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Working Party on Rail Transport

Group of Experts on the Permanent Identification of Railway Rolling Stock

Fourth session

Geneva, 13–14 September 2021

Item 2 (c) and (d) of the provisional agenda

Development of the permanent marking of the Unique Rail Vehicle Identification System:

Development of solutions and Development of the framework

Model Rules on Permanent Identification of Railway Rolling Stock

Transmitted by the Rail Working Group

I. General remarks

1. The Rail Working Group (RWG) welcomes the proposal from the Russian Federation set out in informal document SC.2/PIRRS No. 1 (2021) entitled “Model rules: according to the system of unique identification of rail vehicle” to the 3rd session of the GE PIRRS, further referred to as “the document”. It is also most grateful for the commentary of OTIF on this proposal, dated 14 June 2021, with which we broadly agree.

2. It is enormously helpful to have a draft to review. In our view however there is a differentiation to be made between the implementation of the URVIS numbering system and how it operates on the one side and on the other the creation of a set of rules or guidelines for the permanent marking of rolling stock with the URVIS number. So, for example, the definition of railway rolling stock is contained in the Luxembourg Rail Protocol itself and there is no scope for private parties to be able to amend terms of the Protocol. The definition of the URVIS numbering system and its operation is already contained in the regulations applicable to the international registry. Although these regulations are still in draft form (the latest draft having been circulated recently) and again these cannot be modified through the amendment of the rules that are now being considered, we would also respectfully suggest that this is beyond the mandate of the Group of Experts. But this is not to say that the Group cannot have influence on the terms of the regulations and any recommendations, based on the current working draft, would be welcomed.

3. In addition, contractual agreements between creditors and debtors cannot bind the registrar at the international registry, not least because the registrar is not a party to the agreement or the model rules and its responsibilities are solely governed by, or pursuant to, the regulations issued from time to time by the Supervisory Authority.

II. Specific remarks

4. In the draft attachment, following the example of the Russian Federation, we have made detailed proposals as to how we suggest the rules should be set out which makes it easier for the Group to visualise our suggestions. We have deliberately taken into account the helpful practical suggestions from the Russian Federation in relation to the marking of the railway rolling stock and the comments of OTIF.
5. We also retained the description of the document being a set of model rules. However, this description could be seen by some as being unduly prescriptive and an alternative title could be a “code of practice”. Of course, if the Group prefers this alternative, it will be easy to make any necessary amendments throughout the draft.
6. Our proposed draft deliberately separates the practical description of the marker, in the appendix, from the text of the rules so that any revision of the model rules can potentially just relate to a modification of the appendix and not the substantive text.
7. We have differentiated between the debtor and the keeper. Sometimes this will be the same party but not always where there is a chain of transactions (for example a headlease and sublease where the sublessee may be the keeper but the sublessor will be a debtor but will not have physical possession of the rolling stock).
8. We have identified a potential issue for entities claiming and wishing to register a non-consensual right or interest on an item of railway rolling stock under Article 40 of the Convention as applied by a declaration made by a contracting state – for example where a party asserts a lien under a court order permitting attachment of an item of railway rolling stock in partial or full satisfaction of a legal judgement – where the URVIS identifier has not yet been affixed to the item. In this case there needs to be a mechanism whereby the keeper of the item concerned can be required to mark the item in accordance with these rules, failing which the claimant would, as a practical matter, be unable to register and perfect the non-consensual right or interest. We have addressed this in Article 5. There is a delicate question to be discussed as to whether the claimant has the right to (and indeed is able to) enforce compliance by the parties as a third-party beneficiary under these rules.
9. The creditor is dependent on the debtor complying with the Rules. We have inserted as Article 6 suggestions as to how the creditor may ensure compliance. We would assume that, by incorporating the Rules by reference into any lease or secured credit agreement, the failure of the debtor to comply would be an event of default under such agreement, subject to the contractually agreed notice periods.
10. We consider it essential that there is a mechanism for the revision of the rules from time to time and this is covered in Article 7. We fully understand that our suggestion is dependent on the UNECE’s acceptance of this proposal. Similarly, the list of proposed members of the committee is an initial suggestion. It would be subject to the willingness of the respective organisations to participate in the committee and should be further discussed within the Group of Experts.
11. In the appendix to the attached draft, we have left open for debate three alternatives as to how the initial plate should appear. Option 1 is the cheapest and simplest option, but the other options would be more desirable through giving uninformed observers a clear explanation of the purpose of the marker. Alternatively, the Rules could leave the three options in as alternatives for the parties to choose.

