THE 2001 CAPE TOWN CONVENTION
ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

RAIL WORKING GROUP

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WHY THE RAIL PROTOCOL MAKES SENSE FOR SINGLE/ISLAND JURISDICTIONS

The Luxembourg Rail Protocol was adopted on 23rd February 2007 at a diplomatic conference in Luxembourg. It is now proceeding to ratification by States. Although it will deliver specific benefits in relation to rolling stock actually crossing borders, the Protocol will also greatly assist manufacturers, banks, governments and operators even when the equipment cannot move on tracks across jurisdictional borders because it will apply depending on where the operator is based. These advantages can be summarised as follows:

1. **A major additional security for lenders and lessors** of rolling stock which will also allow notifications on change of title to be established after the Protocol comes into force. Most jurisdictions have no facility for registering title or security interests in rolling stock, so this will make domestic financing more secure. This should also encourage foreign lenders to finance local rolling stock. Note that the Protocol will also cover trams, metros and light railway systems.

2. **It will also encourage foreign and domestic manufacturers to extend credit** to domestic operators since their security is recognised under the protocol if there is a conditional sale agreement. More secure private sector funding at competitive rates reduces the cost of funds for existing operators and lowers the barriers to entry for new operators. It will also be good for the tax-payer since it will relieve the pressure for state support for rail operators.

3. **Facilitating multinational and multi asset financings** if the Protocol is applicable in the various jurisdictions as similar security rules will apply.

4. **Underwriting securitisation and other similar financial products** as the issuer of the asset backed securities or funds are based in a jurisdiction where the Protocol operates.

5. **Lower barriers to entry for home operators wishing to expand their business abroad** as the cost of funds for rolling stock investment should be lower.

6. **A highly useful mechanism for manufacturers** exporting rolling stock to be able to finance equipment being offered (as their competitors will do).

7. **A voice in the operation of the Protocol.** By adopting the Luxembourg Rail Protocol, the contracting state will have a voice in the composition of the supervisory authority which will regulate and modify the operation of the Protocol, in turn affecting its country's business community operating in the rail sector both at home and abroad.

In summary, a state adopting the Luxembourg Rail Protocol will:

a. Provide the conditions for more secure funding at home and will draw in foreign investment and lending, lowering the cost of capital, encouraging capital investment and competition and relieving the state of a financing burden.

b. Boost its potential as a financial centre.

c. Provide valuable support for banks, operators and manufacturers working outside their home jurisdiction.