Empowering France to negotiate, sign and conclude an international agreement on the safety and interoperability requirements within the Channel Fixed Link

2023/0192(COD) - 20/06/2023 - Legislative proposal

PURPOSE: to empower the French Republic to negotiate, sign and conclude an international agreement on the safety and interoperability requirements within the Channel Fixed Link.

PROPOSED ACT: Decision of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the Channel Fixed Link is a unique railway link involving a single, complex engineering structure situated partly in the territory of the French Republic and partly in a third country, namely the United Kingdom. Since the end of the transition period provided for by the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, the infrastructure manager of the Channel Fixed Link and the rail undertakings operating in the Channel Fixed Link are subject to two separate legal frameworks as regards railway safety and interoperability.

To ensure the safe and efficient operation of the Channel Fixed Link, the French Republic requested, on 23 March 2023, an empowerment to negotiate and conclude with the United Kingdom of Great Britain and Northern Ireland an international agreement on the safety and interoperability requirements within the Channel Fixed Link.

The French Republic had already requested EU authorisation in 2020 to negotiate and conclude an international agreement with the United Kingdom on safety and interoperability requirements for the cross-Channel fixed link. In accordance with this request, Decision (EU) 2020/1531 of the European Parliament and of the Council authorised the French Republic to negotiate an agreement to ensure the uniform and dynamic application of EU law across the Channel Fixed Link. The negotiations carried out under the conditions laid down in the said decision have not yet resulted in an agreement satisfactory to both parties. Therefore, an alternative empowerment is proposed.

CONTENT: the purpose of the proposal for a decision is to authorise, in accordance with Article 2(1) of the TFEU, the negotiation of an international agreement on the safety and interoperability requirements within the Channel Fixed Link ensuring uniform application of rail safety and interoperability requirements across the whole Channel Fixed Link.

The objective sought is to ensure coherent safety and interoperability requirements across the entire Channel Fixed Link, including the part under the United Kingdom’s jurisdiction.

In respect of the part of the Channel Fixed Link under the French Republic jurisdiction, the agreement will comply with the following conditions:

- the agreement will be compatible with Union law in all respects. The principles of primacy and, where applicable, direct effect of Union law will be ensured;

- disputes between the French Republic and the United Kingdom concerning the application of the Agreement will not be submitted to the arbitral tribunal set up under Article 19 of the Treaty of Canterbury or to any other means of legally binding dispute settlement.;

- the French Republic will retain the right to unilaterally suspend or denounce the agreement, with a view to ensuring the full, correct and expeditious application of Union law in the part of the Channel Fixed Link under its jurisdiction;

- the agreement will provide for a mechanism for its amendment, to adapt it to changes in Union law;

- the independence and the respective powers granted by Union law to the European Union Agency for Railways and the EPSF, as national safety authority within the meaning of Directive (EU) 2016/798, will be ensured.

The French Republic will keep the Commission regularly informed of the negotiations with the United Kingdom of the agreement and, where appropriate, invite the Commission to participate as an observer. Upon completion of the negotiations, the French Republic will submit the resulting draft agreement to the Commission. The Commission will inform the Council and the European Parliament thereof.

Throughout the duration of the agreement, the French Republic will ensure the full, correct and expeditious application of Union law in the part of the Channel Fixed Link under its jurisdiction. The French Republic will take appropriate measures in that respect including, where necessary, the suspension or the denunciation of the agreement.