East African Community Railways Sub-Sector Meeting of the Regional Task Force on Railways – Arusha, 13th June 2024

he Luxembourg Rail Protocol



Howard Rosen

Chairman Rail Working Group

Three parts to the presentation





- General introduction to the Cape Town Convention and its (Luxembourg) Rail Protocol
- Looking at some key aspects in detail
- □ The particular benefits for Africa and how to realise them

RAIL WORKING GROUP





- Formed in 1996 at the request of UNIDROIT, the International Institute for the Unification of Private Law (intergovernmental organisation based in Rome)
- Not-for-profit global industry group based in Switzerland
- Dedicated to the adoption of the Luxembourg Rail Protocol to the Cape Town Convention



RAIL WORKING GROUP

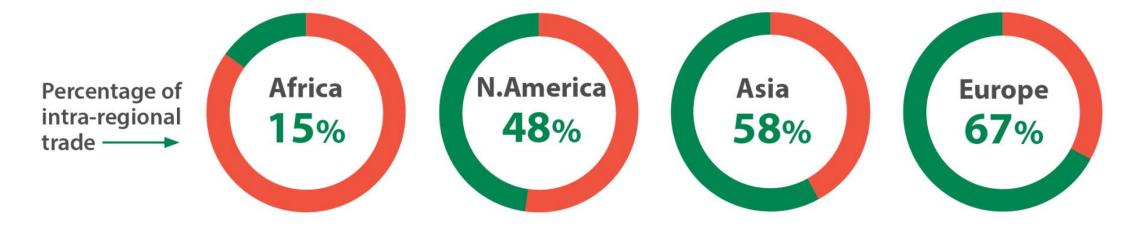
- □ All officers and members work for free
- About 90 direct members and many hundreds via industry associations, linking up various industry stakeholders
- Over 20 country or region contact groups
- European steering group based in Brussels
- Works with, and supports, governments, the European Commission, UN Agencies and the African Union

THE 2001 CAPE TOWN CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT



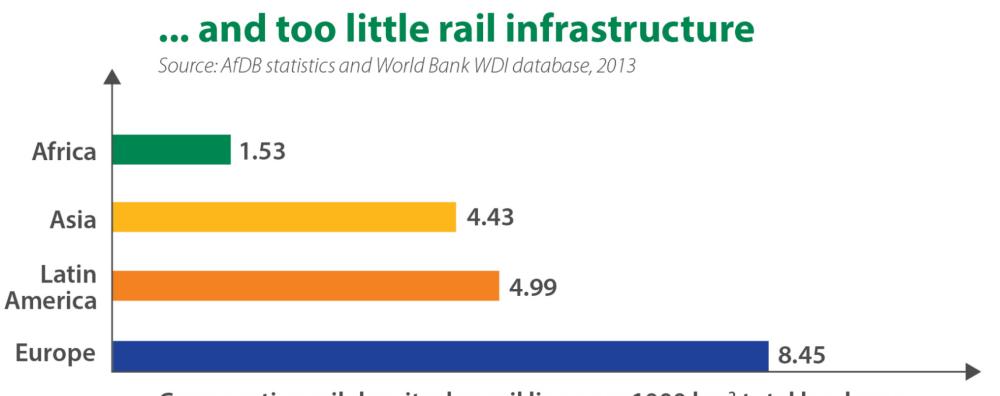
Africa has a low level of intra-regional trade ...

Source: UN Economic Commission for Africa



THE 2001 CAPE TOWN CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT





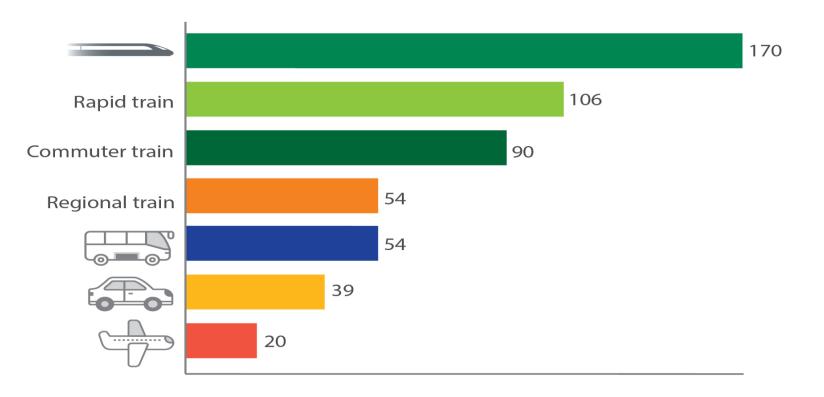
Comparative rail density: km rail lines per 1000 km² total land area

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Energy Efficiency

Passenger-kilometres carried per unit of energy (1kwh = 0.086kep) Source: EEA (2018)



