

Passengers, goods and dangerous goods OTIF Workshop Baku, Azerbaijan 3rd – 4th May 2016

The Luxembourg Rail Protocol

How it will change the rail industry

**Howard Rosen
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Setting the Scene

Railways in the 21st Century

- Transportation mode of preference for policy makers for good economic, environmental and social reasons
- Cross border operation essential to serve global markets
- But significant underinvestment
- No level playing field



Setting the Scene

Achieving key objectives means

- Major modal shift from Road to Rail
- Structural changes to make rail more competitive
- Major costly infrastructure development
- Significant investment in technology and rolling stock



Setting the Scene – the Berger Report

EUR 13.3 bn p.a.
spent in Europe on
new rolling stock

370 procurement
projects

88% of rolling stock
procurement in
Europe state
financed or
underwritten

Direct correlation
between
liberalisation and
private finance





Setting the Scene

Regional considerations

- “The connection bridge of Asia with Europe” - Baku-Tbilisi-Kars
- Iran and “silk routes”
- New rolling stock technology critical
- Investment needed – and being committed but resources limited
- Where’s the money?





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

Problems of bringing in private capital

No national title or security registry

Identifiers unstable (from a creditor's perspective)

No comparable running number for other rolling stock (e.g. metros)

Limited legal infrastructure domestically and internationally

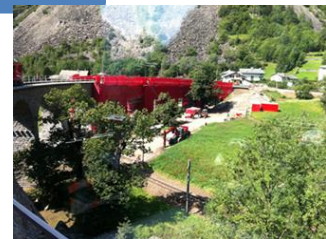
Repossession issues for creditors on debtor default or insolvency

Public Policy and Public Interest

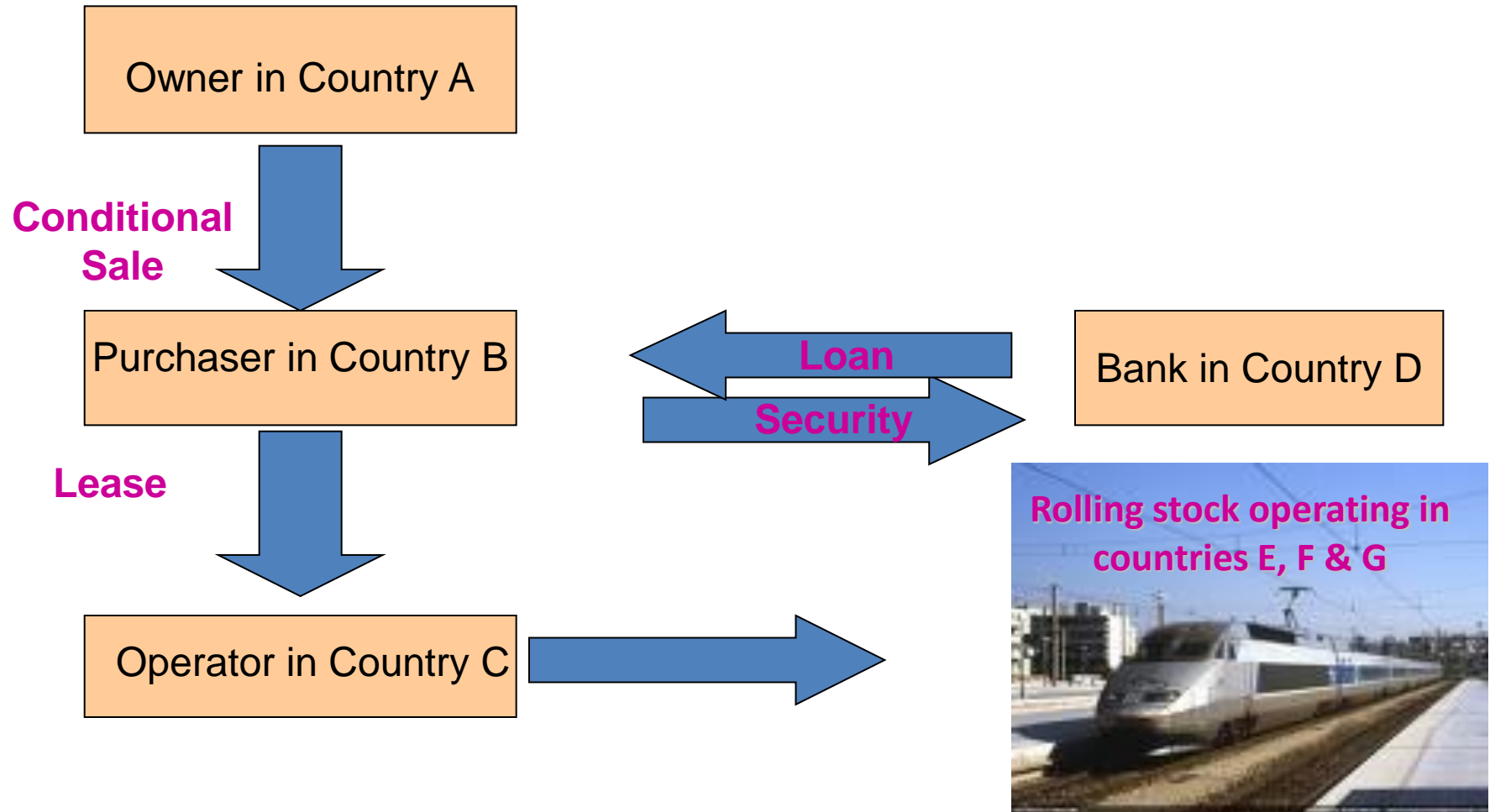
Bank's capital requirements and Basel II and III

