The future for railway finance
How the Luxembourg Rail Protocol will transform the rail sector

Industry Seminar
Paris,
7th April 2016
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Overview of the Protocol
Setting the Scene – the Berger Report

- EUR 13.3 bn spent on new rolling stock p.a.
- 370 procurement projects
- 88% of rolling stock procurement in Europe state financed or underwritten
- UK key exception (46% private finance) and, together with Germany, 81% of the private finance market
The different private finance options

- Equity
- Debt (secured or unsecured)
- Leasing (operating or finance)
- Conditional sales
The different private finance options

• Conventional sources of private funding:
  – Manufacturer credit
  – Banks
  – Lessors

• Not so conventional sources:
  – Capital markets
  – Private equity
  – Pension funds and Institutions
Creditor Issues

- No national title or security registry
- Identifiers unstable
- Limited legal infrastructure domestically and internationally
- Repossession for creditors on debtor default or insolvency
- Public Policy and Public Interest
- Bank’s capital requirements and Basel II and III
- Limited 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

Loan Security

Bank in Country D

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

• adopted the Cape Town Convention on International Interests in Mobile Equipment
• and the Aviation Protocol thereto
THE LUXEMBOURG PROTOCOL TO THE CAPE TOWN CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

Agreed in Luxembourg 2007

Participants from 42 States and 12 international organisations at the Diplomatic Conference
What does the Luxembourg Rail Protocol do?

The Protocol creates

- a new type of global security interest for railway rolling stock, internationally recognised with established priorities
- Registrable (voluntary) and searchable in a public registry, 24/7
- new uniform system for unique and permanent identification of assets (URVIS)
To what does the Luxembourg Protocol apply?

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 applies:

✓ To secure
  – Lessor under a lease
  – Creditor under a secured loan and
  – Vendor’s rights under a conditional sale (where title is retained)
When does the Luxembourg Protocol apply?

- Protocol must be in force
- And in force in the jurisdiction where the debtor is principally located
- When an International Interest is created in the rolling stock
- Which must be identified in accordance with the Protocol with a unique number
Luxembourg Benefits

The Protocol:

- Creates a new legal framework, even for financing of domestic rail transactions
- Eliminates complex documentation and structures
- Resolves cross border security and conflict of laws issues
- Facilitates operating and finance leasing and other private sector finance
- Makes the industry more competitive against road and aircraft transportation
- Lowers ECA premiums (probably)
- Other economic Benefits
Other Luxembourg Benefits

• Global system
• Proven
  – Aircraft Protocol operating in 62 jurisdictions
  – International registry for aircraft running since 2006 (and now in UK)
• Special debtor insolvency rules
• Public service recognition and provisions
• Party autonomy on contracts
The Status of the Luxembourg Protocol

• Adopted 2007 (not yet in force)
• Appointment of Registrar December 2014
• Ratified by EU and Luxembourg
• Signed by Italy, Germany, Switzerland, Gabon and UK
• Other EU and non-European countries now actively working on ratifications
• Secretariat authorisation
Implementation Issues

- The Problems of Contiguity
  - Geographic
  - Common systems
- Insolvency and the EU
- URVIS
- Pre-existing interests
- “Marketing”
- Regulations – current and future
- Procedures
- Charges
- Ancillary Services
The Luxembourg Rail Protocol

- A new strategic tool for the public and private sector
- Providing a new pragmatic global regulatory framework which will
  - Facilitate more and cheaper private sector investment in the railways
  - Lower barriers to entry to private operators
  - Stimulate a more competitive and dynamic industry
  - Support cross border transactions and operations
  - Open more business opportunities for French investors outside of France
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www.railworkinggroup.org