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**ORGANISATION INTERGOUVERNEMENTALE POUR LES
TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBahnVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR INTERNATIONAL
CARRIAGE BY RAIL**

DRAFT

REQUEST FOR PROPOSAL

(RFP)

FOR THE

INTERNATIONAL REGISTRY

1. BACKGROUND

1.1 The Convention on International Interests in Mobile Equipment, and the Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Railway Rolling Stock (hereinafter referred to as the Convention and the Protocol, respectively), contemplate the establishment of a notice-based, electronic International Registry, the basic features and implications of which are summarized in Attachment 1 hereto. Article 17(2)i of the Convention contemplates an efficiently operated notice-based, electronic International Registry that will perform the functions assigned by the Convention, Protocol, and Regulations. Article 19(2) provides that registration is effective upon entry of required information into the International Registry database so as to be searchable. Articles XIV(1) and XV(4) of the Protocol require unique search criteria for items of railway rolling stock and that the International Registry be operated on a twenty-four hour basis. It is clear that a state-of-the-art, computer-based technology is needed for the International Registry to fulfil its functions.

2. KEY CONCEPTS

2.1 All States of the following groups will receive the Request for Proposal (RFP)

- 1) States that participated in the diplomatic Conference to Adopt a Rail Protocol to the Convention on International Interests in Mobile Equipment held in Luxembourg from 12 to 23 February 2007,
- 2) UNIDROIT Member States not yet covered by 1,
- 3) OTIF Member States not yet covered by 1 and 2,
- 4) EU Member States not yet covered by 1 , 2 and 3 and
- 5) other states according to obligations in the framework of regional agreements such as NAFTA or ASEAN.

It will also be posted on the Websites of UNIDROIT and OTIF and, subject to availability of sufficient funding, may be advertised in one or two suitable worldwide publications. Proposals to serve as Registrar may be made by public or private entities.

2.2 Any bid to serve as Registrar shall:

- 1) identify the envisaged location of the Registry,

- 2) describe any undertakings the State of the location of the Registry is prepared to make with respect to the establishment and operation of the Registry and
- 3) provide assurances from that State with respect to its intended undertakings in compliance with all relevant provisions of the Convention and the Protocol.

2.3 The Preparatory Commission for the Establishment of the International Registry, hereinafter referred to as the Preparatory Commission, will fulfil the necessary tasks so that the International Registry for railway rolling stock is fully operational in accordance with Articles XII(8) and XXIII(1)b of the Protocol. The first and subsequent appointments of Registrars will be performed according to Article XII(11) of the Protocol and the rules of procedure for the Supervisory Authority. The Preparatory Commission is in particular responsible for making the first regulations dealing with the operation of the International Registry. The International Registry will be operated by way of reference to the “Basic Features of the International Registry” found at Attachment 1, and the “Requirements Document (RD) for the International Registry” found at Attachment 2.

2.4 The appointment of the first Registrar shall be for a period of not less than five and not more than ten years consistent with Article XII(11) of the Protocol.

2.5 The appointed Registrar will ensure that the International Registry is operational not later than twelve (12) months from the date that formal notice to proceed is provided by the Preparatory Commission.

2.6 This RFP contemplates both technical and cost/price proposals by interested entities¹. Details will be addressed at paragraphs 3 through 5 below. Each technical proposal will be evaluated and ranked in accordance with established criteria. A cost/price proposal is requested for information purposes and will be considered by the Preparatory Commission in making its selection. The selection will be based on best value considering technical and cost/price factors.

2.7 The Preparatory Commission will enter into negotiations with the entity that has the highest ranked technical proposal. Negotiations will include applicable terms and conditions to be incorporated in the appointment of the Registrar. Cost/price will be discussed, including

¹ The Requirements Document at paragraph 3 requires proposals to address comprehensively financing of the system and exceptions for cost recovery. Financing of the system is considered integral to cost/price considerations.

reimbursement as may be appropriate for start-up costs. The transaction fees to be established by the Regulations to be charged users of the International Registry shall also be discussed.

2.8 Key milestone events and time lines/dates are provided as follows. Dates are provided for planning purposes only and are subject to revision.

Event	Time Lines/Dates
1) Issuance of RFP	By X.X.200X
2) Receipt of Proposals	By X.X.200X
3) Evaluation of proposals and recommended award	By X.X.200X
4) Commencement of test phase	After award and notice to proceed
5) Completion of test phase and notice to proceed	No later than 8 month after award
6) Implementation and Commissioning ²	No later than 12 month after award and notice to proceed

² For discussion on Commissioning see the Requirements Document for the International Registry paragraph 4.

3. SUBMISSIONS

3.1 Proposals should address both technical capabilities, experience and cost/price issues as discussed in paragraphs 4 and 5 below. Proposals will be treated as confidential and will be reviewed and evaluated for negotiations and award purposes only.

3.2 Proposals should be addressed to the UNIDROIT secretariat at [address] so as to be received not later than [date].

4. TECHNICAL PROPOSAL

4.1 Each technical proposal must address the following:

- 1) The Requirements Document (Attachment 2) in detail;
- 2) Responsible Entity and Locations of Facilities;
 - a) Articles 16 and 17 of the Convention refer to the International Registry, to the Supervisory Authority that establishes it and to the Registrar that ensures its efficient operation (collectively the international registration system). The Registrar will therefore play a critical role in the functional design and operation of the International Registry. Therefore, for purposes herein, a bidder may assume that it, if selected for Registrar will play a significant role in developing the functional design and operation of the International Registry.
 - b) Proposals shall describe the entity responsible for the International Registry and its proposed location and facilities.
- 3) Technical Capabilities and Capacities;
 - a) Technical Capabilities. Each bidder shall address its possession of the unique technical capabilities required to perform along with its implementation approach in fulfilling the requirements contained in the RD (Attachment 2).
 - b) Technical Capacities. Each bidder shall address its possession of the unique technical capacities required to perform along with its implementation approach in fulfilling the requirements contained in the RD (Attachment 2).

- 4) A Business Model. Ref. RD, paragraph 3, (Attachment 2) and
- 5) Past Performance and Experience. Each bidder shall identify all relevant past and present performance experience with designing, implementing and managing systems of similar complexity and magnitude. The information provided should demonstrate the bidder's ability to perform the proposed effort.

5. COST/PRICE PROPOSAL

5.1 Each bidder is requested to provide a comprehensive schedule of estimated costs and prices in EURO and discuss the assumptions on which such estimates are based. The following list may be referred to as appropriate:

5.2 Start up costs

Function related:

- | | | |
|-----|-------------------------------|---|
| (1) | Hardware design | € |
| (2) | Hardware assembly | € |
| (3) | Software design | € |
| (4) | Software creation | € |
| (5) | Communication system design | € |
| (6) | Communication system creation | € |
| (7) | Security system design | € |
| (8) | Security system creation | € |
| (9) | Real time backup system | € |

Site and Facility Related:

- | | | |
|------|---|---|
| (10) | Site acquisition cost (already owned, by purchase, or by lease) | € |
| (11) | Site preparation | € |
| (12) | Site construction | € |
| (13) | Furniture and equipment | € |

Miscellaneous		
(14)	Permits	€
(15)	Insurance	€
(16)	Legal expenses	€
(17)	Other	€
Total:		€
5.3	Yearly Operating Cost of International Registry	€
(1)	Personnel (wages and benefits for Registry operations)	€
(2)	Hardware replacement, update and maintenance (including personnel)	€
(3)	Software replacement, update and maintenance (including personnel)	€
(4)	Building maintenance and building janitorial (including personnel)	€
(5)	Building security (including personnel)	€
(6)	Rent (see 5.2(9) above)	€
(7)	Utilities	€
(8)	Insurance	€
(9)	Taxes	€
(10)	Permit Renewals	€
(11)	Legal expenses	€
(12)	Other	€
Total		€

6. INSTRUCTIONS FOR SUBMISSION OF PROPOSALS

The instructions for submission of technical and cost/price proposals are contained at Attachment 3.

7. EVALUATION

7.1 Proposals will be evaluated in accordance with a preestablished Evaluation Plan found at Attachment 4.

7.2 Proposals will be evaluated and award made on the basis of overall best value.

7.3 The proposals will be evaluated, rated, and scored based on submissions and subject to consideration of the following factors

- 1) technical requirements,
- 2) technical capabilities and capacities,
- 3) business model,
- 4) past performance and experience and
- 5) cost/price.