And roads are dangerous

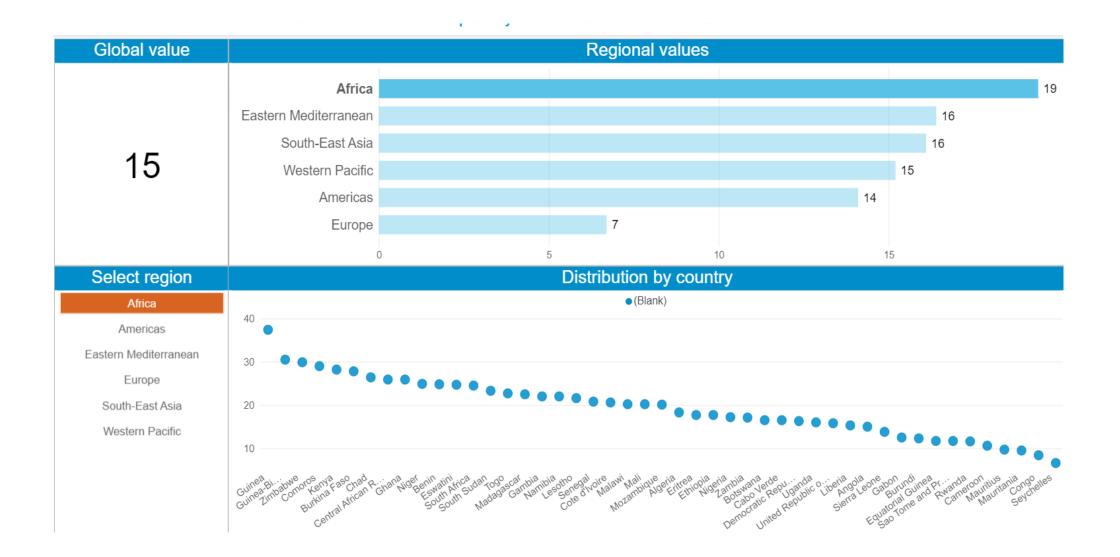


- Every year the lives of approximately 1.19 million people are cut short as a result of a road traffic crash. Between 20 and 50 million more people suffer non-fatal injuries.
- Road traffic injuries cause considerable economic losses to individuals, their families, and to nations as a whole. Road traffic crashes cost most countries 3% of their gross domestic product.
- 92% of the world's fatalities on the roads occur in low- and middle-income countries, even though these countries have around 60% of the world's vehicles.

Source: World Health Organisation December 2023

And roads are dangerous





Source: World Health Organisation





- Railways are essential for sustainable development
- The lack of integrated African rail networks is holding back growth and intra-continental trade – including the AfCFTA
- Railways are more efficient for mid-long distance transport 1 train can transport the freight carried by 50 trucks
- Roads cannot take the strain from increased trucking
- Cities are strangled by congestion and pollution
- And road casualties represent a high cost to society
- Moving passengers and freight onto rail is vital for environmental, social and economic reasons





Technology is opening up new opportunities

- Hybrid, cleaner diesel and hydrogen/fuel cell locomotives
- Artificial Intelligence
- Variable gauge rolling stock
- Digital Automatic Coupling (DAC)
- Convoying and driverless trains
- Supercapacitor trams
- Quieter wagons
- GPS rolling stock tracking in real time

This needs \$billions of investment

Finding the money



- More passenger and freight traffic must be moved to the rails
- □ The rail sector has to be competitive
- But governments struggle to find resources
- Private credit should be the answer and it's easier to fund rolling stock than infrastructure

Finding the money



Urgent and long term need to procure rolling stock

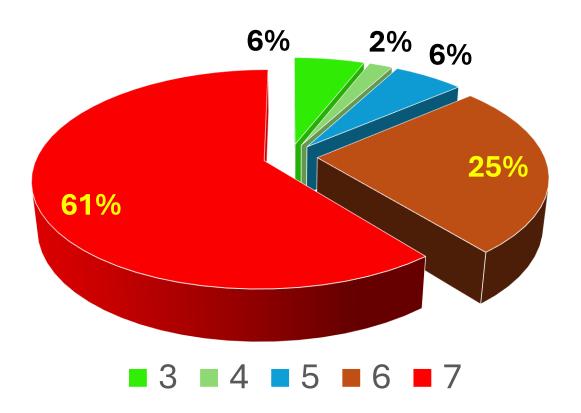
- The African Integrated Rail Network (AIRN) will require \$multibillion investment in new standard gauge rolling stock and new technology
- Latest UN ECA study shows the AfCFTA as 132,857 bulk wagons and 36,482 container wagons at a cost of about \$35 bn by 2030; add another \$20 bn at least for locomotives





Private capital is the answer but serious obstacles

- Public Policy and Public Interest
- **G** SOE management
- Debtor credit can be perceived as too high a risk

