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
- All officers and members work for free
- Over 70 direct members and hundreds via industry associations, including UNIFE, linking up various industry stakeholders
• Working with multinational development banks
  ❑ EBRD, EIB, AIIB, AfDB
• And multinational agencies such as UN ECA, UN ECE and the AU as well as regional organisations such as SADC, ECOWAS and COMESA
• At the EU Commission, we collaborate with
  ❑ DG Move, DG Justice, DG Trade and EEAS
The world needs more railways

- Railways are essential for sustainable development
- Roads cannot take the strain from increased trucking
- Cities are being strangled by congestion and pollution
- Moving passengers and freight onto rail is vital for environmental, social and economic reasons (1 train can transport the freight carried by 60 trucks)
- Development of the railways is an essential part of any climate change strategy.
- Post COVID-19, railways will be an important part of the economic revival
- But there is a massive funding gap
Identifying the trends in the rail sector

• More passenger and freight traffic must be moved to the rails for good environmental and economic reasons
• Separation of operations and infrastructure
• Increasing cross border operations e.g. Belt & Road Initiative
• Urban rail transport is a strategic necessity
• New technology, such as hydrogen and predictive maintenance, as well as further electrification are opening up new opportunities
## Identifying the trends in the rail sector

### New Technology

<table>
<thead>
<tr>
<th>Regenerative braking</th>
<th>Supercapacitor trams</th>
<th>Low-noise rolling stock</th>
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<tr>
<th>Automated train operation</th>
<th>High-speed trains</th>
<th>Automatic coupling systems</th>
<th>Artificial intelligence and platooning</th>
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</thead>
<tbody>
<tr>
<td>Real-time rolling stock location and diagnostic systems</td>
<td>Variable-gauge rolling stock</td>
<td>Positive train control/ERTMS &amp; other in cab signal systems</td>
<td>Hybrid, clean diesel &amp; hydrogen/fuel cell locomotives</td>
</tr>
</tbody>
</table>
Identifying the trends in the rail sector

• Governments can no longer alone shoulder the burden of the massive investment needed in the railways
• Privatisation of state actors
• Rail sector gradually liberalised
   Public and Private operators
   Open access
   More competition – and a more competitive industry
   More private finance
• Rolling stock finance from the private sector should be easy…..
Identifying the trends in the rail sector

- Rolling stock finance from the private sector is growing
  - Now over 25% in Europe
  - Possible component of BOT projects
  - Secured finance
  - ECA supported credit
  - Operating and finance leasing
- Attractive investment opportunities
  - Banks
  - Leasing companies
  - Institutional finance (pension funds)
- It should be easy but …..
The problems for rolling stock funders

- No common rules on debtor insolvency
- No national title or security registries
- Identifiers unstable (from a creditor’s perspective) and inconsistent across the sector
- Limited legal infrastructure domestically and internationally
- Repossession issues for creditors on debtor default/insolvency
- Complex regulations of public services
- Banks’ capital requirements and Basel II and III
- Limited geo-locating and status monitoring of assets
- Additional security issues and conflict of laws when financed assets cross borders
Cape Town Convention on International Interests in Mobile Equipment (2001)

- New global system of international legal rights and priorities for secured creditors
- Common system for enforcing creditor rights upon debtor default or insolvency
- Public registry of security interests, accessible 24/7 online
- Already adopted by 79 States
The Convention Creates

• A new type of global security interest (the “International Interest”) for designated movable equipment
• Internationally recognised with established priorities
• Secures the:
  ❑ Lessor under a lease
  ❑ Creditor under a secured loan
  ❑ Vendor’s rights under a conditional sale (where title is retained)
• Applies based on seat or domicile of debtor/lessee
How the Convention works

Cape Town Convention

Protocols

Aircraft  Rolling Stock  Space Property  MAC
How the Convention works

• Convention is applied to an asset class by a protocol
• Declarations may be made in relation to both the Convention itself and adopted protocols
• All declarations are voluntary (except for a mandatory declaration under Article 54 (2) of the Convention)
Aircraft Protocol

- Adopted at the 2001 Cape Town diplomatic conference
- Applies the Convention to airframes, engines and helicopters subject to some de minimis rules
- Applies the Convention also when the Airframe is registered in a contracting state at the time the security interest is created
- Extends the Convention to aircraft sales
- Operating since 2006 – now in force in 78 states plus 1 REIO (European Union)
Aircraft Protocol

• International registry based in Dublin, Ireland: registrar Aviareto, a special purpose company established by SITA,
• Supervisory Authority: ICAO in Montreal
• Under the Aircraft Sector understanding ECAs reduce their risk premiums by 10% as long as the Protocol is adopted with the recommended declarations
• Over 1 million registrations to date – on aircraft with an estimated value of over $ 650 Billion
• Aviation Working Group: the Aircraft Protocol will save the air transport industry $161 bn 2009 - 2030
Luxembourg Rail Protocol

- Diplomatic Conference in Luxembourg in 2007:
- Attended by 42 states and 11 international organisations
- Sponsoring intergovernmental organisations UNIDROIT and OTIF
**Luxembourg Rail Protocol**

