



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONALE 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

**DIPLOMATIC CONFERENCE TO ADOPT A
RAIL PROTOCOL TO THE CONVENTION
ON INTERNATIONAL INTERESTS IN MOBILE
EQUIPMENT**

Luxembourg, 12 to 23 February 2007

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SUMMARY OF THE DECISIONS TAKEN ON 19 FEBRUARY 2007

1. The Commission reserved the right to revert to Article XIII(1) later pending the Report of the Registry Committee.
2. The Commission referred a new wording of Article XIII(2) to the Drafting Committee, asking it to take into account the proposals of Sweden and Canada, aimed, on the one hand, at specifying that the assistance provided to the Supervisory Authority by OTIF as its Secretariat should be given in accordance with the procedures adopted by the Supervisory Authority, and, on the other hand, at laying down an additional rule in the event that OTIF should no longer be in a position to perform this role.
3. The Commission agreed that the Secretariat of the Supervisory Authority needs functional immunity; it asked the Drafting Committee to find an appropriate wording similar to Article XVII(3) of the Aircraft Protocol.
4. With regard to Article XIII(4), the Commission asked the Drafting Committee to examine the wording and to formulate it in a manner broad enough to cover not only decisions taken by the Supervisory Authority but also all measures that might be taken by it.
5. The Commission decided with regard to Article XIII(5) that the first Registrar should be appointed for not less than five and not more than ten years; it referred this provision to the Drafting Committee. In addition, it decided to authorise the future Preparatory Commission to introduce two or more languages at such time as this may become feasible from an economic point of view.

6. The Commission adopted paragraphs 1-3 of Article XVII without any change. With regard to paragraph 4, it agreed that the amount of insurance should be determined by the Supervisory Authority. Since no consensus was reached as to whether the liability of the Registrar should be limited or unlimited, the Commission adjourned its decision on this matter to a later time.

7. With regard to Article XVIII, the Commission agreed that the costs of the participation of States in the work of the Supervisory Authority should not be recovered from the International Registry fees; however, the costs of its Secretariat should be reflected in these fees. The Conference should adopt a Resolution designed to support the participation of developing countries in the process of the establishment of the international registration system. In paragraph 2 of Article XVIII the Commission decided to substitute "Registrar" for "service provider". It referred this provision to the Drafting Committee, asking it in particular to improve the wording of the last part of the sentence, so as to allow the Registrar to operate for a reasonable profit.

8. The Commission referred Article XIX to the Drafting Committee in order to reflect the proposals from the USA and Canada regarding the description of railway rolling stock in paragraph 2, which should correspond to the description of railway rolling stock for the purposes of the agreement.

9. The Commission reverted to Article XX and decided, in addition to the deletions (of paragraphs (f) and (i) and of the words "or regulations" in the final sentence) already decided upon, to delete paragraphs (a), (b), (c), (d) and (h) and sent this Article back to the Drafting Committee.

10. On a preliminary reading of the draft final provisions other than Article XXV as recommended by the Final Clauses Committee, the Conference favoured adoption of the proposed Articles XXI, XXII, XXIV, XXVI, XXVII, XXVIII, XXIX, XXX, XXXI, XXXII, XXXIII and XXXIV, with the deletion of paragraph 2 of Article XXIX and paragraph 4 of Article XXX, clarifications and additions to Articles XXI, XXVI, XXXIV and the witness clause.

11. The Conference referred Articles XXIX(3) and XXXII to the Drafting Committee; in the latter, it was to be clarified whether a consequence of a State Party's denunciation of the Cape Town Convention would be the denunciation of the Rail Protocol for that Party.

12. The Conference recognised that, with the insertion of a sub-paragraph (b) in Article XXIII, there was no longer any reason for extension, from three to six months, of the time needed after the deposit of the fourth instrument of ratification for the Protocol's entry into force. It referred this provision to the Drafting Committee following a recommendation by the Reporter.