Attachment 1 Basic features of the International Registry

Attachment 2 Requirements Document (RD) for the International Registry

Attachment 3 Instructions for submission of technical and cost/price proposals

Attachment 4 Evaluation Plan

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**BASIC FEATURES
OF THE INTERNATIONAL
REGISTRY (IR)**

This document is intended to clarify basic conceptual matters of the International Registry (IR) impacting the system's essential purpose and architecture.

Part I will summarize the basic characteristics of the IR.

Part II will describe the salient features of the convention/protocol relating to the IR.

Part III will, drawing upon Parts I and II, address select operational aspects impacting the design of the IR.

Part I Summary of Basic Characteristics of the IR

1. The IR will be organized by item of railway rolling stock, not debtor. With respect to ratification instruments and their associated declarations, it will be organized by Contracting State.

Notes: Registrations³ and searches will be made, and their results issued, with reference to the identification numbers of items of railway rolling stock⁴. The convention/protocol secondarily contemplates the publicity of ratification instruments, including declarations by Contracting States, via the IR. These will be organized and searchable by reference to Contracting States.

2. The IR will be wholly electronic.

Notes: Registrations and searches will be made solely by electronic means⁵.

3. The IR will serve the sole function of establishing priorities among competing, valid claims. The act of registration neither presupposes nor is an aspect of that essential validity.

Notes: The act of registration establishes first-in-time priority, should the interest notified in the registration exist, or, in the case of prospective interests, be created⁶. Registration does not presuppose a validly existing underlying interest. Nor does registration constitute a step in the process of creating an interest. It simply provides an objective rule-of-decision in the case of competing, valid claims.

4. Priority will be established on a first-in-time basis. First-in-time refers to when an interest is searchable in the IR.

Notes: This rule permits searching parties to rely on search results, thus enhancing the overall utility of the IR. Registrants, theoretically burdened by this rule, can self-protect by searching for their own registrations prior to advancing funds or relinquishing possession, as the case may be. An advanced electronic system, coupled

³ Unless specified otherwise, references herein to "registrations" include amendments, extensions and discharges. *Cf.* convention, Art. 16(3).

⁴ See protocol, Art. XIV.

⁵ The standard means of providing registration confirmations and search results will be electronic.

⁶ The criteria for valid creation are set out in the texts, e.g., convention, Arts. 2 (international interests) and 32 (assignments) and protocol, Chapter III (registry provisions), as supplemented by applicable law, to the extent required by convention Art. 5(2).

with the ability to register prospective interests, each contemplated by the convention/protocol, permits such registrant self-protection.

5. The IR will be a minimalist, notice-based system.

Notes: The absolute minimum information needed to put all searchers on notice of the asserted or contemplated existence of interests will be permitted and required:

- (i) names,
- (ii) contact details,
- (iii) type (e.g., "international interest" or "contract of sale") and duration of registration, and
- (iv) asset description. Documents may not be registered.

6. The registrar's role will be administrative, not interventionist, with risk management addressed through system design.

Notes: The registrar will not assess the accuracy of submitted information or the authority of a registrant to act. However, the system will be designed with a view towards

- (i) minimizing the risks of unauthorized registrations bearing in mind the minimalist nature of the system, and
- (ii) preventing registrations which are manifestly implausible or which otherwise do not contain the required information.

7. The supervisory authority will supervise the registrar and the operation of the IR in accordance with the basic principles of the convention/protocol as summarized herein.

Notes: The supervisory authority, after consultations, promulgates regulations. Upon request, it may provide the registrar with guidance. Finally, it will establish procedures for dealing with complaints. The foregoing, however, is understood in a broader context. The supervisory authority is to ensure that an efficient notice-based registration system exists.

8. Contracting States may designate (exclusive or nonexclusive) entry points⁷ for transmission of registration information for select items of railway rolling stock, and such entry points are not part of the IR as such.

Notes: In effect, such entry points or their designees are users, like any others, with the sole additional characteristic that Contracting States designating such entry points may impose conditions to be satisfied prior to transmission of such registration information to the IR. An entry point designation shall not, however, restrict the ability of parties to directly search the IR. The liability, if any, of entry point operators for their errors and omissions, is determined by applicable national law, not the convention/protocol.

⁷ See protocol, Art. XIII

Part II Salient Features of the Convention/Protocol relating to the IR

1. Various interests⁸ in items of railway rolling stock⁹ are prioritized¹⁰ on a first-in-time registration basis¹¹, by virtue of the convention's basic priority rules¹². These rules are objective and not dependent on a registrant's lack of knowledge of other interests. Parties searching the IR can rely on the results. The only other rights or interests that may affect such priority are certain non-consensual ones¹³, declared by a Contracting State¹⁴ as preferential¹⁵ and so publicized in the IR¹⁶.

⁸ International interests (security agreements, title reservation agreements and leases) and related subrogations, subordinations and assignments, together with non-consensual rights and interests and notices of national interests, and contracts of sale, *see* convention, Art. 16(1).

⁹ vehicles movable on a fixed railway track or directly on, above or below a guideway, together with traction systems, engines, brakes, axles, bogies, pantographs, accessories and other components, equipment and parts, in each case installed on or incorporated in the vehicles, and together with all data, manuals and records relating thereto, *see* protocol, Art. I(2)e.

¹⁰ If an interest was not validly created in accordance with the convention and applicable law, *see* Part I note 4 and accompanying text, it cannot be the subject of a priority dispute. For example, if the debtor lacked title or did not have the company power to enter into the transaction, it would not have the "power to dispose" of the item, as required by convention, Art. 7(b). Thus, the fact that a creditor's international interest was registered would have no legal significance.

¹¹ This includes "prospective" interests (intended future interests, *see* convention Art. 1(x)-(y)), which do not exist at the time of registration. For example, if a prospective international interest is registered and subsequently becomes an international interest, its priority is determined from the date of initial registration, *see* convention, Art. 18(3). To ensure fairness in this regard, a debtor can require a creditor to discharge a prospective interest any time prior to that creditor's giving or committing to give value, *see* convention, Art. 25(2).

¹² *See* convention, Art 29. In addition, registration of international interests prior to the commencement of insolvency proceedings ensures that they will be effective in such proceedings.

¹³ *See* convention Arts. 1(s) (any right "conferred by law" to secure an obligation). A decision was made not to attempt to internationally harmonize priority rules in this sensitive area, thus avoiding the parallel problems encountered in several other international treaties.

¹⁴ Yet, States must declare which nationally preferred non-consensual rights and interests have priority without registration and are to retain that preference. They are bound by that declaration, and may only amend it prospectively. However, States may make a general and/or prospective declaration, *see* convention, Art. 40.

¹⁵ Convention, Art. 40 implies that the priority of such declared categories is established as of the time a declaration is "deposited" with the depositary. This standard is at odds with the "notice-based" nature of the system, which would require such priority from the time the declaration is "searchable" in the IR. This would be consistent with the thinking underlying convention, Art. 19.

¹⁶ *See id.* Art. 23. More broadly, it is contemplated that the IR would publicize the contents of all ratification instruments (received from the depositary), including the various declarations contained therein, *see* protocol, Art. XXX.

2. Registration status is obtained by electronic entry into an IR¹⁷, operated by a registrar appointed¹⁸ and supervised by a supervisory authority¹⁹ (that, in turn, periodically reports to Contracting States). Supervisory activities include the issuance of binding operational regulations, the establishment of complaint procedures, and the ability to provide requested guidance²⁰.
3. In view of time differences and the need to avoid preferred regions, the IR will be operated on a twenty-four (24) hours a day²¹, seven (7) days a week basis.
4. As the convention/protocol concerns itself with interests in specified items of railway rolling stock, not general railway financing, registrations and searches are made against such items, not the debtor's name. The criterion for an item is the identification number, supplemented (as necessary) in the regulations to ensure uniqueness²².
5. First-in-time denotes the time when a registration is "searchable," meaning when it is stored in durable form, may be electronically accessed at the IR, and is assigned a sequentially ordered file number²³.

