

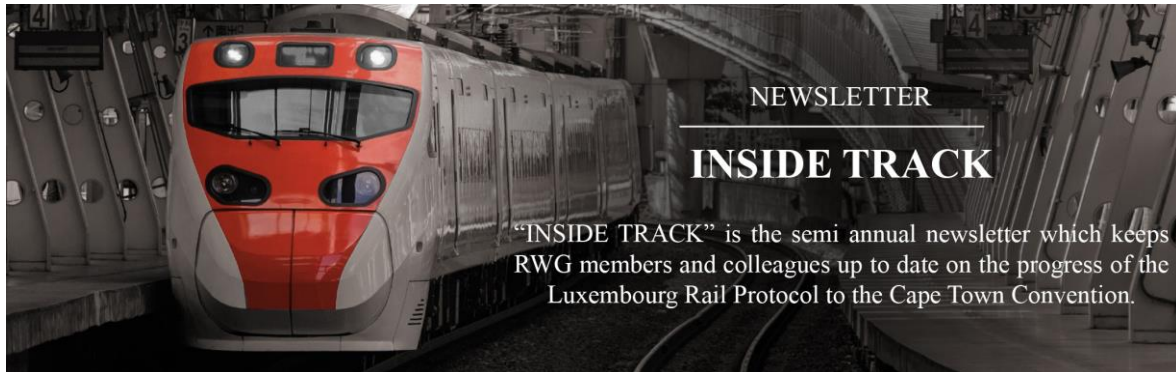
Issue no. 58, May 2022

THE 2001 CAPE TOWN CONVENTION
ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT



www.railworkinggroup.org

 **RailWorkingGrp**



----- [Subscribe](#) [Unsubscribe](#) -----

In common with many other organisations, we are switching increasingly to using social media to inform our members and friends in real time about the latest developments on the Luxembourg Rail Protocol and related subjects. Accordingly, we are now publishing Inside Track every 6 months and it will serve as a retrospective summary of the key developments over the previous half year. You can see our [Twitter](#) feed and read our regular information postings on [LinkedIn](#). If you are on LinkedIn but have not yet joined the RWG LinkedIn group, please let us know so you can join hundred of our members and colleagues and receive fast up to date information in relation to the Luxembourg Rail Protocol.

In this issue...

Dear RWG members and friends

It has been a little while since we last published Inside Track. The RWG team have also been affected by the pandemic, not just personally (as we have) but also by the significant restrictions it has imposed on us both in terms of travel and communications. Hopefully we (and you) are past this now and we can begin to return to a degree of normality. Nonetheless, we are hopefully keeping you up to date with our Twitter and LinkedIn feeds and, although progress is at times frustratingly slow, the Spanish and South African signatures of the Luxembourg Rail Protocol will open the way in the coming 12 months for the project to move into the phase as we prepare, behind the scenes, for the entry into force of the Protocol in contracting states.

Thank you in the meantime for your patience.

HR

[Spain signs the Luxembourg Rail Protocol](#)

On 11th November Spain signs the Luxembourg Rail Protocol.

[The Republic of South Africa signs the Luxembourg Rail Protocol](#)

On 22 March 2022, the Republic of South Africa signed the Luxembourg Rail Protocol.

[Nexxiot](#)

The RWG and Swiss supply chain digitization pioneer Nexxiot have joined forces to implement the forthcoming Unique Rail Vehicle Identification System (or URVIS).

[UNECE Group of Experts' Meeting](#)

The RWG participated in the latest meeting organised by the UN Economic Commission for Europe under the auspices of the Working Party on Rail Transport.

[UNEP FI](#)

The Rail Working Group is proud to have been appointed as a supporter of the UN Environmental Programme Finance Initiative.

[European Commission – Action Plan for Rail](#)

The European Commission last year launched its “Action plan to boost long distance and cross-border passenger rail”.

[Cape Town Convention Academic Project – 10th Conference 29th and 30th September](#)

The 10th Cape Town Convention Academic Conference was held in Cambridge, England last September.

[SARA Rail Conference in October](#)

The RWG participated in last year's SARA Rail Conference, which was held virtually due to the ongoing pandemic.

[UK call for evidence on WISP](#)

In February, the RWG has made a detailed submission to the UK Department for Transport in relation to the Call for Evidence on the UK government's Whole Industry Strategic Plan for rail (WISP).

