



# The future for railway finance How the Luxembourg Rail Protocol will transform the rail sector

## Industry Seminar Paris, 7th April 2016





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## Overview of the Protocol



## Setting the Scene – the Berger Report

- EUR 13.3 bn spent on new rolling stock p.a.
- 370 procurement projects
- 88% of rolling stock procurement in Europe state financed or underwritten
- UK key exception (46% private finance) and, together with Germany, 81% of the private finance market



# The different private finance options

- Equity
- Debt (secured or unsecured)
- leasing (operating or finance)
- Conditional sales



# The different private finance options

- Conventional sources of private funding:
  - Manufacturer credit
  - Banks
  - Lessors
- Not so conventional sources:
  - Capital markets
  - Private equity
  - Pension funds and Institutions

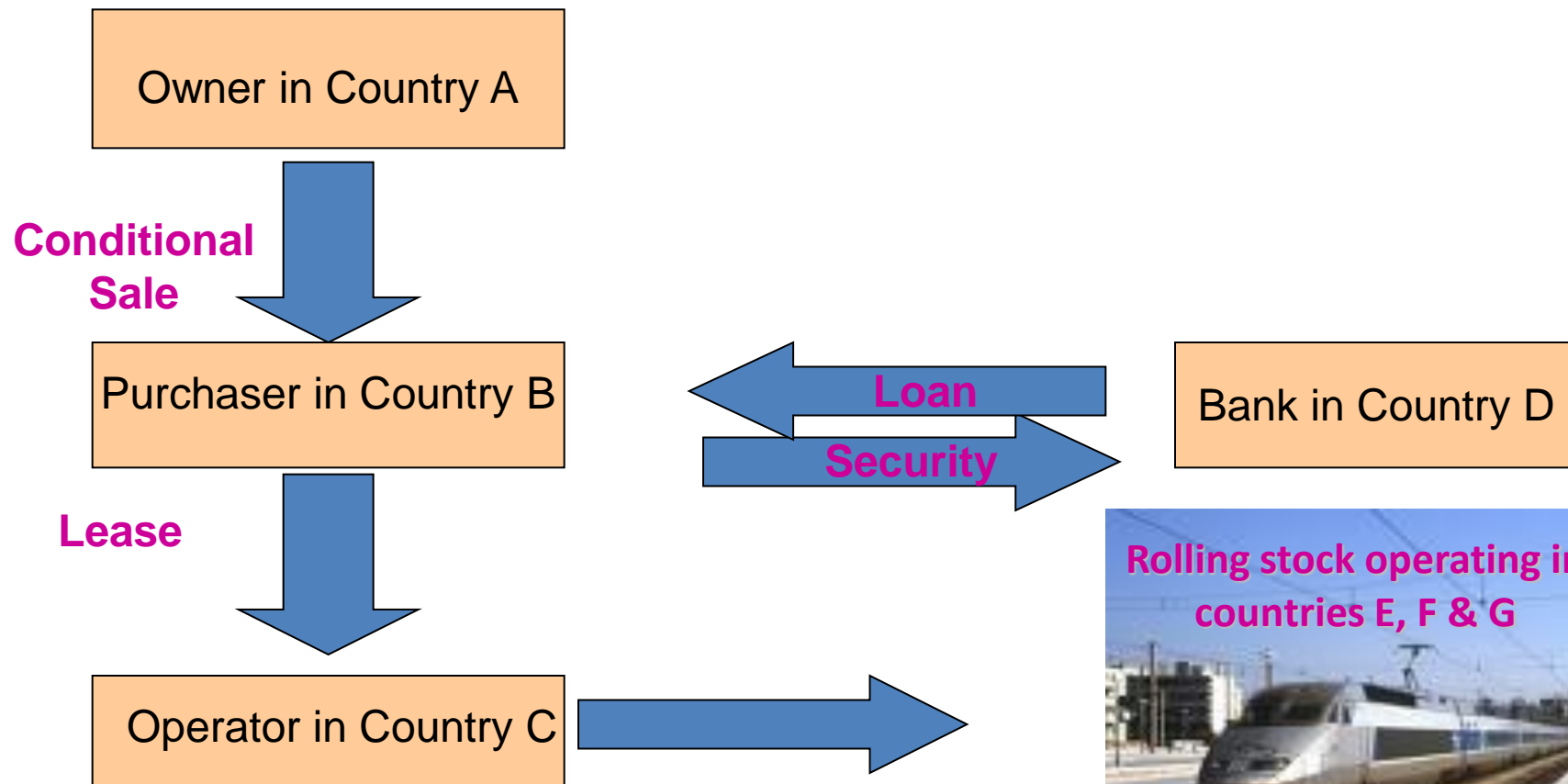


## Creditor Issues

- No national title or security registry
- Identifiers unstable
- Limited legal infrastructure domestically and internationally
- Repossession for creditors on debtor default or insolvency
- Public Policy and Public Interest
- Bank's capital requirements and Basel II and III
- Limited 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



# **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 for railway rolling stock, internationally recognised with established priorities
- ✓ Registrable (voluntary) and searchable in a public registry, 24/7
- ✓ new uniform system for unique and permanent identification of assets (URVIS)







# To what does the Luxembourg Protocol apply?

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 applies:

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







# When does the Luxembourg Protocol apply?

- Protocol must be in force
- And in force in the jurisdiction where the debtor is principally located
- When an International Interest is created in the rolling stock
- Which must be identified in accordance with the Protocol with a unique number





# Luxembourg Benefits

## The Protocol :

- ✓ Creates a new legal framework, even for financing of domestic rail transactions
- ✓ Eliminates complex documentation and structures
- ✓ Resolves cross border security and conflict of laws issues
- ✓ Facilitates operating and finance leasing and other private sector finance
- ✓ Makes the industry more competitive against road and aircraft transportation
- ✓ Lowers ECA premiums (probably)
- ✓ Other economic Benefits







## Other Luxembourg Benefits

- Global system
- Proven
  - Aircraft Protocol operating in 62 jurisdictions
  - International registry for aircraft running since 2006 (and now in UK)
- Special debtor insolvency rules
- Public service recognition and provisions
- Party autonomy on contracts



# The Status of the Luxembourg Protocol

- Adopted 2007 (not yet in force)
- Appointment of Registrar December 2014
- Ratified by EU and Luxembourg
- Signed by Italy, Germany, Switzerland, Gabon and UK
- Other EU and non-European countries now actively working on ratifications
- Secretariat authorisation





# Implementation Issues

- The Problems of Contiguity
  - Geographic
  - Common systems
- Insolvency and the EU
- URVIS
- Pre-existing interests
- “Marketing”
- Regulations – current and future
- Procedures
- Charges
- Ancillary Services





# The Luxembourg Rail Protocol

- A new strategic tool for the public and private sector
- Providing a new pragmatic global regulatory framework which will
  - ✓ Facilitate more and cheaper private sector investment in the railways
  - ✓ Lower barriers to entry to private operators
  - ✓ Stimulate a more competitive and dynamic industry
  - ✓ Support cross border transactions and operations
  - ✓ Open more business opportunities for French investors outside of France





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[www.railworkinggroup.org](http://www.railworkinggroup.org)