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Item No. 7 on the agenda: International Interests in Mobile Equipment

(b) Implementation and status of the Luxembourg Rail Protocol

(prepared by the Secretariat)

<i>Summary</i>	<i>Update on the implementation and status of the Luxembourg Rail Protocol to the Cape Town Convention</i>
<i>Action to be taken</i>	<i>The Governing Council is invited to take note of the entry into force of the treaty and of the progress made</i>
<i>Mandate</i>	<i>Work Programmes 2014-2016, 2017-2019, 2020-2022, 2023-2025</i>
<i>Priority level</i>	<i>High</i>
<i>Related documents</i>	<i>UNIDROIT 2019 – C.D. (98) 17</i> ; <i>UNIDROIT 2020 – C.D. (99) B.13</i> ; <i>UNIDROIT 2021 – C.D. (100) B.10</i> ; <i>UNIDROIT 2022 – C.D. (101) 13</i> ; <i>UNIDROIT 2023 – C.D. (102) 15</i>

I. INTRODUCTION

1. The Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Railway Rolling Stock (“the [Luxembourg Rail Protocol](#)” or “the [Protocol](#)”) was opened for signature in Luxembourg on 23 February 2007 and entered into force on 8 March 2024.
2. UNIDROIT is designated as the Depositary for the instrument pursuant to its Article XXXIV(1). UNIDROIT’s responsibilities as Depositary under the Luxembourg Rail Protocol include the operation of a system for the receipt and notification of all instruments of ratification, declarations, and other documents lodged with the Depositary. Under the 2023-2025 Work Programme, the implementation of the Luxembourg Rail Protocol continues to be given a high degree of priority ([UNIDROIT 2022 – C.D. \(101\) 21](#), para. 277; [UNIDROIT 2022 – A.G. \(81\) 9](#), para. 67). This document provides an update on the implementation since the 102nd session of the Governing Council in May 2023.

II. ENTRY INTO FORCE OF THE LUXEMBOURG RAIL PROTOCOL AND STATUS OF THE TREATY

3. The Luxembourg Rail Protocol entered into force on 8 March 2024 at the first and constitutive session of the Supervisory Authority of the International Registry of Interests in Rolling Stock (“the

Registry”), held in Bern (Switzerland) at the seat of its Secretariat, the Intergovernmental Organisation for the Carriage by Rail (OTIF). The joint UNIDROIT/OTIF press release is available [here](#).

4. The entry into force of the treaty followed the procedure provided for in Article XXIII (1) of the Protocol, namely, the reaching of the fourth State Party with the ratification of Spain on 20 January 2023, and the deposit by the Secretariat of the Supervisory Authority (OTIF) with the Depositary (UNIDROIT) of a certificate confirming that the Registry was fully operational. The deposit of the certificate, which preceded the Supervisory Authority session on 8 March 2024, was the result of intense preparatory work carried out by various bodies: (1) the Preparatory Commission as provisional Supervisory Authority; (2) the Ratification Task Force (RTF), which in its meeting held on 14 November 2023 had set the target date for entry into force, pursuant to the amended and restated Supervisory Contract concluded between the Preparatory Commission and the new Registrar owner, the Canadian company Information Services Corporation (ISC), on 20 December 2022; and (3) *ad hoc* working groups focusing in particular on the development of the draft Regulations for the Registry and on the monitoring of the technical implementation of the Registry. For more information on these activities, see part III below.

5. As of 12 April 2024, the Luxembourg Rail Protocol had been signed by seven States (France, Germany, Italy, Mozambique, South Africa, Switzerland, and the United Kingdom), ratified by four States (Gabon, Luxembourg, Spain, and Sweden), and approved by one Regional Economic Integration Organisation (the European Union). See the [Annexe](#) for further details.

