

20th Consultation Meeting with Civil Society Organisations and the OECD Export Credits Committees

15th November 2016, Paris



The Luxembourg Rail Protocol

Why it matters for ECAs

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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

- Transportation mode of preference for policy makers for good economic, environmental, social and public policy reasons
- Key element of a sustainable growth agenda



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

- Major modal shift required from road to rail
- Governments need resources for infrastructure
- Liberalisation means increased transparency and less State finance





Setting the Scene

Which means

- More private operators
- More private capital
- More credit support needed
- Funding rates matter if competition is to be encouraged



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

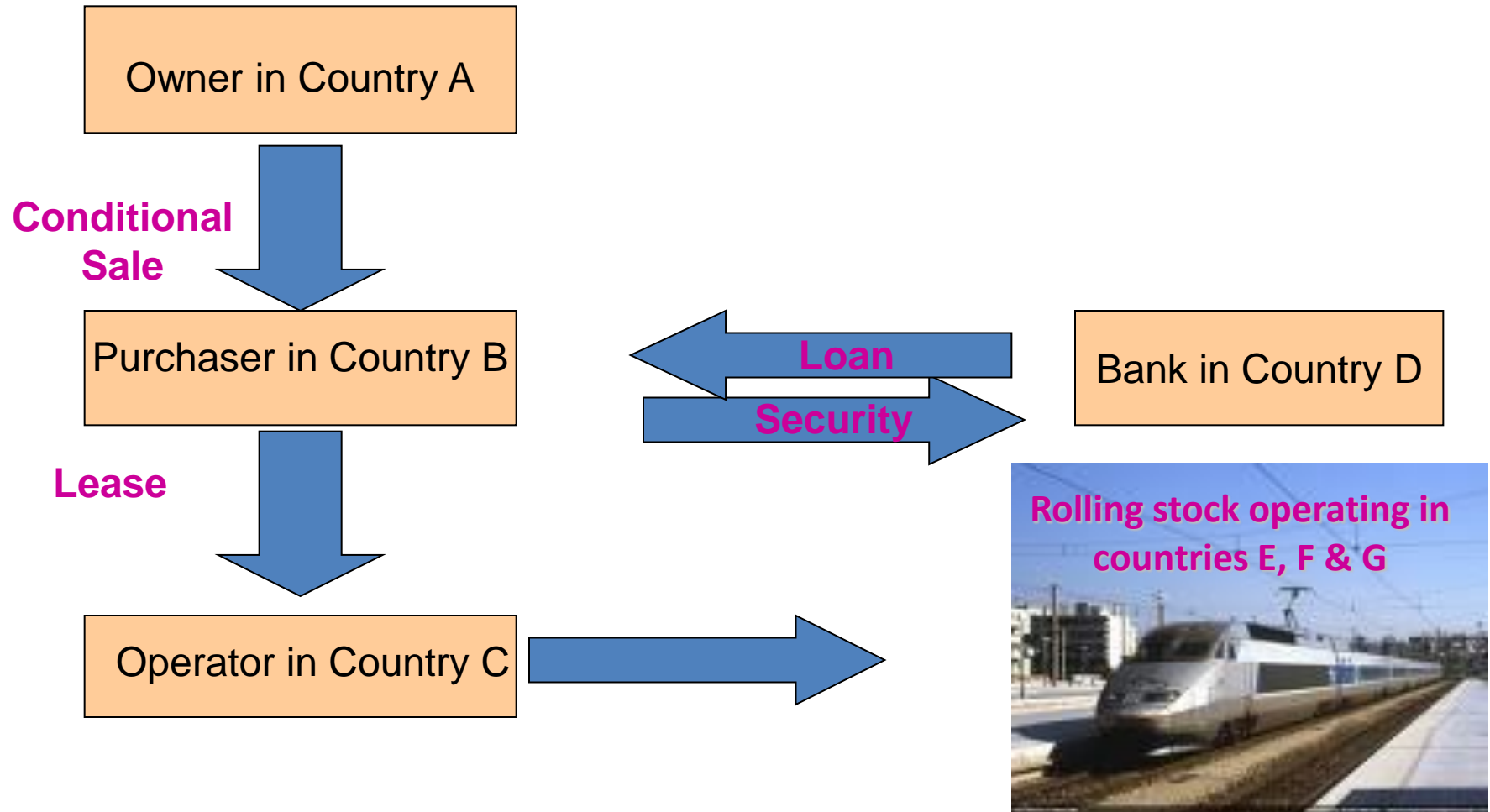
Bank's capital requirements and Basel II and III

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

- **Adopted the Cape Town Convention on International Interests in Mobile Equipment**
- **And the Aviation Protocol thereto**



Cape Town Convention

Aircraft Protocol operating in 62 jurisdictions

International registry for aircraft running in Dublin since 2006

Over 500,000 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



THE LUXEMBOURG PROTOCOL TO THE CAPE TOWN CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

Agreed in Luxembourg 2007

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

What does the Luxembourg Rail Protocol do?

