



Organisation intergouvernementale pour les transports internationaux ferroviaires
Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr
Intergovernmental Organisation for International Carriage by Rail



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

**PREPARATORY COMMISSION FOR THE
ESTABLISHMENT OF THE INTERNATIONAL REGISTRY
FOR RAILWAY ROLLING STOCK PURSUANT TO THE
LUXEMBOURG (RAIL) PROTOCOL**

OTIF 2021
Prep. Comm. Rail/9/Doc. 7
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**SUMMARY REPORT
OF THE NINTH SESSION
(Berne/Remote, 8 April 2021)**

The 9th session of the Preparatory Commission for the Establishment of the International Registry for Railway Rolling Stock pursuant to the Luxembourg (Rail) Protocol (hereinafter referred to as "the Protocol") took place at the headquarters of the Intergovernmental Organisation for International Carriage by Rail (OTIF) in Berne and remotely on 8 April 2021. A full list of participants of this meeting can be found in Annex 2 to this report.

Item No. 1 Opening of the session and welcome by the Secretary General of OTIF and the Secretary-General of UNIDROIT

1. The Secretary General of OTIF, Mr Wolfgang Küpper, thanked all the participants for attending and explained the importance of this meeting in terms of moving forward with the Registry. He underlined that the Registry was not yet operational, but he hoped that it would be up and running in the near future. He also highlighted two reasons why the Protocol should be ratified and signed. On the one hand, the railways are constantly innovating in difficult times and they were very resilient. On the other hand, the Protocol provided an opportunity to help finance the railways and reduce costs for states, which would instead require funds to recover economically following the COVID-19 pandemic. Lastly, Mr Küpper stated that he was very optimistic regarding the future of railways, due to the political decisions for sustainable transport.

2. The Secretary-General of UNIDROIT, Professor Ignacio Tirado, thanked OTIF for taking the lead and hosting the 9th session of the Commission. He presented the role of UNIDROIT in the context of the Cape Town Convention on international interests in mobile equipment, with its Protocols, including the Luxembourg Protocol, also referred to as the Rail Protocol. He highlighted the benefits of joining the Luxembourg Protocol and how the Protocol would be useful in a post-Covid world to help rebuild a sustainable economy. Professor Tirado called on the participant states to ratify it and reminded them that UNIDROIT was available for any assistance or questions regarding signature or ratifications/accessions. He concluded by thanking all the members, observer states and organisations, the Chair of the Rail Working Group, the Co-Chairs of the Preparatory Commission and Professor Sir Roy Goode, Rapporteur at the Diplomatic Conferences for the adoption of the Protocols and the author of the Official Commentary. Lastly, the Secretary-General of UNIDROIT gave the floor to the Co-Chairs of the Preparatory Commission.

3. The Co-Chairs of the Preparatory Commission, Mr Peter Bloch from the United States and Mr Antti Leinonen from Finland, introduced themselves and thanked all the participants, states and organisations for participating. The Co-Chairs confirmed that, as a sufficient number of Preparatory Commission members were present, there was a quorum for the session.

Item No. 2 Adoption of the agenda and organisation of the session

4. The Co-Chairs introduced the agenda (Prep. Comm. Rail/9/Doc.1, see Annex I to this report). The agenda was adopted without amendments.

5. The Co-Chairs elaborated upon the organisation of the 9th session of the Preparatory Commission. They reminded participants that agenda items 3, 4, 5 and 7 were for information, and only item 6 required a decision of the Preparatory Commission. Due to time constraints and in order to allow sufficient time for the delegations to make statements under agenda item 8, the Co-Chairs invited the delegations indicate their intention to make statements before moving on to the next agenda item. The participants were informed that the following states and observers would make statements: Germany, Luxembourg, Russia, South Africa, UNECA and UNECE. Item No. 3 Report on developments since the last session and activities of the Ratification Task Force (Prep. Comm. Rail/9/Doc.2).

6. The Co-Chairs explained that the Preparatory Commission for the establishment of an International Registry under the Luxembourg Rail Protocol had been set up by Resolution No. 1 of the Luxembourg diplomatic conference on 23 February 2007.

