

2024 SARA RAIL CONFERENCE

Sandton, 22nd August 2024

**The Luxembourg Rail Protocol
to the Cape Town Convention –
what it means for Southern Africa**

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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 ramifications for Southern Africa (and what we need to do as an industry)

- ❑ Formed in 1996 at the request of UNIDROIT, the International Institute for the Unification of Private Law (intergovernmental organisation based in Rome), it is a not-for-profit global industry group based in Switzerland
- ❑ Dedicated to the adoption of the Luxembourg Rail Protocol to the Cape Town Convention
- ❑ About 90 direct members and many hundreds via industry associations, linking up various industry stakeholders
- ❑ Works with, and supports, governments, the European Commission, UN Agencies and the African Union

Africa Needs More Railways

- ❑ 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
- Quieter and faster wagons
- Smart infrastructure building machines
- Supercapacitor/battery trams
- Artificial Intelligence
- Variable gauge rolling stock
- Digital Automatic Coupling (DAC)
- Convoying and driverless trains
- Real time rolling stock monitoring

This needs \$billions of investment

Finding the money

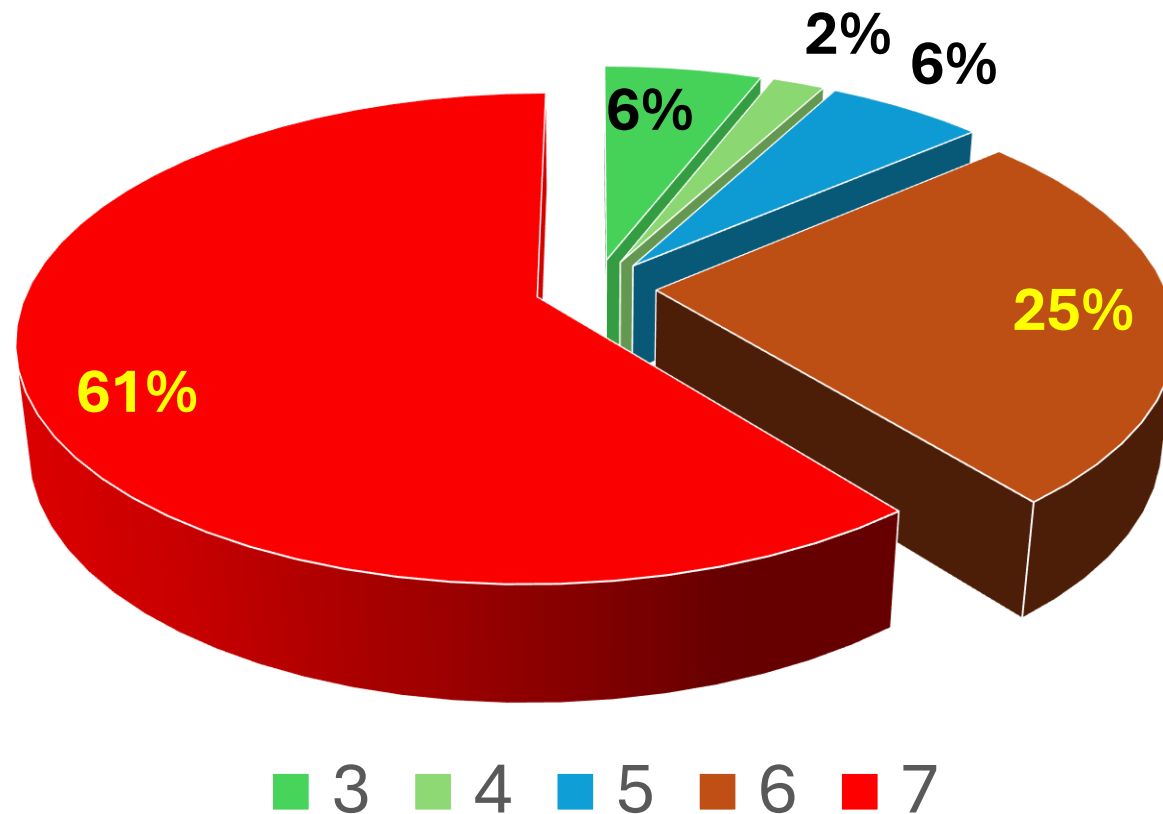
- More passenger and freight traffic must be moved to the rails
- The rail sector has to be competitive – better pricing, more efficient and greater reliability and availability
- But governments struggle to find resources
- Private credit should be the answer – and it's easier for non-state actors to 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
- ❑ But

