

Introduction to the Luxembourg Rail Protocol

Overview and current status

Howard Rosen
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Securing the Future for the World's Railways

Introduction

The Rail Working Group

- Formed in 1996 at the request of UNIDROIT
- Not for profit global industry group based in Switzerland
- More than 70 direct members and hundreds via industry associations
- Linking up the various stakeholders in the industry
- Dedicated to the adoption of the Luxembourg Protocol



Setting the Scene

Railways in the 21st Century

- Long history of global (relative) decline
- Cross border operation essential to serve global markets
- Significant underinvestment worldwide both in infrastructure and rolling stock



Setting the Scene

Railways in the 21st Century

- Transportation mode of preference for policy makers for good economic, environmental, social and public policy reasons
- New interest in High Speed inter urban links and municipal light rail



Setting the Scene

Railways in the 21st Century

- Development of railways in Africa is a major component of a sustainable development agenda
- And key to African economic integration
- Major modal shift required from road to rail
- Move to standard gauge will result in significant new procurement of rolling stock



Setting the Scene

Railways in the 21st Century

- And attract more entrepreneurs
- More private operators means more private capital needed
- More credit support required
- Funding rates matter if competition is to be encouraged
- Public sector needs to offload risks



Financing Railway Rolling Stock

Public finance

- Equity, state loans and grants, aid

Public Export Finance

- ECA, state or para-statal loans

Private investment

- Private equity, secured credit, leasing, BOT, etc



Financing Railway Rolling Stock

Current constraints

- Cost of credit
- Funder security/collateral
- Creditor especially exposed on cross border financing or operations



Problems of bringing in private capital

No national title or security registry

Identifiers unstable (from a creditor's perspective)

No comparable running number for other rolling stock (e.g. metros)