7. The Co-Chairs also informed the meeting that at its 8th session on 6-7 December 2018, the Preparatory Commission had discussed and approved the Statutes and Rules of Procedure of the Supervisory Authority, with minor modifications. These documents had also been approved by OTIF's Administrative Committee.

8. As of 8 March 2021, the Protocol had been signed by six states (France, Germany, Italy, Mozambique, Switzerland and the United Kingdom) and ratified by three states (Luxembourg, Gabon and Sweden) and one regional economic integration organisation (the European Union). In order to for the protocol to enter into force, one more ratification was required, along with a certificate to be deposited with the Depositary by the Secretariat of the Supervisory Authority confirming that the International Registry is fully operational (as such a certificate is required for the Registry to start operating under Article XXIII (1) (b) Prot.).

9. The Co-Chairs added that the Luxembourg Rail Protocol was currently being considered by several governments (including those of Kenya, Mauritius, Mozambique, South Africa, Spain and the United Kingdom).

10. Numerous promotional activities (conferences, seminars, governmental meetings) by the Ratification Task Force, the UNIDROIT Secretariat and the Rail Working Group had taken place since the last session of the Preparatory Commission in cooperation with other institutions and organisations, both in-person and online, in various states around the world (among others in China, Egypt, Indonesia, Kenya, Lithuania, Mauritius, Nigeria, South Africa and, Spain), as well as at the European Council, the UN Economic Commission for Africa (UNECA), African Union conferences and UN Economic Commission for Europe (UNECE) meetings.

11. The Co-Chairs mentioned the recent publication of two studies by OXERA on the economic benefits of the Protocol for the [United Kingdom](#) and [Africa](#) respectively, a "[green paper](#)" on how the Protocol will help to cope with global climate change and the detailed [presentation to Export Credit Agencies](#) on the Protocol at the annual OECD ECA/CSO meeting, which is available on the website of the Rail Working Group.

Since the last Preparatory Commission, the Luxembourg Rail Protocol had gained the support of key UN regional agencies and other intergovernmental organisations and bodies interested in fostering sustainable growth, including the UN Economic Commission for Africa (UNECA) and the Programme for Infrastructure Development in Africa (PIDA).

12. The Co-Chairs concluded by referring to the "Group of Experts on Permanent Identification of Railway Rolling Stock" (GPIRRS) on the implementation of the "Unique Rail Vehicle Identification System under the Luxembourg Rail Protocol (URVIS)", established by the UNECE Inland Transport Committee, which was working on the implementation of the Unique Rail Vehicle Identification System.

Item No. 4 OTIF 's report on the 131st session of its Administrative Committee (June 2019) and status of the administrative documents of the Supervisory Authority (Prep. Comm. Rail/9/Doc. 3 and 4.)

13. The representative of OTIF, Ms. Lunesterline Andriamahatahitry, head of the Administration and Finance Department, reminded the Preparatory Commission that OTIF would take over the role of Secretariat of the Supervisory Authority. The Statutes and Rules of Procedure

of the Supervisory Authority had therefore been approved by the 129th session of OTIF's Administrative Committee in May 2018.

14. Following the changes adopted by the 8th Preparatory Commission, the amended Statutes (Doc. 3) and Rules of Procedure (Doc. 4) of the Supervisory Authority had been submitted to OTIF's Administrative Committee, which approved them at its 131st session in June 2019.

15. Professor Sir Roy Goode raised a question about the change to the definition of State Party (Art. 1 – Rules of Procedure), as it excluded states that have ratified the Convention but not the Rail Protocol. The representative of OTIF clarified that the term State Party was defined separately in the Rules of Procedure and the Statutes of the Supervisory Authority, which only concern the States Parties to the Rail Protocol.

16. Professor Ignacio Tirado, Secretary-General of UNIDROIT, also clarified that both the Rules of Procedure and the Statutes of the Supervisory Authority had already been approved by the Preparatory Commission and concerned the States Party to the Rail Protocol.

17. There were no further questions. The Co-Chairs reminded participants that item 4 was for information only and proposed to move on to agenda item 5.

Item No. 5 Supervisory Authority: information from OTIF and UNIDROIT on the composition of the Supervisory Authority

18. The representative of OTIF referred to the provisions of the Luxembourg Protocol regarding the composition of the Supervisory Authority. Article XII of the Luxembourg Protocol clarifies the designation of states within the Supervisory Authority at its first meeting following the entry into force of the Protocol. In addition to the four representatives designated by States Parties to the Protocol, OTIF and UNIDROIT would each designate up to three states.