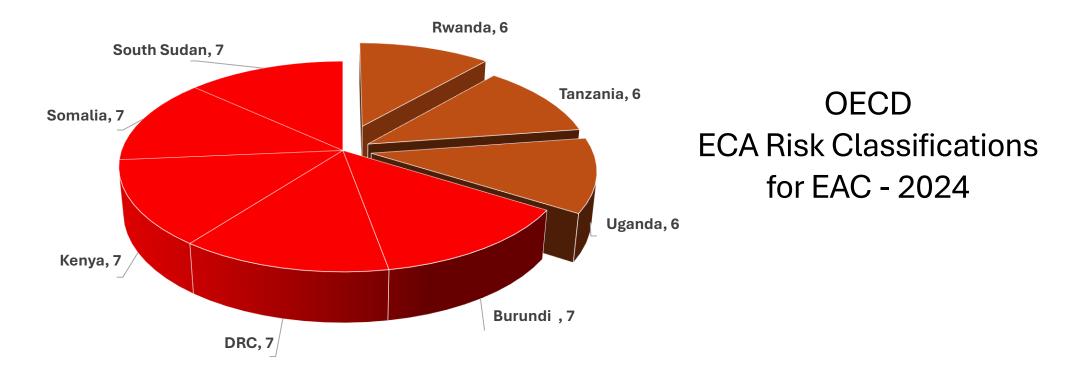


OECD ECA Risk Classifications for Africa - 2024



Private capital is the answer but serious obstacles

- Public Policy and Public Interest
- **G** SOE management
- Debtor credit can be perceived as too high a risk



Risks of bringing in private capital





- □ No national title or security registry
- Identifiers unstable (from a creditor's perspective) and inconsistent across the rail sector
- Limited legal infrastructure domestically and internationally
- Repossession issues for creditors on debtor default or insolvency

Risks of bringing in private capital





- Bank's capital requirements and Basel III and IV
- Restricted commercial tracking of assets
- Conflict of laws and cross border risks
- U Which all adds up to limited and expensive private capital

The Cape Town Convention





- An international treaty (signed 16.11.2001), developed through the International Institute for the Unification of Private Law (UNIDROIT)
- It established a new legal framework for recognising, protecting and enforcing creditor rights in high value mobile equipment using an international public registry at which creditor security interests are registered
- Opening the way to asset, rather than debtor, based private finance

The Cape Town Convention



Covers 3 types of security interests in moveable assets:

- collateral for secured credit
- ➤ leases
- conditional sales
- Contracting States can make policy choices through specific declaration opting in or out of certain provisions:
- Applied to different types of assets through Protocols
 - Aircraft
 - Railway Rolling Stock (Luxembourg Rail Protocol)
 - Space Assets
 - Mining, Agricultural and Construction Equipment

The Cape Town Convention



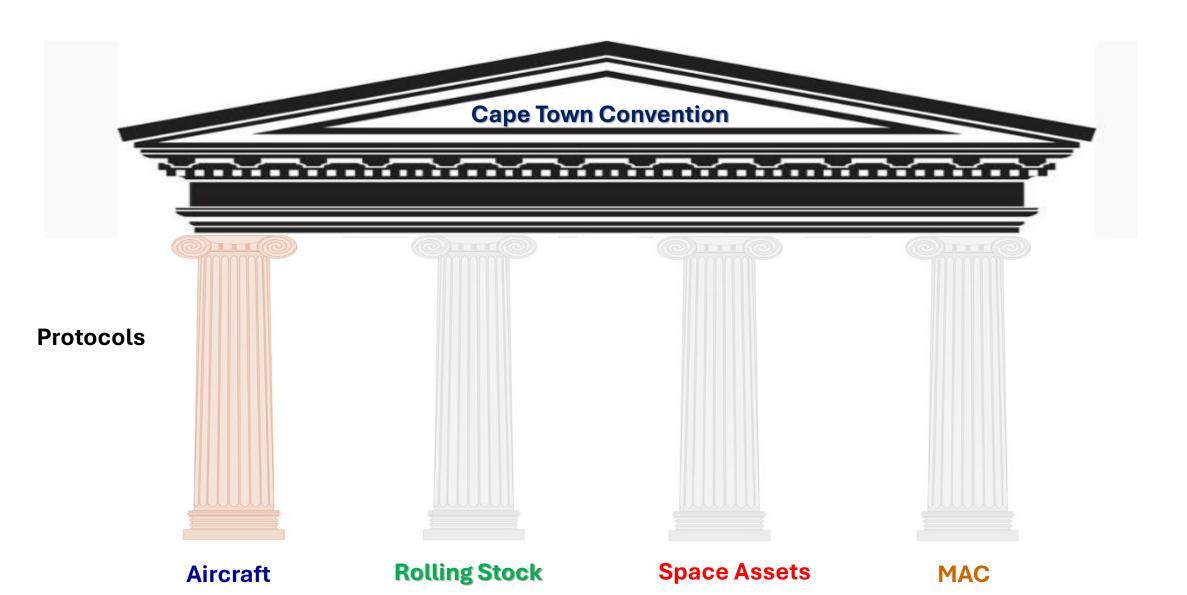


- The Aircraft Protocol has been in force since 2006 (now adopted by 86 countries, including 26 in Africa) and has been a great success
 - well over 1 million registrations
 - covering assets with a combined value closing on \$1 trillion, resulting in
 - Iower credit costs (estimated savings of \$160 bn over 20 years)
 - easier cross border operations
 - much more legal consistency on aircraft finance