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



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 identification system for Rolling Stock

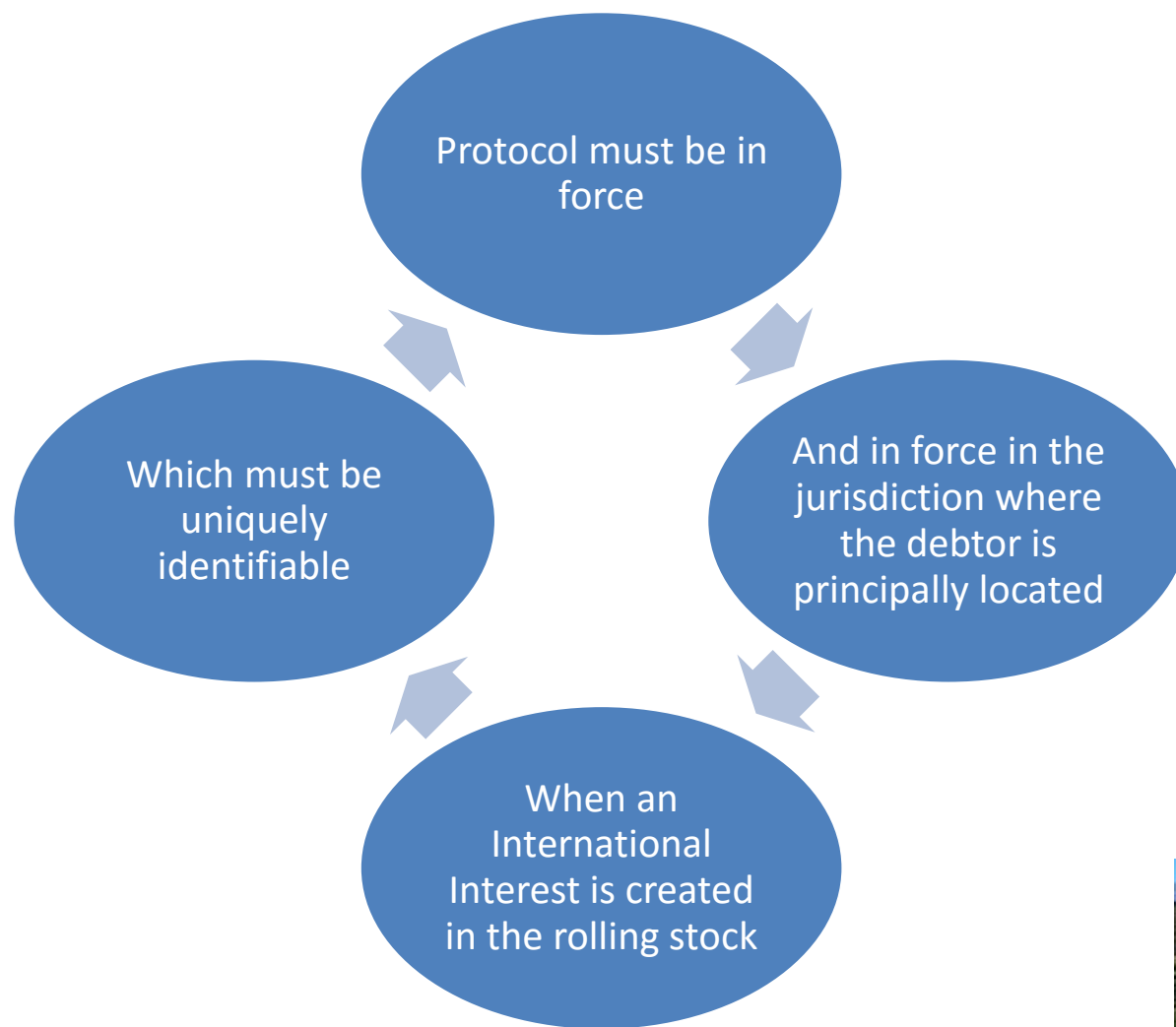
Unique 20 digit number allocated by registrar in Luxembourg, never re-used

Nominal cost

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
- Reduces need for state support and private financing costs
- 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, Switzerland, Gabon and UK – moving towards ratification; second African state will sign **today**

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



Export Credit Agencies

ECAs and aircraft – the ASU and the 10% “Cape Town Discount”

ECA engagement – a major factor in the adoption of the Aircraft Protocol

Railways now potentially at a competitive disadvantage compared to aviation

Aggressive credit support for railway equipment from non OECD members – placing many manufacturers at a competitive disadvantage



Export Credit Agencies

ECAs – play essential role supporting rail supply contracts

Many examples of ECA cover helping manufacturers get the deal

Will become more critical as procurement through private finance increases

2014 Rail Sector Understanding (RSU) in place

- **but runs out in 2017**
- **does not deal with the Luxembourg Protocol**

We need your (credit) support



Export Credit Agencies

Bearing in mind the environmental, social and economic benefits of the rail sector, at the very least will ECAs match the 10% discount for Aircraft financing?

Article 24 of Arrangement on Officially Supported Export Credits –
Country and Buyer Risk credit enhancement

Updating the RSU? Or a supplemental protocol



Conclusion

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

Liberalisation will lead to significant new demand for rolling stock – and non-state actors and more private finance where creditor security will be critical

The Luxembourg Protocol - a new global legal regime securing creditors, opening out possibilities for asset based credit

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

Export Credit Agencies will have a key support role to play, encouraging investment at rates based on enhanced security



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