- Applies the Cape Town Convention to rolling stock *when debtor is located in a contracting state*
- International registry in Luxembourg
- Registrar responsible to contracting states
- Will introduce global unique identification system for railway equipment
The Luxembourg Rail Protocol Applies to ALL Rolling Stock

- Wherever manufactured, 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 trains and trams
  - Monorail trains and cable cars
  - People movers/shuttles at airports
  - Cranes and gantries at ports
  - Hyperloop pods
Unique Vehicle Identification

- Rolling stock must be uniquely identifiable to register interest
- Unique Vehicle Rail Identification System (URVIS) will be established by registry regulations
- First global unique and permanent identification system for rolling stock
- 16-digit number allocated by the Registrar in Luxembourg that will never be re-used
- Affixed permanently to each piece of rolling stock by the manufacturer, maintainer or keeper
The Protocol’s Status

• Adopted in 2007 (4 ratifications and active registry required to enter into force – expected during 2021)
• Appointment of Regulis SA (SITA subsidiary) as Registrar in December 2014
• Ratified by Gabon, Luxembourg and Sweden (and the EU)
• Signed by Italy, Germany, France, Mozambique, Switzerland and UK - all moving towards ratification
• Also under review in Malta, Spain, Mauritius, Kenya, Nigeria, Ethiopia, Senegal and many other states
Benefits of the Protocol

• The Protocol
  - Creates a common system, operating in various different countries, protecting the interest of secured creditors, owners and operators
  - Creates a new legal framework protecting creditors and operators for financings of railway equipment operating in one state
  - Encourages cross border operation within the same gauge system or beyond where variable gauge rolling stock is used
Benefits of the Protocol

• The Protocol
  - Removes a significant financial burden from the government
  - Liberates public and private operators to obtain private sector finance for rolling stock when needed: no government budgetary constraints nor tied funding
  - Opens up non-recourse private financing of existing fleets
  - Is an important part of a PPP strategy
  - And a key driver for a modal shift from road to rail
Benefits of the Protocol

• URVIS
  - One system applicable worldwide on all rail assets
  - Real-time tracking of condition and location of assets domestically and in other jurisdictions (and tracks)
  - Facilitates more efficient asset management
  - Underwrites customised predictive maintenance
  - Makes lifetime asset management and costs much easier for operators, manufacturers and financiers
Benefits of the Protocol

• 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
  - Supports new technology
Benefits of the Protocol

• Macro economic benefits
• Cheaper finance - reduces bank capital costs/margin and debt financing costs as risks decrease
• Eliminates complex documentation and structures
• Recent Oxera studies on direct micro-economic savings of the Rail Protocol:
  - € 19.4 bn for 20 European states
  - € 13.9 bn for 9 “1520” states
  - Present value benefit of 1.6% - 13.5% across Africa
    (€ 1.3 bn for South Africa)
• Plus potential Export Credit Agency premium reductions
20 countries
€19.4bn total benefits

- Refinancing 16%
- Freight 12%
- New deliveries 84%
- Passengers 88%

Financial savings by country in billions of Euros

- UK: 3.5
- FR: 2.7
- CH: 1.5
- DE: 3.9
- NL: 0.8
- SE: 0.6
- FI: 0.2
- BE: 0.3
- SK: 0.5
- AT: 0.4
- CZ: 0.3
- HU: 0.1
- RO: 0.3
- IT: 1.2
- ES: 0.3
- TR: 0.9
- UA: 0.9

oxera
“1520 states”

FINANCIAL BENEFITS

9 countries
€13.9bn total benefits

- Refinancing: 24%
- Freight: 51%
- New deliveries: 76%
- Passengers: 49%

Financial savings by country in billions of Euros

RU 11.6
EE <0.1
LV <0.1
LT <0.1
BY 0.2
UA 0.9
KZ 0.8
GE <0.1
AZ 0.3
Benefits of the Protocol

• Supports
  - more manufacturing of rolling stock locally as demand increases
  - the local financial services and maintenance industry and therefore more jobs and skills’ development
• Encourages foreign investment in the railways
• Lowers the barriers to entry for new industry participants
• Makes railways more commercial and competitive
• Underwrites operating leases – a key win for the rail sector
Conclusion

- Railways are now the sunrise industry for good economic, social, environmental and political reasons
- More cross border traffic, new technology and market liberalisation will mean significant additional need for passenger and freight rolling stock as demand increases
- Governments urgently need to invest in new rail infrastructure and rolling stock but have limited resources
- More private finance needed for both public and private operators through loans and leases, where security of the collateral will be critical
Conclusion

• The Luxembourg Protocol creates a new **common** global legal regime for securing private creditors and an international registry
• Facilitating more and cheaper finance asset based financing of railway equipment operating domestically or cross border without state support
• Underwriting operating leasing and leading to a larger, more dynamic, transparent and competitive rail sector across the world
• Introduces a new unique identification system for rolling stock
The Luxembourg Rail Protocol to the Cape Town Convention on International Interests in Mobile Equipment

UN Economic Commission for Europe
Group of Experts on the Permanent Identification of Railway Rolling Stock (PIRRS), 1st meeting
Geneva, 2nd – 4th September 2020

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