



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR LES
TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR INTERNATIONAL
CARRIAGE BY RAIL**

Preparatory Commission regarding the
establishment of the International
Registry for railway rolling stock
according to the Luxembourg Protocol

PrepCom/4/Doc.2

**SUMMARY REPORT
OF THE THIRD SESSION
(Berne, 1-2 October 2009)**

1. The third session of the Preparatory Commission regarding the establishment of the International Registry for railway rolling stock according to the Luxembourg Protocol took place at the headquarters of the Intergovernmental Organisation for International Carriage by Rail (OTIF) in Berne on 1 and 2 October 2009 (for the List of Participants see Annex III to this report).

Point n° 1 on the agenda – Welcome by the host Organisation and the Co-Chairs

2. On behalf of the host Organisation the Secretary General of the OTIF welcomed the participants and thanked them for having positively responded to the invitation to the session, the principal objective of which would be to make progress in relation to the process for selection of a Registrar for the International Registry. For future negotiations on the contract with the Registrar he recommended the establishment of timetable milestones. On behalf of his Organisation the Secretary General of the UNIDROIT underlined the importance of the Cape Town Convention and the Protocols in the framework of international commercial law and assured the session that his Organisation would continue its strong support as Co-Secretariat to the Preparatory Commission in close cooperation with OTIF. The Co-Chairs also welcomed the participants and recalled that the Preparatory Commission, by written procedure, had approved the replacement as Co-Chair of Sweden (Mr. Henrik Kjellin) by Finland (Ms. Mervi Kaikkonen).

Point n° 2 on the agenda – Adoption of the Agenda

3. The draft agenda presented by the Co-Chairs was adopted (see PrepCom/3/Doc.1Rev.1, Annex I to this report).

Point n° 3 on the agenda – Approval of the Summary Report of the Second Session

4. The Preparatory Commission adopted the Summary Report of the Second Session (see PrepCom/3/Doc.2) without amendment.

Point n° 4 on the agenda – Report of the Co-Chairs on developments since the 2nd Session

5. The Preparatory Commission took note of the written report (see PrepCom/3/Doc.3) and the oral explanations and comments thereto.

Point n° 5 on the agenda – Selection process for the International Registry

6. On the basis of a new Draft Request for Proposals (RFP) for the International Registry (see PrepCom/3/Doc.4Rev) prepared by the secretariat of UNIDROIT, the Preparatory Commission was informed about the relevant changes in the structure and the content of the new version compared to the former RFP. The Commission welcomed the efforts undertaken. As result of the discussion on various aspects of the content of the RFP and on the procedure to be followed in order to find appropriate bidders, the Commission requested the preparation of an amended version of the RFP in which comments would be taken into account and changes to the former RFP be clearly illustrated, which would be circulated for further comment prior to eventual possible reissue. Furthermore an Information Session for potential bidders should be held preferably in the first quarter of 2010, which would be jointly

organised by the Co-Chairs, the secretariats and the Rail Working Group (RWG). If the Information Session leads to sufficient interest the new RFP would be issued. Alternatively, the Preparatory Commission might request expressions of interest or give guidance on the further procedure, as determined by the Co-Chairs in consultation with the Commission. It was also noted that the European Community may sign the Luxembourg Protocol, under the Swedish Presidency, before the end of 2009.

Point n° 6 on the agenda – Report of the Working Group for the Registry Regulations

7. The Preparatory Commission took note of the report from the representative of the RWG as coordinator of the Preparatory Commission's informal working group on Draft Regulations for the International Registry (see PrepCom/3/Doc.5) and, after examination of the latest version of these Regulations (see PrepCom/3/Doc.6) by an Ad-hoc Working Group which met prior to beginning of the second day of the plenary, welcomed the intention of the representative of the RWG to prepare a new draft for circulation in the near future. In this context a paper was presented at the Session (see Annex II to this report) in order to provide an update on work being done in Europe by sector representatives on the question of the unique identifier for internationally registered items of rolling stock. Discussion on the Draft International Registry Procedures (see PrepCom/3/Doc.7) would be deferred pending appointment of the Registrar, as the procedures would need to be developed in close consultation with the future Registrar.