19. At its 131st session, OTIF's Administrative Committee had approved the criteria that would be used to designate its Member States for the Supervisory Authority. At OTIF's next Administrative Committee to be held in May 2021, the Secretary General of OTIF would propose a list of eligible states based on the approved criteria. The representative of OTIF mentioned that coordination with UNIDROIT was important in order to ensure broad geographical representation within the Supervisory Authority.

20. The Co-Chairs gave the floor to Professor Ana Veneziano, Deputy Secretary-General of UNIDROIT to explain its part of this item.

21. The representative of UNIDROIT followed up the explanation from the representative of OTIF and informed the meeting that UNIDROIT was consulting interested states and would provide more information about their representatives in due course.

Item No. 6 Discussion and approval of the updated Baseline draft Regulations for the International Registry for railway rolling stock (Prep. Comm. Rail/9/Doc. 5/rev 1 and 6.)

22. The Co-Chairs introduced agenda item 6, the updated baseline draft Regulations, and noted that they had mainly been prepared by the Rail Working Group in consultation with the Co-Chairs and the Registrar. The Co-Chairs then invited the Chair of the Rail Working Group (RWG) to present the updated draft Regulations in detail.

23. The Chair of the RWG, Mr Rosen, gave a detailed presentation of the Baseline draft Regulations for the International Registry for railway rolling stock.

24. The Chair of the RWG informed the meeting of the important role the International Registry Regulations have in terms of the architecture of the Protocol. The last draft Regulations had been approved in 2014 and have not been revised since notwithstanding significant subsequent advances in technology and the railway system. They now needed to be updated urgently as they were an important consideration in the bringing of the Registry into operation. In addition, the Regulations were designed to track the Aircraft Registry Regulations where possible and since 2014 these had evolved from the 5th edition to the 8th edition. Accordingly, the Rail Regulations needed to take into account these various iterations and improvements.

25. The Chair of the RWG informed the Commission that the updated draft Regulations were being submitted for approval and he underlined the importance of reaching agreement on them. Nevertheless, he noted that there would be at least one further opportunity to modify the draft Regulations for the International Registry for railway rolling stock before the Protocol entered into force, which would also leave time to make the adaptations needed to reflect the 9th edition of the Aircraft Registry Regulations, publication of which was expected later this year as well as practical issues arising as the Registrar begins work on preparing the International Registry. It was planned that the technical Procedures to be issued under the Regulations would be submitted separately by the Registrar to the Preparatory Commission for approval before the Protocol entered into force.

The key changes to the draft Regulations made since the last update could be found in the documents provided to the Commission (Doc. Prep. Comm. Rail/9/6). Many of the changes were based on the updating of the Aircraft Registry Regulations. The new concept of guest user (which did not appear in the Rail Regulations previously), the more detailed section 5.3 concerning the alternative asset identification system, and the importing of the "closing room" concept were particularly highlighted as well as the modifications designed to make it more difficult to abusively register non consensual right or interests.

The Chair of the RWG noted that the Baseline draft Regulations initially circulated have been slightly amended further (Doc. Prep. Comm. Rail/9/5/rev 1) to take into account the very helpful comments made by Prof Sir Roy Goode, author of the Official Commentary on the Luxembourg Rail Protocol.

26. The Co-Chairs concluded that as there were no questions or comments on the information provided, the Preparatory Commission approved the revised Baseline draft Regulations for the International Registry for railway rolling stock with no objections.

Item No. 7 Information of the Group of Experts established by the United Nations Economic Commission for Europe (UNECE) for the Permanent Identification of Railway Rolling Stock (PIRRS).

27. The Co-Chairs gave the floor to the Chair of the Group of Experts for the PIRRS, Mr Konstantin Grigoriev from Russia. The Chair of the Group of Experts for the PIRRS, Mr Konstantin Grigoriev, explained the work and achievements of the Group of Experts following the two meetings held since it had been set up. For the 3rd session, which would be held in May, Russia had prepared a set of rules to be discussed.