¹⁷ Created on the legal authority of the convention/protocol, and its contemplated establishment by the supervisory authority, *see* convention, Arts. 1(p), 16(1) and 17(2)(a).

¹⁸ Art. XII(11) of the protocol contemplates an initial appointment for a period of not less than five and not more than ten years with the possibility of reappointments.

¹⁹ See convention Art 17(1) and protocol, Art. XII (designation of supervisory authority).

²⁰ See convention Art, 17(2) (responsibilities of the supervisory authority). Intentionally omitted from these supervisory functions is the power to require or permit the registrar to change any data relating to a registration.

²¹ See protocol, Art. XV(4). Without qualifying the basic idea of all-time-zone coverage, some limited flexibility need to be added to this requirement reflecting technical, cost driven industry standards, see Para. 5.2 of the Requirements Document. Designated entry points need to be operated at least during working hours in their respective territories, see protocol, Art. XIII(1).

²² See convention, Art. 18(1) and 19(6) and protocol, Art. XIV(1) and XV(1).

²³ See convention, Art. 19(3)a. The effect of this provision is to permit searching parties to rely on their search results. Undisclosed submitted entries will not constitute "registered interests" for priority purposes.

6. The convention specifies who is legally entitled to submit registrations²⁴. In other words, if a party lacking that legal entitlement submits a registration, while it may appear on a search result, it would have no legal effect. Whether the submitting party is so entitled is justiciable: if in dispute, the matter – which may be legal, factual or both - will be settled by a court with jurisdiction under the convention²⁵. It will not be determined by the *ex ante* (time of registration) intervention²⁶ of the operator or supervisor of the IR.
7. The implications of the preceding point – that in a limited-purpose, efficient electronic registry, there will be no human vetting – extend to other legal and factual questions. These include whether
 - (i) the convention/protocol applies at all²⁷,
 - (ii) a party has the rights that it purports to dispose²⁸, and
 - (iii) the submissions were made by a party with internal power to act²⁹. Courts will settle these matters, in the case of dispute. Such matters will not be addressed by the registrar as part of its administrative function.

²⁴ The detailed provisions are contained in convention, Art. 20. The general rule - applicable to international interests, including prospective interests and assignments - is that either transaction party may register with the written consent of the other. Subordinations, subrogations and discharges are made by the party divesting itself of rights. Non-consensual rights and interests are registrable by the holder thereof.

²⁵ A claim that a registration was made by a party lacking the legal entitlement to do so would be a "claim brought under this [c]onvention" for purposes of the jurisdiction provisions. See convention, Chapter III (jurisdiction).

²⁶ See, e.g., convention, Art. 18(2) (no "evidence" that a "consent to registration" is required as a condition to effecting a registration).

²⁷ Whether an object meets the definition of an "item of railway rolling stock", *see supra* note 7 and accompanying text, and whether one of the convention/protocol's connecting factors has been satisfied (debtor being "situated" in a Contracting State, or, where relevant, actual or contemplated nationality registration therein), *see* convention, Arts. 4 and 5.

²⁸ Whether, for example, the debtor has title to the item. If not, an international interest would not be constituted. See convention, Art. 7(b).

²⁹ Whether, for example, the debtor had received its required internal company or corporate approvals. If not, an international interest would not be constituted. See *id.*

8. Accordingly, the conditions to registration, namely, the items to be satisfied prior to registration, are minimal³⁰. Compliance with the electronic application form³¹, together with a payment of the required fee³², is all that is required. Registrations that do not satisfy the foregoing conditions will be electronically rejected.
9. A different approach has been taken where a Contracting State declares that registrations may or must be submitted through a designated entry point in its territory³³.
10. Registrations will remain effective until the earlier of
 - (i) their discharge, and
 - (ii) the expiry of the period specified in the registration³⁴.Discharge is the responsibility of the beneficiary of a registration³⁵, where the underlying obligations have been fully performed³⁶. In the case of discharge and amendment technological systems will be put in place to minimize the risk of unauthorized action by requiring a matching of the electronic signature of the initial registrant and that of the amending or discharging party.

³⁰ This concept (often couched in terms of "efficiency") has been at the center of all developmental work on the proposed IR. Its remains a principal objective in finalizing the system, see Paras. 2.3 and 3 of the Requirements Document.

³¹ Limited, additional information (i.e., the initial registration file details) will be required on electronic forms for discharge and amendment.

³² A cost-recovery fee schedule will be set by the supervisory authority, see convention, Art. 17(2)(h) and protocol, Art. XVI. Payment mechanism (debit arrangements and/or accounts) are matters of system design and/or of operational regulations.

³³ Permitted by convention, Art. 18(5) and protocol, Art. XIII. Such entities are not part of the IR, in particular for purposes of liability, insurance requirements and fee arrangements. More broadly, the operators of the designated entry points are not subject to oversight and supervision by the supervisory authority (but, like any user, would need to comply with applicable use-related regulations).

³⁴ See convention, Art. 21.

³⁵ This creditor responsibility is without prejudice to a debtor's right to seek an in personam order against the creditor by a court with general jurisdiction under the convention/protocol, or, in the circumstances and by the court specified in convention Art. 44, relating to an order directly binding on the registrar.

³⁶ See convention, Arts. 20(3) (discharge by the favoured party) and 25 (requiring discharge by the party entitled to do so in specified circumstances).

11. The supervisory authority will do all things necessary to ensure that an efficient notice-based registration system exists³⁷. It will own all proprietary rights in the data and archives of the IR³⁸ have international legal personality³⁹, and its secretariat shall enjoy appropriate immunity from legal or administrative processes⁴⁰.
12. The registrar will ensure efficient operation of the IR, and perform the functions assigned to it by the convention/protocol⁴¹ and the regulations⁴². It will be liable for compensatory damages for losses suffered by its error or omission or a malfunction of the registration system. The registrar shall procure full insurance or financial guarantee covering its liability⁴³.

³⁷ See convention, Art. 17(2)(i). This standard is simultaneously broad and confined. It is broad in the sense of providing the supervisory authority with plenary powers, subject to its obligation to periodically report to Contracting States. Yet it is confined. That power must be exercised in service of a registry system with certain characteristics: efficiency, electronics and notice-based priorities.

³⁸ See convention, Art. 17(4). Questions relating to rights in the hardware and software will be addressed in the process of establishing the IR.

³⁹ See convention, Art. 27(1). Legal personality may be necessary in case the supervisory authority be required to take juridical action under national law (e.g., contracting or litigating in respect of its proprietary rights in the IR).

⁴⁰ See convention, Art. 27(2) and protocol, Art. XII(9).

⁴¹ Expressly including the issuance of search results, see convention, Art. 22, which shall constitute prima facie proof of their contents, see convention, Art. 24.

⁴² See convention, Art. 17(5).

⁴³ See convention, Art. 28(4) and protocol, Art. XV(7).

13. Courts of the place of the registrar's centre of administration⁴⁴ have limited but exclusive⁴⁵ jurisdiction over the registrar. It is limited to
 - (i) matters relating to the registrar's liability,
 - (ii) requiring discharges of registrations where parties required to so discharge no longer exist or cannot be found, and
 - (iii) situations where a person fails to comply with an order of a court having jurisdiction under the convention/protocol⁴⁶.
 - (iv) Otherwise, and unless waived by the supervisory authority, the registrar will have functional immunity, and its assets and materials will be immune from seizure or other legal or administrative process.

Part III Select Operational Aspects impacting the design of the IR

1. In view of the importance of search results, descriptive, synoptic search certificates will be issued chronologically summarizing all registrations, amendments and discharges⁴⁷ with respect to the searched item of railway rolling stock.
2. The system will be designed to ensure chronological processing⁴⁸, and, correspondingly, sequential numbering of registrations. Precise timing information will be electronically contained in registrations and searches.
3. The contemplated wholly electronic, notice-based registry system produces significant efficiencies, including lower registry operating and insurance costs. The feasibility of multiple electronic signatures/consents will be explored, and, in any event, appropriate access and tracing procedures will be employed. State-of-the-art preservation and back-up systems, error-correction techniques, and security precautions will be utilized⁴⁹.

⁴⁴ See convention, Art. 44(1). This is a functional rather than formal standard (e.g. the statutory seat or place of incorporation), selected in light of the practicalities of the subject litigation.

