

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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Delivering on the Sustainable Development Goals

Earlier this month, the RWG issued a detailed report on how the Luxembourg Rail Protocol makes any material contribution to the achievement of the UN Sustainable Development Goals.

The core argument of the report, “Promoting sustainable growth and combating global climate change: How the Luxembourg Rail Protocol to the Cape Town Convention supports the United Nations’ Sustainable Development Goals”, is that rail-based transportation networks are an essential catalyst for development as the most environmentally and economically efficient way to transport goods and people. By enabling and encouraging private sector funding for railway rolling stock, the Luxembourg Rail Protocol will contribute towards the growth of a much larger and more dynamic rail sector on every continent, which will be critical in those developing countries and regions currently struggling with a very limited rail network.

“The railways play an essential role in achieving the sustainable development goals, and in particular fighting climate change” said RWG Chairman Howard Rosen. “There needs to be a dramatic increase in procurement of rolling stock around the world, with the new technology that it brings, but state resources are limited and this is where the Luxembourg Rail Protocol will play its part, making it easier and cheaper to attract capital from commercial and institutional investors,” he continued.

The detailed report may be accessed [here](#)

Moving forward in Mauritius

The Mauritius Government is completing the final status of its consultation on the adoption of the Cape Town Convention and the protocols thereto, including the Rail Protocol. Earlier this month RWG Chairman Howard Rosen attended both an intra governmental presentation and a meeting with the Law Reform Commission, in Port Louis, in both cases together with William Brydie-Watson, Senior Legal Officer of UNIDROIT.

UNIDROIT Conference in Nairobi

UNIDROIT is organising a conference at the Strathmore University, Law School in Nairobi Kenya on 22nd October on the subject of the Cape Town Convention, Protocol, and Rail Protocol: Legal and economic benefits for African States, international trade and development. Speakers will include the Secretary General of UNIDROIT, representatives

from the office of the attorney general in the Department of Justice of Kenya, the International Finance Corporation, Howard Rosen, Chairman of the Rail Working Group and a number of leading international academics and legal experts.

SADC and the Rail Protocol

As one of its actions in the lead up to the diplomatic conference in Pretoria in November on the mining and agricultural and construction equipment protocol to the Cape Town Convention (the MAC Protocol) the South African government hosted a briefing for SADC ambassadors on the Cape Town Convention, the Rail Protocol and proposed MAC protocols on 5th September in Pretoria. RWG Chairman Howard Rosen gave a detailed presentation on the Rail Protocol.

The Rail Protocol came up for discussion in an SADC context two weeks later at the meeting of SADC transport ministers in Dar es Salaam, where Soteri Gatera Senior Economic Affairs Officer in the Private Sector Development and Finance Division at the UN Economic Commission for Africa made a presentation to ministers on the Protocol. Mesela Nhlapo RWG Director Africa also attended the meeting.

Topic of the month: the obligations and the costs of a contracting state

We are sometimes asked about the direct obligations and costs for a contracting state acceding to the Luxembourg Rail Protocol. Under public law treaties between states, the contracting party normally accepts certain obligations, for example in a free trade agreement. However, the Cape Town Convention and the Luxembourg Rail Protocol is an instrument of private international law. This means that a state adopting this treaty will in fact have no obligations except to implement the treaty as a matter of domestic law, with the internal costs and time of drafting and, as appropriate, of guiding through Parliament the necessary legislation. It is not necessary for the contracting state to be a member of UNIDROIT or OTIF.

Then, unless there are specific provisions within the treaty that places an obligation on the state, there are no further obligations for the contracting state as such except where this is specifically set out in the treaty. For example, the optional declaration in relation to in Article X of the rail protocol. This is optional since a declaration needs to be made to accept the obligation to assist the creditor to recover an equipment on the event of a debtor insolvency (and the Rail Working Group would recommend that that declaration is made). Otherwise the Protocol does not create any obligations of the contracting state towards creditors nor does it create rights or obligations between the contracting states.

RWG on Twitter

The RWG is now officially on Twitter! We are using this platform to showcase railway news stories from around the internet, as well as our own activities. Please follow us at <https://twitter.com/RailWorkingGrp>.

Subscription discount for RWG members for “Railways Africa”

Rail Working Group members are entitled to purchase the South African online publication “[Railways Africa](#)” at 25% discount of R6500 - place promo code *railworkinggroup2019* when checking out. The code expires at the end of 2019.

“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](#).

Fourth Edition of the Official Commentary on the Cape Town Convention and the Aircraft Protocol just published

The 4th Edition of Professor Sir Roy Goode’s commentary on the Cape Town Convention and the Aircraft Protocol has just been published. Of course, many of the comments there apply equally to the Luxembourg Rail Protocol. RWG members are entitled to a 15% discount and you will see the application form [here](#).

Official Commentary – consultation

The next edition of Professor Goode’s official commentary on the Luxembourg Rail 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 on the Luxembourg Rail Protocol - special deal for RWG members

Rail Working Group members are entitled to purchase Professor Goode’s official commentary on the Luxembourg Rail 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](#).

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www.railworkinggroup.org

Contact: info@railworkinggroup.org



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