6. Concerning the status of the ratification process in other States, as of 12 April 2024, the Secretariat has received information about the imminent ratification of the Protocol by Paraguay, where the Congress has definitively approved ratification of all three remaining Protocols to the Cape Town Convention, which is only awaiting the Presidential seal, as well as by South Africa, where the ratification of the Luxembourg Rail Protocol was already approved by the National Assembly and has been submitted to the National Council of Provinces for approval by April 2024. Moreover, the Secretariat was informed that the United Kingdom is committed to the ratification of the Protocol, which is dependent on the enactment of primary legislation delegating to the Ministry of Transport the authority to proceed.

III. ACTIVITIES SINCE THE 102ND SESSION OF THE GOVERNING COUNCIL

A. Institutional follow-up work in preparation of the twelfth session of the Preparatory Commission

7. Throughout 2023, the UNIDROIT Secretariat continued to work in close cooperation with OTIF, the Co-Chairs of the Preparatory Commission (Mr Peter Bloch of the United States of America and Mr Antti Leinonen of Finland), the Rail Working Group (RWG), the Registrar, and the Contracting States to the Protocol to ensure the fulfilment of the remaining condition set out in Article XXIII(1) for the entry into force of the Protocol, *i.e.*, the deposit of the certificate confirming that the International Registry was fully operational. To this end, the Secretariat participated in an intense schedule of meetings to finalise the institutional framework for the operation of the International Registry, which required the preparation of the setting-up of the Supervisory Authority and the updating of its draft Statutes and Rules of Procedure, as well as the updating of the draft Registry Regulations and Procedures. Additional work was needed to ensure operability in the design of the International Registry and monitor its timely development, as well as the timely preparation and submission of all the required technical and financial documentation.

B. Ratification Task Force (RTF) meetings

8. The RTF, originally composed of the Co-Chairs of the Preparatory Commission, UNIDROIT, OTIF, the RWG, and the Registrar-designate Regulis SA, had been set up at the sixth session of the Preparatory Commission to develop an implementation and ratification strategy for the Luxembourg Rail Protocol. The RTF, subsequently joined by Luxembourg, South Africa, Sweden, the European Union (represented by the European Commission's DG Move), and the United Nations Economic Commission for Europe (UNECE), had planned an intense agenda for its work through formal and informal meetings, mostly via teleconference, with the purpose of reaching the number of adhesions required for the entry into force of the Protocol and the operability of the Registry. In view of the approval of the change of control in Regulis SA from the original owner (SITA) to the new Registrar (ISC), the conclusion of the amended and restated agreements for the operation of the Registry between the Preparatory Commission and ISC and ISC-subsidary Enterprise Registry Solutions Limited (ERS), respectively, as well as the achievement of the fourth ratification at the beginning of 2023, UNIDROIT and OTIF had convened a special RTF meeting on 23-24 January 2023 at the seat of UNIDROIT (and remotely) to plan the institutional, technical, and policy steps related to the implementation of the Protocol and its imminent entry into force. The meeting represented, in addition, an opportunity to introduce the new Registrar.

9. Over the course of 2023, the RTF held two additional virtual meetings. On 29 August 2023, the RTF met to provide members with an update on the status of the Protocol in terms of ratification progress and ratification priorities, the development of the Registry, the preparation of the setting-up of the Supervisory Authority, and the timeline for entry into force. On 14 November 2023, the RTF held another virtual session, in which the target date for the Protocol's entry into force was officially recommended by the RTF to the Secretariat of the Supervisory Authority (*i.e.*, OTIF), upon consideration of the financial and technical documentation presented by the Registrar and in compliance with the provisions of the Supervisory Contract between the Preparatory Commission and the Registrar.

10. At the twelfth session of the Preparatory Commission (see below), it was decided that the RTF should continue to work after the setting-up of the Supervisory Authority and the entry into force of the Protocol, under the co-chairmanship of UNIDROIT and OTIF, to fulfil its primary role of developing strategies to promote the Protocol and its worldwide ratification. The chairs should ensure that the RTF be representative of all States engaged in the ratification process or specifically interested in the Protocol, including the members of the Supervisory Authority.