Private capital is the answer but serious obstacles

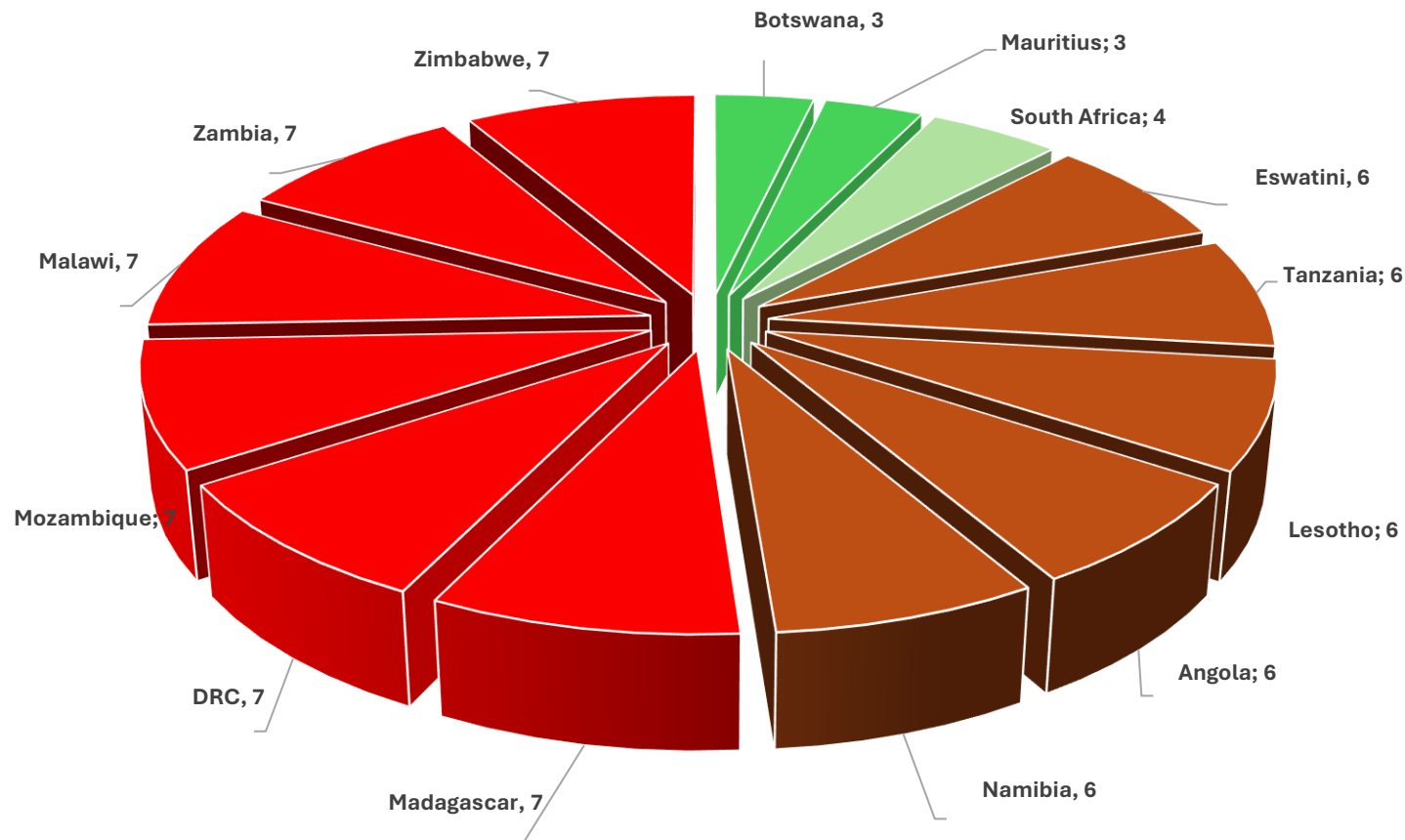
- ☐ Debtor state credit can be perceived as too high a risk



OECD
ECA Risk Classifications
for Africa - June 2024

Private capital is the answer but serious obstacles

- ❑ Debtor state credit can be perceived as too high a risk



OECD
ECA Risk Classifications
for SADC – June 2024

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
- 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