Point n° 7 on the agenda – Timetable for further work

8. The Preparatory Commission agreed that:
 - a) the **Draft RFP** would be revised by the Co-Chairs, the secretariats and the RWG and be circulated among its Members;
 - b) the **Registry Regulations** would be revised by the RWG and circulated by the secretariats with the draft RFP;
 - c) an **Information Paper** on the Cape Town Convention, the Luxembourg Protocol and the RFP would be drafted by the Co-Chairs, the secretariats and the RWG in preparation for an **Information Session** to be organised by the Co-Chairs, the secretariats and the RWG in the first quarter of 2010.
9. The precise timetable, the venue for the Information Session and the date of the next Session of the Preparatory Commission will be determined by the Co-Chairs following consultation with all concerned parties.
10. The Preparatory Commission also agreed that a Working Group would be established after the session by the Co-Chairs that would address the constitution of the Supervisory Authority, its Rules of Procedure, legal personality, immunities, and the pros and cons of it being domiciled in Switzerland or Luxembourg.

Point n° 8 on the agenda – Other issues

11. In order to overcome difficulties arising from the continuous increase of the quorum caused by the increasing size of the Preparatory Commission due to accessions to the Cape Town Convention the Preparatory Commission was in favour of amending Rule

16 of its Rules of Procedure on the basis of a draft to be circulated for electronic concurrence by the secretariats following the session.

DRAFT



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**INTERGOVERNMENTAL ORGANISATION FOR INTE
RNATIONAL CARRIAGE BY RAIL**

Preparatory Commission regarding the
establishment of the International Registry for
railway rolling stock according to the Luxembourg
Protocol
3rd Session, Berne, 1-2 October 2009

PrepCom/3/Doc.1Rev.1

Draft Agenda

1. Welcome by the host Organization and the Co-Chairs.
2. Adoption of the Agenda.
3. Approval of the Summary Report of the 2nd Session.
4. Report of the Co-Chairs on developments since the 2nd Session.
5. Selection process for the International Registry.
6. Report of the WG for the Registry Regulations.
7. Timetable for further work.
8. Other issues.

Allocation and Marking of Permanent Numbers on Rolling Stock

This Edition: Version 0.1
First Edition: Version 0.1
Document mark

Approved:

Name Organisation Date

List of open points / non-agreed items

No	Chap.	Open point / non-agreed item	Responsibility	Finalisation
1		Responsibility for maintaining standard and providing technical guidance		
2		Treatment of multiple frame vehicles		
3		Format of the code – number of digits		
4		The procedure for identifying existing vehicles relies on the owner having access to them to mark them, is that realistic? (there is really no alternative!)		
5		Responsibility for ensuring vehicles are marked		
6		Status of this document – potential CEN??		

Foreword

The foreword shall contain:

- **The background** to the document: which project developed this TecRec, for what purpose?
TecRec 00001 was drafted on behalf of the Rail Working Group (RWG)) to crystallise views on how rolling stock may be permanently marked for the purposes of the securitisation of interests.*
- **Contributors** to the document: *TecRec 00001 was prepared by Chris Dugdale of Europe Rail Consultancy and Howard Rosen of Howard Rosen Solicitors, on behalf of the RWG in August 2008. This edition reflects comments made in the course of 2009 and was prepared as an input for the Preparatory Commission's draft Request for Proposals. The document was reviewed by ...*
- **The possible way forward**: whether the document has been submitted to a CEN/CLC TC, for instance, is to be indicated. *In due course, it is intended to submit TecRec 00001 to international standards organisations for adoption.*

* www.railworkinggroup.org

Contents

Introduction and URVIS	5
1 Scope	5
2 Normative references	6
3 Definitions	6
4 Basic principles	6
4.1 Principle	6
4.2 Responsibilities	6
5 Definition of a vehicle	7
5.1 Principle	7
5.2 Criterion of integrity of a vehicle	7
6 Structure of the identity numbers	7
6.1 Principle	7
6.2 Structure	7
7 Criteria for marking the vehicles	7
7.1 Principle	7
7.2 Legibility	8
7.3 Immutability	8
7.4 Resistance	8
7.5 Position	8
8 Documentation	8
8.1 Principle	8