How the Convention works

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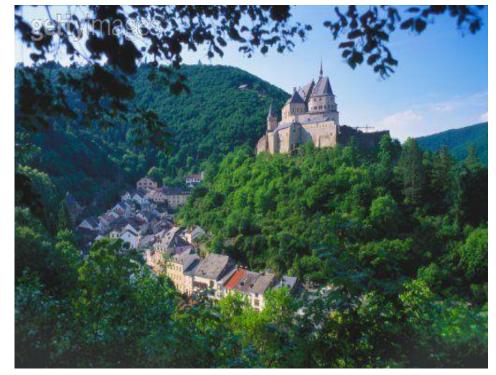






Luxembourg Rail Protocol

- Diplomatic Conference in Luxembourg in 2007
- Attended by 42 states and 11
 international organisations including
 7 African States and SADC
- Sponsoring intergovernmental organisations UNIDROIT and OTIF – both with African members



The Luxembourg Rail Protocol applies the Cape Town Convention to ALL Rolling Stock

- Wherever manufactured, new or used, whatever gauge and operability standards
 - broadly defined: "...vehicles movable on a fixed railway track or directly on, above or below a guideway." This covers:
 - inter-urban and urban rolling stock
 - specialist boring and other rail mounted equipment
 - metro and light rail trains and trams
 - monorail trains and cable cars
 - > people movers/shuttles at airports, hyperloop pods
 - cranes and gantries at ports

The Luxembourg Rail Protocol applies



A new private finance tool





- Luxembourg Rail Protocol to the Cape Town Convention
 - creates a new global system of rights and priorities for creditors securing finance on rolling stock
 - these rights are registrable on a new international registry operating 24/7 through the internet
 - introduces a new global unique identification system for rolling stock (URVIS)
 - secures creditors on debtor default or insolvency

A new private finance tool



Luxembourg Rail Protocol delivers

- easier and common documentation and legal structures
- clear legal position encourages new sources of investment
- creates markets for African rolling stock manufacturing
- reduces "Basel" costs and ECA premiums
- Iower barriers to entry for private lenders and operators so more competition and efficiencies

A new private finance tool



Luxembourg Rail Protocol delivers

- a common legal framework operating across contracting states, so supports cross border operations
- key tool for development and trade in Africa, underwriting AfCFTA and AIRN, endorsed by AU, UN ECA and PIDA
- freedom for governments to leave rolling stock finance to the private sector
- flexibility for operators through its legal support for operating leasing and more operating leasing = higher residual values plus manufacturing economies of scale

Operating Leases for the Railways





- An important part of any PPP strategy
- Unburdens balance sheet and operator is no longer an asset manager
- Matches cost with income
- Allocates practical and technological obsolescence and other risks where they can be most easily borne
- Opens up non recourse private financing of existing fleets
- Paying rentals in cash? There may be alternatives
- Encourages foreign investment in the railways
- Promotes a secondary market
- Lowers the barriers to entry for new industry participants



The Economic Benefits

Macro and Micro Economic Benefits

- □ Looking at the micro economic benefits
 - more security = lower risk = lower financing rates
 - OECD Export Credit Agency support rates should decrease 10% premium discount when the aircraft protocol applies with facilitating declarations
 - supports cross border operations and open access
 - URVIS facilitates more efficient asset management

The Luxembourg Rail Protocol to the Cape Town Convention

Its positive impact on the cost of financing railway rolling stock in Africa

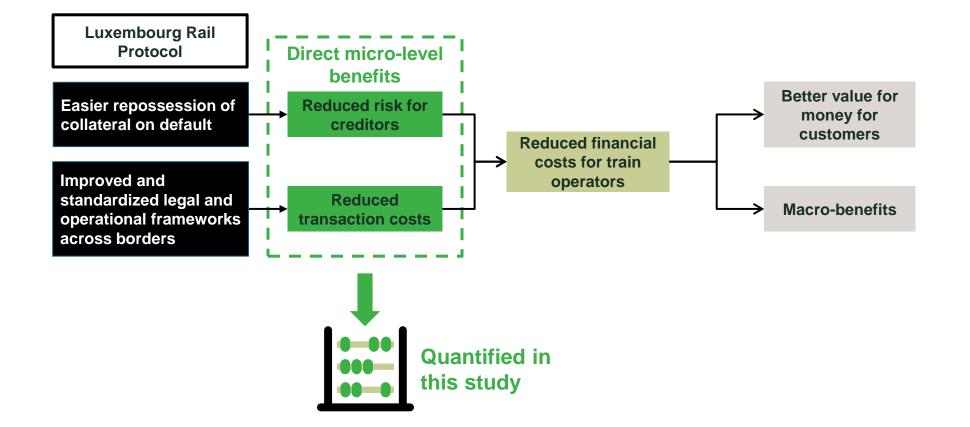
Prepared for







The study focuses on the direct micro-level benefits



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Summary

Depending on countries, direct micro-benefits assessed as between 1.6% and 13.5% of the present value of rolling stock

