THE 2001 CAPE TOWN CONVENTION
ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

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WHY THE RAIL PROTOCOL MAKES SENSE FOR SINGLE/ISLAND JURISDICTIONS

The Luxembourg Protocol to the Cape Town Convention is a new international treaty on the recognition and prioritisation of security interests held by private sector creditors lending on, or leasing, railway equipment. These security interests will be registered in a new international registry located in Luxembourg, which will be searchable by the public 24/7.

When it comes into force, expected in 2020, the Protocol will make it easier and cheaper for the private sector to finance railway rolling stock. It covers leases and security created on a broad range of rail equipment: from high-speed to light rail trains, from freight locomotives and wagons to trams and metro/subway trains, and from people movers at airports to gantries and cranes running on rails at ports.

Although it will deliver additional benefits in relation to rolling stock actually crossing borders, the Protocol will also greatly assist manufacturers, banks, governments and operators even when the equipment cannot move on tracks across jurisdictional borders because it will apply if the debtor has its principal place of business in a contracting state. These advantages can be summarised as follows:

1. **A major additional security for lenders and lessors** of rolling stock which will also allow notifications of change of title to be established after the Protocol comes into force. Most jurisdictions have no facility for registering title or security interests in rolling stock, so this will make domestic asset based financing more secure. This should also encourage foreign lenders to finance local rolling stock

2. **Lowers the cost of credit** as banks adjust their capital allocations to take into account the reduced risk and simplified documentation at the same time encouraging export credit agencies to reduce their risk premiums.

3. **Assists tracking** the location and status of financed rolling stock through the introduction under the Protocol of a global unique identifier of rolling stock.

4. **Encourages foreign and domestic manufacturers to extend credit** to domestic operators since their security is recognised under the Protocol if there is a conditional sale agreement.

5. **Facilitates leasing** thereby reducing the need for operators to be heavily capitalised and lowers the barriers to entry for new operators, creating a more dynamic and competitive market. It will also be good for the tax-payer since it will relieve the pressure for state support for rail operators.

6. **Support for multinational and multi asset financings** if the Protocol is applicable in the various jurisdictions as common security rules will apply.

7. **Cheaper finance for local lessors and operators wishing to expand their business abroad** as the funding cost for rolling stock investment should be lower as well as enhancing the jurisdiction's position as a financial services centre.

In summary, a state adopting the Luxembourg Rail Protocol will:

a. Provide the conditions for more secure funding at home and will draw in foreign investment and lending, lowering the cost of capital, encouraging capital investment and competition and often relieving the state of a significant financing burden.

b. Boost its potential as a financial services centre.

c. Provide valuable support for banks, operators and manufacturers working outside their home jurisdiction.