⁴⁵ In this context, exclusive jurisdiction is required to avoid the prospect of inconsistent orders from different national courts, each purporting to bind the registrar in connection with its treaty-based, international responsibilities. See convention, Art. 44(4).

⁴⁶ See convention, Art. 44(1)-(3). The limited nature of this jurisdiction reflects the basic philosophy of having courts with jurisdiction under the convention issue in personam orders against transaction parties (requiring them to take actions with respect to the IR), rather than having courts issue orders binding upon the registry. The residual jurisdiction noted in Art. 44 addresses only the identified problems in that regime.

⁴⁷ Whether or not the discharged registration is archived. This approach will permit a complete history of registered interests in the object, which may prove useful in the case of subsequent disputes.

⁴⁸ In line with convention, Art. 18(3).

⁴⁹ The minimum requirements for these items are set out in the Paras. 5-7 of the Requirements Document.

4. There is no need for extraneous information in registrations, given the limited function of the IR (notification and priority). The operational objectives of the IR will thus be achieved by requiring only⁵⁰ the
 - (i) names,
 - (ii) contact details,
 - (iii) type and duration of registration, and
 - (iv) specific description of the item
5. Electronic forms will be standardized and formalized, and all registrations, searches and certifications will be made using such forms.
6. Particularly during the start-up phase, there will be the need for an assistance desk to address pressing procedural or technical queries⁵¹.

The question of registry language(s) shall be addressed by the selected Registrar who will have to consider a timeline for the inclusion of other than the initially selected language to be used for registrations and searches⁵². From an operational perspective, should more than one language be employed, plurilingual electronic forms, with standardized translations, are required.

⁵⁰ While there is no legal reason to include nationality registration information on the registration form, as the convention/protocol establishes priority on the basis of registrations by identification number, in line with the text's definition of railway rolling stock, certain practical advantages may be obtained from the inclusion of this information even if only for information and research purposes. However, since such information need not be updated, it may become inaccurate.

⁵¹ See Para 5.4 of the Requirements Document.

⁵² See Resolution N° 1 of the Diplomatic Conference.

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**REQUIREMENTS DOCUMENT
(RD)
FOR THE
INTERNATIONAL REGISTRY**

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1. OVERVIEW

This is the baseline Requirements Document (RD) for the International Registry (IR).

2. GENERAL DESCRIPTION OF THE IR REQUIREMENTS (also see Attachment 1 to the Request for Proposal entitled “Basic Features of the International Registry”)

2.1 Convention and Protocol

To facilitate asset-based financing of mobile equipment, States adopted on November 16th 2001 at Cape Town a Convention on International Interests in Mobile Equipment which entered into force on April 1st 2004. Along with the Convention a Protocol specific to aircraft equipment was adopted which entered into force on March 1st 2006. In a Diplomatic Conference held in Luxembourg States adopted on February 23rd 2007 a further instrument based on the same Convention namely the Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Railway Rolling Stock has not yet entered into force. The Convention and Protocols contemplate the establishment and operation of modern, electronic International Registries which enable lenders, conditional sellers, lessors and others to register their interests electronically. These interests should then be immediately searchable electronically from anywhere.

2.2 The Supervisory Authority and Registrar

The Supervisory Authority has responsibility for the establishment of the IR and the appointment and dismissal of the Registrar who in turn will operate and maintain the System.

2.3 Additional Characteristics

It is anticipated that the IR eventually will be responsible for registering thousands of interests in items of railway rolling stock annually. It is anticipated that registrations will contain only minimal information, such as names and addresses of parties, unique description of item, and type of transaction, e.g., security agreement, title reservation, agreement, or leasing agreement. It will be a notice-based, electronic system. The IR should be able to accommodate a multiple number of simultaneous entries and reviews. It is extremely important that interests be entered quickly and accurately, and that they be searchable immediately worldwide.

3. OBJECTIVES AND BUSINESS MODEL

The objectives are to provide an efficient, reliable and secure electronic registration system as contemplated by the Convention and Luxembourg Protocol. Bidders submitting proposals shall set out in detail their business model and methods to achieve these objectives, which shall describe all steps from the requirements analysis (and the assumptions made therein) through the delivery and implementation. Without limiting the foregoing such proposal shall comprehensively address risk assessment and management as well as the financing of the system and expectations for cost recovery⁵³.

⁵³ For key terms with respect to cost recovery see the Glossary under 10. below.

4. TESTING AND IMPLEMENTATION SCHEDULE

The test phase will be conducted no more than 6 months after contract award/notice to proceed to ensure that the IR will meet requirements. Completion of the test phase shall be no more than 8 months after contract award/notice to proceed. Full implementation and commissioning⁵⁴ of the System will be completed following a successful completion of the test phase no more than 12 months after contract award/notice to proceed.

5. TECHNICAL REQUIREMENTS

Languages of the Registry⁵⁵

The following assumptions shall be made in consideration of the language(s) of the IR:

- Functions will relate to input, output, and customer services.
- It will be a one-language system, based on the Latin alphabet, or
- The system will support two languages, based on the Latin alphabet.

5.1 The System shall require the implementation of a scaleable, i.e., would provide easy modification without the necessity of redesigning the entire system, Internet or Intranet architecture allowing for powerful servers dedicated to managing disk drives, printers, or network traffic, etc. This involves the construction or lease of a centralized, highly available client/server data center.

5.2 The IR will be required to be available 97 percent (which is the industry standard) of the 7-day workweek for full users to accommodate operational facilities in all time zones. The 3 percent non-availability contemplates maintenance, power outages, hardware problems, etc. Maintenance shall not be performed during peak periods as determined by statistical data, see under 7.2.5 below.

5.3 The System shall ensure that data is not manipulated, unauthorized registrations are not added and the data is not altered.

5.4 The minimum requirements for technical support will be to provide a help desk to users 24 hours, 7 days a week via telephone and/or electronic mail. Support will be provided for any problems due to technical difficulties including but not limited to telecommunication failures, software problems, etc.

5.5 The System shall have contingency and data recovery plans that ensure the integrity and restoration of the system. This plan would include, but not be limited to the following:

⁵⁴ Commissioning is likely to involve issuance of a document by the Supervisory Authority, which certifies the System and authorizes the continuing performance of tasks related to the operation of the IR. It is understood that commissioning of the System may take up to 3 months after implementation. However, the System must be implemented and operational within 12 months after Contract Award/Notice to Proceed.

⁵⁵ Bidders are invited to comment generally about technical and cost factors related to developing a system in multiple languages.

5.5.1 A document tracking capability for documents entered by users⁵⁶.

5.5.2 A tracking capability to ensure an historical record of information and to allow point-in-time reporting of all data manipulation activities performed by each user, including date and time stamps, user identification, Internet Protocol (IP) addresses and dynamic Internet addresses on every record.

5.5.3 The IR shall maintain current and historical tables. In the case of a system failure, the System shall be required to restore records to the point-in-time the system failed.

5.5.4 The System shall have the capability to restore, in accordance with the Regulations one or more records, e.g., accidental release of an interest.

5.5.5 The records will be stored on electronic media in a secure area at a separate location from the hardware and archived in reasonable time intervals for the System.

5.6 Historical records shall be stored in the database. Any records deleted from the database, e.g., interests, which have been released, shall be archived indefinitely.

5.7 The sizing information/requirements identified in Table 1 are approximate.

Table 1

TRANSACTIONS⁵⁷	ITEMS TYPE X	ITEMS TYPE Y	ITEMS TYPE Z	OTHER ITEMS	TOTALS⁵⁸
Totals (over a twenty year period)	X filings Y searches Z certificates issued	X filings Y searches Z certificates issued	X filings Y searches Z certificates issued	X filings Y searches Z certificates issued	X filings Y searches Z certificates issued
Totals per year (assuming proportionate distribution of total)	X filings Y searches Z certificates issued	X filings Y searches Z certificates issued	X filings Y searches Z certificates issued	X filings Y searches Z certificates issued	X filings Y searches Z certificates issued

⁵⁶ The term users, as mentioned throughout the RD, shall mean either those who register international interests or those conducting searches within the IR.

⁵⁷ Transactions consist of secured debt financing, financial leases, operating leases, assignments or sales of interests in the foregoing transactions, contracts of sale and voluntary restatements of existing transactions.