Limited commercial tracking of assets

Cross border risks



Financing railway rolling stock today



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**



Cape Town Convention

Aircraft Protocol operating in 62 jurisdictions

International registry for aircraft running in Dublin since 2006

500,000 registrations to date - estimated value of over half a trillion USD

Registrar – Special purpose company established by SITA

The Aviation Working Group:
“Cape Town” will save the air transport industry \$161 Billion
2009 - 2030



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 (the “International Interest”) for railway rolling stock, internationally recognised with established priorities
- Security registrable (voluntary) and searchable 24/7 in a public registry, in Luxembourg, through the internet
- A common system for enforcing creditor rights



What does the Luxembourg Protocol apply to?

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 secures

- Lessor under a lease
- Creditor under a secured loan and
- Vendor's rights under a conditional sale (where title is retained)



URVIS

Rolling stock must be uniquely identifiable for the Protocol to apply

Unique Vehicle Rail Identification System (URVIS) will be established by registry regulations - draft regulations now published

20 unique digit number allocated by registrar - with check digit

Nominal cost: voluntary but will be required by financiers

Affixed permanently to rolling stock by manufacturer, maintainer or keeper



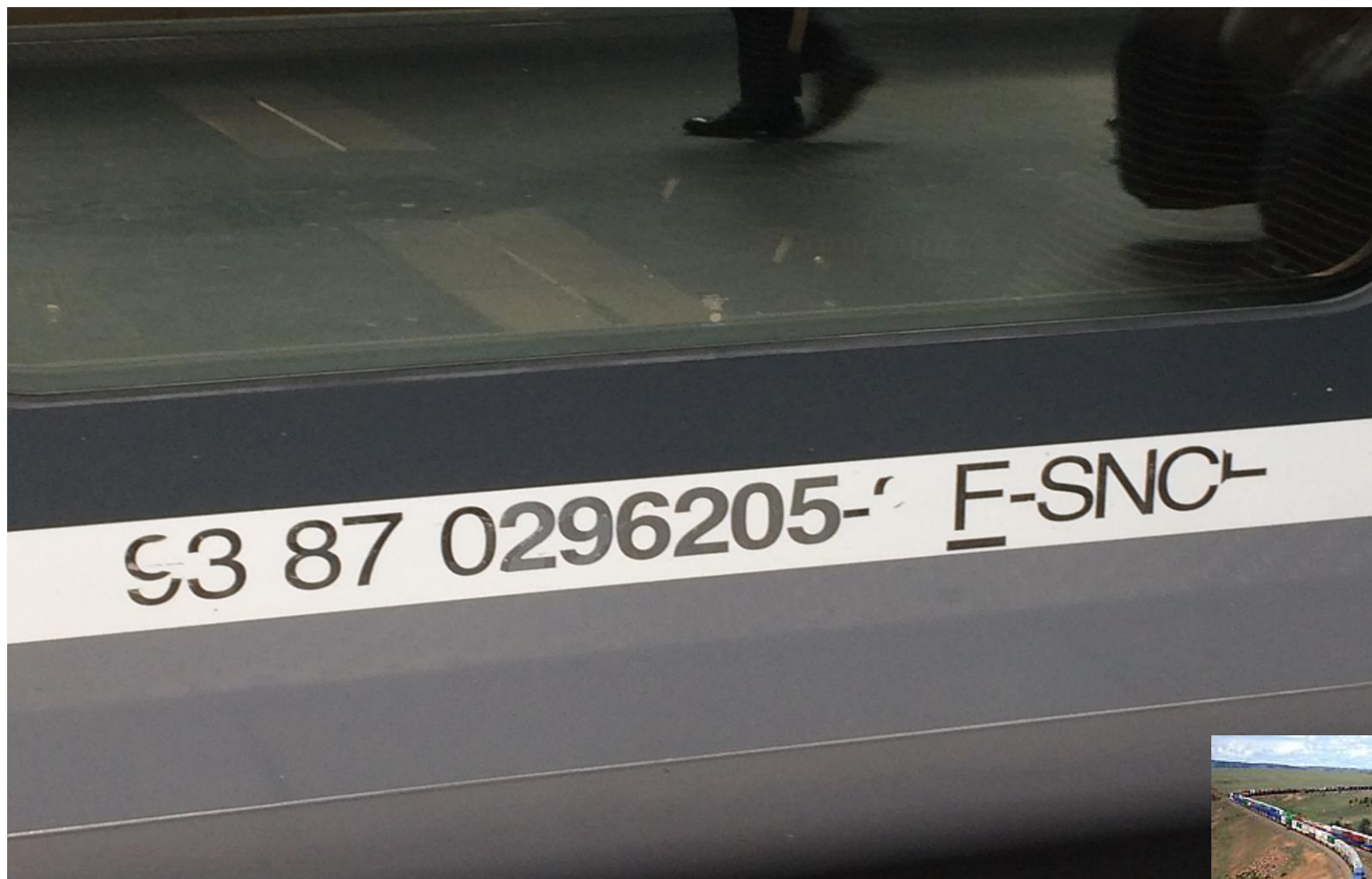
More on URVIS

A major step
forward for
the rail
industry

- First global rolling stock identification system
- Manufacturer numbers fundamentally unstable
- Running numbers can change, be recycled or be removed or defaced
- A new element for rail safety complementing immatriculation registers



More on URVIS



More on URVIS

Benefits to manufacturers, operators, insurers, maintainers and creditors by facilitating technical monitoring of assets

Life time log book leading to customised asset management and maintenance

Allocated by one ISO compliant party - SITA which operates in 135 countries as a provider to the transport sector

Can be used before rolling stock is immatriculated

Signage protocols to be agreed with industry (and they will evolve)