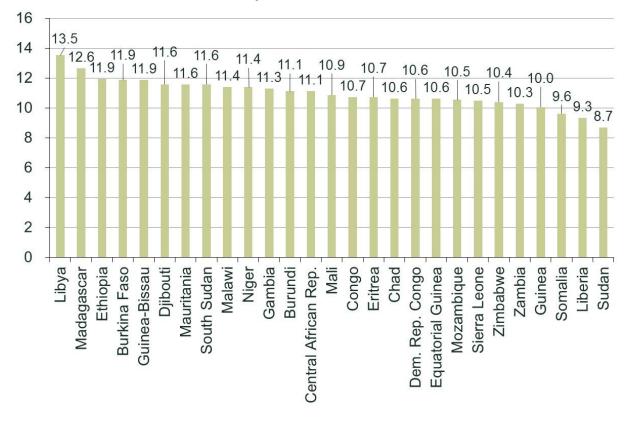
Many additional micro- and macroeconomic benefits also expected



Results of the analysis (1/3)

Countries with an OECD country risk classification of 7

Net present value of benefits (in \$m) for an initial rolling stock value of \$100m



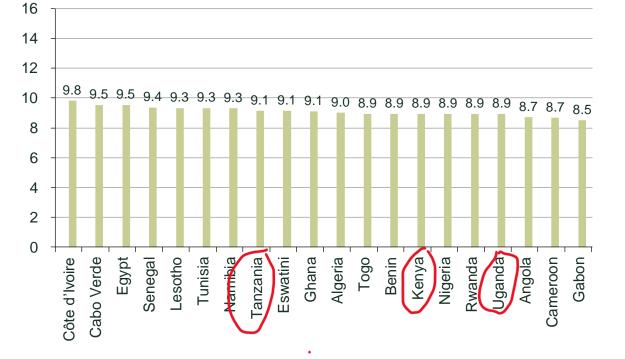
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Results of the analysis (2/3)

Countries with an OECD country risk classification of 5-6

Net present value of benefits (in \$m) for an initial rolling stock value of \$100m

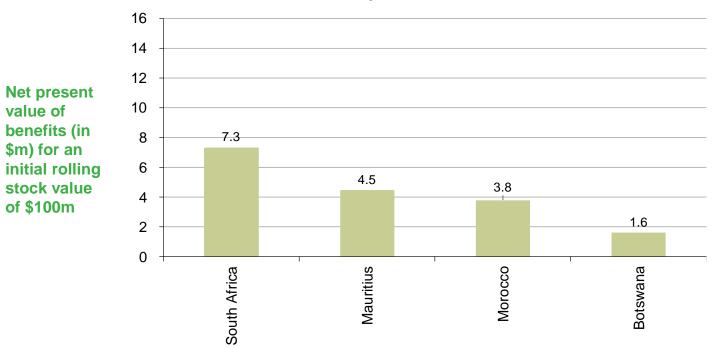


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Results of the analysis (3/3)

Countries with an OECD country risk classification lower than 5





Current Status of the Luxembourg Rail Protocol



Entered into force on 8th March 2024





Current Status of the Luxembourg Rail Protocol

- Supervisory Authority created on 8th March 2024
- Currently ratified by 4 states (Spain, Luxembourg, Sweden and Gabon plus European Union in respect of its competences)
- South Africa and Paraguay expected to ratify shortly
- France, Germany, Italy, Mozambique, UK, Switzerland and have all signed and are moving towards ratification





Current Status of the Luxembourg Rail Protocol

- AU and UN ECA both support and advocate rapid ratification of the Protocol by African States
- AU Transport Ministers Zanzibar Declaration, September 2023: "[a]ll remaining Member States to complete the ratification process for the Luxembourg Protocol on railway rolling stock"
- Endorsed at UIC Africa Rail Finance Conference, October 2023, in Dakar

Convention/Aircraft Protocol Status in Africa



The Convention and the Aircraft Protocol is already in force in 26 African States

Angola Burkina Faso Cameroon Cape Verde Congo
Côte d'Ivoire Democratic Republic of the Congo Egypt
Eswatini Ethiopia Gabon Ghana Kenya Madagascar
Malawi Mozambique Namibia Niger Nigeria Rwanda
Senegal Sierra Leone South Africa Togo United Republic
of Tanzania Zambia

Lesotho, Burundi and Sudan have signed but not yet ratified.



Conclusion: The Luxembourg Rail Protocol provides key support for the AIRN

- It will stimulate new and cheaper sources of (private) credit for rolling stock, allowing governments to focus on infrastructure costs
- With finance secured on the rolling stock rather than the operator credit, it should result in
 - more attractive financing rates, lower transaction costs and cheaper Export Credit Agency/MDB support
 - more competition and efficiencies
 - Ilexible rolling stock procurement strategies by underwriting operating leases in turn creating manufacturing economies of scale



Conclusion: The Luxembourg Rail Protocol provides key support for the AIRN

- Global rules will facilitate secure cross border rail operation
- URVIS and common marking systems will support interoperability and fair access
- And open the way for African regional collaboration on procurement and operation of rolling stock

Meeting of the Regional Task Force on Railways – Arusha, 13th June 2024

The Luxembourg Rail Protoco How it works in practice

Howard Rosen

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The three major innovations from the Luxembourg Rail Protocol

- □ The International Registry
- **The URVIS number**
- □ The permanent marking of rolling stock with the URVIS number