Annex**Attachment**

**Suggested Model Rules
on the Permanent Identification of Railway Rolling Stock**

[Code of Practice]

Model Rules on the Permanent Identification of Railway Rolling Stock

(First edition – 2021)

Contents

	<i>Page</i>
1. Introduction	4
2. Definitions.....	4
3. Application.....	5
4. Permanent Marking of Railway Rolling Stock.....	5
5. Unilateral registrations	6
6. Creditor rights	6
7. Revision of the Rules	6
Appendix	8

1. Introduction

These Model Rules are issued under the auspices of the United Nations Economic Commission for Europe, Inland Transport Committee (Working Party on Rail Transport) (UNECE ITC) and are to be referred to as the Model Rules on the Permanent Identification of Railway Rolling Stock or the PIRRS Rules and hereinafter referred to as the Rules).

The PIRRS Rules have been translated into Russian and French and are available on the website of the UNECE ITC [insert URL]

The UNECE ITC recommends that all parties wishing to incorporate the Rules into their contracts use the following standard clause:

English

“The parties to this agreement agree that the Model Rules on the Permanent Identification of Railway Rolling Stock, issued under the auspices of the United Nations Economic Commission for Europe, Inland Transport Committee (Working Party on Rail Transport), as at the date of this agreement, are to be incorporated by reference into this agreement subject to any elections, derogations or modifications as set out herein.”

[Add equivalent French and Russian texts]

2. Definitions

“Contracting State” means a state that has ratified or adopted the Convention and the Protocol;

“Convention” means the Convention on International Interests in Mobile Equipment adopted in Cape Town in November 2001;

“Item” shall mean an item of railway rolling stock as defined in the regulations;

“Keeper” shall mean the party that has physical possession of an item of railway rolling stock at the time of determination;

“Protocol” means the Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Railway Rolling Stock, adopted in Luxembourg in February 2007;

“Railway rolling stock” shall have the meaning set forth in the Protocol and an “item of railway rolling stock” shall have the meaning set forth in the regulations;

“Registrar” shall mean the registrar appointed by the Supervisory Authority from time to time to operate the International Registry;

“Regulations” means the regulations for the International Registry issued by the Supervisory Authority under Article 17(2) (d) of the Convention and the Protocol and any procedures agreed thereunder by the Supervisory Authority in each case in force as of the date of these Rules;

“Revisions committee” shall have the meaning set forth in Article 7 of these Rules;

“Unilateral registration” shall have the meaning ascribed to it in the regulations;

“Unilateral registrant” means the public or private entity entitled to register a non-consensual right or interest pursuant to Article 40 of the Convention as applied pursuant to a declaration made by a Contracting State;

“URVIS identifier” shall have the meaning set forth in the regulations;

“URVIS marker” means the physical marking system to show URVIS identifier in accordance with the specifications set out in the appendix hereto.

and the terms “Supervisory Authority” and “International Registry” and “situated” shall have the meanings given in the Convention as modified by the Protocol. The terms “creditor” and

“debtor shall have the meaning ascribed to them in the Convention save that they shall be deemed to include a respectively a seller and a purchaser of an item.

3. Application

3.1 It is a requirement for the registration of an item at the International Registry, pursuant to the Protocol and the regulations, that the URVIS identifier is affixed permanently to such item.

3.2 The Rules, where adopted by parties, apply regardless of whether one or more parties are situated in a Contracting State.

3.3 In the event of any conflict between the Rules and the Protocol or the regulations, the Protocol and the regulations shall prevail.

3.4 Nothing in these Rules shall prevent parties from establishing additional requirements to those set out herein.

3.5 Nothing in these Rules shall prevent the operation and use of an item of railway rolling stock for commercial and other purposes, subject to registration in accordance with the requirements of the national legislation of the country of purchase or operation of such item.

3.6 The URVIS identifier and its marking on railway rolling stock is additional to the current numbering systems applied in accordance with applicable legislation and does not replace the currently existing information systems used in countries for the operation of railway rolling stock.

3.7 Where the keeper is not a party or debtor, the debtor shall ensure that the keeper complies with the Rules.

4. Permanent Marking of Railway Rolling Stock

4.1 Unless otherwise agreed between the parties, the debtor or its agent shall apply for the allocation of the URVIS identifier by the Registrar, if not already allocated, as well as the cost of the URVIS marker and its affixing to an item. The URVIS identifier may be obtained either from the Registrar or a company or agency appointed by the Registrar as a distributor of the URVIS identifier.

