



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/3/Doc.2

SUMMARY REPORT
OF THE SECOND SESSION
(Rome, 8-10 April 2008)

1. The second 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 International Institute for the Unification of Private Law (UNIDROIT) in Rome on 8 to 10 April 2008 (for the List of Participants see Annex II to this report).

Point n° 1 on the agenda – Welcome by the Co-Chairmen and the host Organisations

2. On behalf of the host Organisations the Deputy Secretary General of the UNIDROIT welcomed the participants, and wished the participants a successful meeting.

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

3. The agenda sent out with the invitation was adopted as drafted (see PrepCom/2/Doc.2 in Annex I to this report).

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

4. The Preparatory Commission adopted the Summary Report of the First Session (see PrepCom/2/Doc.1).

Point n° 4 on the agenda – Final adoption of the Commissions Rules of Procedure

5. The Commission's Rules of Procedure, which had been revised during the First Session (see PrepCom/1/Doc.1/Rev.2), were adopted with the word "Draft" deleted in the heading.

Point n° 6 on the agenda – Report of the WG for liability issues and insurance

6. The Representative of Germany introduced the Report (PrepCom/2/Doc.3), and explained that as a result of the deliberation of the Working Group for Liability, a recommendation had been made to amend Section 15 of the Regulations as set out in the Report. Some delegations supported the Report's conclusions and reasoning, and it was noted that all 3 Authentic Language versions of Article XV(5) of the Luxembourg Protocol permitted the Supervisory Authority not only to change the limit of the Registrar's liability but also the mode of computing that limit. However, some other delegations questioned whether Article XV(5) of the Luxembourg Protocol would permit the Supervisory Authority to amend anything other than the amount of the Registrar's liability. It was agreed that this issue would warrant further consideration, including in the context of the forthcoming negotiations with the winning bidder for the International Registry.

Point n° 5 on the agenda – Report of the Evaluation Teams according to the Request for Proposals, discussion of recommendations and if appropriate issue of award

7. The two bidding entities attended the Session and made presentations of their respective bids, and provided additional information and clarifications in response to questions from the participants.

8. The Commission established two teams in order to conduct economic and technical evaluations of the two bids.

9. After consideration of the bid documents, the presentations by the bidding entities and the reports of the two evaluation teams, the Commission decided that Champ Cargo Systems S.A was the bidder with which it could start contract negotiations. The Commission also decided that the negotiations would be led by the Co-Chairmen, taking into account the issues that had been raised by the Commission (see the list of issues prepared by the Commission, Annex III to this report).

Point n° 7 on the agenda – Report of the WG for the Registry Regulations and the Rules of Procedure for the Supervisory Authority

10. The representative of the Rail Working Group tabled a new version of the draft Registry Regulations which had been developed by the WG, in particular taking into account the recent amendments to the Aircraft Registry regulations. In addition, the Rail Working Group presented a first draft of the Registry Procedures. During the Session these draft Procedures were examined by an ad hoc group, and it was agreed that following further work on these drafts, including discussions with CHAMP, they would be circulated to the Members of the Preparatory Commission. The Rules of Procedure for the Supervisory Authority will be adopted at a later stage.

Point n° 8 on the agenda – Timetable for further work

11. It was agreed that the contract negotiations with CHAMP would be coordinated by the Co-Chairmen in consultation with the two Secretariats and the Rail Working Group and, as required, with relevant experts for specific issues, such as the issues related to liability. The timetable for these negotiations would be arranged in consultation with all concerned parties.

ANNEX I**AGENDA**

1. Welcome by the host Organisation and the Chair
2. Adoption of the Agenda
3. Approval of the Summary Report of the 1st Session (PrepCom/2/Doc.1)
4. Final adoption of the Commission's Rules of Procedure (PrepCom/1/Doc.1/Rev.2)
5. Report of the Evaluation Teams according to the Request for Proposals, discussion of the recommendations and if appropriate issue of award.
6. Report of the WG for liability issues and insurance
7. Report of the WG for the Registry Regulations and the Rules of Procedure for the Supervisory Authority
8. Timetable for further work

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ANNEX III**Preliminary list of issues of particular interest to the Preparatory Commission in contract negotiations with CHAMP**

- (a) Finalisation of issues related to insurance/liability, in order to find an appropriate balance between financial protection of the Registrar and the compensation of the users in the event of loss.
- (b) Costings and fees issues, with further clarifications of how the level of fees to be charged is determined and justified by the start-up and annual costs and assumptions regarding levels of registrations, and including the following particular issues:
 - (i) Fee structure, particularly in respect of multiple search and registration fees, and possibility of bulk registration fee rates;
 - (ii) Fees for informational searches;
 - (iii) Charges for registration of notices of sale;
 - (iv) How incremental costs are charged on arrangements for direct entry points and regional identification systems.
- (c) Procedures for multiple registrations - possibility to search against individual assets.
- (d) Technical issues requiring the need for free-form filings/entries.
- (e) User validation system (having regard to the latest technologies, is there a need for computer-specific certification?).
- (f) Transparency of the Registrar's subcontract arrangements.
- (g) Need for Registrar to be exclusively devoted to Registry activities, including to avoid conflicts of interest and additional liability.
- (h) Provision of assistance (eg lexicons) for Registry users in order to overcome language difficulties and problems with different approaches to describing rolling stock.
- (i) Procedures for cooperation in order to promote the Protocol.