C. Twelfth and final session of the Preparatory Commission (7 March 2024)

11. On 7 March 2024, OTIF and UNIDROIT jointly held the twelfth and final session of the Preparatory Commission for the Establishment of the International Registry for Railway Rolling Stock under the Luxembourg Protocol at the seat of OTIF in Bern, Switzerland, and online.

12. The session, which was chaired by the Secretaries General of OTIF and UNIDROIT and attended by 21 State delegations (Angola, Belgium, China, Congo, Croatia, Finland, France, Germany, Hungary, Iraq, Jordan, Luxembourg, North Macedonia, Poland, Serbia, Spain, Sweden, Switzerland, Türkiye, United Kingdom, and Zimbabwe), as well as the Secretariats of OTIF and UNIDROIT, the RWG, the Registrar, and observers (the European Union and the UN Economic Commission for Europe – UNECE), was tasked with the approval of the documents required for the setting-up of the Supervisory Authority, the operability of the Registry, and the entry into force of the Protocol, namely: discussion and approval of the Draft Statutes and Procedures of the Supervisory Authority; approval of the Draft Agreement between OTIF and the Supervisory Authority; and discussion and approval of the Draft Registry Regulations and the Draft Procedures for the Registry.

13. Moreover, the Preparatory Commission was informed of the composition of the Supervisory Authority and approved a Resolution pursuant to Resolution No. 1 of the Final Act of the Diplomatic Conference to Adopt a Rail Protocol (which directs the Commission to prepare the establishment of the Supervisory Authority, the members of which shall be composed of States as provided under Article XII of the Protocol, the establishment of the Supervisory Authority to be effected by Resolution of the Commission in consultation with UNIDROIT and OTIF). The Preparatory Commission resolved the establishment of the Supervisory Authority as an international organisation having international legal personality as provided by Article 27(1) of the Convention, to be made effective by the representatives designated by the States in accordance with Article XII(1) of the Protocol.

14. In addition, the Preparatory Commission was informed of the developments concerning the Model Rules for the Permanent Identification of Railway Rolling Stock under the Luxembourg Rail Protocol, as amended on 15 November 2023 for the purposes of the Regulations for the International Registry for Railway Rolling Stock, and on their Revisions Committee (see below). It also benefited from a presentation of the features of the Registry by representatives of the Registrar (ISC).

15. Finally, statements regarding the process of ratification and/or in support of the Protocol were delivered by several participating delegations, including Finland, Luxembourg, Spain, and Sweden.

16. The documents of the twelfth session of the Preparatory Commission are available [here](#).

D. First (inaugural) session of the Supervisory Authority (8 March 2024)

17. The first session of the Supervisory Authority was jointly convened by OTIF and UNIDROIT and held back-to-back with the Preparatory Commission session on 8 March 2024 at the seat of OTIF in Bern (Switzerland) and remotely.

1. Composition

18. According to Article XII of the Protocol, the Supervisory Authority is composed of representatives appointed by the States Parties (Gabon, Luxembourg, Spain, Sweden, and the European Union as Regional Economic Integration Organisation for matters of its competence) and representatives appointed by the States designated by OTIF and UNIDROIT (Algeria, France, South Africa, United Kingdom, and Türkiye).

19. The first session was attended by representatives of seven States Parties and one Regional Economic Integration Organisation (European Union); the Secretariat (OTIF), with Secretary General Mr Wolfgang Küpper and Head of Administration and Finance Department Ms Lunesterline Andriamahatahitry; UNIDROIT, with Secretary-General Professor Ignacio Tirado and Deputy Secretary-General Professor Anna Veneziano; the RWG, with Chair Mr Howard Rosen, Member of the Management Committee Mr Benjamin von Bodungen, and Secretary Mr Martin Fleetwood; one additional expert, Professor Sir Roy Goode, in his capacity as former Rapporteur and author of the Official Commentary; and one intergovernmental organisation as observer (UNECE). The representatives of the Registrar were invited to attend the second part of the session.

