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The Luxembourg Rail Protocol to the Cape Town Convention Why it makes sense for single/island jurisdictions

The Luxembourg Rail Protocol to the Cape Town Convention on International Interests in Mobile Equipment is a new global treaty under the auspices of UNIDROIT, the International Institute for the Unification of Private Law. The Protocol will make it easier and cheaper for the private sector to finance new or used railway rolling stock by reducing creditor risk and costs.

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 and applies if the debtor has its principal place of business in a contracting state. It also introduces a unique vehicle identification system (URVIS) for rolling stock, and sets international rules for recognition, priorities, and enforcement of creditor and lessor rights, registered in an international registry in Luxembourg and accessible over the internet 24/7.

The European Union (in respect of its competences), Gabon, Luxembourg, Spain and Sweden, have ratified the Protocol, and it entered into force in contracting states on **8th March 2024**. Paraguay and South Africa are about to adopt the Protocol, and France, Germany, Italy, Mozambique, Switzerland, and the UK have signed it. The Protocol is endorsed by OTIF, the Intergovernmental Organisation for International Carriage by Rail, and UIC, the Union of International Railways, and supported by the African Union, the European Union, and UN Economic Commissions for Africa and Europe.

Although it will deliver additional benefits in relation to rolling stock actually or potentially physically crossing borders on a regular basis, the Protocol will also greatly assist manufacturers, banks, governments and operators even when the equipment cannot move on tracks across jurisdictional borders.

1. **A major additional security for lenders and lessors** of rolling stock which will also allow notifications of sales. Most jurisdictions have no facility for registering title or security interests in rolling stock, so this will make domestic asset-based financing more secure and more understandable for foreign suppliers, banks and

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other investors encouraging them to finance local rolling stock as common security rules will apply

2. **Lowers the cost of credit** as banks adjust their risk weighting and capital allocations to take into account the reduced risk and simplified documentation, at least mitigating the expected additional obligations under Basel IV, when it comes into force at the beginning of 2025. It will also encourage export credit agencies to reduce their risk premiums (as they have done with the corresponding aircraft protocol to the Cape Town Convention)
3. **Assists tracking** the location and status of financed rolling stock through the use of the URVIS identifier for rolling stock and the [UN Model Rules on the Permanent Identification of Railway Rolling Stock](#), which create minimum standards for permanently marking of rolling stock with the URVIS number. This in turn creates more comfort for creditors and regulators and facilitates predictive maintenance, providing potentially major savings for operators
4. **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, transparent and competitive market. It will also be good for the taxpayer since it will relieve the pressure for state support for rail operators
5. **Security Interests are not constrained by borders**, so even if the asset cannot easily move across a jurisdictional border, the security interest(s) can, as part of any international finance structure.
6. **Deliver 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, any state adopting the Luxembourg Rail Protocol, even if it is an island, 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 and comfort for foreign banks, operators and manufacturers offering competitive finance rates in the state

For more on the Luxembourg Rail Protocol, visit www.railworkinggroup.org. Keep up to date with all the latest developments via the Rail Working Group's [LinkedIn group page](#).