

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.

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### **8th Session of the Rail Preparatory Commission in Rome**

On 6-7 December 2018, UNIDROIT and OTIF held the 8th session of the Preparatory Commission for the establishment of an International Registry under the Luxembourg Rail Protocol in Rome. The session was attended by 32 State delegations. It was opened by the Chairman of the UNIDROIT General Assembly, Ambassador Paul Dühr of the Embassy of Luxembourg in Rome, UNIDROIT Secretary-General Professor Ignacio Tirado, and Chief of Technical Interoperability of OTIF Mr Bas Leermakers. The Commission, Co-Chaired by Mr Peter Bloch and Ms Mervi Kaikkonen, approved the Statutes and the Rules of Procedure of the Supervisory Authority, as well as future steps leading to the entry into force of the Protocol. A number of participating delegations made statements relating to the benefits connected with the future operation of the Protocols as well as to the status of the ratification process in their legal system. Rail Working Group chairman Howard Rosen made detailed presentations to the delegates on the current status of the protocol and on the development of the regulations for the international registry. On the second day, panellists briefed interested delegations on the Protocol and its implementation.

### **UNIDROIT workshop in Paris**

On 1st February 2019, UNIDROIT in conjunction with the University of Paris and the University of Clermont Auvergne Law School will be running the workshop at the University of Paris II in Paris on the Cape Town Convention and its respective protocols, entitled “La Convention du Cap relative aux Garanties Internationales portant sur des Matériels d’Équipement Mobiles (CTC) et ses Protocoles”. After introductions from Professors Ignacio Tirado and Anna Veneziano, respectively the Secretary General and Deputy Secretary General of UNIDROIT, speakers will include prominent academics from Australia, Canada, France, Germany, Spain, the United Kingdom and the United States. The workshop will mainly be conducted in French. More information; to register.

### **Topic of the month: Serious Group thinking**

Behind the scenes there has been some serious thinking going on about how to deal with groups of assets being financed with the benefit of the Luxembourg Rail Protocol. To date this has never been a pressing issue for the aviation industry where either aircraft are financed individually or a handful of (high value) aircraft are being financed together. But the situation is quite different in the rail industry where normally a financier is financing significant quantities of rolling stock: a number of train sets or multiple locomotives or a fleet of passenger or freight wagons. Moreover, once the Protocol comes into force, it will open up the way for operators in ratifying jurisdictions not just to finance new procurements but to finance, or refinance with private capital, part or all of their existing fleet.

Of course, as with the Aircraft Protocol, it is always possible to finance an individual item of railway rolling stock and then to search against that asset as long as it has its unique vehicle identifier (URVIS number) and is registered. But the regulations currently being drafted for the operation of the International Registry for railway rolling stock, which will be operating from Luxembourg, will be more creative. In particular they will provide for registration of a group of rail equipment (whatever it is as long as it qualifies as railway rolling stock under the Protocol) which should streamline the registration process. What we expect to happen is that the creditor and the debtor, registering international interests on multiple assets, will make one filing covering all of that fleet with each asset separately identified by its URVIS number. The registration fees will still be by reference to the number of items of rolling stock registered but we would expect that there will be a volume discount above a certain size of fleet. The registering parties will also designate the group of assets with a group identifier which they will be able to designate and which will be registered at the International Registry. Most likely the group identifier will include the name of a creditor or the debtor or both together with a unique name. From that point, the group of assets registered can be identified in the registry by the group name as well as by the individual URVIS numbers. Provision will need to be made for a substitution of individual assets covered by the group identifier in the case of loss of individual items and the group could also be expanded or contracted as the fleet leased from, or financed by, a specific creditor expands or contracts.

Although registration of assets through a group registration system will be helpful, the most significant advantage of creating a group registration is that it will then be possible for creditors or purchasers to search at the International Registry by filing one request referring to that group name rather than just by individual items of rolling stock. The search certificates will still be issued per asset. This will be helpful for purchasers, financiers and the assignees of existing financings by making the search process much more efficient. It will also be particularly useful for auditors looking for a simple way to check the provenance of fleets, as part of any due diligence, when purchasing or financing companies owning or leasing existing rolling stock or as a regular external check on the financier's collateral.

### **AGM 2019**

The Annual General meeting of the Rail Working Group will take place in Frankfurt on 1st April at 2.30 p.m. The meeting is open to all members and official observers.

### **Save the date – Middle East Rail Conference, Dubai, 26th-27th February 2019**

The largest Rail Conference and Exhibition across the Middle East, North Africa, South Asia & Central Asia is taking place on 26th/27th February 2019. - Dubai International Convention &

Exhibition Centre, UAE. A special rate is available for RWG members. For more information contact the organisers or [info@railworkinggroup.org](mailto:info@railworkinggroup.org)



### **Save the date – Vietnam's Hanoi, HCMC & Danang Metro Rail Projects Conference 2019**

Vietnam's Hanoi, HCMC & Danang Metro Rail Projects Conference 2019 will be taking place next year in Ho Chi Minh City on 28th/29th March 2019. The RWG negotiated a 20% discount for our members. For more information, please email to: [info@events-actually.com.sg](mailto:info@events-actually.com.sg).



### **“The Railway Market in Africa and the Middle East” – special offer for members**

SCI Verkehr, has just published a new study on the market for railway technology products and services in Africa and the Middle East. Rail Working Group members are entitled to purchase the study at a 10% discount if you announce your membership during the order process. To place an order click [here](#)

### **Official Commentary – consultation**

The next edition of Professor Goode's official commentary on the Luxembourg Protocol is already being prepared. The RWG has been invited to submit comments. If you would like to suggest changes or additions to the commentary or, as an RWG member, would like to be part of our team evaluating the commentary, please contact Professor Benjamin von Bodungen.

### **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](#).

Our next issue will be published towards the end of January.

**The board of the RWG wish all of its members, readers and supporters a wonderful festive season and a happy, successful and Protocol ratifying New Year.**



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

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