Limited legal infrastructure domestically and internationally

Repossession issues for creditors on debtor default or insolvency

Public Policy and Public Interest

Bank's capital requirements and Basel II and III

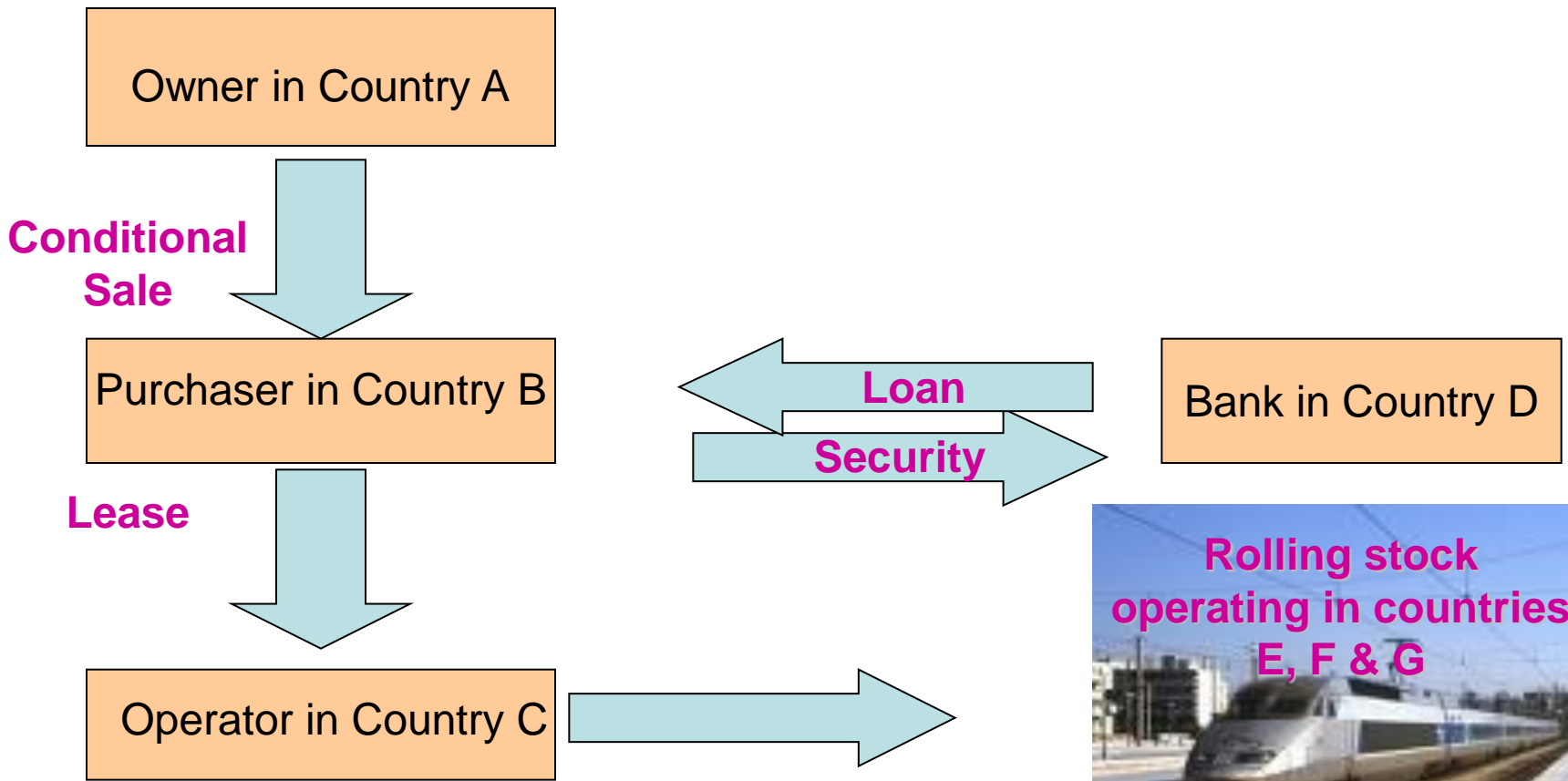
Limited commercial tracking of assets

Cross border risks





Financing Railway Rolling Stock today



Cape Town October/November 2001

participants from 58 States and 11 international
organisations at the Diplomatic Conference



Cape Town Convention

Aircraft Protocol operating in over
60 jurisdictions

International registry for aircraft
running in Dublin since 2006

Over 600,000 registrations to
date - estimated value of over
half a trillion USD

Registrar – Special purpose
company established by SITA

Aviation Working Group: “Cape
Town” will save the air transport
industry \$161 Billion 2009 - 2030



Luxembourg 2007

**participants from 42 States and 12 international
organisations at the Diplomatic Conference**

The Luxembourg Protocol Protecting creditor rights

**The
Protocol
creates**

- A new type of global security interest (the “International Interest”) for railway rolling stock, internationally recognised with established priorities
- Security registrable (voluntary) and searchable 24/7 in a public registry, in Luxembourg, through the internet
- Relevant for domestic and international rolling stock finance
- A common system for enforcing creditor rights on debtor default or insolvency



What does the Luxembourg Protocol apply to?

**The
Protocol
applies**

- To all rolling stock (broadly defined):
 - “..vehicles movable on a fixed railway track or directly on, above or below a guideway” so covers
- Inter-urban and urban rolling stock
- Specialist boring and other rail mounted equipment
- Metro trains and trams
- People movers/shuttles at airports
- Cranes and gantries at ports
- Cable cars



When does the Luxembourg Protocol apply?

**The
Protocol
secures**

- Lessor under a lease
- Creditor under a secured loan and
- Vendor's rights under a conditional sale (where title is retained)



Unique Vehicle Identification?

Rolling stock must be uniquely identifiable for the Protocol to apply

Unique Vehicle Rail Identification System (URVIS) will be established by registry regulations

