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Why Ukraine 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 will be perfected by making registrations in a new international registry, in Luxembourg, which will be searchable online by the public 24/7. In addition, the Protocol would provide a global system for uniquely identifying all railway rolling stock and a uniform legal framework for the execution of remedies in respect of rolling stock in the event of a default or insolvency. According to a survey prepared for the Rail Working Group by the economist consultancy Oxera, the Protocol will deliver a present value benefit to Ukraine of about **€934 mio**.

The Protocol entered into force in contracting states on 8th March 2024. It is currently ratified by five states: Spain, Sweden, Luxembourg, Paraguay, Gabon, plus the European Union in respect of its competences. South Africa is in the process of ratifying, and France, Germany, Italy, Mozambique, the UK, and Switzerland have all signed but not yet ratified.

Ukraine has already adopted the Cape Town Convention and the protocol applying it to Aircraft, so the adoption of the Luxembourg Protocol should be very straight forward. It will deliver benefits to the various stakeholders in the Ukrainian rail and finance community as well as to the Ukrainian government directly.

For Lenders and Lessors

1. By introducing the International Registry, for the first time, their security interests in rolling stock could be registered and searched in a public register that can be accessed 24/7 on a global basis.

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EU Transparency Register ID: 958065448312-61.



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. It will pave the way for new domestic lenders and lessors financing Ukrainian operated rolling stock.
5. 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

6. 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.
7. It will almost certainly result in the reduction of risk premiums being charged by export credit agencies supporting financing of equipment being imported into Ukraine.
8. It will support Ukrainian operators extending their activities into international markets.
9. The Protocol will create more opportunities for the operator to refinance existing rolling stock fleets at attractive rates.
10. By underwriting operating leases, the Protocol will allow operators to move asset risk to the private sector, reduce the balance sheet burden and make it easier to monetise excess capacity.

For Ukrainian Manufacturers

11. The Protocol is expected to stimulate domestic demand for new rolling stock.
12. The Protocol will assist with exports of new rolling stock as other countries move to ratification, making customer procurement easier to finance.

For Government

13. 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 reduces balance sheet burden and allows the public sector to focus its resources on rail infrastructure development.
14. The Protocol will deliver new sources of rolling stock funding (and foreign investment) 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.



15. The Protocol facilitates Ukrainian compliance with EU law for railways. The 4th Railway Package, introducing “open rails” for both passenger and freight transportation by rail is designed to encourage more competition within the rail sector and to make the sector more competitive with other modes of transport. As consultants Roland Berger have confirmed, as liberalisation moves forward it will inevitably lead to the need for more private finance in the rail sector and the Protocol will ensure that this finance is provided at optimum rates.

For all Stakeholders

16. The Protocol will provide more legal protection for operators and financiers as rolling stock moves across borders, particularly as Ukraine develops an active strategy to participate in the Belt and Road Initiative, connecting Europe with Asia by rail, and engages with the project to build a 1520 mm gauge link into Vienna.
17. It will improve the environment for operating leasing of rolling stock throughout the “1520” region, thereby giving shippers, operators and lessors more flexibility in how they utilize and finance rolling stock.
18. 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.
19. By introducing a new global unique numbering system for rolling stock, the Protocol would improve the ability to monitor their assets, as well as improve the ability for regulators, manufacturers, operators, insurers, maintenance providers, lenders and lessors to track the location and status of the rolling stock in which they have an interest.

Ukraine’s adoption of the Protocol will motivate neighbouring “1520 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 will be minimal. The advantages and opportunities are huge.

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](#).