Introduction and URVIS

The Luxembourg Rail Protocol to the 2001 Cape Town Convention on International Interests in Mobile Equipment, applying the Convention to railway rolling stock was adopted in February 2007. It provides a legal framework for financiers (principally lenders and lessors) of railway rolling stock taking security on financed equipment. It stipulates a priority and registration system as well as an internationally agreed mechanism to define and enforce rights in the event of a default by, or financial instability of, the debtor. The Protocol applies to all rolling stock (from high speed trains to trams). The registry will be accessible 24/7 through the Internet to allow financiers to register their interests and to facilitate prospective creditors checking any rival claims to the equipment being financed.

By reducing risk for rail equipment financiers, it will

- attract more private sector lenders into the market resulting in cheaper finance for non state-guaranteed operators and create choice for operators in relation to costs and types of financing

- facilitate lending to customers where hitherto the lack of a legal infrastructure has prevented banks lending

- encourage capital investment which will in turn promote the expansion of rolling stock manufacturing facilities

- facilitate short term operating leases of rolling stock, not just into railway operators from financiers but also between operators, ensuring more efficient use of rolling stock

thereby lowering barriers to entry into the industry for private sector operators, making existing operators more efficient and competitive and reduce the dependency of state and private operators on state funding, in turn leading to a more dynamic industry. Governments may then focus limited resources on financing of infrastructure rather than rolling stock.

The Luxembourg Protocol thus requires a procedure to identify rolling stock unambiguously in accordance with an international agreed system. A system to mark the railway rolling stock is implicit. This procedure must apply in every state party to the Luxembourg Protocol. The system to identify vehicles has been given the name the Unique Rail Vehicle Identification System – URVIS.

These permanent (URVIS) numbers are to be differentiated from operating numbers which may change as a function of ownership, state of use, fiscal status, constructional characteristics, or in other ways. The URVIS identity therefore provides an identity trail right through the life of an item of railway rolling stock.

It is essential that the URVIS number can be clearly distinguished from the running or operating number and that the marking of the permanent number follows the principles of the technical recommendations.

Scope

All railway rolling stock shall be subject to this recommendation except that rolling stock used or to be used solely for personal purposes, used on heritage railways or used on railways with a gauge of less than 500mm shall not be subject to this recommendation but may comply with it on a voluntary basis. Rolling stock which is initially out-of-scope but which is rebuilt to be in-scope shall be marked in accordance with the section 8 - Interim solution.

Responsibility for maintaining and updating this standard shall fall to the appropriate coding committee of the International Union of Railways (UIC) which shall take note of comments made by rolling stock manufacturers.

Normative references

There are no existing standards which impinge on this issue.

Definitions

Cape Town Convention:	The convention signed on 16 th November 2001 in Cape Town on International Interests in Mobile Equipment.
Luxembourg Protocol:	the Luxembourg Protocol to the Cape Town Convention as applied to railway rolling stock, of 23 February 2007.
Railway rolling stock:	vehicles movable on a fixed railway track or directly on, above or below a guideway, together with traction systems, engines, brakes, axles, bogies, pantographs, accessories and other components, equipment and parts, in each case installed on or incorporated in the vehicles, and together with all data, manuals and records relating thereto.
Registrar:	the party for the time being appointed pursuant to the provisions of Article 17(2)(b) of the Cape Town Convention and the Luxembourg Protocol to maintain the international registry.
URVIS:	Unique Rail Vehicle Identification System.
Vehicle:	an item of railway rolling stock.

Basic principles

Principle

The Unique Rail Vehicle Identification System is intended to identify railway rolling stock unambiguously and to provide an identity trail even though the railway rolling stock be sold, used in another state or extensively modified.

Responsibilities

Manufacturers shall mark new railway rolling stock in a permanent manner on construction. The permanent marking shall bear the abbreviation “URVIS” and the code number (see section 6) and have the following characteristics. The abbreviation “URVIS” may be supplemented by a translation in appropriate language(s). Manufacturers shall not recycle allocated markings, even if the railway rolling stock originally marked with such markings is taken out of service or destroyed.