[RWG joint-submission with UNIDROIT to the OECD](#)

Last October the Rail Working Group (RWG) and the International Institute for the Unification of Private Law (UNIDROIT) filed a detailed submission to the annual consultation, under the auspices of the OECD, between Civil Society Organisations Export Credit Agencies (ECAs), in which they presented strong arguments in favour of ECAs reducing financing costs when the Luxembourg Rail Protocol applies to the debtor.

[Remembering Nerina Skuy](#)

Nerina Skuy, chair for many years of the Heritage Railway Association of Southern Africa, and Editor-in-Chief, SA Rail sadly left us, far too soon, on last July

Forthcoming events

[*discount for RWG members](#)

Spain signs the Luxembourg Rail Protocol

Spain signed the Luxembourg Rail Protocol to the Cape Town Convention on 11th November 2021. It is expected that Spain will move to ratification during the course of 2022. Prof. Teresa Rodriguez de las Heras Ballell, co-chair of the RWG Spanish Contact Group, also attended the ceremony. "This marks a major milestone in our work to open the Spanish rail sector to private finance, leading to a more dynamic and competitive industry" she commented. "With two major rolling stock manufacturers and a vibrant high speed rail network, Spain is a major participant in the rail sector and ratification will represent a significant move forward for Spain in both domestic and international rail operations" said her co-chair Jose-Luis Lorente Howell.

The Republic of South Africa signs the Luxembourg Rail Protocol

On 22 March 2022, the Republic of South Africa signed the Luxembourg Rail Protocol. His Excellency, Mr Fikile Mbalula, Minister of Transport of South Africa, signed the Protocol as a first step towards the planned ratification of the Protocol by South Africa.

"The fact that the signature of the Luxembourg protocol has come in the same week that Draft White Paper into National Rail Policy was adopted by Parliament and two weeks before Transnet is due to implement third party access shows how serious Government is about rail reform in South Africa, said Mesela Nhlapo, Chief Executive Officer of the African Rail Industry Association (ARIA). "ARIA celebrates this progress and stands with Government as we move to ratification of the protocol; the benefits for South Africa and the region will be significant" she added.

"This is" said RWG chair Howard Rosen "a vital step in supporting the development of the rail sector in South Africa and represents a major step forward for Africa."

SARA Rail Conference in October

The RWG participated in last year's SARA Rail Conference, which was held virtually due to the ongoing pandemic. Discussion points included ICT as an enabler for railways, opportunities for 3rd Party Operators in Southern Africa, railway safety and gender inclusivity in the industry.

UK call for evidence on WISP

In February, the RWG has made a detailed submission to the UK Department for Transport in relation to the Call for Evidence on the UK government's Whole Industry Strategic Plan for rail (WISP). In its submission the RWG explained in detail why the Luxembourg Rail Protocol is fully compatible with the UK government's strategic objectives for the railways over the next 30 years: meeting customer needs, delivering financial sustainability, contributing to long-term economic growth, levelling up and connectivity in delivering environmental sustainability. In each case the RWG argued that the Luxembourg Rail Protocol had a positive role to play in achieving these objectives.

RWG joint-submission with UNIDROIT to the OECD

Last October the Rail Working Group (RWG) and the International Institute for the Unification of Private Law (UNIDROIT) filed a detailed submission to the annual consultation, under the auspices of the OECD, between Civil Society Organisations Export Credit Agencies (ECAs), in which they presented strong arguments in favour of ECAs reducing financing costs when the Luxembourg Rail Protocol applies to the debtor. Implementing this change will help developing countries to build back greener by investing in railways, and at the same time open up new markets for rolling stock manufacturers in OECD states.

The submission highlighted the current problem with the application of country risk classifications

Nexxiot

The RWG and Swiss supply chain digitization pioneer Nexxiot have joined forces to implement the forthcoming Unique Rail Vehicle Identification System (or URVIS) which will become available for the first time under the Protocol, to enable complete worldwide cargo rail digitization. This will use Nexxiot's proprietary cloud-based technology, which has the flexibility and scalability to encourage uniform acceptance by shippers, operators and governments, to place URVIS numbers on all rolling stock supported by Nexxiot as soon as these numbers are available.

UNECE Group of Experts' Meeting

The RWG participated in the latest meeting organised by the UN Economic Commission for Europe under the auspices of the Working Party on Rail Transport. The meeting was held in Geneva on 13-14th September 2021 and was focused on setting in place a set of Model Rules for the marking of rolling stock with the URVIS numbering system.