28. Mr Grigoriev stressed the importance of the implementation of the Rail Protocol, but recognises that its implementation would be more difficult than for other modes of transport. He noted that technologies would play a key role. He encouraged all the states to collaborate and to combine their efforts in order to implement the Protocol, which would be important for all countries. Lastly, he thanked the UNECE for its work.

29. The representative of UNECE, Mr Francesco Dionori, Chief of Transport Networks and Logistics Section Sustainable Transport Division, responded to Mr Grigoriev's statements regarding

the information about the work undertaken so far. The Group of Experts for the PIRRS had been established at the request of the government of Luxembourg. Numerous experts from states, international organisations and associations were working together within the group, so he hoped it would be able to provide the States Parties with a framework to apply the Luxembourg Protocol as soon as possible.

Item No. 8 Statements by participating members and observers

30. The representative of South Africa, Mr André Smit, outlined the major contribution that the Luxembourg Protocol would have when it enters into force in terms of rebuilding and reconstructing regional, national, continental and global economies after the COVID-19 pandemic, especially in Africa. South Africa was considering several options to improve and enlarge its railway system and industries and the Protocol was a supporting pillar for these considerations. He announced that on 23 March 2021, South Africa had decided to sign the Luxembourg Protocol, as it fosters economic growth and promotes sustainable growth and environmental protection strategies.

31. The representative of Germany, Professor Hans-Georg Bollweg, highlighted the extensive work that had been carried out during the pandemic so as to have everything ready to start when the Luxembourg Protocol enters into force. He thanked all those involved for their work. He encouraged the continuation of the promotion of the Protocol in order to obtain the 4th ratification. Moreover, Professor Bollweg referred to the advantages of the Luxembourg Protocol resulting from the COVID-19 pandemic, such as the opportunity of promoting it in order to increase passenger numbers, freight, and in particular the financing of rolling stock. He wished to take the opportunity to promote the Protocol, with the emphasis on continuing efforts to obtain the 4th ratification. To conclude, he offered the support of the German government in these efforts, if necessary.

32. The Co-Chairs were informed that the statement the representative of Russia, Mr Grigoriev, wished to make had already been made when item 7 had been discussed.

33. The representative of UNECA, Mr Soteri Gatera, highlighted Africa's strong support for the promotion agenda in many different countries of the continent. He also stated that the goal was to achieve more ratifications by informing and educating both public institutions and private companies and by publicising the Luxembourg Protocol among African states with the organisation of seminars and workshops in various African countries. He recognised that there was a lot of work to do, but it was already underway.

34. The representative of Luxembourg, Mr Luc Scholtes, said that Luxembourg continued to support and encourage all countries to consider and ratify the Protocol. He emphasised the big opportunity resulting from the post-pandemic situation, which should not be lost, in order to mobilise private capital to invest in the railways. Lastly, he looked forward to the imminent 4th ratification and entry into force of the Protocol.

35. The representative of UNECE, Mr Francesco Dionori, stated that his organisation would continue to work on the Protocol and thanked everyone for participating in and organising this meeting. He encouraged every country to ratify the Protocol.

Item No. 9 Any other business

No other business was raised.

Item No. 10 Closing of the session

The Co-Chairs of the Preparatory Commission closed the session and thanked the participants, organisers and interpreters.

ANNEX 1**AGENDA**

1. Opening of the session and welcome by the Secretaries General of OTIF and UNIDROIT
2. Adoption of the agenda and organisation of the session
3. Report on developments since the last session and activities of the Ratification Task Force (Prep. Comm. Rail/9/Doc. 2)
4. OTIF's report on the 131st session of its Administrative Committee (June 2019) and status of the administrative documents of the Supervisory Authority (Prep. Comm. Rail/9/Doc. 3 and Doc 4)
5. Supervisory Authority: information from OTIF and UNIDROIT on the composition of the Supervisory Authority
6. Discussion and approval of the updated Baseline Draft Regulations for the International Registry for railway rolling stock (Prep. Comm. Rail/9/Doc. 5 and Doc. 6)
7. Information on the Group of Experts established by the United Nations Economic Commission for Europe (UNECE) for the Permanent Identification of Railway Rolling Stock (PIRRS).
8. Statement by participating members and observers
9. Any other business
10. Closing of the session

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