










Procedure file

Basic information	
NLE - Non-legislative enactments Decision	2013/0184(NLE) Procedure completed
Cape Town Convention (2001) on International Interests in Mobile Equipment: matters specific to railway rolling stock. Luxembourg Protocol, Rail Protocol 2007	
See also 2008/0162(CNS)	
Subject 3.20.02 Rail transport: passengers and freight 3.20.15.08 Rail transport agreements and cooperation 7.40.02 Judicial cooperation in civil and commercial matters	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Legal Affairs	 HAUTALA Heidi	03/09/2014
		Shadow rapporteur	
		 ZWIEFKA Tadeusz	
		 KÖSTER Dietmar	
		 DUDA Andrzej	
	Former committee responsible		
	 Legal Affairs		
	Committee for opinion	Rapporteur for opinion	Appointed
	 Transport and Tourism	The committee decided not to give an opinion.	
	Former committee for opinion		
	 Transport and Tourism		
Council of the European Union	Council configuration	Meeting	Date
	Justice and Home Affairs (JHA)	3354	04/12/2014
	Agriculture and Fisheries	3308	14/04/2014
European Commission	Commission DG Justice and Consumers	Commissioner REDING Viviane	

Key events			

11/06/2013	Preparatory document	COM(2013)0349	Summary
20/11/2013	Legislative proposal published	15113/2013	Summary
03/07/2014	Committee referral announced in Parliament		
11/11/2014	Vote in committee		
14/11/2014	Committee report tabled for plenary, 1st reading/single reading	A8-0030/2014	Summary
25/11/2014	Results of vote in Parliament		
25/11/2014	Decision by Parliament	T8-0054/2014	Summary
04/12/2014	Act adopted by Council after consultation of Parliament		
04/12/2014	End of procedure in Parliament		
10/12/2014	Final act published in Official Journal		

Technical information

Procedure reference	2013/0184(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legislative instrument	Decision
	See also 2008/0162(CNS)
Legal basis	Treaty on the Functioning of the EU TFEU 218-p6a; Treaty on the Functioning of the EU TFEU 081-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/00182

Documentation gateway

Preparatory document	COM(2013)0349	11/06/2013	EC	Summary
Legislative proposal	15113/2013	20/11/2013	CSL	Summary
Committee draft report	PE539.493	26/09/2014	EP	
Committee report tabled for plenary, 1st reading/single reading	A8-0030/2014	14/11/2014	EP	Summary
Text adopted by Parliament, 1st reading/single reading	T8-0054/2014	25/11/2014	EP	Summary

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Decision 2014/888](#)

Cape Town Convention (2001) on International Interests in Mobile Equipment: matters specific to railway rolling stock. Luxembourg Protocol, Rail Protocol 2007

PURPOSE: to approve, on behalf of the EU, the Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the European Union is working towards the establishment of a common judicial area based on the principle of mutual recognition of judicial decisions. The Protocol to the Convention on International Interests in Mobile Equipment (the "Cape Town Convention") on matters specific to railway rolling stock, adopted in Luxembourg on 23 February 2007, makes a useful contribution to the regulation at international level.

It is therefore desirable that the provisions of this instrument which concern matters falling within the exclusive competence of the European Union should be applied as soon as possible.

That is the object of this proposal.

IMPACT ASSESSMENT: the Commission proposes the approval of the Rail Protocol, after the EU signature in 2009, was preceded by consultations with the Rail Working Group, a crossindustry association dedicated to the implementation of the Rail Protocol, whose Members are, inter alia, Bombardier Transportation, Deutsche Bahn, English Welsh and Scottish Railways, European Investment Bank, Intergovernmental Organisation for International Carriage by Rail (OTIF), UIC-International Union of Railways, Union of European Railway Industries. During the consultations, it was particularly highlighted the close link between the conclusion of the Rail Protocol and the adoption of the Fourth Railway Package on 30 January 2013.

LEGAL BASIS: Article 81(2), in conjunction with Article 218(6)(a) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: with this proposal for a Decision, it is proposed that the European Union approves 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.

Objective of the Cape Town Convention and its Protocol:

- The EU approved the accession to the Cape Town Convention and the Aircraft Protocol by Council Decision of 6 April 2009 and deposited the instrument of accession on 28 April 2009. The Convention lays down uniform rules for the constitution and effects of an international interest (security agreement, title reservation agreement or leasing agreement) in certain categories of mobile equipment designated in the Protocols relating to the following categories: aircraft, railway rolling stock and space assets.

The instrument consists of the basic Convention laying down legal rules applicable to all categories of mobile equipment mobiles and a number of specific Protocols containing special rules relating to particular types of equipment.

Given that these protocols may amend the Convention where the specific features of the relevant sector so require. It is accordingly the Protocol and not the Convention that prevails as regards each category of mobile equipment. The Member States' obligations under the Convention vary with the Protocol to which they accede.

- More specifically, the Protocol is intended to facilitate the financing of high-value railway rolling stock by creating a particularly strong international guarantee for creditors (sellers on credit and institutions supplying credit for such sales) which gives them "absolute" priority over these assets in an international register.

The Rail Protocol fixes certain rules concerning the priority and enforceability of registered international interests for certain types of creditors financing rolling stock - i.e. the chargor, conditional seller or lessor. Furthermore the Protocol provides to creditors specific default remedies (Article VII) and three alternatives for remedies on insolvency of the debtor (Article IX).

The Rail Protocol creates an international system of unique and unchangeable registration of international interests. The Protocol is complementary to, and supportive of, the European Vehicle Identification Numbering system (adopted under the Railway Interoperability Directive). It guarantees that the parties can register and search against their interests from wherever they are within the EU, using internet thereby making the register accessible 24 hours/day.

