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Why Finland should adopt the Luxembourg Rail Protocol

The Luxembourg Protocol to the Cape Town Convention is a new global legal framework for the recognition and prioritization of interests held by creditors lending on or leasing all types of rolling stock, from conventional passenger and freight railcars and locomotives to light rail units and cable cars. These interests would be perfected by making registrations in a new international registry, in Luxembourg, which will be searchable online by the public 24/7. As well, the Protocol would provide a uniform legal framework for the execution of remedies in respect of rolling stock in the event of a default or insolvency.

The Protocol is expected to come into operation at the end of next year and will be effective in jurisdictions where it has been ratified. The EU has acceded the Protocol in respect of its competences and, within the EU, the UK, France, Italy, Germany and Sweden have already signed the Protocol and are expected to ratify it in the near future.

Finland was very active at the original diplomatic conference in Cape Town in 2001 and at the conference to adopt the Luxembourg rail protocol in Luxembourg in 2007. So far it has not signed or ratified the Cape Town Convention nor any of its protocols. Nonetheless Finland currently provides one of the co-chairs for the preparatory commission appointed by the Luxembourg Diplomatic conference, which is tasked to bring the Protocol to implementation.

Adoption of the Cape Town Convention and the Protocol will deliver benefits to the various stakeholders in the Finnish rail and finance community as well as to the Finnish government directly.

The Rail Working Group is a not-for-profit association constituted under Swiss law representing a broad cross section of the global railway community.

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For Lenders and Lessors

1. By introducing the International Registry, for the first time, interests in rolling stock could be registered and searched in a public register that can be accessed 24/7 on a global basis.
2. by making financed equipment easier to repossess on debtor default or insolvency, the Protocol will genuinely reduce creditor collateral risk, allowing a lower allocation, and cost, of capital for rolling stock financings for banks – particularly important as the Bank for International Settlements seeks to increase banks' capital allocations for riskier credits;
3. it will simplify financing and leasing transactions, in relation to documentation, legal opinions and structures, thereby reducing transaction costs;
4. As neighbouring states adopt the Protocol, it will give financiers significant additional security as and when financed equipment moves across national borders.

For Railways and Shippers

5. The Protocol is expected to increase the availability and reduce the cost of financing for rolling stock, as lenders and lessors take into account, lower risk (which should translate into lower capital costs) and lower transactional costs, as well as help attract new sources of debt and equity for procurement programmes.
6. The Protocol will create more opportunities for the operator to refinance existing rolling stock fleets at attractive rates.
7. The Protocol will provide more legal protection as rolling stock moves across borders, particularly as Finland develops an active strategy to engage with the Belt and Road Initiative, connecting Europe with Asia by rail.
8. By facilitating operating leases, the Protocol will also make it easier for existing owners of rolling stock to monetise excess capacity.

For Finnish Manufacturers such as Transtech

9. The Protocol is expected to stimulate domestic demand for new rolling stock.
10. The Protocol would assist with exports of new rolling stock as other countries move to ratification, making customer procurement easier to finance and, by facilitating expected discounted export credit agency funding support for the financing of exports, more attractive.



For Government

11. The Protocol facilitates the reduction in the need for state or municipal government financing of rolling stock, as the private sector would provide more resources for equipment procurement and takes over various obsolescence, maintenance and operating risks. In turn, this allows the public sector to focus its resources on rail infrastructure development.
12. The Protocol will deliver new sources of rolling stock funding at a time when more and newer equipment is needed to fulfil the government's emissions reduction targets in transport as well as digitalization and automation agenda and driven in the medium term by the Belt and Road Initiative and the Rail Baltica project.
13. The adoption of the EU 4th Railway Package, designed to encourage more competition, will inevitably lead to the need for more private finance in the rail sector as liberalisation moves forward and the Protocol will ensure that this finance is provided at optimum rates.

For all Stakeholders

14. The Protocol would improve the environment for operating leasing of rolling stock throughout the Nordic and Baltic region, thereby giving shippers, railroads and lessors more flexibility in how they utilize and finance rolling stock.
15. The Protocol will create a common and easily understandable security system operating across different jurisdictions, facilitating a harmonisation of rules in this area with neighbouring states and making it easier to attract inward investment;
16. By introducing a new global unique numbering system for rolling stock, the Protocol would improve the ability of lenders and lessors to monitor their assets, as well as improve the ability for manufacturers, operators, insurers, maintenance providers and financiers to track the location and status of the rolling stock in which they have an interest.

Finland's adoption of the Protocol will motivate the Baltic States to do the same, thereby in turn leading to lessors and financiers being protected where rolling stock crosses borders, as their international interests will be recognized in each jurisdiction in which it is located.

The costs of the new system would be minimal. The advantages and opportunities are significant.

For more on the Luxembourg Rail Protocol, visit www.railworkinggroup.org, or contact us at info@railworkinggroup.org. Keep up to date with all the latest developments via the Rail Working Group's [LinkedIn group page](#).