

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 404 final

Brussels, 20 July 1979

Proposal for a

COUNCIL DECISION

concerning common action by the Member States for the negotiation

of a revision of the CIV and CIM Conventions

(submitted to the Council by the Commission)

COM(79) 404 final

COMMISSION OF THE EUROPEAN COMMUNITIES

CORRIGENDUM

COM(79) 404 final/2

Brussels, 1st August 1979

PROPOSAL FOR A COUNCIL DECISION
CONCERNING COMMON ACTION BY THE MEMBER STATES FOR THE
NEGOTIATION OF A REVISION OF THE CIV AND CIM CONVENTIONS

(presented by the Commission to the Council)

COM(79) 404 final/2

C O R R I G E N D U M

(for the English text only)

EXPLANATORY

MEMORANDUM

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Read as follows :

"The Commission is of the opinion that in the present situation the
"Community should not demand its accession to the new convention."

And not :

"The Commission is of the opinion that in the present situation the
"Community should demand its accession to the new convention."

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EXPLANATORY MEMORANDUM

1. Within the framework of the 8th revision of the CIV and CIM conventions concerning international rail traffic the Governments of the States which are parties to these conventions are at present negotiating a new convention whose objectives are :
 - to create a formal organisation linking the States which are parties to the convention and which will have the title of "Intergovernmental organisation for international rail transport", in order that the present co-operation between the Member States of the two conventions will have a legal personality ;
 - to carry forward the uniform rules concerning the international transport contract in two CIM and CIV regulations annexed to this convention.
2. Everything has been done during the preparatory discussions to preserve the attitude to be adopted by the Community. In particular the Council's attention is drawn to the Transport Questions Group's report of 6 September 1978 (doc. R/2209/78 (TRANS 124)) and to the extract of the minutes of the 4th session of Preliminary Committee I of 14 September 1978 at Berne. (see Annex)
3. The 5th session of the Preliminary Committee I which will take place from 10 - 15 September at Berne, should especially decide on the question of the reservations and, in particular, on what is to happen to the additional protocol to the CIV/CIM Conventions of 7 February 1970 which gives priority to the EEC and ECSC Treaties.
4. The Commission is of the opinion that in the present situation the Community should demand its accession to the new convention.

In its view a satisfactory solution would consist of ensuring the maintenance of the priority of Community law in relation to the new CIV/CIM convention. This priority could be stipulated in a clause, as for example that under III of the additional Protocol to the present CIV/CIM, which, however, should be improved and widened.

This solution should be attained by means of common action of the Member States who should, in addition, take account of the objectives of the common transport policy as regards the autonomy and the responsibility of the railway undertakings for their own commercial management.

5. In the event that the Council does not approve this solution or that Member States are opposed to it, the thesis of Community competence for external matters should be presented as the only possible alternative and implemented by the adhesion of the Community as well as Member States to the new CIV and CIM Agreements. In this case, Member States will be obliged to defend this second solution against any reaction from the Eastern Bloc countries.

6. Conclusions.

The Commission proposes that the Council adopt the attached draft decision concerning common action by the Member States for the negotiation of the revised CIV/CIM conventions.

Extract from the minutes of the seventh meeting of the fourth session of
Preliminary Commission I in Berne on 14 September 1978

As acting President of the European Community for this year the Federal Republic of Germany would like the following declaration to be entered in the minutes on the question of the additional protocol :

"Relations between the European Communities and the future Intergovernmental Organization for International Rail Transport are being studied by the competent Community bodies.

The Member States of the Communities may therefore raise this matter again at a future date. Some provisions of the present draft Convention appear to conflict with Community law. The question of the Communities' accession as such may also be raised."

Mr. AMBERG agreed to draw up a report on this matter for the Commission's fifth session. He wished to point out to the delegations that too many derogations would be contrary to the very aim of the Organization. The Central Office preferred to leave it up to the States to make proposals concerning possible reservations but hoped that they would be restricted to specific and well defined points rather than general matters.

The Chairman stated that the agenda had been exhausted and informed the Commission that the minutes would be submitted for approval the following day.

The meeting rose at 11.45 hours.

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Proposal for a
COUNCIL DECISION

concerning common action by the Member States for the negotiation of
a revision of the CIV and CIM Conventions

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 116 thereof,

Having regard to the proposal from the Commission,

Whereas at present a revision of the International Convention concerning
the carriage of passengers and luggage by rail (CIV) and the International
Convention concerning the carriage of goods by rail (CIM) is taking place
in the organizations created by those Conventions ;

Whereas the provisions which are the subject of the draft Convention
governing international transport contracts, together with the transport
rates with which they form a coherent and inseparable whole, constitute a
matter capable of coming under the common transport policy ;

Whereas the Member States should pursue the work within the framework of
common action ;

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Whereas, in order to safeguard the development of the common transport policy and having regard to the interest which the CIM in particular represents for the organisation of the international goods traffic markets within the framework of this policy as well as certain provisions of the additional Protocol to the present CIV and CIM as regards their compatibility with Community law, it is necessary, within the framework of common action, to defend the principle of the priority of Community law with regard to the revised CIV/CIM Convention ;

HAS DECIDED AS FOLLOWS :

Article 1

Within the framework of the 8th ordinary revision of the CIV and CIM Conventions the Member States shall pursue the work by means of common action in accordance with the directives annexed hereto.

Article 2

The representatives of the Member States and the Commission shall consult in the course of this common action ; they shall continue this action until the end of the negotiations on the 8th ordinary revision of the CIV and CIM Conventions.

Done at Brussels

By the Council
President

DIRECTIVES

1. The general reservation in favour of the EEC and ECSC Treaties contained in Chapter III of the additional Protocol of 7 February 1970 to the CIV and the CIM should be maintained while widening it to traffic between the European Communities and third countries as well as to measures which the railway undertakings have to take in carrying out Community law.

2. As far as the CIM in particular is concerned the revision should be pursued while taking account of the objectives of the common transport policy oriented towards the autonomy and responsibility of the railway undertakings for their own commercial management.

3. Chapters I, 2 (subpara (a)) and II, 2 (subpara (a)) of the Protocol mentioned should be re-drafted to take account of the obligations for the United Kingdom and Ireland following their accession to the EEC and ECSC Treaties arising from the regulations under Community law which provide for adequate publicity as well as non-discriminatory application of certain rates and conditions of transport.