International Registry of Interests in Rolling Stock

- The first global public registry dealing with security interests in railway rolling stock, Based in Luxembourg, run by Regulis SA – part of the ISC group and operating in the Cloud
- Oversight by Supervisory Authority intergovernmental agency comprising the contracting states – which came into operation on March 8th
- Operates under <u>Regulations</u> and <u>Procedures</u> and a <u>Fee</u> <u>schedule</u> issued or approved by the Supervisory Authority



International Registry of Interests in Rolling Stock

Security interests and certain other transactions may be registered and inspected at the Registry

□ Interaction 24/7 with the Registry only via the internet

- Secure MFA access restricted to authorised users for
 Creditors registering interests and
 - for debtors to consent to registration
- Website will carry key information <u>https://www.rollingstockregistry.com/</u>



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Providing new opportunities to protect and advance financing of rolling stock



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Learn more



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Get Started Using the International Registry of Interests in Rolling Stock

The International Registry of Interests in Rolling Stock, also known as the Rolling Stock Registry, offers rail financiers a new opportunity to register and search notices of interests in railway rolling stock. The Rolling Stock Registry's online search and registration services offer secure real-time access to important information that lowers the risk of lending supporting the vitality of the global rail sector.



Step 1

Review Important Materials Understand the framework the Rolling Stock Registry operates within by reviewing important information and resources:

- The Rolling Stock Registry operates within the international legal framework of the <u>Cape</u> <u>Town Convention</u> and the <u>Luxembourg Protocol</u>. The Convention and Protocol establish the legal foundation of the Registry.
- State ratification is a critical consideration in application of the Protocol. UNIDROIT, the International Institute for the Unification of Private Law, plays a key role in the



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You have setup multi-factor authentication using an Authenticator App.

Please enter the code that appears on your App now:

Login

Problem logging in? Enter a multi-factor backup code

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Register a new user?

Register





Setup multi-factor authentication > Authenticator App

Setup using Authenticator

1- Go to your Google play Store o App Store and download any of the authenticator apps in your mobile.

2- Once you are in your authenticator app of your preference, please scan the QR code below using your authenticator app.

This will add your Portal profile to your app and it will being generating codes every 60 seconds.



Alternatively, you can manually enter the following code bolow to your TOTP app:

TXBY6CKANETTTDKY76TATMYEE0H0AM4F

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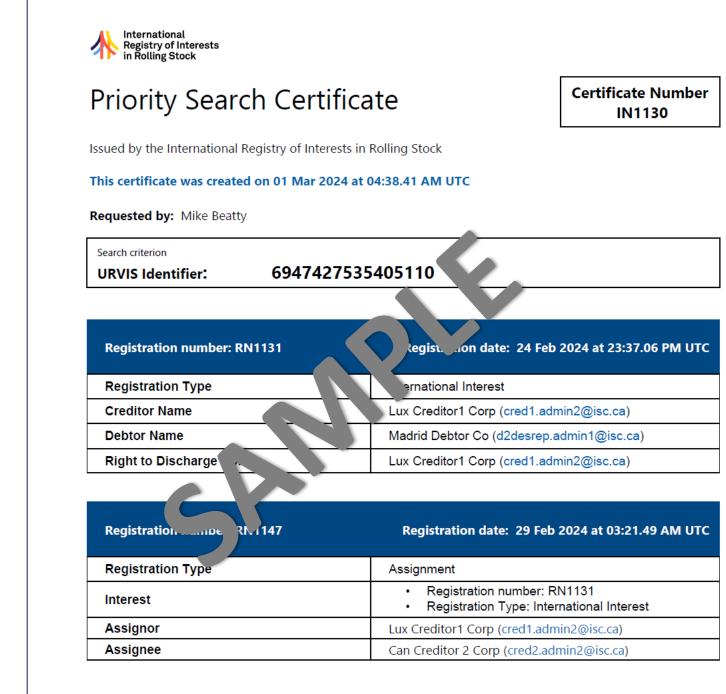
International Registry of Interests in Rolling Stock

Allocates the URVIS numbers on demand

- Maintains list of parties undertaking to adhere to the UN Model Rules on Permanent Marking of Rolling Stock
- Public access to make a priority search by URVIS number on registered security interests on rolling stock
- Other informational searches also possible







URVIS and the Luxembourg Rail Protocol



- Rolling stock must be uniquely identifiable to register a security interest in the international registry in Luxembourg
- URVIS is the first global unique and permanent identification system for rolling stock
- 16-digit number (including a check digit) allocated by the Registrar in Luxembourg that will never be re-used
- Affixed permanently to rolling stock by the manufacturer, debtor or keeper

Unique Vehicle Identification - Operational





URVIS numbers

- never duplicated or recycled
- additional to current running numbers
- system applies to all rolling stock from Trams to TGVs
- will operate globally
- provided by the Registry at EUR 15 per number

□ A voluntary system but

- manufacturers will start automatically marking rolling stock
- creditors will insist on the number being allocated to a specific item of rolling stock as part of a financing



UN Model Rules on permanent identification of railway rolling stock

- □ The Problem:
 - if the URVIS number is not attached to the rolling stock the collateral cannot be identified
 - the Protocol requires the URVIS number to be affixed to the rolling stock but does not state how
 - > any marking has to be permanent
 - and visible

