statements and voting in the OTIF meetings**

3.1. Where an agenda item deals with matters of exclusive Union competence, the Commission will speak and vote for the Union. After due coordination, the Member States can also speak in order to support and/or develop the Union position.

3.2. Where an agenda item deals with matters of exclusive national competence, Member States will speak and vote.

3.3. Where an agenda item deals with matters containing elements of both national and Union competence, the Presidency and the Commission will express the common position. After due coordination, Member States can speak to support and/or develop the common position. The Member States or the Commission, as appropriate, will vote on behalf of the Union and its Member States in accordance with the common position. The decision on who will be voting is made in the light of where the preponderance of the competence lies (e.g. mainly national or mainly Union competence).

3.4. Where an agenda item deals with matters containing elements both of national and of Union competence and the Commission and the Member States have not been able to agree a common position as referred to in point 2.6, Member States and the Commission can speak and vote on matters falling clearly within their respective competence.

3.5. On matters for which there is no agreement between the Commission and the Member States on division of competence, or where it has not been possible to obtain the majority needed for a Union position, a maximum effort will be made to clarify the situation or achieve a Union position. Pending this, and after due coordination, the Member States and/or the Commission, as appropriate, would be entitled to speak on condition that the position expressed will not prejudge a future Union position, will be coherent with Union policies and previous Union positions, and will be in conformity with Union law.

3.6. The representatives of the Member States and of the Commission may participate in OTIF working groups preparing the technical committees of OTIF namely the Committee of Experts for the Carriage of Dangerous Goods (RID) and the Committee of Technical Experts (TEC). During participation in these working groups the representatives of the Member States and the Commission may present technical contributions and fully participate in the technical discussions on the basis of their technical knowledge. These discussions will not bind the Union.

The representatives of the Member States and the Commission will make serious efforts to reach a common position and to defend this position during the discussions in the OTIF working groups.

### 4. **Review of these arrangements**

At the request of a Member State or the Commission, these arrangements will be reviewed, taking account of experience gained from their operation.

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