



www.railworkinggroup.org

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The Luxembourg Rail Protocol to the Cape Town Convention An important step forward for rolling stock manufacturers

What's happening? On 23rd February 2007, a Diplomatic Conference, sponsored jointly by UNIDROIT and OTIF and attended by 42 states and 12 international organisations, took a historic step by adopting the Luxembourg Rail Protocol to the Cape Town Treaty on International Interests in Mobile Equipment. The Protocol now proceeds to signature and ratification.

What will the Protocol do? It will create a world wide legal framework to recognise and regulate security interests of lenders, lessors and vendors selling under conditional sale agreements, where each are secured by rolling stock. It will provide a registry, accessible 24/7 via the internet, allowing these parties to register their interests and facilitating prospective creditors checking any rival claims to the equipment being financed

What will the protocol apply to? All rolling stock including trains, equipment running on rail tracks, trams, subway trains and light railway systems. Although the Protocol will be particularly helpful in respect of equipment which crosses borders, avoiding the present difficulties of security created under one law being challenged in the courts of another jurisdiction where the asset is located, it will also assist in domestic financing.

What will be the benefits to the industry? By reducing risk for rail equipment financiers, it will

- reduce the cost for operators significantly
- in some cases facilitate lending to customers where, up to now, their poor credit and/or the lack of a legal infrastructure prevented banks lending
- attract more private sector lenders into the market
- facilitate operating leases of rolling stock

thereby lowering barriers to entry into the industry for operators, making operators more competitive, reduce the dependency of state and private operators on state funding, leading to a more dynamic industry.

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Is the Protocol good news for rolling stock manufacturers? Absolutely. Our studies show that even in Western Europe, the Protocol will reduce the cost of borrowing by 0.5%, which translates to a 5% discount on the sale price over the term of a typical 10 year financing. This in turn should lead to more capital investment as operators look to acquire more equipment with private sector finance, new operators are attracted into the market as the need for initial capital reduces and operating leasing encourages the development of a second user market. Moreover, the Protocol will allow manufacturers to extend *secure* credit to customers and make it easier to sell off the financing.

What next? National Governments need to hear from the rail manufacturing sector that

- the Protocol will encourage more business, more capital investment and jobs
- it will create a vital support for new entrants into the rail sector leading to more competition and a dynamic renaissance of the rail sector, and
- gives valuable support for banks, operators and manufacturers working outside their home jurisdiction; and
- *they need to sign and ratify the Protocol*

For information on the Protocol www.railworkinggroup.org or contact howard.rosen@legalease.ch