Such an instrument is likely to be of great benefit to the European rail industry, banks and Governments by encouraging capital investment in the rail sector and boosting the creation of a genuine lease market.

EU competences: the Commission negotiated the Rail Protocol on behalf of the European Community, for the parts falling within the exclusive competence of the European Community.

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

The Rail Protocol also covers certain questions governed by several European Regulations or Directives in force in regard to recognition and enforcement of judgments in civil and commercial matters, insolvency procedures and in the rail field.

The European 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 this instrument.

It is thus appropriate that the European Union approves the Rail Protocol.

Declarations of the Contracting States: Article XXII(2) of the Rail Protocol requires that, at the time of signature, acceptance, approval or

accession, the Regional Economic Integration Organisation make a general declaration indicating the matters covered by the Rail Protocol which fall in respect of which competences have been transferred to that Organisation by its Member States.

The declaration on Community competence was made at the time of the signature of the instrument. A new declaration should be made at the time of the approval, to take into account changes in legislation.

As regards declarations regarding issues relating to insolvency, the Commission considers that, where the primary insolvency jurisdiction is in an EU Member State, it is [Regulation No 1346/2000](#) of 29 May 2000 on insolvency proceedings that should, in any case, be applicable instead of the Rail Protocol.

It is therefore proposed that the European Union should not make the declaration on insolvency assistance. The Member States keep their competence concerning the rules of substantive law as regards insolvency.

Lastly, an article in the Protocol authorises, under certain conditions; Contracting States to make declarations on public service exemptions.

BUDGETARY IMPLICATION: the proposal has no implications for the European Union's budget.

Cape Town Convention (2001) on International Interests in Mobile Equipment: matters specific to railway rolling stock. Luxembourg Protocol, Rail Protocol 2007

PURPOSE: to approve, on behalf of the European Union, 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.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

CONTENT: it is proposed to approve, on behalf of the European Union, 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.

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

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, 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.

This is the aim of this proposal.

The Annex to this proposal contains a declaration to be made pursuant to Article XXII(2) concerning the competence of the European Union over matters governed by the Rail Protocol, in respect of which the Member States have transferred their competence to the Union.

Cape Town Convention (2001) on International Interests in Mobile Equipment: matters specific to railway rolling stock. Luxembourg Protocol, Rail Protocol 2007

The Committee on Legal Affairs adopted the report by Heidi HAUTALA (Greens/EFA, FI) on the draft Council decision 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.

Members considered that the Rail Protocol is compatible with Union law and that the choice of legal bases for the proposal is correct. Article 81 TFEU provides for the adoption of measures for the approximation of laws and regulations of the member States in the field of judicial cooperation in civil matters having cross-border implications in accordance with the ordinary legislative procedure. Article 218(6) lays down the procedure for concluding international agreements and determines when Parliament's consent is needed, which is the case as regards the protocol in question.

Therefore, Members recommended the European Parliament to give its consent to the Protocol.

Cape Town Convention (2001) on International Interests in Mobile Equipment: matters specific to railway rolling stock. Luxembourg Protocol, Rail Protocol 2007

The European Parliament adopted by 557 votes to 82, with 17 abstentions, a legislative resolution on the draft Council decision 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.

Parliament gave its consent to the Protocol.

Cape Town Convention (2001) on International Interests in Mobile Equipment: matters specific to railway rolling stock. Luxembourg Protocol, Rail Protocol 2007

PURPOSE: to approve, 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.

NON-LEGISLATIVE ACT: Council Decision 2014/888/EU 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.

BACKGROUND: the Union is working towards the establishment of a common judicial area based on the principle of mutual recognition of judicial decisions. The Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock (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.

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.

Therefore, the Union approves the Rail Protocol.

CONTENT: under this Decision, 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.

Objective of the Cape Town Convention and its Protocol:

- The EU approved the accession to the Cape Town Convention and the Aircraft Protocol by Council Decision of 6 April 2009 and deposited the instrument of accession on 28 April 2009. The Convention lays down uniform rules for the constitution and effects of an international interest (security agreement, title reservation agreement or leasing agreement) in certain categories of mobile equipment designated in the Protocols relating to the following categories: aircraft, railway rolling stock and space assets.

The instrument consists of the basic Convention laying down legal rules applicable to all categories of mobile equipment mobiles and a number of specific Protocols containing special rules relating to particular types of equipment.

- More specifically, the Protocol is intended to facilitate the financing of high-value railway rolling stock by creating a particularly strong international guarantee for creditors (sellers on credit and institutions supplying credit for such sales) which gives them "absolute" priority over these assets in an international register

The Rail Protocol fixes certain rules concerning the priority and enforceability of registered international interests for certain types of creditors financing rolling stock - i.e. the chargor, conditional seller or lessor. Furthermore the Protocol provides to creditors specific default remedies (Article VII) and three alternatives for remedies on insolvency of the debtor (Article IX).

The Rail Protocol creates an international system of unique and unchangeable registration of international interests. The Protocol is complementary to, and supportive of, the European Vehicle Identification Numbering system (adopted under the Railway Interoperability Directive). It guarantees that the parties can register and search against their interests from wherever they are within the EU, using internet thereby making the register accessible 24 hours/day.

Such an instrument is likely to be of great benefit to the European rail industry, banks and Governments by encouraging capital investment in the rail sector and boosting the creation of a genuine lease market.

Declaration between parties: the Annex to this decision contains a declaration to be made pursuant to Article XXII(2) concerning the competence of the European Union over matters governed by the Rail Protocol, in respect of which the Member States have transferred their competence to the Union.

ENTRY INTO FORCE: the decision shall enter into force on 4.12.2014.