2. Deposit of the certificate and entry into force

20. The session was preceded by the ceremony of the deposit by the Secretariat of the Supervisory Authority (OTIF) with the Depositary (UNIDROIT) of a certificate confirming that the Registry was fully operational, which triggered the entry into force of the treaty pursuant to Article XXIII(1)(b) of the Protocol.

3. Establishment of the Supervisory Authority

21. The first item on the agenda was the establishment of the Supervisory Authority, which was implemented by a Resolution signed by the designated representatives of the members in accordance with Article XII of the Protocol, confirming the Preparatory Commission's Resolution on this matter. The Supervisory Authority then approved its Statutes and Rules of Procedure and proceeded with the election of the officers. Professor Teresa Rodríguez de las Heras Ballell, representative of Spain, was elected Chair, while Ms Ashrafi Najlah, representative of Sweden, and Mr Jan-David de Villiers, representative of South Africa, were elected first and second Vice-Chairs, respectively. Finally, the Supervisory Authority approved the Agreement between the Supervisory Authority and OTIF concerning the functions of the Secretariat.

4. Establishment of the Registry

22. The Supervisory Authority then considered the matter of the establishment of the Registry. It approved the assumption of the rights and obligations of the Preparatory Commission under its contracts with the Registrar and related parties. It further approved the fee schedule and yearly budget of the Registrar, as well as the Regulations and Procedures for the Registry. In relation to the latter, permission was granted to reproduce them in the third edition of the Official Commentary to the Luxembourg Rail Protocol, currently being prepared by Professor Sir Roy Goode. With respect to the functioning of the Registry, it also approved the Model Rules for the Permanent Identification of Railway Rolling Stock ("Model Rules") adopted by the UN Inland Transport Committee and as revised after the first meeting of the Revisions Committee, for the purposes of the Regulations (see below). Permission to reproduce the Model Rules in the Official Commentary was also subsequently granted by the United Nations. Finally, the Supervisory Authority was informed about the User Manual issued by the Registrar.

5. Establishment of the Commission of Experts

23. Pursuant to Article 6 of its newly approved Statutes, the Supervisory Authority established the initial membership of a Commission of Experts entrusted with the task of assisting it in the discharge of its functions. The Supervisory Authority appointed representatives with the necessary qualifications, expertise, and experience for such position, nominated by States Parties, as well as additional experts with the required qualifications nominated by the Chair.

6. Information by the Depositary and Statements

24. The Supervisory Authority heard a report from the Depositary (UNIDROIT) on the status of ratifications and the work of the RTF. The session was concluded with statements by Sweden, France, the United Kingdom, Türkiye, Spain, and the RWG. In particular, the representatives of the United Kingdom reported on the advanced process towards ratification in their country, while the representatives of Türkiye expressed the interest of their government in considering ratification of the Protocol.

25. The minutes of the first session of the Supervisory Authority will be provided by the OTIF Secretariat in due course.

E. Cooperation with other organisations

1. Model Rules for the Permanent Identification of Railway Rolling Stock under the Luxembourg Rail Protocol (United Nations Economic Commission for Europe – UNECE)

26. The Unique Rail Vehicle Identification System (URVIS) number plays a fundamental role in the functioning of the Luxembourg Rail Protocol, as it provides for the unique identification necessary for the registration of the international interest in rail rolling stock equipment. The Luxembourg Rail Protocol, however, does not determine the way the URVIS number can be permanently fixed on the rolling stock. In order to provide recommendations to solve this practical challenge in conformity with current industry practice, the UNECE's Inland Transport Committee (the UN platform for inland transport, with participation of States and industry representatives), at its 82nd session held from 25 to 28 February 2020, approved the establishment of a Group of Experts on Permanent Identification of Railway Rolling Stock (GE_PIRRS, "Group of Experts") and its terms of reference, upon recommendation of its Working Party on Rail Transport (SC.2). UNIDROIT was invited to join the Group of Experts, which was attended by State delegations and industry associations, together with OTIF and the RWG.