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UN Model Rules on permanent identification of railway rolling stock

□ The Solution:

UNECE

Model Rules on the Permanent Identification of Railway Rolling Stock Règles types pour l'identification permanente du matériel roulant ferroviaire Модельные правила по постоянной иденти фикации железнодорожного подвижного осстава





UNECE

Guidance Notes on the Model Rules for the Permanent Identification of Railway Rolling Stock

Instructions relatives aux Règles types pour l'identification permanente du matériel roulant ferroviaire

Инструкции по применению Модельных правил постоянной идентификации железнодорожного подвижного состава







UN Model Rules on permanent identification of railway rolling stock

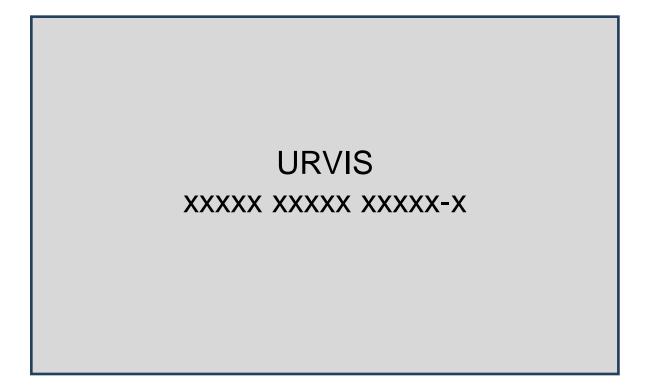
- □ The Solution:
 - new global minimum standard and responsibilities for permanently attaching an URVIS number to rolling stock
 - keepers of the rolling stock will need to undertake to abide by these minimum rules and register the undertaking at the International Registry – the undertaking is published on its website
 - voluntary but compliance with Model Rules is a precondition to registration of a security interest

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UN Model Rules on permanent identification of railway rolling stock

□ The minimum requirement



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UN Model Rules on permanent identification of railway rolling stock

But it can be more



The direct additional benefits of URVIS





- □ Important for immatriculation admission to rail system
- Will support regional regulatory co-operation and interoperability systems
- Defence against fraud on purchasers and creditors of rolling stock
- □ Key element of AI/autonomous operation

The direct additional benefits of URVIS





- □ Simplicity: one system applicable worldwide on all rail assets
- Facilitates real-time tracking of utilisation, condition and location of assets domestically and in other jurisdictions (and tracks)
- Easier and more efficient asset management
 - underwrites customised predictive maintenance
 - makes lifetime asset management and costs much easier for operators, manufacturers and financiers

Meeting of the Regional Task Force on Railways – Arusha, 13th June 2024 The Luxembourg Rail Protocol In particular benefits for Africa

Howard Rosen

Chairman Rail Working Group



- It will stimulate new and cheaper sources of (private) credit for rolling stock, allowing governments to focus on infrastructure costs
- □ With finance secured on the rolling stock, it should result in
 - better financing rates, cheaper ECA support and lower deal costs
 - more transparency, competition and efficiencies
 - Ilexible rolling stock procurement strategies by underwriting operating leases in turn creating manufacturing economies of scale



- It will lower the barriers to entry for private lenders and operators so
 - more attractive financing rates and cheaper Export Credit Agency/AfDB support
 - more transparency, competition and efficiencies
 - Ilexible rolling stock procurement strategies by underwriting operating leases – in turn creating a catalyst for standardised equipment leading to manufacturing economies of scale
 - non-discriminatory access and sound, fair regulation





- Offering new and greater security it will create new private credit sources
- Creating a common security system for lenders and lessors even when rolling stock crosses borders
- Encourages common procurement and finance structures, in turn supporting regional interoperability
- Supports open access
- □ And facilitate investment in new technology
- Global rules will facilitate secure cross border operation of rolling stock and URVIS and common marking will support interoperability and fair access





- □ The new URVIS number (with the UN Model Rules) leads to
 - easy real time tracking of the location and status of rolling stock for creditors and others
 - cheaper and easier insurance
 - predictive maintenance saving money by calibrating servicing to utilisation
 - better protection against theft and fraud
 - a pan-African regulatory and interoperability framework and safer cross border operations





- Given the AIRN the Protocol
 - opens the way for private sector finance for standard gauge rolling stock (so governments use limited resources on infrastructure) at no cost to government
 - supports import and finance of second user (less expensive) standard gauge train sets
 - applies to key building equipment for high-speed lines (e.g. boring and track laying equipment) that operates on rails
 - lays the groundwork for collaborative procurement and finance strategies





Open Access

- Assumption: separate (often state owned) infrastructure owner
- Various public and private sector operators have "fair access" to the rail network, maximising efficiencies through competition and higher infrastructure utilisation
- Private sector operators granted access and pay access charges to the infrastructure manager

Open Access





- □ The operator leases rolling stock to deliver the goods (or people)
 - removes whole area of capital expenditure (and debt) from government/SOEs
 - Luxembourg Rail Protocol means that the financier can look to assets rather than the operator as its principal risk
 - existing state railways can lease out surplus rolling stock

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Actions Looking Forward

- Press for ratification by states
- Regional collaboration on procurement
- □ Joint financing structures
- U Working together on export credits
- Asset Pooling

Convention/Aircraft Protocol Status in Africa





The Convention and the Aircraft Protocol is already in force in 26 African States

Angola Burkina Faso Cameroon Cape Verde Congo
Côte d'Ivoire Democratic Republic of the Congo Egypt
Eswatini Ethiopia Gabon Ghana Kenya Madagascar Malawi Mozambique Namibia Niger Nigeria Rwanda Senegal Sierra Leone South Africa Togo United Republic of Tanzania Zambia

Lesotho, Burundi and Sudan have signed but not yet ratified.

