

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.

- [Mozambique looking at the Luxembourg Rail Protocol](#)
- [New World Rail Market Study shows continuing growth in the rail market](#)
- [EU engages with “Basel” revisions](#)
- [Topic of the month: Declarations on behalf of Territorial Units](#)
- [Special deal for RWG members](#)

Mozambique looking at the Luxembourg Rail Protocol

Unidroit Secretary General José Angelo Estrella Faria and RWG Chairman Howard Rosen visited Mozambique Transport Minister Dr. Carlos Alberto Fortes Mesquita in Maputo in August to introduce him to the Luxembourg Rail Protocol. Mozambique will urgently need more investment in rolling stock in the coming years both in relation to existing lines and new lines being planned, including the proposed Macusa line which will be the first line in Mozambique to be built on the standard gauge. Minister Mesquita advised his visitors that Mozambique has already embarked on a concessioning programme, bringing the private sector in to operate certain lines. Secretary General Faria and Mr. Rosen also visited Mr. Rogério Manuel at CTA, Confederação das Associações Económicas de Moçambique, the main business organisation of Mozambique. There were further contacts during the visit with senior officials at both the Maputo Ports Authority and CFM, the state national railway, who expressed their support for the Luxembourg Protocol.

New World Rail Market Study shows continuing growth in the rail market

The latest World Rail Market Study has been published by UNIFE last week at InnoTrans 2016 in Berlin. The detailed report, conducted by consultants Roland Berger, showed continuing growth in the rail market at a 2.6% compound annual growth rate through to 2021.

The total annual global market for railway rolling stock averaged € 53.7 billion in the years 2013 – 2015. Looking forward the study envisages the highest growth rates in Western Europe and Africa & Middle East of 3.1%, and 3% respectively.

[Executive Summary](#)

[Order Form](#)

EU engages with “Basel” revisions

The Rail Working Group has taken up with the European Commission the rail industry’s concerns about the proposed revisions, from the Basel Committee on Banking Supervision, to bank capital allocations for asset based lending. Specifically, noting that the level of capital allocated to credits has a direct impact on the margins charged by banks on financings, the RWG argued that the stable nature of rolling stock as an asset class and the additional protection of the Luxembourg Rail Protocol, once in force, have to be taken into account by banks in assessing risk and capital allocations. In his response to RWG Chairman Howard Rosen, EU Commission Vice President Dombrovskis stated that “as you know, the Commission is fully committed to promoting sustainable long-term funding sources for investments in sectors critical to Europe’s future including the area of cross-border and sustainable transport”.

The Commission has been reviewing evidence submitted as part of a public consultation on the impact of new regulatory regimes on long-term finance. Vice President Dombrovskis concluded his response by stating that “the data and examples included in your letter will provide valuable input to the Commissions on-going assessment of the potential adjustments to the capital treatment of specialised lending exposures”.

See the full exchange of correspondence [here](#).

Topic of the month: Declarations on behalf of Territorial Units

The Rail Protocol allows, through Article XXIV, for a State to accede to the Rail Protocol on behalf of various territorial units of that State. Territorial units are administrative structures, separate from State administration, which look after the interests of people living within a defined geographical area. In some cases, one territorial unit may have a different form of law compared to another. Canada is a case in point where Quebec is a civil law jurisdiction, while the majority of Canadian provinces use common law. In the United Kingdom, the law of Scotland is different to the laws of England and Wales.

There are 3 options available to a State with respect to territorial units:

1. The State can make a declaration without any clarification for its territorial units, in which case the declaration will cover all territorial units within that State
2. The State can make a specific declaration indicating which territorial units the declaration applies to. By analogy, the declaration does not apply to territorial units which are not mentioned in the declaration.
3. The State can make a series of variable declarations, relating to different territorial units, setting out how each relevant part of the Rail Protocol will work with the relevant territorial units.

Which territorial unit a debtor may be situated in, and therefore whether a specific declaration of the State will apply to it, will be governed by the location of the debtor's registered office, statutory seat, centre of administration, place of business or habitual residence. This will be important information for a creditor, especially if the rolling stock moves across different territorial units, such as on passenger services between London and Edinburgh in the United Kingdom. As the Rail Protocol comes into force, it will be important to check whether a State has made any declarations with respect to different territorial units as it may be fairly easy to assume that a regime applies across all territorial units within a State rather than being aware of the differences.

[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

© 2016 Rail Working Group