27. The Group of Experts held six meetings between 2020 and August 2022, discussing model rules for the permanent identification of railway rolling stock, which would be open for adoption by declaration of a party to an agreement creating an international interest in railway rolling stock equipment under the Cape Town Convention and Luxembourg Rail Protocol. On 24 February 2023, the United Nations Inland Transport Committee unanimously adopted the Model Rules at its 85th session in Geneva, Switzerland, which were then published as ECE/TRANS/2023/37.

28. From 30 August to 1 September 2023, UNIDROIT participated in the first meeting of the Revisions Committee to the Model Rules, chaired by the United Kingdom and held at the seat of UNECE in Geneva. The updated text of the Model Rules was approved by the Working Party of the Inland Transport Committee at its 77th session (15-17 November 2023), and the revised and current text of the Model Rules is available [here](#). The Model Rules are accompanied by a guidance document that can be found [here](#) on the UNECE website.

29. As noted above, the Supervisory Authority, at its first session held on 8 March 2024, approved the Model Rules for the purpose of their use in relation to the Regulations of the Registry.

2. African Union – Specialised Technical Committee on Transport, Transcontinental and Interregional Infrastructure and Energy

30. Following the endorsements by the United Nations Commission for Africa (UNECA), the European Union Council, and the Programme for Infrastructure Development in Africa (PIDA) executed by the African Development Bank Group, the Rail Protocol received further international support within the Specialised Technical Committee on Transport, Transcontinental and Interregional Infrastructure and Energy (STC TTIIE) of the African Union. The African Union Ministers in charge of Transport and Energy met in Zanzibar, United Republic of Tanzania, from 12 to 15 September 2023 in the Fourth Ordinary Session of the STC TTIIE, organised by the African Union Commission (AUC) in collaboration with the African Union Development Agency (AUDA-NEPAD), the African Development Bank (AfDB), and UNECA, to consider policies and strategies on the theme of "Accelerating Infrastructure to Deliver on Agenda 2063 Aspirations". In this context, the Committee released a resolution calling upon all remaining States to complete ratification procedures for the Luxembourg Rail Protocol.

F. Conferences, lectures, and other promotional activities

31. The UNIDROIT Secretariat has continued to undertake various activities to promote the implementation and entry into force of the Luxembourg Rail Protocol, including activities in cooperation with OTIF, the RWG, and the RTF, as well as other organisations. The Secretariat has also continued to monitor developments in several jurisdictions, meet with governmental representatives, and either directly draft or assist the RWG in drafting support documentation for interested governments.

32. Promotional activities with participation of, or organised by, the Secretariat included the following:

- Lectures (e.g., lecture at the UNIDROIT International Programme for Law and Development, second edition, 2023, where the Protocol was discussed as a tool for sustainable economic development for Africa by Mr Howard Rosen and Ms Mesela Nlapo; and a lecture within the context of a visit of Georgian Lawyers of the Private Profession);
- Specific presentations on the benefits of the ratification of the Protocol to governments or in the framework of cooperation with international organisations (e.g., at the workshop on UNIDROIT'S instruments organised by the Government of India in July 2023 in Delhi, followed by ministerial meetings, and at the workshop organised by the European Bank for Reconstruction and Development (EBRD) in London (United Kingdom) on 25 September 2023);
- A practical workshop on the implementation of the Protocol in Madrid (Spain), jointly organised by the RWG and law firm Bird & Bird on 27 February 2024; and
- A special celebratory and informative event to mark the entry into force of the Protocol, jointly sponsored by UNIDROIT and OTIF, on 9 April 2024, with participation of UNIDROIT Member States and Cape Town Convention Contracting States, stakeholders, and experts. The event, which was attended by about 60 participants, including delegations from 25 Member and non-Member States, was opened by the Secretaries General of UNIDROIT and OTIF, followed by Their Excellencies Ms Michele Pranchère-Tomassini, Ambassador of Luxembourg to Italy, and Ms Nosipho Nausca-Jean Jezile, Ambassador of South Africa to Italy. The event featured an overview of the benefits of the Protocol by the Chairman of the RWG, including a [video](#) with messages of support from many international stakeholders, as well as a brief presentation on the function of the Registry by ISC Vice President and Head of Corporate and Business Strategy Ms Laurel Garven. Additional statements of support for the Protocol were delivered by Paraguay, Sweden, and the United Kingdom.

