



AGREEMENT

BETWEEN

THE INTERGOVERNMENTAL ORGANISATION
FOR INTERNATIONAL CARRIAGE BY RAIL

AND

THE EUROPEAN UNION

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

THE INTERGOVERNMENTAL ORGANISATION FOR INTERNATIONAL CARRIAGE
BY RAIL, hereinafter referred to as "OTIF",

of the one part, and

THE EUROPEAN UNION, hereinafter referred to as "the Union",

of the other part,

Together hereinafter referred to as "the Contracting Parties",

HAVING REGARD to the Convention concerning International Carriage by Rail
(COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999,
(hereinafter referred to as "the Convention"), and in particular Article 38
thereof,

HAVING REGARD to the responsibilities which the Treaty on European Union
(TEU) and the Treaty on the Functioning of the European Union (TFEU) confers
on the Union in certain areas covered by the Convention,

RECALLING that following the entry into force of the Treaty of Lisbon on
1 December 2009, the Union has replaced and succeeded the European
Community and from that date exercises all rights and assumes all obligations
of the European Community,

WHEREAS the Convention establishes an Intergovernmental Organisation for International Carriage by Rail (OTIF), the headquarters of which are at Bern,

WHEREAS the purpose of the Union's accession to the Convention is to assist OTIF in pursuing its objective of promoting, improving and facilitating international rail transport in both technical and legal respects,

WHEREAS by virtue of Article 3 of the Convention, the obligations arising out of the Convention with regard to international cooperation do not take precedence, for Parties to the Convention which are also Member States of the Union or States party to the Agreement on the European Economic Area, over their obligations as Member States of the Union or States party to the Agreement on the European Economic Area,

WHEREAS a disconnection clause is necessary for those parts of the Convention which fall within the competence of the Union, in order to indicate that Member States of the Union cannot invoke and apply the rights and obligations deriving from the Convention directly among themselves,

WHEREAS the Convention applies fully between the Union and its Member States on the one hand, and the other Parties to the Convention, on the other hand,

WHEREAS the Union's accession to the Convention requires the rules for applying the provisions of the Convention to the Union and its Member States to be clearly established,

WHEREAS the conditions of the Union's accession to the Convention must allow the Union to exercise within the framework of the Convention the competences conferred on it by its Member States,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

The Union hereby accedes to the Convention under the terms and conditions laid down in this Agreement, in accordance with Article 38 of the Convention.

ARTICLE 2

Without prejudice to the object and the purpose of the Convention to promote, improve and facilitate international traffic by rail and without prejudice to its full application with respect to other Parties to the Convention, in their mutual relations, Parties to the Convention which are Member States of the Union shall apply Union rules and shall therefore not apply the rules arising from that Convention except in so far as there is no Union rule governing the particular subject concerned.

ARTICLE 3

Subject to the provisions of this Agreement, provisions in the Convention shall be so interpreted as also to include the Union, within the framework of its competence, and the various terms used to designate the Parties to the Convention and their representatives are to be understood accordingly.

ARTICLE 4

The Union shall not contribute to the budget of OTIF and shall not take part in decisions concerning that budget.

ARTICLE 5

Without prejudice to the exercise of its voting rights under Article 6, the Union shall be entitled to be represented and involved in the work of all OTIF bodies in which any of its Member States is entitled to be represented as a Party to the Convention, and where matters falling within its competence may be dealt with.

The Union may not be a member of the Administrative Committee. It may be invited to participate in meetings of that Committee when the Committee wishes to consult it on matters of common interest that have been placed on the agenda.

ARTICLE 6

1. For decisions in matters where the Union has exclusive competence, the Union shall exercise the voting rights of its Member States under the Convention.
2. For decisions in matters where the Union shares competence with its Member States, either the Union or its Member States shall vote.

3. Subject to Article 26, paragraph 7, of the Convention, the Union shall have a number of votes equal to that of its Member States who are also Parties to the Convention. When the Union votes, its Member States shall not vote.
4. The Union shall, on a case-by-case basis, inform the other Parties to the Convention of the cases where, with regard to the various items on the agendas of the General Assembly and the other deliberating bodies, it will exercise the voting rights provided for in paragraphs 1 to 3. That obligation shall also apply when decisions are taken by correspondence. That information is to be provided early enough to the OTIF Secretary-General in order to allow its circulation together with meeting documents or a decision to be taken by correspondence.

ARTICLE 7

The scope of the competence of the Union shall be indicated in general terms in a written declaration made by the Union at the time of the conclusion of this Agreement. That declaration may be modified as appropriate by notification from the Union to OTIF. It shall not replace or in any way limit the matters that may be covered by the notifications of Union competence to be made prior to OTIF decision-making by means of formal voting or otherwise.

ARTICLE 8

Title V of the Convention shall apply to any dispute arising between the Contracting Parties in respect of the interpretation, application or implementation of this Agreement, including its existence, validity and termination.

ARTICLE 9

This Agreement shall enter into force on the first day of the first month following the signature of this Agreement by the Contracting Parties. Article 34, paragraph 2, of the Convention shall not apply in this case.

ARTICLE 10

This Agreement shall remain in force for an indefinite period.

If all Parties to the Convention which are Member States of the Union denounce the Convention, the notification of that denunciation, as well as of the denunciation of this Agreement, shall be considered to have been given by the Union at the same time as the last Member State of the Union to denounce the Convention notifies its denunciation under Article 41 of the Convention.

ARTICLE 11

Parties to the Convention other than Member States of the Union, which apply relevant Union legislation as a result of their international agreements with the Union, may, with the acknowledgement of the Depositary of the Convention, enter individual declarations with regard to the preservation of their rights and obligations under their agreements with the Union, the Convention and related regulations.

This Agreement shall be drawn up in duplicate, one original kept by OTIF and the other by the Union, in the English, French, German, Bulgarian, Czech, Danish, Dutch, Estonian, Finnish, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, and Swedish languages, each text being equally authentic. This is without prejudice to Article 45, paragraph 1, of the Convention.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, duly empowered to this effect, have signed this Agreement.

Done at Berne on the twenty third day of June in the year two thousand and eleven.

For
the Intergovernmental Organisation
for International Carriage by Rail
(OTIF)

For
the European Union

sig.

Stefan Schimming
(Secretary General)

sig.

Tamás Iván Kovács
(Deputy State Secretary for European
Union and International Relations of
the Republic of Hungary)

