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Why Italy should adopt the Luxembourg Rail Protocol

The Luxembourg Protocol to the Cape Town Convention is a new international treaty that introduces a global legal system to make it cheaper and easier for the private sector to finance railway rolling stock without the need for state guarantees or support.

The Protocol provides for the recognition and prioritisation of security interests held by creditors lending on, or leasing, all types of railway rolling stock (including passenger and freight locomotives and wagons, metro and light rail trains, trams and cable cars). This security will be registered in a new [international registry](#), in Luxembourg, which is searchable through the internet by the public 24/7 and the Protocol introduces, for the first time a new global unique permanent identification system for rolling stock.

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

The Cape Town Convention and the Luxembourg Rail Protocol has been developed by UNIDROIT, the International Institute for the Unification of Private Law, based in Rome. Italy is one of the founder members of UNIDROIT and its host State. Italy has actively participated in the negotiations of these treaties and has signed the Cape Town Convention as well as the Luxembourg Rail Protocol thereto but has not yet ratified these instruments.

Italy has been a leader in creating a dynamic and competitive rail sector. Its open access strategy for passenger services inevitably draws in private sector operators that in turn need cost-effective private funding. It has world class rolling stock manufacturers and an excellent entrepreneurial finance sector. Adoption of the Cape Town Convention and the Luxembourg Rail Protocol, applying the Convention to the rail sector, will deliver benefits to all stakeholders in the Italian rail and financial services community as well as to Government. According to a recent independent study by economists Oxera, the Protocol will deliver a benefit of **€1.2 billion** to Italy over the next 30 years.

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 Operators the Protocol will

1. **increase the availability, and reduce the cost, of private finance for railway equipment**, as lenders and lessors take into account the banks' lower cost of capital, lower risk and lower transactional costs as well as help attract new sources of debt and equity from institutional investors financing procurement programmes;
2. make it **easier for operators to monetise excess rolling stock** through leasing out to other operators;
3. provide **more legal protection for operators** providing cross-border services into other jurisdictions, particularly when the Protocol is also adopted there;
4. **support progressive Italian operators** financing their operations outside of Italy (for example FS operating in Spain and France);
5. **eliminate the competitive advantage currently enjoyed by the aviation sector** where the equivalent aircraft protocol to the Cape Town Convention is already in operation in over 80 countries around the world including a number of EU member states¹; and
6. through the URVIS numbering system, **facilitate easier real-time tracking of rolling stock** regardless of where it is **as well as predictive maintenance programmes**, where savings will be considerable as rolling stock is then serviced based on its utilisation and not after a specific time regardless of utilisation;
7. facilitate and protect public and private **operators delegating parts of their operations and leasing out their rolling stock**, where this will be more efficient, and open the way for independent finance for joint ventures.

For Banks, Lessors and Institutional Funders

8. By introducing the International Registry, the Protocol will for the first time allow registration of security interests in railway rolling stock in a public register that can be accessed on a global basis in turn **underwriting the financier's collateral** regardless of whether the financed assets remain in Italy are operated across jurisdictional borders or are subsequently redeployed into other states;
9. 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 under Basel IV, entering into force in 2025;

¹ although Italy has not adopted the aircraft protocol to the Cape Town Convention, operators in Italy can obtain the benefits of the convention by registering aircraft in other EU jurisdictions, for example Ireland.



10. Because the structuring of security will no longer require layers of national security interests, it will **simplify financing and leasing transactions**, in relation to documentation, legal opinions and structures, thereby reducing transaction costs; and
11. Since the Protocol applies according to where the debtor has its principal place of business, creditors of Italian based companies that are financing or leasing rolling stock world-wide will have the benefits of the Protocol on securitisations and other refinancings.

For Manufacturers

12. The Protocol will **stimulate domestic demand for new rolling stock** as the financing costs come down and availability of capital increases;
13. Will support the move towards standardisation of rolling stock thereby introducing more economies of scale and more attractive pricing customers worldwide in a highly competitive market; and
14. Will **assist with exports of rolling stock** as other countries move to ratify the Protocol, making customer procurement easier to finance and, by facilitating discounted export credit support through SACE, make exports more attractive.²

For Government

15. The Protocol will **reduce the need for central and local government financing of rolling stock** procurement (either directly through state funding or through explicit and implicit state guarantees of operators) as the private sector provides more resources for equipment procurement and takes over various obsolescence, maintenance and operating risks, thereby making more state funding available for infrastructure development;
16. It will **attract domestic and foreign pension funds** and other institutional investors into the Italian rail market.
17. It **costs government nothing** and will deliver economic and political benefits;
18. The Luxembourg Rail Protocol is an **important building block for the Single European Rail Area**, facilitating seamless operation of both passenger and freight rail across Europe and supports the modal shift of both freight and passengers from road to rail, a **critical factor in the fight against climate change, congestion and pollution** in the cities and the massive cost to the economy of those killed and injured every year on the roads.

² Under the Aircraft Sector Understanding, OECD Export Credit Agencies may discount their risk premiums by 10% when the aircraft protocol to the Cape Town Convention applies. ECAs are being pressed now to do the same for rolling stock, when the rail protocol to the Cape Town Convention applies helping manufacturers export rolling stock around the world.



For all Stakeholders

19. The Protocol will underwrite operating leasing globally, thereby
 - a. **opening up new markets** for local manufacturers and lessors where customers will not have the resources to buy
 - b. giving operators **more flexibility** in how they utilise and finance rolling stock
 - c. allowing a genuine **transfer of risk to the private sector financier**; and
 - d. through the allocation of higher residual value assumptions and lower rents for standard rolling stock, creating an economic dynamic for standardisation and **more efficient manufacturing** of rail equipment (and therefore economies of scale);
20. it will create a **common and easily understandable title security system** operating across different jurisdictions; and
21. by introducing a new global unique numbering system for rolling stock, the Protocol will give **increased security to lenders and lessors**, as well as the ability for manufacturers, operators, insurers, maintainers and financiers to track the location and status of the equipment, wherever it is, thereby making the railways safer and maintenance more efficient.

Italy's first railways started operation in 1839. Today it has a dynamic rail industry with a thriving manufacturing capability, a strategic sector for the Italian economy with a strong international element. Italian manufacturers, operators, lessors and/or financiers are heavily involved in major rail projects abroad, in particular, in relation to the high-speed sector. The Protocol will allow them to compete more effectively as the Protocol delivers key legal protections for creditors, including a global priority system for, and registration of, security interests, and common rules concerning equipment repossession on debtor default or insolvency, leading to increased and cheaper credit for customers.

The European Union is fully supportive of the Protocol, having already ratified it in respect of its competences, and the Protocol will assist the European Union in achieving its goals of shifting passenger and freight transportation onto the rails and creating a single European market in rail services. Italy's standard gauge high speed rail system now links Italy into the continental European rail network, making it more critical to protect creditors financing Italian rolling stock crossing national borders daily. Italy's adoption of the Protocol will also motivate other states to do the same, both within and outside of Europe. In turn this will lead to more business opportunities outside of Italy for Italian manufacturers, financiers and operators of rolling stock, protecting their interests not just where rolling stock crosses borders but also domestically in other markets, as security interests become universally recognized.

The costs of the new system will be minimal. The advantages and opportunities will be tremendous.

For more on the Luxembourg Rail Protocol, visit www.railworkinggroup.org, as well as the UNIDROIT website www.unidroit.org. Keep up to date with all the latest developments via the Rail Working Group's [LinkedIn group page](#).