

THE 2001 CAPE TOWN CONVENTION  
ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT



## INSIDE TRACK



"Inside Track" keeps RWG members and colleagues up to date on the progress of the Luxembourg Protocol. You can be added onto the mailing list by clicking on "subscribe" at the bottom of the newsletter.

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### **Prepcom meets to plan next steps**

The eighth session of the Preparatory Commission, tasked with the implementation of the Luxembourg Rail Protocol, met in Rome at the offices UNIDROIT on December 6/7<sup>th</sup> and was attended by representatives from 32 states as well as the secretary general and key officers of UNIDROIT, the acting secretary general of OTIF, and representatives from the Rail Working Group.

The co-chairs gave a detailed report on progress and the Commission adopted statutes and rules of procedure for the supervisory authority which comes into existence on the date the Luxembourg Rail Protocol comes into force.

The RWG give a detailed report on the status of the draft updated regulations for the International Registry. Representatives from the states of Sweden, Germany and Indonesia gave strong supportive statements for the Protocol and representatives from South Africa, Nigeria and Burkina Faso indicated their commitment to move forward with the adoption and then implementation of the Protocol.

The co-chairs identified three main streams of work going forward namely continue to work on encouraging states to ratify the Luxembourg Protocol, finalisation of the International Registry and finalisation of the various documents required to ensure proper functioning of the supervisory authority once the Protocol comes into force.

### **Summary Report of the 8th Session**

#### **UNIDROIT workshop in Paris**

On 1<sup>st</sup> February 2019, UNIDROIT in conjunction with the University of Paris and the University of Clermont Auvergne Law School will be running the workshop at the University of Paris II in Paris on the Cape Town Convention and its respective protocols, entitled “La Convention du Cap relative aux Garanties Internationales portant sur des Matériels d’Équipement Mobiles (CTC) et ses Protocoles”. After introductions from Professors Ignacio Tirado and Anna Veneziano, respectively the Secretary General and Deputy Secretary General of UNIDROIT, speakers will include prominent academics from Australia, Canada, France, Germany, Spain, the United Kingdom and the United States. The workshop will mainly be conducted in French. [More information](#); [to register](#).

#### **Working with the UN ECA**

The Rail Working Group will be playing an active part in the forthcoming Conference of African Ministers of Finance, Planning and Economic Development taking place in Marrakesh, Morocco, between 20<sup>th</sup> and 26<sup>th</sup> March 2019. The conference is organised annually by the UN Economic Commission for Africa and the RWG will have a delegation present at the government experts’ meeting and the ministerial meeting. It will also be running a seminar for government officials on railway finance and the Luxembourg Rail Protocol at the conference.

The RWG has already been working closely with the UN ECA on specific rail projects in Africa where private finance for rolling stock will make a material difference to government procurement and finance strategies.

**Topic of the month: The Draft Regulations for the International Registry – An indispensable supplement to the Luxembourg Protocol**

The last issue of Inside Track dealt with the registration of groups of rail equipment provided for by the draft regulations (hereinafter Rail Regulations) currently being prepared for the operation of the future International Registry for railway rolling stock, which will be operating from Luxembourg. The preparation of these regulations is required by Article 17 (2) (d) of the Cape Town Convention, which tasks the Supervisory Authority under each Protocol with ensuring the publication of regulations dealing with the operation of the respective International Registry. The current draft of the Rail Regulations can be accessed at <<https://unidroit.org/english/conventions/mobile-equipment/registry-rail/draft-regulations-20160222.pdf>>.

Right from the outset there was agreement that the Rail Regulations should closely follow the Regulations for the Aircraft Registry as far this is feasible. This approach makes it much easier for users to switch back and forth between both platforms. In this way it reflects the main objective of the Rail Regulations, namely to make the system as easily operable as possible for all parties involved. However, several deviations from the Aircraft Regulations will be unavoidable to suit the rail industry.