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Actions Looking Forward

Ratification Process

- □ This is an international treaty to be adopted by States so:
 - states must adopt the 2001 Cape Town Convention (28 African states have already done so)
 - states can initially sign the Protocol but better to just ratify
 - states should draft and submit the instrument of ratification/accession and any declarations they choose to make

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Actions Looking Forward



- Moving governments forward with ratification of the Luxembourg Rail Protocol [and Cape Town Convention]
 - communications
 - individual ministerial meetings
 - presentations at EAC high level meetings
 - presentation at regional and continental fora
 - ✤ on-line seminars
 - dedicated website portal
 - briefing papers and articles
 - propose EAC standard set of declarations
 - emphasise: No cost to government

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Actions Looking Forward



- Moving governments forward with ratification of the Luxembourg Rail Protocol [and Cape Town Convention]
 - build the Protocol (and URVIS) into EAC and Continental rail master plans
 - making the case to government and stakeholders
 - key to capacity building and utilisation
 - supports interoperability and regional integration
 - underwrites open access and a competitive rail sector

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Actions Looking Forward

Purchasing collaboration

- agree standard specifications (asset by asset)
- create standard RFP conditions that can be build into documentation
- develop standard purchase agreements/terms and conditions
- create and implement common rolling stock acceptance procedures
- work together on standard battery urban light rail rolling stock

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Actions Looking Forward

Purchasing collaboration

- develop bulk joint ordering programmes to
 - maximise pricing and other delivery conditions (including automatic addition of URVIS numbers on delivery and possibly residual value support)
 - condition orders on JV and other localisation of manufacturing (over time) and technology transfer into Africa
 - standardise post delivery manufacturer training, spares and maintenance support

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Actions Looking Forward

Purchasing collaboration

- share specialist ordering, contract and legal expertise
- press for duty free importation in Africa of rolling stock with a minimum % of local African content
- appoint independent regional/continental co-ordinators and negotiators
- establish a specialist independent expert arbitration panel to deal with supply disputes

Actions Looking Forward



Develop innovative collective regional financing structures

- joint borrowing
- establish borrowing vehicle (in a "Luxembourg" contracting state)
- create standard loan and leasing documentation (with funders)
- sourcing dedicated funding from the capital markets ("Africa Rail Bond")
- multicurrency loan and leasing facilities

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Actions Looking Forward



Develop innovative collective regional financing structures

- joint ventures with private sector
- draw in MDB support/underwriting (e.g. IFC, AfDB, EIB, AfrExIm)
- adopt URVIS marking under the UN Model Rules
- appoint independent regional/continental co-ordinators

Actions Looking Forward





Work together on export credits

- Urge OECD ECAs* to extend the 10% "Cape Town Discount" (currently available for aircraft) on financing of rolling stock when the Luxembourg Rail Protocol applies and argue for a higher rate based on the evident environmental benefits of rail
- Press for easier local content rules
- Urge non OECD states to follow similar rules (e.g. India, China)
- Mandate AUC to take the lead in representing and promoting African interests in this area

* Participating ECAs are from Australia, Brazil, Canada, the European Union, Japan, Korea, New Zealand, Norway, Switzerland, the UK and the USA

Actions Looking Forward





Legal collaboration on rolling stock procurement and finance

- establish African legal training centre(s) of excellence
- appoint specialist legal advisers available to operators across the EAC
- establish a specialist independent expert arbitration panel to deal with supply and finance disputes
- create an information sharing network on the Protocol for in house lawyers for African governments and rail operators

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Actions Looking Forward



Collaborate on asset pooling

- set up joint leasing companies by asset type e.g. diesel locomotive "ROSCO" (possibly partially owned with the private sector)
- develop a standard operating lease for operators
- negotiate financing package for the ROSCO
- joint maintenance and spares' programmes
- create a platform for African secondary market in rolling stock

Summary: the key take-aways





- The Luxembourg Rail Protocol relieves governments of the need to finance rolling stock – the private sector can do it if the conditions are right
- When the Protocol applies, private sector finance will be cheaper and easier
- With the new URVIS identification, the UN Model Rules on marking and the international registry, facilitating cross border operation of rolling stock, the Protocol will support the development of an integrated, efficient East Africa rail system

East African Community Railways Sub-Sector Meeting of the Regional Task Force on Railways – Arusha, 13th June 2024

e Luxembourg Rail Protocol

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