COUNCIL DECISION
of 4 December 2014
on the approval, on behalf of the European Union, of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007
(2014/888/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2), in conjunction with point (a) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

(1) The Union is working towards the establishment of a common judicial area based on the principle of mutual recognition of judicial decisions.

(2) The Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock (hereinafter referred to as the ‘Rail Protocol’), adopted in Luxembourg on 23 February 2007, makes a useful contribution to the regulation at international level in its area. It is therefore desirable that the provisions of that instrument which concern matters falling within the exclusive competence of the Union be applied as soon as possible.

(3) The Commission negotiated the Rail Protocol on behalf of the European Community, for the parts falling within the exclusive competence of the Community.

(4) Article XXII(1) of the Rail Protocol provides that Regional Economic Integration Organisations which have competence over certain matters governed by that Protocol may sign, accept, approve or accede to it.


(7) The Union has exclusive competence over some of the matters governed by the Rail Protocol, while the Member States have competence over other matters governed by that instrument.

(8) The Union should therefore approve the Rail Protocol.

(9) Article XXII(2) of the Rail Protocol provides that, at the time of signature, acceptance, approval or accession, a Regional Economic Integration Organisation shall make a declaration specifying the matters governed by that Protocol, in respect of which competence has been transferred to that organisation by its Member States.

(10) The Community made the required declaration regarding its competence at the time of the signature of the Rail Protocol. The Union should, however, renew that declaration at the time of approval of the Rail Protocol in order to correct a factual mistake and to take into account legislative developments and the accession of the Republic of Croatia to the Union.

(11) Articles VI, VIII, IX and X of the Rail Protocol apply only where a Contracting State has made a declaration pursuant to Article XXVII of the Rail Protocol and under the conditions specified by that declaration. At the time of approval of the Rail Protocol, the Union should not make a declaration pursuant to Article XXVII(2) concerning the application of Article VIII, nor should it make any of the declarations pursuant to Article XXVII(1) and (3). The competence of the Member States concerning the rules of substantive law as regards insolvency will not be affected.


(13) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007, is hereby approved on behalf of the European Union (1).

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the Union, the instrument of approval provided for in Article XXI of the Rail Protocol (2).

Article 3

At the time of approval of the Rail Protocol, the Union shall make the declaration set out in the Annex, in accordance with Article XXII(2) of that Protocol.

Article 4

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 4 December 2014.

For the Council

The President

A. ORLANDO


(2) The date of entry into force for the Union of the Rail Protocol will be published in the Official Journal of the European Union by the General Secretariat of the Council.
ANNEX

Declaration to be made pursuant to Article XXII(2) concerning the competence of the European Union over matters governed by the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock (the ‘Rail Protocol’), adopted in Luxembourg on 23 February 2007, in respect of which the Member States have transferred their competence to the Union

1. Article XXII of the Rail Protocol provides that Regional Economic Integration Organisations which are constituted by sovereign States and which have competence over certain matters governed by that Protocol may sign, accept, approve or accede to it on condition that they make the declaration referred to in Article XXII(2). The Union has decided to approve the Rail Protocol and is accordingly making that declaration.

2. The Member States of the European Union are the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Republic of Croatia, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand-Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

3. However, this declaration does not apply to the Kingdom of Denmark, in accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.

4. This declaration is not applicable to the territories of the Member States to which the Treaty on the Functioning of the European Union does not apply (see Article 355 of that Treaty) and is without prejudice to such acts or positions as may be adopted under the Rail Protocol by the Member States concerned on behalf of and in the interests of those territories.


6. As far as the numbering system of vehicles is concerned, the Union has adopted, by way of Commission Decision 2006/920/EC (\(^7\)), amended on 14 November 2012 by Commission Decision 2012/757/EU (\(^8\)), a numbering system which is appropriate for the purpose of identification of railway rolling stock as referred to in Article XIV of the Rail Protocol.

Furthermore, as far as data exchange between Member States of the European Union and the International Registry is concerned, the Union has made considerable progress by way of Commission Decision 2007/756/EC (\(^9\)), amended on 14 November 2012 by Decision 2012/757/EU. Under that Decision, the Member States of the European Union have implemented National Vehicle Registers, and duplication of data with the International Registry should be avoided.

7. The Union does not make a declaration pursuant to Article XXVII(2) concerning the application of Article VIII, nor does it make any of the declarations pursuant to Article XXVII(1) and (3). The Member States keep their competence concerning the rules of substantive law as regards insolvency.

8. The exercise of the competence which the Member States have transferred to the Union pursuant to the Treaty on European Union and to the Treaty on the Functioning of the European Union is, by its nature, liable to continuous development. In the framework of those Treaties, the competent institutions may take decisions which determine the extent of the competence of the Union. The latter therefore reserves the right to amend this declaration accordingly, without this constituting a prerequisite for the exercise of its competence with regard to matters governed by the Rail Protocol.