⁵⁸ Proposals should consider the effect of increases in total transactions each year. For example, consider a ten percent increase each year for ten years.

6. OPERATIONAL REQUIREMENTS

Users of the IR will be:

- the general public including, in particular, railway operators and financial institutions and their legal counsel, and,
- State authorities to the extent declared by States under the Luxembourg Protocol.

The IR shall provide:

6.1 A web site for the single point of entry. The system must accommodate Internet browsers released within the past two years.

6.2 Users will have the ability to review accuracy of data entry before the record is saved to the database.

6.3 A means to share information between processes, edit data upon entry, and reject, record, report bad data and prevent it from being stored in the database.

6.4 A method to issue a search certificate for each registration, providing for on-line display and printing by user.

6.5 A means for ensuring data cannot be altered once stored in the database.

6.6 A mechanism for registry personnel to correct errors.

6.7 A provision for multiple screens for data entry related to registration of a single interest.

6.8 The capability to archive records automatically in the database for registrations that are no longer valid in accordance with established criteria (to be determined).

6.9 Currency of the fees to be in 'x' country's currency.

6.10 Entry of information by users connected to an electronic signature having the following characteristics:

6.10.1 Uniqueness and non-repudiation of signature

6.10.2 Irrefutability of signature⁵⁹

6.10.3 Linkage of signature to document

6.10.4 Inalterability of document

⁵⁹ e.g. biometrics. Bidder should consider and explain the relationship between higher levels of irrefutability and cost.

6.10.5 Capable of accommodating

- (1) one electronic signature (e.g., the creditor), and
- (2) two electronic signatures (e.g., debtor and creditor).

6.11 Ad hoc reporting capabilities.

6.12 User's ability to download and/or query information, e.g., via file transfers, spreadsheets, for use with other software packages and automated systems.

6.13 The capability for printing information, e.g., reports, documents, certificates, etc.

6.14 An on-line help function to provide documentation for a particular data element on the screen.

6.15 On-line users' assistance to explain the capability of the system, including search and indexing capabilities.

6.16 Training for all users, including but not limited to, web-based tutorial training developed by the systems developer, which will guide the user through the process of entering and viewing transactions.

6.17 Validations on a secure system of the user's credit card or direct debit information prior to registration of an interest in an item of railway rolling stock.

6.18 A method for collecting fees for viewing, if any.

7. SYSTEM REQUIREMENTS

The following are the minimum system requirements. The developer may add to these requirements by enhancements to the system.

7.1 Environment

7.1.1 Telecommunications

The system shall provide:

7.1.1.1 Accessibility using a current standard telecommunications protocol, e.g., Transmission Control Protocol/Internet Protocol (TCP/IP), and the World Wide Web. The protocol defines a common set of rules and signals that enables computers on the network to communicate.

7.1.1.2 Version-level compatibility between the server operating system (OS), the server Relational Database Management System (RDBMS), and the software.

7.1.1.3 Fault-tolerance, i.e., the ability of a system to respond to an unexpected hardware or software failure.

7.1.1.4 A web-based system, with multi-tiered architecture, having the flexibility to optimize performance and reduce resource bottlenecks. For example, these components may include:

7.1.1.4.1 The presentation processing logic layer (the application code that interacts with a device, e.g., end user's terminal).

7.1.1.4.2 The business processing logic layer (the application code that uses the input data to perform business tasks).

7.1.1.4.3 The data manipulation logic layer (the application code that manipulates data within the application).

7.1.1.4.4 The database management system processing layer (the actual processing of the database data that is performed by the Database Management System (DBMS)).

7.1.2 Workstation

7.1.2.1 The system shall provide user's access through common Internet browser products, released within the past two years. The Internet browser must be capable of employing data encryption, with the ability to access an Internet or Intranet web site.

7.1.2.2 The system shall be compatible with a workstation or resources found in a typical office automation setting and an upward compatible processor to allow software to run not only on the computer for which it was designed, but also on newer, larger, and more powerful models without converting the data.

7.1.3 Database

The system shall provide:

7.1.3.1 Standard data access methods to ensure adequate system and data availability for system users.

7.1.3.2 Data integrity and processing consistency by defining system level validation rules and business logic at the server database.

7.1.3.3 Capabilities to perform hot backups to ensure high system availability while supporting up-to-the-minute database recovery.

7.1.3.4 Enhanced configuration management support through a centralized implementation of business logic.

7.1.3.5 Flexible access by users needing data access through other commercial-off-the-shelf software packages, e.g., downloads to manipulate data on a spreadsheet.

7.1.3.6 Automated tools to assist in analyzing the data in respect to system performance.

7.1.4 Security

The system's security shall provide:

7.1.4.1 Firewalls to prevent unauthorized access to or from private networks. For greater security, data will be encrypted.

7.1.4.2 Access to authorized users only.

7.1.4.3 An automatic feature to logoff users because of inactivity.

7.1.4.4 Limitations of access to appropriate system components, i.e., administrative database functions, data entry, views, or reporting of users based on roles, privileges, and access availability.

7.1.4.5 Limitation of access for users to the Operating System. Access will be only available through the presentation layer.

7.1.4.6 Software encryption processing that occurs between the client application layer and the software server. All transactions for registration will utilize data encryption while in transmission.

7.1.4.7 An on-line method to create and automatically assign user identifications and passwords.

7.1.4.8 The system shall include automated tools to record pertinent data in respect of the security and to provide assistance in analyzing this data.

7.1.4.9 Physical access security shall be required to the central service site.

7.1.5 Maintenance

Maintenance will include, but not be limited to hardware, software or telecommunication problems. All maintenance problems are expected to be resolved in a timely manner to ensure system availability in accordance with 5.2. If problems cannot be resolved immediately, users must be notified that the problem is being addressed and the approximate time it will take to resolve it.

7.1.6 Connect Times

Connect times should allow for time outs that tolerate time for States where it takes more time to download web pages. The System shall provide for Intranet⁶⁰ connect times for an entire action regardless of the number of users, as follows:

7.1.6.1 Direct Connect - less than or equal to 5 seconds (e.g. T1).

7.1.6.2 Remote Dial-Up – less than or equal to 20 seconds (e.g. ISDN or modem).

7.2 Application Infrastructure

7.2.1 Data

7.2.1.1 The data elements to be accommodated and maintained in the database may include:

- 7.2.1.1.1 Names of parties (two or more)
- 7.2.1.1.2 Addresses of parties
- 7.2.1.1.3 Description of object by manufacturer's make, model, and serial number
- 7.2.1.1.4 Date of transaction
- 7.2.1.1.5 Types of transaction, e.g., security agreement, lease, conditional sale, etc.
- 7.2.1.1.6 Fees collected (describes the fee and amount in 'x' country's currency)
- 7.2.1.1.7 Date/time stamps, user identifications, and IP addresses
- 7.2.1.1.8 Other information

7.2.1.2 The system shall provide:

- 7.2.1.2.1 The flexibility to add new data fields to support changes in the System processes and regulatory requirements without excessive data modification.
- 7.2.1.2.2 Unlimited capacity for new data elements in the database.
- 7.2.1.2.3 Configuration management for software releases.

7.2.2 Edits

7.2.2.1 The database shall have editing capability to display guidance when incorrect data is entered using list boxes, text boxes, check boxes or other GUI standards, to ensure compliance with Regulations, e.g., collection of fees.

7.2.2.2 The system shall ensure no interest may be registered until the fee has been paid.

7.2.2.3 The system shall validate new data to ensure accuracy and consistency with existing data. For example, inconsistency of new data may prevent its entry into the system, such as inconsistency of assignment information with original interest.

⁶⁰ Internet connect time standards will not be imposed on the system.

7.2.3 Applications

The system shall reliably support On-Line Transaction Processing (OLTP), transaction-based access where the computer responds immediately to user requests, including rollbacks and commits, i.e., rollback is the process of restoring protected resources to the state at the last commit point and commit is the process that causes the changes to the protected resources to become permanent. Data entry locking shall occur at the row level and provide other users and processes read access to “in-transaction” data.

7.2.4 Interfaces

The system shall provide the capability for reasonable state-of-the-art interfacing to heterogeneous (unlike) systems and databases.