Once the Luxembourg Rail Protocol is in force, the International Registry in Luxembourg will be issuing, on application, unique vehicle numbers under the unique rail vehicle identification system (URVIS) but there need to be clear protocols for marking rolling stock with those numbers. Some clear principles have now been agreed and the RWG is taking the lead in drafting these into a working version of the rules, to be discussed further in the next plenary meeting scheduled for 4 – 6 May.

The Group of Experts is constituted under the auspices of the UNECE Inland Transport Committee, Working Party on Rail Transport and the Group's work was on the agenda of its 75th session, which took place in Geneva and virtually between 17th and 19th November 2021 which the RWG also attended.

under the current Rail Sector Understanding that applies to OECD export credit agencies. The classification determines the lowest financing rate that can be supported by ECAs, but this system does not recognise the additional security given to creditors that provide secured finance when they are protected by an international treaty. UNIDROIT and the RWG argued that this conflates state credit risk with the "rule of law" risk: the risk that creditor claims will be enforced through local courts. The adoption of the Luxembourg Rail Protocol to the Cape Town Convention in the state where the debtor is located introduces at least nine different factors that will significantly reduce creditor risk. This is already recognised by ECAs in relation to aircraft under the OECD Aircraft Sector Understanding when the parallel Aircraft Protocol to the Cape Town Convention applies.

The effect of this is that, at a time when many developing states wish to rebuild their economies post-pandemic in a more environmentally sustainable way by investing in the railways, they are constrained from doing so because the cost of credit is too high due to their poor credit rating. The Luxembourg Rail Protocol should be taken into account in future by ECAs, as it will allow them to offer more competitive rates despite low credit ratings. This will in turn open up new business opportunities for manufacturers and suppliers of railway rolling stock.

RWG chair Howard Rosen attended the meeting (which took place virtually) to present the submission to over 140 attendees.

The detailed submission by the RWG and UNIDROIT may be found [here](#).

UNEP FI

The Rail Working Group is proud to have been appointed as a supporter of the UN Environmental Programme Finance Initiative. The UNEP FI is a partnership between UNEP and the global financial sector to mobilize private sector finance for sustainable development. UNEP FI works with more than 450 members – banks, insurers, and investors – and over 100 supporting institutions – to help create a financial sector that serves people and planet while delivering positive impacts. We aim to inspire, inform and enable financial institutions to improve people's quality of life without compromising that of future generations. By leveraging the UN's role, UNEP FI accelerates sustainable finance.

European Commission – Action Plan for Rail

The European Commission last year launched its "Action plan to boost long distance and cross-border passenger rail". In the plan, the Commission sets out its clear commitment to the Luxembourg Rail Protocol noting that in its conclusions of 3 June 2021, the European Council recognised "that major investment by the sector in international long-distance rolling stock is required" and "also that investment is urgently needed from the private sector" reminding "Member States of the existence of international agreements and treaties which facilitate private investment, such as the Luxembourg Rail Protocol to the Cape Town Convention [on International Interests in Mobile Equipment]."

The Action Plan states that "[u]pon its entry into force, the Protocol will make it easier and cheaper for the private sector to finance railway rolling stock. The Commission will promote its swift implementation across the [European] Union.

Remembering Nerina Skuy



Nerina Skuy, chair for many years of the Heritage Railway Association of Southern Africa, and Editor-in-Chief, SA Rail sadly left us, far too soon, on last July. Nerina was a wonderful warm person with a long standing passion for the railways – particularly where it could also be a way of helping the less privileged in South Africa.

As its CEO, she worked tirelessly for the revival of the Apple Express steam railway in the Eastern Cape at considerable personal cost. She was probably the first to recognise how valuable the Luxembourg Rail Protocol could be to assist with the financing and viability of heritage railways around the world and became a great friend and supporter of the Rail Working Group.

Always positive and highly knowledgeable, she became one of the most respected personalities in the rail community in South Africa. Her passing is a huge loss to the rail industry. May Nerina's wisdom, dedication and compassion be an inspiration to us all.

**Cape Town Convention Academic Project –
10th Conference 29th and 30th September**

The 10th Cape Town Convention Academic Conference was held in Cambridge, England last September. The conference was a reflection on the past twenty years, as well as explorations of new topics requiring further academic research. A number of papers dealing with the concept of 'insolvency proceedings' under the Convention were presented.

For copies of the 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



[RailWorkingGrp](#)

Connect on [LinkedIn](#)

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.

Contact: info@railworkinggroup.org

© 2021 Rail Working Group