33. Planned promotional and technical workshops with participation of the Secretariat include a workshop organised by the RWG for industry stakeholders and governmental experts in Stockholm (Sweden) on 15 May 2024, and a conference organised by Professor Jean-François Riffard, in cooperation with the RWG, in Lyon (France) on 21 June 2024, to raise awareness about the Protocol among interested experts and stakeholders in France.

G. Next steps: ratification pipeline and continued promotion of the Luxembourg Rail Protocol

34. The Secretariat will continue to exercise its mandate as Depositary of the treaty, to monitor the activity of the Supervisory Authority by cooperating with OTIF, to participate in the meetings of the Revisions Committee of the Model Rules for the Permanent Identification of Railway Rolling Stock, and to actively engage in the promotion of the Protocol in cooperation with OTIF, contracting States,

the RWG, and the Registrar, as well as UNECA, the African Union, and the EU, particularly through participation in promotional and informational events and the organisation of the activity of the RTF.

IV. ACTION TO BE TAKEN

35. *The Secretariat invites the Governing Council to take note of the developments in relation to the implementation of the Luxembourg Rail Protocol.*

ANNEXE

**LUXEMBOURG PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON
MATTERS SPECIFIC TO RAILWAY ROLLING STOCK**

**PROTOCOLE DE LUXEMBOURG PORTANT SUR LES QUESTIONS SPECIFIQUES AU MATERIEL ROULANT FERROVIAIRE
A LA CONVENTION RELATIVE AUX GARANTIES INTERNATIONALES
PORTANT SUR DES MATERIELS D'EQUIPEMENT MOBILES**

as of 12 April 2024 / *au 12 avril 2024*

Adoption: Place / *Lieu*: Luxembourg
Date: 23-02-2007

Entry into force / 08-03-2024 (ex Art. XXIII)
Entrée en vigueur:

Contracting States / 4 (+1 Regional Economic Integration Organisation / *Organisation*
États contractants *régionale d'intégration économique*)

Depositary / Dépositaire: UNIDROIT

STATE / <i>ETAT</i>	SIGNATURE	RATIFICATION / ACCESS. / ADHÉS.	ENTRY INTO FORCE / ENTREE EN VIGUEUR	DECL. OR RESERV. / DECL. OU RESERVES
France	03-03-17	-	-	-
Gabon	23-02-07	04-04-17	08-03-24	-
Germany / <i>Allemagne</i>	21-11-12	-	-	D
Italy / <i>Italie</i>	23-02-07	-	-	D
Luxembourg	23-02-07	31-01-12	08-03-24	-
Mozambique	15-11-16	-	-	-
South Africa / <i>Afrique du Sud</i>	22-03-22			
Spain / <i>Espagne</i>	10-11-21	20-01-23	08-03-24	XIII, XIV(2)-(3), XXIV, XXV and/et XXVI XXVII(1)
Sweden / <i>Suède</i>	27-06-17	02-07-18	08-03-24	
Switzerland / <i>Suisse</i>	23-02-07	-	-	-
United Kingdom / <i>Royaume-Uni</i>	26-02-16	-	-	-
European Union / <i>Union européenne</i> ¹	10-12-09	18-12-14	08-03-24	XXII(2)

¹ Regional Economic Integration Organisation / *Organisation régionale d'intégration économique*: Protocol(e) Article XXII.