7.2.5 Reporting

The system shall be capable of generating statistical and ad hoc reports, e.g. statistical reports on peak periods or selected transactions processed in a particular period.

7.2.6 Support

As part of the user’s logon process, a configuration management function shall be included that allows for automatic distribution of software enhancements from servers to client workstations.

8. TECHNOLOGY ENHANCEMENTS

Technology enhancements are contemplated and encouraged in order for the system to remain current with advancing technology.

9. TECHNICAL TERMS

9.1	DBMS	Database Management System
9.2	GUI	Graphical User Interface
9.3	IP	Internet Protocol
9.4	ISDN	Integrated Services Digital Network
9.5	KBPS	Kilobytes per second
9.6	OLTP	On-Line Transaction Processing
9.7	OS	Operating System
9.8	RDBMS	Relational Database Management System
9.9	TCP/IP	Transmission Control Protocol/Internet Protocol
9.10	T1	Fixed bandwidth service to provide point-to-point links at a constant transmission rate of 1.544Mbps.

10. GLOSSARY RELATED TO FUNDING AND COST MATTERS

- 10.1 **Cost Recovery Mechanism** mechanism for recovery of Registry Costs through user fees, as adjusted from time to time.
- 10.2 **Forecast Period** length of time over which Registry Costs will be recovered through user fees.
- 10.3 **Initial Funding Costs** costs to create the IR.
- 10.4 **Operating Funding Costs** expenses relating to the ongoing operation and supervision of the IR.
- 10.5 **Registry Costs** Initial Funding Costs plus Operational Funding Costs.
- 10.6 **Registry Cost Assumptions** assumptions relating to Registry Costs used in setting, and, as appropriate, adjusting fee schedules.
- 10.7 **Registry Use Assumptions** assumptions relating to the use of the IR in setting, and, as appropriate, adjusting fee schedules.

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**INSTRUCTIONS FOR
SUBMISSION OF PROPOSALS
(TECHNICAL AND COST/PRICE)
FOR THE INTERNATIONAL
REGISTRY**

1. PROPOSAL CONTENT AND FORMAT

- 1.1. The overall proposal consists of two physically separate and detachable volumes, individually titled as follows:

VOLUME I - TECHNICAL PROPOSAL – The technical proposal is to be submitted in five copies as separate and complete sections for each of the Technical Evaluation Factors outlined in Technical Evaluation Plan (TEP).

VOLUME II - COST/PRICE PROPOSAL - The cost/price proposal is to be submitted separately also in five copies and will address estimated costs and prices as outlined in paragraph 5 of the RFP.

1.2 Bidders are to submit a proposal which is clear and comprehensive without the need for additional explanation or information⁶¹. The Supervisory Authority may make a final determination of the successful bidder solely on the basis of the proposal as initially submitted without requesting further information. Therefore, bidders are encouraged to provide their best proposal at the time of the initial submission. If it is deemed necessary, however, the Evaluation Team, at its discretion, may request additional information from bidders concerning clarification without substantially changing any proposal as submitted. The Evaluation Team may communicate with one or more bidders at any time during the solicitation and evaluation process.

- 1.3 To facilitate the evaluation, proposals are to be written clearly and concisely, neatly organized, indexed (cross-indexed as appropriate), and assembled in a logical manner. The pages of each volume are to be numbered (consecutively) and dated.

2. PREPARATION OF VOLUME I (Technical)

2.1 The technical proposal must be sufficiently detailed to enable technically oriented personnel to make a thorough evaluation as to both its validity and practicality in order to arrive at a sound determination as to whether the proposed services meet the requirements set out in the Requirements Document (RD), Attachment 2 to the RFP. The proposal must be specific, detailed and complete to clearly and fully demonstrate that the bidder has a thorough understanding of the requirements for, and the technical problems inherent in, providing services of the character, scope and magnitude outlined in the RD.

2.2 Statements that the bidder understands, can, or will comply with all requirements of the RD, and statements paraphrasing the RD requirements or parts thereof, are considered insufficient. Phrases such as “standard procedures will be employed,” or “well-known techniques will be used,” etc., will be considered insufficient.

⁶¹ Prior to negotiations with the awardee, no bidder will be permitted to modify its offer without permission with respect to any relevant award factor. No request to modify will be considered until all other bidders have first been notified and been given an opportunity to make similar modification. After the evaluation process is completed and a selection has been made, negotiations with the awardee may be conducted. These negotiations may lead to modifications.

2.3 Proposals should contain a table of contents and a matrix tracing the requirements in English of the RD to technical proposal content. Proposals shall be in narrative form, typewritten (no smaller than 12 point type), double spaced with 1" margins, on standard 8-1/2" x 11" or 8-1/4" x 11-3/4" (A4) letter size paper, and page numbers and date at the bottom of each page. Unnecessarily elaborate brochures or other presentations beyond that sufficient to present a complete and effective proposal are neither necessary nor desired.

2.4 The technical proposal will be limited to a total of 100 pages. Two-sided printing will be counted as 2 pages. Fold-outs will be counted as 2 pages.

3. PREPARATION OF VOLUME II (Cost/Price)

3.1 Each bidder must provide cost/price information to include sufficient details relating to the bidder's estimated price. As a minimum, cost/price information should address estimated costs and prices as outlined in paragraph 5 of the RFP.

In addition to the number of paper copies set forth in paragraph 1.1 above, the bidder should submit, on an electronic storage device (e.g. CD or DVD) a copy of any spreadsheet(s) containing calculations used to produce the written cost/price information.

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**EVALUATION PLAN FOR THE
INTERNATIONAL REGISTRY**

1. OVERVIEW

- 1.1 This Evaluation Plan constitutes the guidance to be used by Evaluation Team members in the evaluation of all technical and cost/price proposals received in response to the Request for Proposal (RFP) for the International Registry.
- 1.2 Evaluation Team
 - 1.2.1 An Evaluation Team (ET) will be comprised of individuals possessing both knowledge and expertise in the area in which they will perform their evaluation (i.e., technical or cost/price). No ET member shall have a conflict of interest, objectively assessed, and, without limiting the foregoing, each ET member shall declare that no such conflict exists.
 - 1.2.2 The ET will be made up of between to members.
 - 1.2.3 The ET will consist of a leader, technical subteam leader, cost/price subteam leader, and evaluators, and will be supported by advisors. The individual identified as the leader of the ET will possess an appropriate level of knowledge and experience with the evaluation process.
 - 1.2.4 The ET members will be located at the same physical location during the evaluation process.
- 1.3 Proposals submitted in response to the RFP will be evaluated for the purpose of assisting the selection authority, to establish which offer constitutes the overall best value.
- 1.4 Summary results of the ET evaluations will be memorialized in the form of a written report. That report will provide a recommendation as to which offer represents the overall best value.
- 1.5 Overall best value means that an award may be made to a bidder other than the responsible bidder submitting the lowest cost/price proposal. As a result, best value determinations envision trade-offs between non-cost/price (hereafter collectively referred to as “technical”) factors and cost/price factors. In this instance, technical factors are considered to be more important than cost/price.

2. GENERAL GUIDELINES & RESPONSIBILITIES

- 2.1 ET members shall accomplish their respective evaluation in strict accordance with this plan.
- 2.2 ET Leader Responsibilities.

The ET leader responsibilities and duties include:

 - 2.2.1 Exercising oversight of all aspects of the ET;
 - 2.2.2 Scheduling and conducting ET meetings;
 - 2.2.3 Safeguarding all documentation;
 - 2.2.4 Tabulating the results of team members' ratings;
 - 2.2.5 Review of all documentation and proposals submitted by the bidders; and

- 2.2.6 Consolidating all comments from the subteam leaders and providing them in the form of a written report (See 1.4).