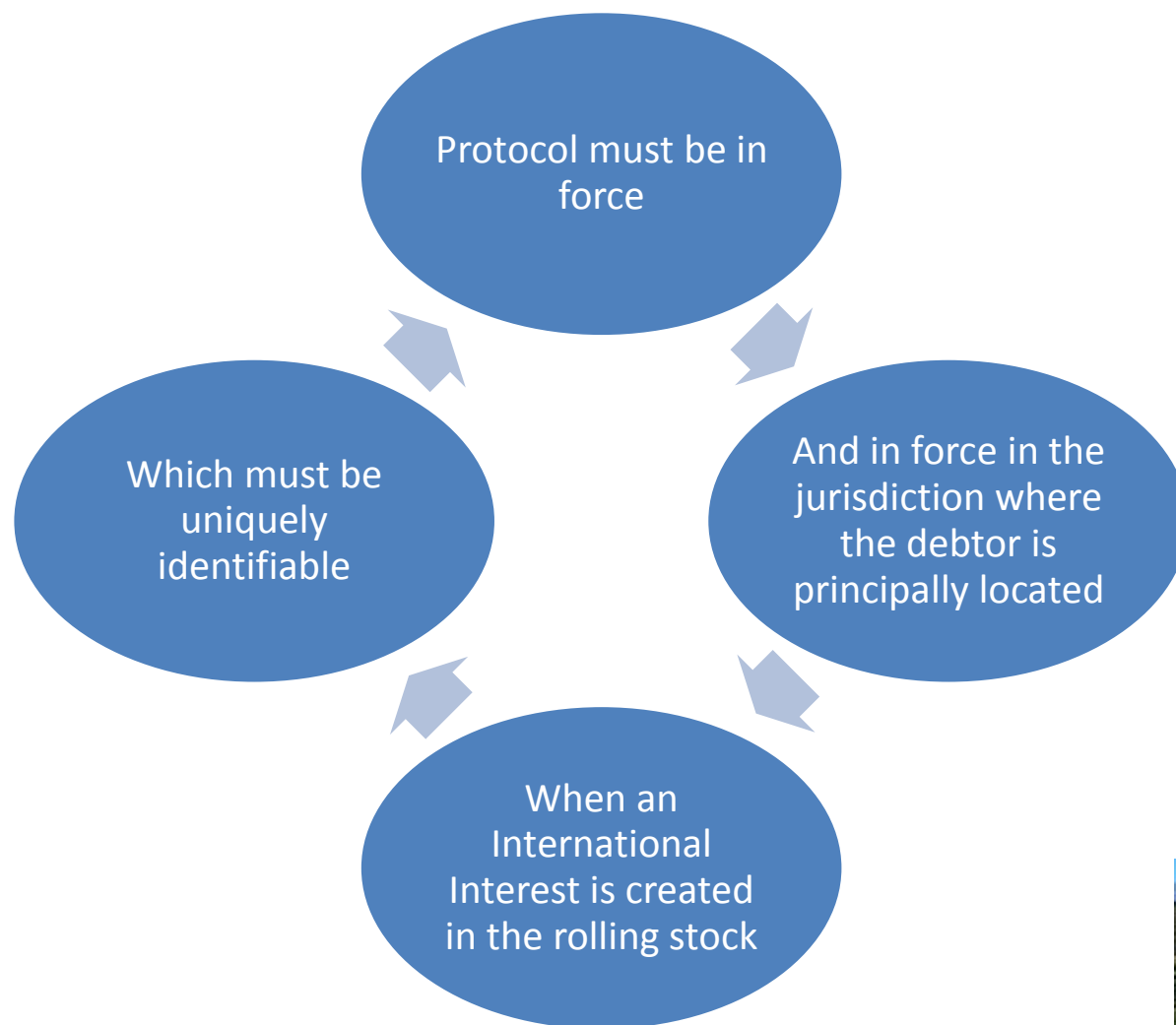
Luxembourg Benefits

The Protocol

- Establishes a new domestic and international legal framework securing creditors
- Eliminates complex documentation and structures – saving money
- Resolves cross border and conflict of laws issues
- Underwrites rail safety through URVIS
- Reduces need for state support and private financing costs
- Export Credit Agency support potentially cheaper
- Facilitates operating and finance leasing and other private sector finance
- Makes the industry more competitive against road and aircraft transportation



When does the Luxembourg Protocol apply?



The Status of the Luxembourg Rail 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 – moving towards ratification

Other EU and non-European countries now actively working on ratifications

4 ratifications required and secretariat (OTIF) must also authorise that the Registry is ready before the Protocol “goes live”

Expected to be in force (and registry operating) in 2017 or 2018



Conclusion

Railways are now the sunrise industry

Significant new demand for rolling stock – and private finance

The Luxembourg Protocol creates a new global legal regime for securing creditors, facilitating more and cheaper finance

The URVIS number creates a unique global identification system for operators, manufacturers , financiers and regulators

Leading to a more dynamic and competitive industry



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