

Analytical note on two options of Article 62 paragraph 3 Accession to the Convention by regional economic integration organisations

At the XXV meeting of the Ad Hoc Working Group on Updating Fundamental OSJD Documents (17-20 May, OSJD Committee) the issue on the accession to the Convention by regional economic integration organisations was considered for the first time. Below is an extract of the Protocol:

“(...) the Ad Hoc WG discussed again the issue on participation in the future OSJD of international organisations as full members of the organisation. The meeting decided that international organisations wishing to cooperate with OSJD may become observers of OSJD.

At the same time, the Ad Hoc WG considers it reasonable to provide the possibility for regional economic integration organisations to join the Convention. In this regard, the Ad Hoc WG made correspondent changes in the following articles of the draft Convention: 8, 10 (paragraph 1), 51 (paragraph 2), 62 (paragraph 1), as well as elaborated a new article 63 with the following wording:

“Article 8 OSJD Members

The Members of OSJD are Contracting Parties as well as the Governments of the countries and regional economic integration organisations that joined the Convention in accordance with procedure stated in Articles 62 and 63 of this Convention”.

(...)

“Article 63 (new)

Accession by regional economic integration organisations

1. Accession to this Convention shall be open to regional organisations that have the legislative competence necessary for their members in the areas covered by this Convention, and whose membership includes one or more OSJD Members. The conditions for such accession shall be established in an agreement concluded between the OSJD and the regional organisation.

2. A regional organisation may enjoy the rights possessed by its members in accordance with this Convention to the extent to which they cover areas within its remit. This shall also apply to the obligations imposed on OSJD Members under this Convention, with the exception of the financial obligations specified in Article 51 of this Convention.

3. For the purpose of exercising the right to vote, a regional organisation shall possess a number of votes equal to the number of its members which are also OSJD Member States. These States may exercise their rights, in particular the right to vote, only to the extent to which this is allowed in paragraph 2 of this Article. A regional organisation shall not have the right to vote on the matters specified in Section 10 of this Convention.

4. With regard to the termination of membership on the analogy Articles 64 and 66 of this Convention shall apply.

At its XXXIII meeting (11-15 March 2013, Baranovichi) the Ad Hoc WG considered again the issue on the accession to the Convention by regional economic integration organisations. Below is an extract of the Protocol:

“The Ad Hoc WG considered again Article 54 (new) item 3 of the draft Convention “Accession to the Convention by regional economic integration organisations” in terms of establishing the principle of voting for regional economic integration organisations. The voting was carried out on considering Article 54 as not agreed and the necessity to revise it (additional consideration).

Voting results:

- *Against: members of the Ad Hoc WG from Bulgaria, Latvia, Lithuania and Estonia*
- *In favour: members of the Ad Hoc WG from Belarus, Kazakhstan, China, Poland, Russia, Slovakia, Uzbekistan, Ukraine, Czech Republic and Chairman of OSJD Committee.*

As a result of the voting the decision was made to revise the text of Article 54 of draft Convention at the XXXIV meeting of the Ad Hoc WG in May 2013”.

At the XXXIV meeting of the Ad Hoc WG (14-17 May 2013, Vilnius) the new wording of Article 54 (new) p.3 was presented. Below is an extract of the Protocol:

“The members of the Ad Hoc WG from Belarus, Kazakhstan, China and Russia suggested to change the wording in Article 54 (new) p.3 as follows:

“The number of votes possessed by a regional economic integration organisation shall be equal to the number of its members which are also member states of the OSJD and are present at the meeting. This kind of organisation shall not exercise the right to vote if any of its members exercises its right to vote, and vice versa. Members of a regional economic integration organisation may exercise their rights, in particular the right to vote, only to the extent to which this is allowed in paragraph 2 of this Article. A regional economic integration organisation shall not have the right to vote on the matters specified in Section 10 of this Convention.”

The members of the Ad Hoc WG will consider the suggested option and send their opinion on it to the OSJD Committee before 1 June 2013.”

At the XXXV meeting of the Ad Hoc WG (23-27 September, Almaty) the members of the group expressed their opinion on the new wording of Article 54 (new) p.3. Below is an extract of the Protocol:

“The Ad Hoc WG considered again 2 options of Article 54 p.3. During the voting option 1 was supported by Lithuania, Poland, Slovakia, Czech Republic and Estonia. The Chairman of the OSJD Committee supported this option too provided that a concrete list of issues will be conducted on which the European Union has an exclusive competence.

Option I

“3. For the purpose of exercising the right to vote, a regional organisation shall possess a number of votes equal to the number of its members which are also OSJD Member States. These States may exercise their rights, in particular the right to vote, only to the extent to which this is allowed in paragraph 2 of this Article. A regional organisation shall not have the right to vote on the matters specified in Section 10 of this Convention.”

Option II was supported by the members of the Ad Hoc WG from Belarus, Kazakhstan, Russia, Uzbekistan and Ukraine.

Option II:

“3. The number of votes possessed by a regional economic integration organisation shall be equal to the number of its members which are also member states of the OSJD and are present at the meeting. This kind of organisation shall not exercise the right to vote if any of its members exercises its right to vote, and vice versa. Members of a regional economic integration organisation may exercise their rights, in particular the right to vote, only to the extent to which this is allowed in paragraph 2 of this Article. A regional economic integration organisation shall not have the right to vote on the matters specified in Section 10 of this Convention.”

At the XLII session of the OSJD Ministerial Conference (3-6 June 2014, Vilnius) the following decision was made:

“The OSJD Ministerial Conference considered two options (...) of Article 54 p.3 of draft Convention and due to the lack of unanimity decided to submit this issue for consideration at the international conference on the adoption of the text of the Convention.

Option I was supported by OSJD members from Hungary, Georgia, Latvia, Lithuania, Poland, Slovakia, Czech Republic and Estonia.

Option II was supported by OSJD members from Azerbaijan, Belarus, Iran, Kazakhstan, China, DPRK, Moldova, Mongolia, Russia, Uzbekistan and Ukraine.”

At its XXXIX meeting (1-4 July 2014, Irkutsk) the Ad Hoc WG in accordance with the correspondent decision made by the XLII session of the OSJD Ministerial Conference introduced two options of Article 62 p.3 “Accession to the Convention by regional economic integration organizations” with the following wording:

Option I:

“3. For the purpose of exercising the right to vote, a regional organisation shall possess a number of votes equal to the number of its members which are also OSJD Member States. These States may exercise their rights, in particular the right to vote, only to the extent to which this is allowed in paragraph 2 of this Article. A regional organisation shall not have the right to vote on the matters specified in Section 14 of this Convention.”

Option II:

“3. The number of votes possessed by a regional economic integration organisation shall be equal to the number of its members which are also member states of the OSJD and are present at the meeting. This kind of organisation shall not exercise the right to vote if any of its members exercises its right to vote, and vice versa. Members of a regional economic integration organisation may exercise their rights, in particular the right to vote, only to the extent to which this is allowed in paragraph 2 of this Article. A regional economic integration organisation shall not have the right to vote on the matters specified in Section 14 of this Convention.”