

International carriage by rail: agreement on the accession to the Convention COTIF 1980, as amended by the Vilnius Protocol in June 1999

2009/0121(NLE) - 31/08/2009 - Legislative proposal

PURPOSE: to provide for the conclusion by the European Community of the Agreement on the Accession of the European Community to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999.

PROPOSED ACT: Council Decision.

BACKGROUND: the development of rail interoperability, both within the Community and between the Community and neighbouring countries, is a key component of the transport policy, targeted in particular at establishing a better balance between the various modes of transport. The European Community has exclusive competence or shared competence with its Member States in the areas covered by the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999.

On 28 March 2003, the Council authorised the Commission to enter into negotiations with the Contracting Parties to COTIF in order to reach agreement on the Community's accession to that Convention. The Council Decision included negotiating directives and instructions for the Community's accession to the COTIF. Although a proposal for a Council Decision to accept the conditions of an agreement between the Community and the Intergovernmental Organisation for International Carriage by Rail (OTIF) was made in 2003, the accession of the Community to COTIF could not take place until the Vilnius Protocol had come into force and which was dependent on a number of ratifications being made by OTIF Member States. COTIF, as amended by the Vilnius Protocol, came into force in July 2006.

The [Commission proposal](#) of 2003 for the European Community's accession to COTIF was approved by the European Parliament without amendment after first reading. However, it was felt that the Community should seek clarifications and assurances from OTIF since there was a growing realisation that Article 3 (2) of COTIF which purported to ensure compliance between the respective Community and OTIF legal regimes, in fact did not do this adequately. A legal review of the COTIF and its Appendices confirmed that a number of divergences existed between Community acquis and COTIF, relating both to the rules on jurisdiction in the COTIF (articles 12 and 28) and to the rules in some of the Appendices (E, F and G).

In order to protect the European Community legal regime, the Community proposed that a suitable provision (a so-called **disconnection clause**) should be added into the agreement to avoid any legal incompatibilities between COTIF and the existing and developing Community acquis.

Following negotiations between the Commission and OTIF in May and June 2009, the compatibility issues between European Community law and COTIF have been resolved in principle with the necessary changes to COTIF having been submitted to and adopted by the appropriate OTIF Committee. These changes will take effect 12 months after OTIF gives notice of them to its Member States.

CONTENT: with this Communication the Commission submits to the Council a revised proposal for a Decision authorising the Community to conclude an Agreement defining the terms of its accession to the Convention concerning International Carriage by Rail (COTIF), as amended by the Vilnius Protocol of 3 June 1999.

The Agreement shall be approved on behalf of the European Community, subject to the following conditions:

- upon accession a declaration shall be made by the Community concerning the exercise of its competence;
- upon accession a declaration shall be made by the Community concerning the non-application of Appendices E, F and G of COTIF.

In the light of these considerations and in accordance with the established procedures, the Commission withdraws the proposal for a Decision authorising the Community to conclude an Agreement defining the terms of its accession to the Convention concerning International Carriage by Rail (COTIF) which was adopted in 2003.

IMPACT ASSESSMENT: not applicable.

BUDGETARY IMPLICATIONS: the proposal has no impact on the Community budget.