4.2 Once the debtor or its agent is allocated an URVIS identifier for an item, such item shall be marked by the debtor (or at debtor's request the keeper if the debtor is not the keeper) with the URVIS marker showing the URVIS identifier allocated by the Registrar for such item. The debtor's obligation shall arise and continue regardless of whether an international interest or notice of sale is registered in relation to an item at the International Registry unless otherwise agreed between the parties.

4.3 Once allocated to an item, the URVIS identifier may not be attached to or associated with any other item.

4.4 The URVIS marker shall be fixed permanently either through adhesive, permanent bolts, rivet or weld, to at least two sides of an item in a clearly visible position. The debtor and keeper may not remove the URVIS marker in the event of a discharge of a registration at the International Registry in relation to an item.

4.5 The debtor shall ensure that the fixation shall be in full compliance with any applicable local, national or international rules or guidelines regarding alteration of the item due to such fixation.

4.6 Only one URVIS identifier may be allocated and affixed to an item during its lifetime regardless of any modification, rebuild, damage or other alteration to such item.

4.7 In the event of any loss of the URVIS marker for an item or damage to the item or to the URVIS marker resulting in the URVIS marker being obscured or rendering the URVIS identifier human unreadable, the debtor agrees to ensure that the keeper of such item shall within 10 days of its discovery of such loss or damage replace or otherwise rectify the URVIS

marker to comply with these Rules provided that the URVIS identifier thereon shall not change.

4.8 The debtor shall promptly notify the creditor when the URVIS identifier is affixed to an item and of any damage to, or replacement of, the URVIS marker.

4.9 Nothing herein shall preclude the debtor or keeper adding information on the URVIS marker on an item in addition to that required in accordance with these Rules.

4.10 The costs for compliance with this Article shall be borne by the debtor unless otherwise agreed between the parties.

5. Unilateral registrations

5.1. The parties agree that if a unilateral registrant wishes to register a unilateral registration against an item in accordance with the regulations and no URVIS identifier is affixed to such item, they shall cause the keeper to affix an URVIS identifier to such item by way of an URVIS marker on the creditor, debtor or keeper receiving a request to do so from the unilateral registrant provided that

(a) the cost of obtaining the URVIS identifier from the Registrar and the reasonable cost of obtaining and affixing the URVIS marker to the item, shall be for the account of the unilateral registrant; and

(b) the agreement of the parties and the action taken by the keeper to comply with the request of the unilateral registrant does not in any way indicate their acceptance of the validity or legitimacy of the unilateral registration or the rights on the item claimed by the unilateral registrant.

5.2 The parties agree that a unilateral registrant may enforce its rights under Article 5.1 as a third-party beneficiary.

6. Creditor rights

6.1 The creditor may, from time to time, request written confirmation from the debtor of its compliance with its obligations hereunder and may, at reasonable intervals and giving reasonable notice, directly, or indirectly through an appointed auditor, inspect an item to ensure that it is marked in accordance with the Rules.

6.2 In the event that the debtor has not marked the item in accordance with the Rules, the creditor shall have the right, but not the obligation, to comply on behalf of the debtor and the creditors' reasonable costs in so doing will be for the account of the debtor. If the creditor exercises such right, the debtor shall ensure that the creditor or its agents have access to the item within 10 calendar days for such purpose.

6.3 The creditor's rights hereunder are assignable without the debtor's consent, but any assignment must be notified to the debtor in writing to be enforceable by the assignee.

7. Revision of the Rules

7.1 The UNECE ITC shall establish a revisions committee to monitor and propose amendments to these Rules from time to time taking into account experience of operation of the Rules, legal and technological developments and industry comments and best practice and changes to the regulations. The revisions committee shall include representatives from the following organisations:

- Intergovernmental Organisation for International Carriage by Rail (OTIF)
- European Union Agency for Railways (EUAR)
- The Organization for Cooperation of Railways (OSJD)
- International Union of Railways (UIC)

- Association of American Railroads (AAR)
- Rail Working Group
- The Registrar

and such other stakeholder representative organisations as the revisions committee considers appropriate from time to time subject to the respective organisations' consent to participate. A representative from each of UNECE ITC and UNIDROIT shall participate *ex officio*.