2.3 ET Subteam Leader Responsibilities

The ET subteam leaders will assist the leader in accomplishing his or her responsibilities, and will provide the daily direction to members of their subteams. The ET subteam leader responsibilities and duties include:

- 2.3.1 Developing documents (e.g., worksheets) to be used in the evaluation process as well as safeguards to insure against improper disclosure of information and conflicts of interest.
- 2.3.2 Exercising oversight of all procedural and administrative aspects of the ET subteam;
- 2.3.3 Scheduling and conducting ET subteam meetings;
- 2.3.4 Safeguarding all documentation;
- 2.3.5 Evaluating and reviewing all documentation and proposals submitted by the bidders;
- 2.3.6 Providing worksheets for respective area for evaluation;
- 2.3.7 Ensuring that subteam members evaluations are in conformance with the evaluation criteria guidelines;
- 2.3.8 Facilitating discussions to arrive at consensus among subteam members;
(Note: The ET subteam leader will review the appropriate evaluation results. If the worksheets indicate disagreement/inconsistency, the subteam leader will attempt to resolve the disagreement/inconsistency. The subteam leader will consult with evaluators individually or in a group and try to reach consensus. If the subteam leader is unable to reach consensus among the evaluators, the subteam leader will make the final decision. Whenever the subteam leader makes a decision under these provisions, the subteam leader will provide an explanation in the final subteam report as to the rationale for the decision).
- 2.3.9 Consolidating and summarizing all comments from ET subteam members and providing them in a report to the ET leader;
- 2.3.10 Preparing and providing briefings to explain ET subteam findings, when requested.

2.4 ET Evaluator Responsibilities.

The ET evaluator responsibilities and duties include:

- 2.4.1 Assisting the ET in the evaluation process by providing specialized expertise as applicable;
- 2.4.2 Reviewing all proposals and documentation, submitted by the bidders in accordance with instructions of the ET subteam leader;
- 2.4.3 Evaluating proposals and submitting findings in writing to the ET subteam leader;
- 2.4.4 Completing evaluation worksheets for the specific area assigned to them; and
- 2.4.5 Ensuring that the proposals, documentation and evaluation comments in their possession are safeguarded.

2.5 Advisors

Advisors may be appointed to provide expert guidance to the ET and subteams in specialized areas. They will participate on terms, and in the manner, established by the ET or Subteam leader, as the case may be. Advisors have the same responsibilities concerning safeguarding of documentation and disclosure of information as ET members. They shall declare any conflict of interest. They have no voice in making recommendations.

- 2.6 Rating Process.
- 2.6.1 ET members are to have read and become familiar with this Evaluation Plan (EP), the RFP and the accompanying Requirements Document (RD) prior to undertaking the evaluation of any proposal.
- 2.6.2 Each ET evaluator shall evaluate and rate each proposal independently.
- 2.6.3 Because of the sensitive nature of information provided in each bidder's proposal, ET members shall safeguard the proposals to insure confidentiality.
- 2.6.4 Each ET evaluator's rating shall be independent and ratings assigned shall not be compared with that of the other ET evaluators. At this point, the bidder's rating is tentative. Each ET evaluator shall keep a record of rating rationale in the "Comments" sheet (see Form B) provided and be prepared to discuss the rationale for ratings assigned.
- 2.6.5 For the final combined subteam rating of each proposal, significant deviations as between individual evaluators will be reconciled during a subteam meeting and a consensus rating determined (see "Note" at 2.3.8 above).
- 2.6.6 After completing evaluations of individual proposals, bidder' proposals may be compared with one another.
- 2.6.7 It is most important that individual ET evaluators must make a careful written evaluation of the significant strengths, weaknesses, deficiencies, ambiguities, and risks found in each proposal with respect to each evaluation factor (see 4.1). Such documentation must be made concurrent with the evaluation of each proposal and be made a part of the ET's written report. All evaluations, working papers, worksheets, etc., shall be signed and dated by ET evaluators and shall be retained by the ET leader.
- 2.6.8 The terms strength, weakness, deficiency, ambiguity, and risk are defined as follow:
- 2.6.8.1 Strength. A strength is an element of a bidder's proposal that brings added value beyond that of a minimum requirement set out in the RFP (further reference to RFP is intended to include the RD).
- 2.6.8.2 Weakness. A weakness is an element of a bidder's proposal that, while meeting the minimum requirements of the RFP, is presented in such a manner as to afford the bidder a less than desirable competitive position.
- 2.6.8.3 Deficiency. A deficiency is a failure to address a substantial requirement of the RFP which, unless corrected, would render the proposal unacceptable.
- 2.6.8.4 Ambiguity. An ambiguity refers to a relevant proposal statement that is incomplete or otherwise so vague that its intended meaning is unclear and, consequently, complete evaluation of the proposal would not be possible without obtaining a clarification.
- 2.6.8.5 Risk. Risk represents a potential danger to successful performance of the requirement.
- 2.6.9 Upon conclusion of all evaluations, the ET will provide its recommendation to the Supervisory Authority, who will make the final selection.

3. THE EVALUATION PROCESS

3.1 The following items shall be addressed in order, during the evaluation process.

3.1.1 Clarifications of Ambiguities

As the initial evaluation is conducted, offers will be reviewed for the purpose of identifying any ambiguities that need clarification before actual initial detailed evaluation begins. Statements in various parts of the proposal or a description of statement(s) that cannot be understood shall be identified so that any clarifying information can be obtained promptly from bidders. If possible, and to save time,

initial detailed evaluations should proceed without responses to ambiguities. Additional clarifications may be made throughout the process, if required. Bidder's responses to the request for clarifications should be considered by the ET in the initial evaluation ratings.

3.1.2 Initial Detailed Evaluations

This evaluation is for the purpose of rating each proposal, and identifying weaknesses and deficiencies for possible identification to the bidders should discussions become necessary. In addition, significant strengths should be identified in the ET report.

3.1.3 Communications with Bidders

Communications (discussions) with bidders is permitted. Communications with a bidder or bidders may be desired where there is a need to seek clarification of ambiguities or to address weaknesses/deficiencies and cost/price issues. Communications will be conducted in such a manner that avoids disclosure of the relative strengths and weaknesses of competing bidders, technical information or ideas, or cost/price data from any other bidder's proposal. ET members may be requested to participate in communications. The ET leader shall be the spokesperson for the ET.

3.1.4 Prior to negotiations with the awardee, no bidder will be permitted to modify its offer without permission with respect to any relevant award factor. No request to modify will be considered until all other bidders have first been notified and been given an opportunity to make similar modification.

3.1.5 Final Evaluation

Following any communications with a bidder resulting in clarification of ambiguities, corrections of weaknesses or deficiencies, or in the case of cost proposals any adjustments of price, the ET will conduct a final evaluation of the proposal. All supplemental information or revision to proposals shall be taken into account. Revised ratings will be accomplished, where appropriate, using the same designated evaluation procedures. All revised ratings shall be supported by notes containing comments and rationale. Results will be summarized and included in the ET's written report. The report shall, for each bidder, provide the evaluation results as determined by the evaluation factors for award.

3.1.6 After the evaluation process is completed and a selection has been made, negotiations with the awardee may be conducted. These negotiations may lead to modifications.

4. TECHNICAL PROPOSAL EVALUATION

4.1 Each technical proposal submitted will be evaluated and scored by the ET technical subteam. The subteam will consider the following four (4) technical factors.

4.1.1 Technical requirements

4.1.2 Technical capabilities/capacity

4.1.3 Business model

4.1.4 Past performance and experience

4.2 Technical factors shall be equally weighted and shall be given equal consideration. Where sub-factors exist within a factor each sub-factor shall be equally weighted and shall be given equal consideration.

4.3 Technical evaluation rating

ET evaluators will evaluate and rate (score) each technical proposal using a numerical rating scale corresponding to a 4-point scale (4.0, 3.0, 2.0, 1.0, 0.0). Increments of .25

may be used. Each factor will necessarily be evaluated and scored using the same 4-point scale. In addition to scoring each technical proposal on each of the technical factors, each ET evaluator will descriptively support his/her numerical scoring of each technical factor by stating why each numerical score (other than 2.0) was given. For the final rating, any significant deviations will be reconciled and a consensus rating determined by the ET. The numerical ratings must support the following described assumptions:

A. Excellent (4.0)

All aspects of the evaluation factor are addressed in a highly competent and logical fashion. Information provided clearly demonstrates that requirements can be met in a manner that far exceeds minimums. Weaknesses are not evident to any degree.

B. Good (3.0)

All aspects of the evaluation factor are addressed in a highly competent and logical fashion. Information clearly demonstrates that requirements can be met in a manner, which exceeds minimums. Weaknesses, if evident, are insignificant.

