Introduction to the Luxembourg Rail Protocol

Advantages and Opportunities

Rail Working Group

Securing the Future for the World’s Railways
Introduction

The Rail Working Group

- Formed in 1996 at the request of UNIDROIT
- Not for profit global industry group based in Switzerland
- More than 70 direct members and hundreds via industry associations
- Linking up the various stakeholders in the industry
- Dedicated to the adoption of the Luxembourg Protocol
Railways in the 21st Century

- Long history of global (relative) decline
- Cross border operation essential to serve global markets
- Significant underinvestment worldwide both in infrastructure and rolling stock
Railways in the 21st Century

- Transportation mode of preference for policy makers for good economic, environmental, social and public policy reasons
- New interest in high-speed interurban links and municipal light rail
Railways in the 21st Century

- Major modal shift required from road to rail
- Governments need resources for new rail infrastructure
- More entrepreneurs needed for passenger transport
Railways in the 21st Century

- More private operators mean more private capital needed
- More credit support required
- Funding rates matter if competition is to be encouraged
- Public sector needs to offload risks
Financing Railway Rolling Stock

- **Public finance**
  - Equity, state loans and grants, aid

- **Public Export Finance**
  - ECA, state or para-statal loans

- **Private investment**
  - Private equity, secured credit, leasing, BOT, etc
Financing Railway Rolling Stock

Current constraints

- Cost of credit
- Funder security/collateral
- Creditor especially exposed on cross border financing or operations
### Problems of bringing in private capital

- No national title or security registry
- Identifiers unstable (from a creditor’s perspective)
- No comparable running number for other rolling stock (e.g. metros)
- Limited legal infrastructure domestically and internationally
- Repossession issues for creditors on debtor default or insolvency
- **Public Policy and Public Interest**
- Bank’s capital requirements and Basel II and III
- Limited commercial tracking of assets
- Cross border risks
Financing Railway Rolling Stock today

Owner in Country A

Conditional Sale

Purchaser in Country B

Lease

Operator in Country C

Bank in Country D

Loan Security

Rolling stock operating in countries E, F & G
Cape Town October/November 2001

participants from 58 States and 11 international organisations at the Diplomatic Conference
Cape Town Convention

Aircraft Protocol operating in over 60 jurisdictions (including US, Canada and Mexico)

International registry for aircraft running in Dublin since 2006

Over 600,000 registrations to date - estimated value of over half a trillion USD

Registrar – Special purpose company established by SITA

Aviation Working Group: “Cape Town” will save the air transport industry $161 Billion 2009 - 2030
Luxembourg 2007

participants from 42 States and 12 international organisations at the Diplomatic Conference
The Luxembourg Protocol
Protecting creditor rights

The Protocol creates

- A new type of global security interest (the “International Interest”) for railway rolling stock, internationally recognised with established priorities
- Security registrable (voluntary) and searchable 24/7 in a public registry, in Luxembourg, through the internet
- Relevant for domestic and international rolling stock finance
- A common system for enforcing creditor rights on debtor default or insolvency
What does the Luxembourg Protocol apply to?

The Protocol applies to all rolling stock (broadly defined):
- "...vehicles movable on a fixed railway track or directly on, above or below a guideway" so covers
  - Inter-urban and urban rolling stock
  - Specialist boring and other rail mounted equipment
  - Metro trains and trams
  - People movers/shuttles at airports
  - Cranes and gantries at ports
  - Cable cars
When does the Luxembourg Protocol apply?

The Protocol secures:

- Lessor under a lease
- Creditor under a secured loan and
- Vendor’s rights under a conditional sale (where title is retained)
Unique Vehicle Identification?

Rolling stock must be uniquely identifiable for the Protocol to apply.

Unique Vehicle Rail Identification System (URVIS) will be established by registry regulations.

First global unique and permanent identification system for Rolling Stock.

Unique 20 digit number allocated by registrar in Luxembourg, never re-used.

Affixed permanently to rolling stock by manufacturer, maintainer or keeper.
When does the Luxembourg Protocol apply?

Protocol must be in force

Which must be uniquely identifiable

And in force in the jurisdiction where the debtor is principally located

When an International Interest is created in the rolling stock
Luxembourg Benefits

The Protocol

- Establishes a new domestic and international legal framework securing creditors
- Eliminates complex documentation and structures – saving money
- Resolves cross border and conflict of laws issues
- Minimises need for state support
- Reduces private financing costs and, for exporters, ECA and political risk premiums
- Facilitates operating and finance leasing and other private sector finance
- Makes the industry more competitive against road and aircraft transportation
## The Status of the Luxembourg Rail Protocol

- **Adopted 2007** (not yet in force)
- **Appointment of Registrar (SITA subsidiary)** December 2014
- **Ratified by EU and Luxembourg**
- **Signed by** Italy, Germany, France, Mozambique, Switzerland, Gabon and UK – all, together with Sweden, moving towards ratification
- **Other EU and non-European countries** now actively working on ratifications
- **4 ratifications required**, and secretariat (OTIF) must also authorise that the Registry is ready, before the Protocol “goes live”
- **Expected to be in force** in 2018
Why the Protocol is Important

- Creates a common system, operating in various different countries, protecting the interest of secured creditors, owners and operators

- Creates a new legal framework for domestic financings of railway equipment, reducing risk and cost, even where the assets are operating outside of a country’s borders

- Relieves State budget as private investors, pension funds and banks finance old and new fleets

- URVIS identifier will be unique and permanent to run alongside other local numbering system resulting in a global system for identifying and tracking the location and status of rolling stock
Why the Protocol is Important

Protects rolling stock financed in one part of a continent when it is operating outside of that jurisdiction

Secures and reduces the cost of credit given to operators outside of a country by ECAs as part of export programme
Conclusion

Railways are now the sunrise industry for good economic, social, environmental and political reasons.

New investment will mean significant additional demand for passenger and freight rolling stock.

And more private finance through loans and leases, where security of the collateral will be critical.

Leading to a larger industry, more dynamic, transparent and competitive industry.

The Protocol offers a better legal solution for asset based financing.

It’s a “win” for all operators and manufacturers in relation to domestic financing and export credits.
Luxembourg Protocol in a Nutshell (English)

Summary of the Luxembourg Protocol

Full Luxembourg Protocol

Rail Working Group brochure

Key talking points

Working towards a global common identifier for railway rolling stock

www.railworkinggroup.org
Introduction to the Luxembourg Rail Protocol

Advantages and Opportunities

Rail Working Group
Securing the Future for the World’s Railways