Owners of security interests and users may cause existing railway rolling stock to be marked in a permanent manner. The permanent marking shall bear the abbreviation “URVIS” and the code number (see section 6) and have the following characteristics. The abbreviation “URVIS” may be supplemented by a translation in appropriate language(s). Owners, secured parties, custodians and users of railway rolling stock may not recycle allocated markings, even if the railway rolling stock originally marked with such markings is taken out of service or destroyed.

Users of railway rolling stock shall not remove, obliterate, alter or otherwise make the identity marking unfit for its purpose. Changing the position or renewal of the identity marking in accordance with the criteria for marking is permitted.

Owners of railway rolling stock shall put clauses into leases and agreements for the use of railway rolling stock to require users to respect identity markings.

Definition of a vehicle

Principle

It is essential that what constitutes the essential characteristics of a vehicle is clearly defined so that appropriate decisions can be taken in the event of major modifications. These decisions might be that the identity of the vehicle is preserved or that the identity of previous vehicle has been destroyed and any remaining components (bogies, for example) are to form part of a new vehicle.

Criterion of integrity of a vehicle

Modification of railway rolling stock requiring a new technical approval shall not change the identity of the railway rolling stock provided that the underframe is retained. Modification which involves a new underframe or involves the underframes of two items of railway rolling stock being permanently and physically linked shall be deemed a new vehicle and require a new identity.

Multiple-underframe vehicles shall be regarded as multiple vehicles. This will require cross reference files to accommodate a one operating number to many URVIS identifiers relationship.

Structure of the identity numbers

Principle

Identity numbers shall be composed of XX digits wholly numeric. Zeroes shall be permitted in any position. An automatically generated check digit shall form the XXth digit.

Leading zeroes shall be inserted where appropriate. Short gaps shall be left after the XXth and XXth digit to aid clarity.

Structure

URVIS numbers shall be made available on request by the Registrar in accordance with its then current published procedures. The Registrar may permit registering parties and their agents to reserve identity numbers and blocks of identity numbers on such terms as it shall decide.

Remembering the purpose of the Luxembourg Protocol and potential issues in the input of data, when reserving identity numbers, registering parties and their agents are free to adopt structured numbers (for example, to reflect the type of equipment) but are not obliged to do so.

The check-character is to be derived from the Luhn mod N algorithm.

Criteria for marking the vehicles

Principle

The permanent marking shall bear the abbreviation “URVIS” and the identifier (see section 6). The abbreviation “URVIS” may be supplemented by a translation in an appropriate language(s).

Legibility

Characters forming the markings shall be in a readily legible typeface and sufficiently large to be read without reading aids. Character sizes of 10 mm shall be deemed to meet this latter requirement. Short gaps shall be left between the fields to aid clarity.

Immutability

Markings shall not perish or deteriorate to the point they become illegible within the planned working life of the railway rolling stock.

Markings shall be resistant to amendment

Markings shall be such that any amendment is evident

Resistance

Markings shall remain effective under normal use. Markings shall be resistant to grease, dust and the traffic which the item of railway rolling stock is designed to carry

If glued or mechanically fixed to the item of railway rolling stock, the fixing shall be resistant to wear and tear and to deliberate attempts to remove it.

Markings shall not be affected by deterioration in the railway rolling stock's protective coating or by deterioration of the item of railway rolling stock itself.

Position

Markings shall be placed on both sides of the item of railway rolling stock if possible but in two positions which are as symmetrically opposite as is possible.

Markings shall be placed such that they do not need artificial light to be read in normal daylight.

Markings shall be legible from ground level without the need to take any part off the vehicle

Markings shall as far as possible be mounted on a vertical surface and on the sides rather than the ends of the item of railway rolling stock.

Markings shall as far as possible be mounted on one of the following parts of the railway rolling stock

- the solebar
- the risers to steps to gain access to the item of railway rolling stock
- the bodywork at the end of the sides to the item of railway rolling stock

Documentation

Principle

Security interests will be registered in a database. Full documentation for the use of the database will be provided by its managers. This technical recommendation will form part of that documentation.

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