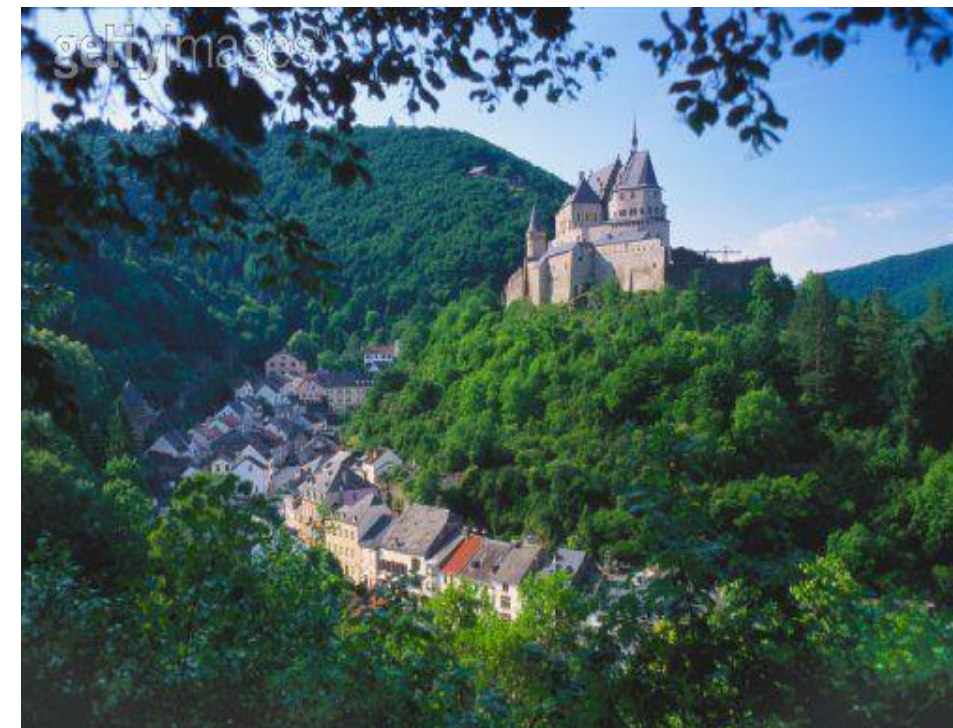
- ❑ Applied to different types of assets through Protocols
 - Aircraft
 - Railway Rolling Stock – (Luxembourg Rail Protocol)
 - Space Assets
 - Mining, Agricultural and Construction Equipment

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
 - lower credit costs (estimated savings of \$160 bn over 20 years)
 - easier cross border operations
 - much more legal consistency on aircraft finance

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 rail mounted equipment that can run on tracks such as ballast regulators and tampers, track laying and tamping equipment and tunnel boring 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 the Cape Town Convention to ALL Rolling Stock

THE 2001 CAPE TOWN CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT



A new private finance tool

- ❑ The Luxembourg Rail Protocol
 - 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

- ❑ The Luxembourg Rail Protocol delivers
 - a common legal framework operating across contracting states, so supports cross border operations
 - 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
 - lower barriers to entry for private lenders and operators so more competition and efficiencies
 - flexibility for operators through its legal support for operating leasing and more operating leasing = higher residual values plus manufacturing economies of scale

The Luxembourg Rail Protocol to the Cape Town Convention

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

Prepared for



**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 macro-
economic benefits
also expected**

Current Status of the Luxembourg Rail Protocol



- ❑ Entered into force on 8th March 2024

Current Status of the Luxembourg Rail Protocol

- ❑ The intergovernmental 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
- ❑ Other SADC states working on 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
- ❑ The Convention and the Aircraft Protocol are already in force in 26 African States

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
- ❑ Operating in the Cloud, 24/7 with interaction with the Registry only via the internet
- ❑ Operates under [Regulations](#) and [Procedures](#) and a [Fee schedule](#) 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
- ❑ Secure MFA access restricted to authorised users for
 - creditors registering interests and
 - for debtors to consent to registration
- ❑ Website carries key information
<https://www.rollingstockregistry.com/>



International Registry of Interests in Rolling Stock

- 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
- Allocates the URVIS numbers on demand

