

THE 2001 CAPE TOWN CONVENTION
ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT



INSIDE TRACK



“Inside Track” keeps RWG members and colleagues up to date on the progress of the Luxembourg Protocol. You can be added onto the mailing list by clicking on “subscribe” at the bottom of the newsletter.

- [Luxembourg Rail Protocol will save Europe over €19bn](#)
- [The Protocol and the 1520 Domain](#)
- [Another step forward in Sweden](#)
- [Topic of the month: Security Interests over Spare Parts for railway vehicles](#)
- [Middle East Rail Conference 2018 - special rates for RWG members](#)
- [RWG supporting AfricaRail 2018 - special rates for RWG members](#)
- [Official Commentary - Special deal for RWG member](#)

[Luxembourg Rail Protocol will save Europe over €19bn](#)

Oxera Consulting last week unveiled a new study for the Rail Working Group that assesses the direct microeconomic benefits from the Luxembourg Rail Protocol for 20 countries across Europe. They estimate the present value of the reduction in transaction and financing costs at €19.4bn or around €32 per person.

The study itemises the benefits country by country and it notes that there are also indirect microeconomic benefits, which are not calculated. For example, the Protocol, by underwriting the use of operating leases, should be a catalyst both for standardisation of vehicle designs and economies of scale in manufacturing, as well as lowering the barriers to entry for new operators. In addition, the study does not measure the wider macro-economic benefits of the Protocol, but points out that it should have a positive effect on the environment, as well as social and economic benefits for the community as a whole.

[Click here to read the full report](#)

The Protocol and the 1520 domain

The International Railway Business Forum held its “Strategic Partnership 1520” conference in Vienna between 20th and 22nd February. The meeting was addressed by various key ministers and senior officers of major rail operators including Maxim Sokolov, the Minister of Transport for the Russian Federation as well CEOs or Chairmen of the Russian, Belarusian, Lithuanian, Azeri and Kazakh railways. RWG Chairman Howard Rosen participated in the session on financing. As part of his presentation “*And who pays for the Rolling Stock*”, Rosen introduced the Luxembourg Rail Protocol to the delegates and was able to use the event as the opportunity to announce the Oxera study (see above) on the economic benefits of the Protocol within Europe. Rosen also highlighted the benefits of the Protocol in the context of the Belt and Road Initiative, a project which will result in a significant increase in rolling stock moving across national boundaries in the “1520 area” where new investment in freight wagons will be essential.

Another step forward in Sweden

The Swedish government has approved the bill for ratification of the Luxembourg Protocol and it will be presented to parliament in the next few days. The Swedish rail community has been overwhelmingly supportive of the Protocol and it is expected that the bill will be approved in the coming weeks.

Topic of the month: Security Interests over Spare Parts for railway vehicles.

The definition of railway rolling stock under the Rail Protocol covers the vehicle, “together with traction systems, engines, brakes, axles, bogies, pantographs, accessories and other components, equipment and parts, ***in each case installed on or incorporated in the vehicles***, and together with all data, manuals and records relating thereto” (our italics). What the Protocol does not deal with are those spare parts which are held in the maintenance depot store, but which have been financed by the owner of the railway rolling stock. In the case of a passenger train fleet the spare parts and other components (such as driving simulators) can be many hundreds of items which are of a considerable value. Spare parts and other components which are not attached to a vehicle have no separate

status under the Cape Town Convention (the “Convention”) and rights in them remain governed by applicable law. Manuals and records associated with the vehicles, including spare parts lists, are, however, covered by the Convention. A party with a security interest in both the railway rolling stock and the spare parts would therefore have rights under the Rail Protocol over the vehicle, but would need to use local law to exercise his local law rights over the spare parts and other components. Where a Contracting State has made a declaration in respect of Alternative A or Alternative C of Article IX, there is the possibility that the right to take possession of the vehicle and all relevant manuals and maintenance records would occur before the right to take possession of the spare parts and other components required for ongoing maintenance.

The Convention provides that any pre-existing rights in any spare parts or components are not lost by installation of the parts on an item of railway rolling stock if, under the applicable law, those rights would continue to exist after installation. However, if under applicable law a doctrine of accession applies to vest title in installed items not constituting an item of railway rolling stock, such as a replacement bogie, in the owner of such railway rolling stock, any pre-existing rights in such item would be lost upon installation. However, new rights would arise in respect of the part that has been removed from the vehicle (potentially to be refurbished and added back into the set of spares). It is therefore important that in the case of a vehicle fleet and a set of spare parts, relevant security interests are taken both under the Rail Protocol and under local law. Simply relying on the security interest in the Rail Protocol are unlikely to be sufficient.

Middle East Rail Conference 2018 - special rates for RWG members

The largest Rail Conference and Exhibition across the Middle East, North Africa, South Asia & Central Asia. *The RWG has negotiated a 15% discount for its members and RWG members should mention their membership when applying for tickets.*

12 – 13 March 2018 - Dubai International Convention & Exhibition Centre, UAE



RWG supporting AfricaRail 2018 - special rates for RWG members

The 21st AfricaRail 2018 conference will take place on 12th/13th June 2018 in Johannesburg, South Africa. *The RWG is an official media partner and RWG Chairman Howard Rosen will chair and present a paper at one of the streams at the conference. The RWG has negotiated a 15% discount for its members and RWG members should mention their membership when applying for tickets.*



See programme [here](#)

Official Commentary - special deal for RWG members

Rail Working Group members are entitled to purchase Professor Goode's official commentary on the Luxembourg Protocol at a 15% discount. If you wish to use this facility, please use the official form which you can find [here](#).

For copies of past newsletters click [here](#).

For information about membership of the RWG click [here](#).

Published by the Rail Working Group, a not for profit Association established under Swiss law.

www.railworkinggroup.org

Contact: info@railworkinggroup.org

The opinions expressed in articles or reports in this publication do not necessarily reflect the opinions or policy of Rail Working Group and information contained herein is for information only and does not constitute legal or other advice.

© 2018 Rail Working Group.

[unsubscribe from this list](#) | [subscribe to this list](#) | [update subscription preferences](#)