In particular, the Rail Regulations expand on the URVIS identifier that is not included in the Aircraft Regulations but heavily supported by the Rail Working Group as the relevant identifier for purposes of registering items of railway rolling stock in the International Registry. Article XIV (1) of the Rail Protocol requires a system for the allocation of identification numbers by the Registrar but leaves this system to be specified in more detail by the Rail Regulations. The current draft of the Rail Regulations now provides that the URVIS identifier will be a 16-digit identification number (composed of fifteen digits wholly numeric and an automatically generated check digit that will form the sixteenth digit). The URVIS identifier will be allocated as determined by the Registrar. However, registry users will be able to access the International Registry in order to obtain or reserve an URVIS number in accordance with the future Procedures of the International Registry, which will deal with the technical operation and administrative processes of the registry. The future Procedures will also have to stipulate the exact criteria for marking items of railway rolling stock with the URVIS identifier.

Importantly, the Rail Regulations also deal with the issue as to what constitutes an item of railway rolling stock. Whereas aircraft are naturally identifiable as single items, this can be quite different in the railway sector. For instance, the question may arise in practice as to whether a TGV represents one item of rolling stock or several. In this regard, the Rail Regulations provide helpful guidance. The current draft states that where a vehicle is made

up of a number of articulated sections which are physically fixed to each other, but it is possible to replace or substitute such sections in the normal course of maintenance operations, whether using specialist equipment or otherwise, each articulated section shall be regarded as separate item of railway rolling stock. Prudently, the Rail Regulations also take account of the fact that the design of railway rolling stock is constantly developing. For this reason, they contain a provision which states that the Registrar shall publish guidance notes as to what actually constitutes an item of rolling stock. To ensure consistent application, these notes will have to be approved by the Supervisory Authority.

As for the next steps, it is envisaged that shortly before the Rail Protocol comes into force a further consultation draft of the Rail Regulations will be issued that particularly reflects the software and other operational aspects applicable to the International Registry as it comes into operation. This future draft will also have to incorporate the Procedures still to be prepared, as well as the schedule of charges that shall apply to the services provided by the International Registry. The Rail Working Group is heavily involved in ensuring that all outstanding issues will be completed by the time the International Registry is fully functional and the Luxembourg Protocol enters into force. The Rail Regulations will then most certainly contribute significantly to the desirable success of the Rail Protocol in practice.

#### **AGM 2019**

The Annual General meeting of the Rail Working Group will take place in Frankfurt on 1<sup>st</sup> April at 2.30 p.m. The meeting is open to all members and official observers.

#### **Save the date – Middle East Rail Conference, Dubai, 26<sup>th</sup>-27<sup>th</sup> February 2019**

The largest Rail Conference and Exhibition across the Middle East, North Africa, South Asia & Central Asia is taking place on 26th/27th February 2019. - Dubai International Convention & Exhibition Centre, UAE. A special rate is available for RWG members. For more information contact the organisers or [info@railworkinggroup.org](mailto:info@railworkinggroup.org).



## **Save the date – Vietnam's Hanoi, HCMC & Danang Metro Rail Projects Conference 2019**

Vietnam's Hanoi, HCMC & Danang Metro Rail Projects Conference 2019 will be taking place next year in Ho Chi Minh City on 28th/29th March 2019. The RWG negotiated a 20% discount for our members. For more information, please email to: [info@events-actually.com.sg](mailto:info@events-actually.com.sg).



## **“The Railway Market in Africa and the Middle East” – special offer for members**

SCI Verkehr, has just published a new study on the market for railway technology products and services in Africa and the Middle East. Rail Working Group members are entitled to purchase the study at a 10% discount if you announce your membership during the order process. To place an order click [here](#).

## **Official Commentary – consultation**

The next edition of Professor Goode's official commentary on the Luxembourg Protocol is already being prepared. The RWG has been invited to submit comments. If you would like to suggest changes or additions to the commentary or, as an RWG member, would like to be part of our team evaluating the commentary, please contact [Professor Benjamin von Bodungen](#).

## **Official Commentary - special deal for RWG members**

Rail Working Group members are entitled to purchase Professor Goode's official commentary on the Luxembourg Protocol at a 15% discount. If you wish to use this facility, please use the official form which you can find [here](#).

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