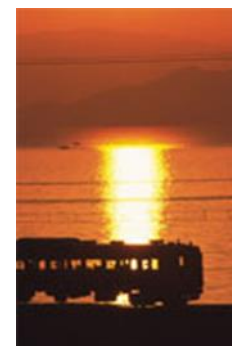
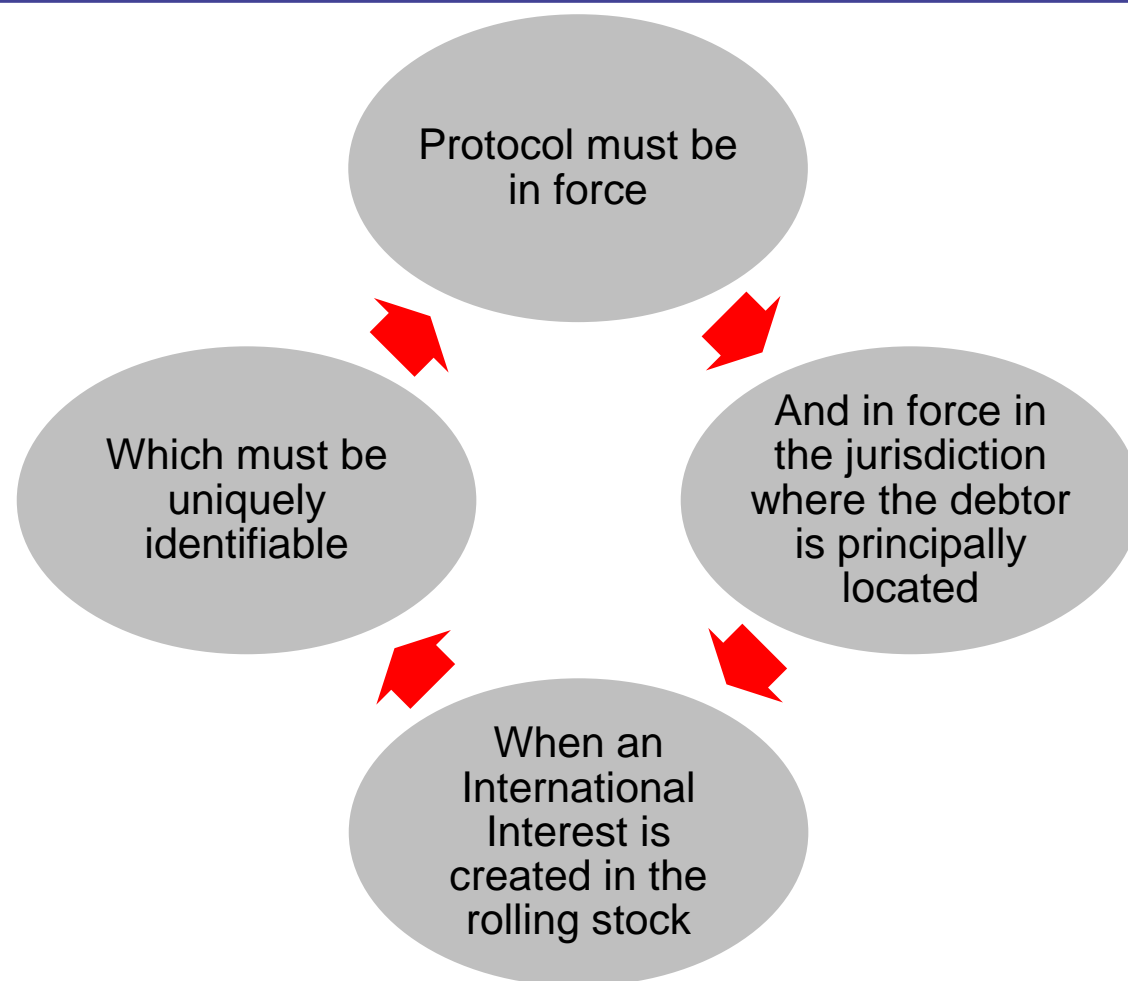
First global unique and permanent identification system for Rolling Stock

Unique 20 digit number allocated by registrar in Luxembourg, never re-used

Affixed permanently to rolling stock by manufacturer, maintainer or keeper



When does the Luxembourg Protocol apply?



Luxembourg Benefits

The Protocol

- Establishes a new domestic and international legal framework securing creditors
- Eliminates complex documentation and structures – saving money
- Resolves cross border and conflict of laws issues
- Minimises need for state support
- Reduces private financing costs and, for exporters, ECA and political risk premiums
- Facilitates operating and finance leasing and other private sector finance
- Makes the industry more competitive against road and aircraft transportation



The Status of the Luxembourg Rail Protocol

Adopted 2007 (not yet in force)

Appointment of Registrar (SITA subsidiary) December 2014

Ratified by EU and Luxembourg

Signed by Italy, Germany, France, Mozambique, Switzerland, Gabon and UK – all, together with Sweden, moving towards ratification

Other EU and non-European countries now actively working on ratifications

4 ratifications required, and secretariat (OTIF) must also authorise that the Registry is ready, before the Protocol “goes live”

Expected to be in force in 2018



Why the Protocol is Important for Mauritius

Increases the availability, while reducing cost, of private finance for railway equipment.

Removes the need for state financing of rolling stock procurement.

Facilitates discounted Western ECA fund support for the financing of imported rolling stock and rolling stock leased into other parts of Africa.

Develops Mauritius' growing reputation as the key financial services centre for Africa



Why the Protocol is Important for Mauritius

Creates new development solutions for sister countries across Africa

Critical part of Mauritius's profile as a financial services centre

Potential support for the Port Louis to Curepipe light rail project

Financing option for harbour development



Conclusion

Railways are now the sunrise industry for good economic, social, environmental and political reasons

New investment will mean significant additional demand for passenger and freight rolling stock

And more private finance through loans and leases, where security of the collateral will be critical

Leading to a larger industry, more dynamic, transparent and competitive industry

The Protocol offers a better legal solution for asset based financing



Further Materials

[Luxembourg Protocol in a Nutshell \(English\)](#)

[Summary of the Luxembourg Protocol](#)

[Full Luxembourg Protocol](#)

[Rail Working Group brochure](#)

[Key talking points](#)

[Working towards a global common identifier for railway rolling stock](#)

www.railworkinggroup.org



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