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## **Why the Luxembourg Rail Protocol makes sense for Deutsche Bahn**

The Luxembourg Protocol to the Cape Town Convention is a new global legal system for the recognition and prioritisation of security interests held by creditors lending on, or leasing, all types of railway equipment, from conventional passenger and freight locomotives and wagons to trams, light rail units and cable cars. This security will be registered in a new international registry, in Luxembourg, which will be searchable by the public 24/7. The Protocol will also introduce the Unique Rail Vehicle Identification System (URVIS) a new global 16 digit numbering system for permanently and uniquely identifying rolling stock. It is expected to come into operation in contracting states in 2022 or early 2023 and will bring significant benefits even for state owned operators such as Deutsche Bahn.

Germany has signed the Protocol but needs to move forward to ratification. Adoption of the Protocol will deliver benefits to all stakeholders in the German rail community. It will increase the availability, and reduce the cost, of private finance for railway equipment, as lenders and lessors take into account lower capital costs, lower risk and lower transactional costs, due to simpler financing structures. In addition, it will help attract new sources of debt and equity for procurement programmes. But given that, at the moment, Deutsche Bahn AG (DB) finances new rolling stock procurement predominantly through bond issues, the Protocol will still be positive for the company because it will:

### **At the national level**

1. facilitate DB buying and selling rolling stock, as buyers and sellers can check the international registry to see if there are any competing interests on title;
2. assist small companies, both within and outside of Germany, buying surplus DB rolling stock, due to the greater availability to them of competitive finance;
3. increase equipment availability under lease where, like Lufthansa, DB may wish to lease in equipment on a temporary basis or on fixed term operating leases, moving obsolescence and maintenance risks to third parties;
4. protect DB as lessor if it delegates or franchises part of its operations to third parties and leases equipment to the franchisee;

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5. open the way for independent finance for joint ventures with non-state owned companies as well as facilitate DB or its subsidiaries raising limited recourse finance from the private sector;
6. by underwriting international operating leases of rolling stock,
  - a. reduce the cost of rolling stock by incentivising standard rolling stock, in turn creating economies of scale and
  - b. enhance the residual value of the DB fleet;

### **At the European level**

7. protect DB's title to assets when it wishes to lease out surplus equipment to third parties, either within Germany or elsewhere, generating additional revenues;
8. make it easier for DB, creditors and auditors, as well as any external maintenance companies, to track the location, utilisation and status of the equipment, wherever it is across the international network, through the use of URVIS numbers, opening the way for cheaper predictive maintenance;
9. create a common and easily understandable title security system operating across different jurisdictions;
10. support the EU objective of shifting passenger and freight transportation onto the rails and creating a single European market in rail services, and stimulate a more dynamic European rail industry, which is in the long term interests of DB;

### **Operating outside of Germany**

11. provide more legal protection when its rolling stock is located, temporarily or permanently, in other jurisdictions as long as the Protocol is also adopted there (particularly relevant as intercontinental routes open up);
12. open up independent sources of finance for DB's international operations and joint ventures where, for commercial or regulatory reasons, such ventures need to operate on a stand-alone basis or it makes financial sense, e.g. because of currency risks, to finance equipment locally.

Germany is a leader in the European rail sector as well as a major hub and transit country for cross border rail services. Its adoption of the Protocol will motivate neighbouring states to do the same, thereby in turn leading to operators, lessors and financiers being protected where rolling stock crosses borders, as their international interests will be universally recognized.

The costs of the Luxembourg Rail Protocol will be minimal. The advantages and opportunities will be tremendous.

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