7.2 The revisions committee shall have its seat in Geneva and will set its own rules of procedure.

7.3 Any amendments to the Rules shall be proposed by the revisions committee to the UNECE ITC which shall consider such proposed amendments and shall come into effect 30 days after their approval and publication on the UNECE ITC website.

Appendix

to the model rules on the permanent identification of railway rolling stock establishing the permanent marking system referred to therein under Article 4 thereof.

Issue Date: 2021

Basic Principles:

1. URVIS identifier to be imprinted/engraved on a plate (the URVIS marker).
2. URVIS identifier on the plate to be identical with the one issued and confirmed by the international registry.
3. Plate to be permanently affixed on an item, preferably close to other identification/running numbers and may not obscure other numbers or identification marks.
4. Minimum of two plates to be fixed on the opposite sides of the item.
5. Plate to have a standardized shape, size/dimensions, colour, font of the print as set out below
6. Bar codes and QR codes may be added to the plate but the URVIS identifier must be human readable
7. Electronic/GPS based tagging chips, radio-frequency identification (RFID) systems or other IoT solutions to be in addition and not replacement of the plate.
8. The plate may be sourced from the Registrar, if available or other industry suppliers as long as the plate is in compliance with the minimum parameters as set out in this appendix.

Dimensions:

Dimensions on the plate should be minimum 15cm x 10 cm and guarantee:

- visibility of the full URVIS identifier from a reasonable (i.e. not less than 1 metre) distance;
- optional space for security markers, e.g. QR code, holographic image, etc.

Material:

The material utilised for the plate should withstand:

- variety of weather conditions, including extreme temperatures;
- daily rail operations and maintenance procedures, including shunting, cleaning, gauge change and shall not discolour, rust or corrode.

Colour:

Plate to be silver with black embossed or stamped (raised) lettering.

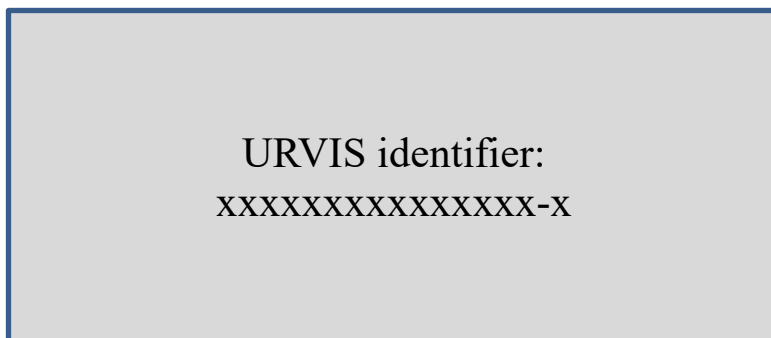
Font:

Times New Roman, at least 24 point.

Minimum information on the plate:

[Option 1: the URVIS identifier only, i.e. “URVIS identifier: xxxxxxxxxxxxxxxx-x”

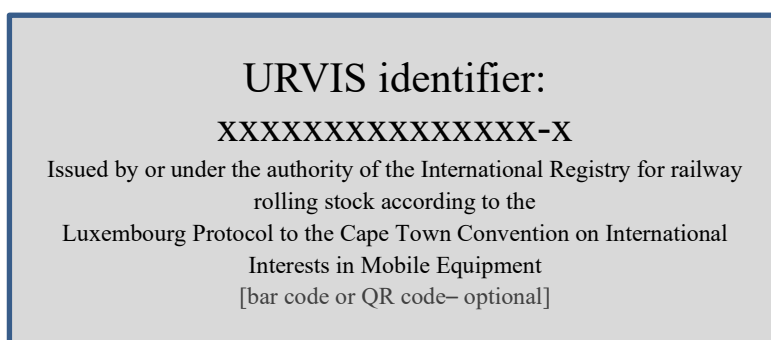
Visualisation (Option 1):



Option 2: URVIS identifier and detailed marking in English language, which includes:

- Clarification text, e.g. “Issued by or under the authority of the International Registry for railway rolling stock according to the Luxembourg Protocol to the Cape Town Convention on International Interests in Mobile Equipment”
- Optional: Manufacturer’s Name, Serial Number, Other information

Visualisation (Option 2):



Option 3: URVIS identifier and detailed marking of Option 2 in the following languages: English, French, Russian.