C. Satisfactory (2.0)

All aspects of the evaluation factor are addressed in a competent and logical fashion. Information indicates that minimum requirements can be met. Any weaknesses will not seriously degrade performance, or can be corrected with reasonable effort.

D. Marginal (1.0)

Most aspects of the evaluation factors are addressed. However, information provided does not demonstrate that minimum requirements can be fully met. Weaknesses are significant and will require considerable effort to correct.

E. Unsatisfactory (0.0)

Fails to address key aspects of the evaluation factor. Information provided indicates that minimum requirements cannot be met. Submittal demonstrates a lack of understanding of requirements in major areas. Weaknesses are significant and will require major correction(s).

- 4.4 To facilitate the evaluation and scoring of each technical proposal, an "Individual Rating Sheet" (see Form A) should be used by each evaluator.
- 4.5 The ET subteam's consensus ratings will be summarized on the "Summary Rating Sheet" (see Form C) as prepared by the ET subteam leader. The ET Subteam Leader will check worksheets for accuracy and completeness. Consensus ratings of all bidders will be shown on the "Bidder Summary Scoring Sheet" (see Form D). (Additional worksheets may be developed to facilitate the scoring/rating process).
- 4.6 Evaluation Factors
Evaluation Factors 1 through 4 listed below are intended to determine the bidder's capabilities to effectively and efficiently accomplish the performance of the contract.

Factor 1: Technical requirements

Each proposal must demonstrate the bidder's knowledge and understanding of the technical requirements of the International Registry as set out in the Requirements Document (RD). Technical requirements involve: Technical Requirements, Operational Requirements, and System Requirements, identified in the RD at paragraphs 5, 6 and 7.

Subfactor 1-1: Technical Requirements

It is critical that the system developed by the bidder represent the latest state-of-the-art technology, e.g. scalable, web-based, 97 percent availability, data integrity, and data recovery. (Reference paragraph 5 of the RD).

Subfactor 1-2: Operational Requirements

It is critical that system developed by the bidder consider the usability of the system, e.g. users, integrity of the system, online help, reports, and other special requirements such as search certificate or electronic signatures. (Reference paragraph 6 of the RD).

Subfactor 1-3: System Requirements

It is critical that the system developers consider latest technology to give optimal performance in developing the system, e.g. telecommunications, database structure, security, system failover, maintenance, system performance, GUI standards, and interfaces. (Reference paragraph 7 of the RD).

Factor 2: Technical Capabilities & Capacities

Each proposal must address the bidder's unique capabilities and capacity necessary to functionally design and implement the International Registry Program contemplated by the RD.

Subfactor 2-1: Technical Capabilities

It is critical that the bidder addresses the capabilities (i.e., unique abilities, skills, competencies, etc.) it will bring to performance of the requirement, e.g., employees with special knowledge, skills and competencies having experience to oversee this type of project.

Subfactor 2-2: Technical Capacities

It is critical that the bidder addresses its capacity to accommodate a modern International Registry of the size, magnitude and complexity of that contemplated by the RD, e.g., the bidder has equipment that has the capacity to meet the requirements considering the size of data and state-of-the-art equipment that will enable the system to meet future requirements; bidder has a workforce or ability to provide a workforce necessary to fulfil the requirements of the International Registry System.

Factor 3: Business Model

Each proposal must present a Business Model as referenced in Paragraph 3 of the RD. The proposal should address the financing approach necessary to implement an International Registry.

Subfactor 3-1: Business Model

It is critical that the bidder set out, in detail, a business model that achieves an efficient, reliable and secure electronic registration system. The business model must describe all steps from the requirements analysis (and the assumptions made therein) through delivery and implementation of the system. It is critical that the business model comprehensively address risk assessment and management of the system.

Subfactor 3-2: Financing Approach

It is critical that the bidder set out a financing approach necessary to implement the International Registry. The bidder's financing approach must address expectations for cost recovery to include any reimbursement as may be appropriate for start-up costs as well as the need, if any, for establishment of transaction fees to be charged users of the International Registry.

Factor 4: Past Performance and Experience

Each proposal should identify all relevant past and present performance and experience involving implementing efforts similar to those anticipated with the International Registry.

Subfactor 4-1: Past Performance

It is critical that the bidder demonstrate/possess relevant past performance in the successful development of web-based electronic systems similar to the system described using the latest technology available. Past performance may be shown by references to past performance provided by persons who may associate with the bidder to provide contract services.

Subfactor 4-2: Experience

It is critical that the bidder's key personnel and any contract personnel possess the capability and experience in the development of web based systems, knowledge of telecommunication protocols, system security, system failover, and integration. A distinction must be made between past performance and experience. Past performance represents "how well" a bidder accomplished the effort. Experience means a bidder has "done it." Of additional importance is that past performance and experience must be current and relevant as well as comparable in scope and magnitude to that described in the PWS.

5. COST/PRICE PROPOSAL EVALUATION

- 5.1 The ET cost/price subteam will review, analyze and evaluate each cost/price proposal. Cost/price items described in paragraph 5 of the RFP may be helpful as to what to look for. Review, analysis and evaluation will be conducted to determine whether each bidder's proposal reflect both cost/price realism and cost/price reasonableness.
- 5.2 Cost/price realism means the costs/prices in a bidder's proposal:
 - (1) are realistic for the work to be performed;
 - (2) reflect a clear understanding of the requirements; and
 - (3) are consistent with the various elements of the bidder's technical proposal.
- 5.3 Cost/price reasonableness represents a cost/price that does not exceed that which would be incurred by a prudent person in the conduct of competitive business.
- 5.4 Determination by the subteam that the cost/price proposal does not reflect cost/pricing realism and cost/pricing reasonableness may be the basis for rejecting any proposal.

6. RISK ASSESSMENT

- 6.1 A risk assessment will be accomplished by the respective ET subteam for each bid based upon perceived risks associated with both the technical and cost/price proposal to ensure the satisfactory performance of any resultant contract for the International Registry. At the conclusion of the overall evaluation process (i.e., a qualitative evaluation of Factors 1, 2, 3 and 4 as well as related pricing), an overall risk assessment will be made by the ET.

- 6.2 Categories to be used in assessing risk are:
1. Little or no apparent risk,
 2. Low risk,
 3. Medium risk, or
 4. High risk

Individual Rating Sheet
Technical Evaluation Team

Bidder: _____ Evaluator: _____ Date: _____

FACTORS

RATING

Factor 1: Technical Requirements

Subfactor (1-1) Technical Requirements

Subfactor (1-2) Operational Requirements

Subfactor (1-3) System Requirements

Factor 2: Technical Capabilities & Capacities

Subfactor (2-1) Technical Capabilities

Subfactor (2-2) Technical Capacities

Factor 3: Business Model

Subfactor (3-1) Business Model

Subfactor (3-2) Financing Approach

Factor 4: Past Performance and Experience

Subfactor (4-1) Past Performance

Subfactor (4-2) Experience

Summary Rating Sheet
 Technical Evaluation Team

Bidder: _____

Date: _____

FACTORS	RATING					
	Rater 1	Rater 2	Rater 3	Total (1+2+3)	Avg Rating	Final Rating ⁶²
Factor 1: Technical Requirements						
Subfactor (1-1) Technical Requirements
Subfactor (1-2) Operational Requirements
Subfactor (1-3) System Requirements
Factor 2: Technical Capabilities & Capacities						
Subfactor (2-1) Technical Capabilities
Subfactor (2-2) Technical Capacities
Factor 3: Business Model						
Subfactor (3-1) Business Model
Subfactor (3-2) Financing Approach
Factor 4: Past Performance and Experience						
Subfactor (4-1) Past Performance
Subfactor (4-2) Experience

⁶² Final rating will be a consensus rating and may vary from the average rating. This will take into account discussion and agreement with respect to disparities in ratings among individual evaluators.

Bidder Summary Scoring Sheet
 Technical Evaluation Team

TET Lead: _____ **Date:** _____

FACTORS	Category Scores			
	Bidder _____	Bidder _____	Bidder _____	Bidder _____
Factor 1 Technical Requirements				
Factor 2 Technical Capabilities and Capacities				
Factor 3 Business Model				
Factor 4 Past Performance and Experience				