



Working Party on Rail Transport
Revisions Committee to the Model Rules on the
Permanent Identification of Railway Rolling Stock
Geneva, 30th August – 1st September 2023

The Luxembourg Rail Protocol:
The (rail)road to implementation

I. Overview

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Introduction

- Recapping the need for more sustainable private finance for the rail sector
- What is the Cape Town Convention and the Luxembourg Rail Protocol
- What does the Protocol deliver?
- Current status of the Protocol
- More about URVIS and the UN Model Rules on Permanent identification of Railway Rolling Stock

Current Finance Models

- Rolling stock financed currently through
 - Government support
 - ❖ Direct: subsidies and loans
 - ❖ Indirect: guarantees (including Eurofima)
 - Shareholder equity
 - Unsecured or secured debt and some leasing
- The effect of open access
 - More private operators
 - State owned operators who cannot access state funding
- Governments need to prioritise resources for infrastructure
- The industry needs cheaper and easier private finance models

The Cape Town Convention

- An international convention (signed 16.11.2001) that:
 - ❑ Establishes a legal framework for recognising international interests in high value mobile equipment;
 - ❑ Which facilitates the financing and acquisition of such equipment in an efficient manner;
 - ❑ By ensuring that the interests of the creditor are recognised and protected universally;
 - ❑ Protects the interests of the creditor during insolvency events pertaining to the debtor;
 - ❑ With the aim of providing broad and mutual benefits for all the interested parties.

The Cape Town Convention

- The Convention provides for the constitution of international interests while its Protocols deal with specific objects such as:
 - Aircraft
 - Railway Rolling Stock – (Luxembourg Protocol)
 - Space Assets
 - Mining, Agricultural and Construction Equipment
- The Convention and the Aircraft Protocol in force in over 80 countries
- The other three Protocols are not yet in force

The Luxembourg Rail Protocol

- The Luxembourg Rail Protocol applies the Cape Town Convention to rolling stock when debtor is located in a contracting state;
- International registry, operating 24/7 through the internet, in Luxembourg to register security interests;
- Will introduce global unique identification system for railway equipment (URVIS);
- The Rail Protocol applies to ALL rolling stock wherever manufactured, whatever gauge and with whichever operability standards;
- Broadly defined: “..vehicles movable on a fixed railway track or directly on, above or below a guideway.”

The Luxembourg Rail Protocol

- Luxembourg Rail Protocol
 - Applies the Cape Town Convention to all railway rolling stock
 - Creates a new **global** system of rights and priorities for creditors securing finance on rolling stock, visible on a new international registry operating 24/7 through the internet
 - Applicable when the debtor is in a contracting state
 - Secures creditors on debtor default or insolvency
 - Covers secured credit, leases and conditional sales

A new private finance tool

- Luxembourg Rail Protocol delivers
 - More security = lower risk = lower financing rates;
 - Easier and **common** documentation and legal structures;
 - Clear legal position encourages new sources of investment
 - Reduces “Basel” costs and ECA premiums
 - A common system operating across contracting states, so supports cross border operations
 - lower barriers to entry for private lenders and operators so more competition and efficiencies

A new private finance tool

- Luxembourg Rail Protocol delivers
 - ❑ A common system operating across contracting states, so supports cross border operations
 - ❑ Flexibility for operators through its legal support for operating leasing and more operating leasing = higher residual values plus manufacturing economies of scale
 - ❑ Freedom for governments to leave rolling stock finance to the private sector
 - ❑ URVIS – a new global system for uniquely identifying rolling stock

Current Status

- Two conditions for entry into force in contracting states:
 - ❑ 4 ratifications
 - ❑ Certification by OTIF that the international registry in Luxembourg is ready to operate
- Contracting states so far are Luxembourg, Sweden, Spain and Gabon (plus the European Union in respect of its competences)
- France, Germany, Italy, UK and Switzerland have all signed
- South Africa and Paraguay expected to ratify within weeks and Mozambique, which has already signed the Protocol, and other African States, such as Mauritius, expected to follow this year
- Expected to come into force in early 2024

International Registry

- Work now proceeding at pace on bringing the international registry into operation
- The Registrar was taken over last year by ISC – a Canadian specialist registry company
- Mandate with Registrar revised to ensure a user friendly and inexpensive solution
- Draft regulations being upgraded and registry operating procedures being drafted
- Oversight by Supervisory Authority – intergovernmental agency comprising the contracting states – which comes into operation the day the Protocol enters into force

THE INTERNATIONAL REGISTRY COMING TO LIFE



International Registry of Interests in Rolling Stock

- A website featuring key information about the Protocol and the Registry will go-live soon to build awareness and enthusiasm about the value of the Protocol and Registry.



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