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

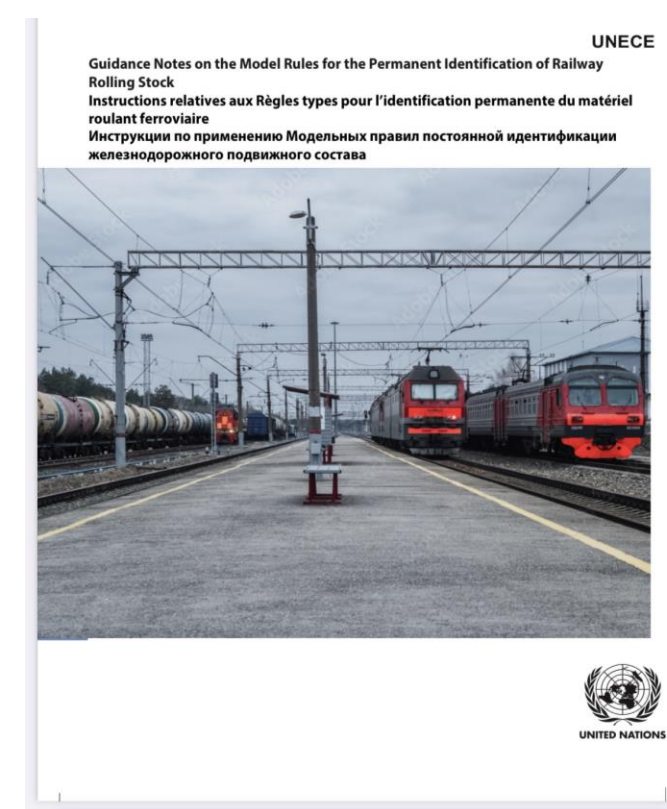
- ❑ A voluntary system but
 - manufacturers will start automatically marking rolling stock
 - creditors will insist on the number being allocated to a specific item of rolling stock as part of a financing

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

UN Model Rules on permanent identification of railway rolling stock

□ The Solution:



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

UN Model Rules on permanent identification of railway rolling stock

- ❑ The minimum requirement

URVIS

XXXXX XXXXX XXXXX-X

UN Model Rules on permanent identification of railway rolling stock

- But it can be more



Ramifications for Southern Africa

- ❑ It will stimulate new sources of (private) credit for new **and existing** rolling stock fleets, 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
 - cheaper Export Credit Agency/AfDB/MDB support

- ❑ It will create the mechanisms for SOEs to package out and potentially offload their existing rolling stock fleets

Ramifications for Southern Africa

- ❑ It will deliver
 - provide cheaper credit for customers outside of South Africa who need more rolling stock
 - more demand for rolling stock leading to more manufacturing opportunities in Southern Africa
 - legal support for PPP projects
 - lay the groundwork for standard gauge fleet development
 - flexible rolling stock procurement strategies by underwriting operating leases – in turn creating a catalyst for standardised equipment leading to manufacturing economies of scale

Ramifications for Southern Africa

- ❑ A key element of Open Access, it will
 - open the way for SOEs to franchise out operations
 - lower the barriers to entry for private lenders and operators
 - facilitate multiple operators on certain lines
 - make rail operators more competitive against road competitors
 - underwrite non-discriminatory access and support efficient and fair regulation across the region
 - introduce more transparency, competition and efficiencies both for procurement and operations

Ramifications for Southern Africa

- ❑ Common rules will facilitate secure easier cross border rail operation and multi asset financings
- ❑ URVIS and common marking systems will mean easier
 - operator real time tracking of the condition, location and utilisation of equipment leading to predictive maintenance
 - creditor real time tracking of financed equipment leading to easier repossession if required
 - interoperability

Ramifications for Southern Africa

- ❑ Key element in regional integration by standardising financing conditions and supporting cross border operations
- ❑ Will provide essential support for the AfCFTA, the AIRN project 2063 and the pilot Trans-Kalahari line (as well as local projects such as the expansion of Gautrain)
- ❑ And opens the way for regional collaboration on manufacturing, procurement, finance, maintenance and operation of rolling stock

Actions Looking Forward

- Press for ratification by states
- Work together on export credits
- Consider dynamic regional standards and collaboration

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.

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 discount 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 as well as ECIC)

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

Actions Looking Forward

- ❑ Regional Collaboration on rolling stock procurement
- ❑ Manufacturers should automatically mark new equipment with the URVIS number
- ❑ Create asset pools and joint financing vehicles
 - set up joint leasing companies by asset type – e.g. diesel locomotive “ROSCO”
 - 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 to the Cape Town Convention delivers cheaper and easier private credit for all types of rolling stock (new and existing fleets), relieving governments of the need to finance rolling and helping the rail sector to compete more effectively against road transport
- ❑ With the new URVIS identification, the UN Model Rules on permanent marking of rolling stock and the international registry, facilitating cross border operation of rolling stock, the Protocol will support the development of an integrated, efficient Southern Africa rail system – **and we need to work together to make it happen**

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