

**ASTOC Conference
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**Overview and Current Status of the
Luxembourg Rail Protocol**

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Introduction

The Rail Working Group

- Formed in 1996 at the request of UNIDROIT
- Not for profit global industry group based in Switzerland
- Close to 70 direct members and hundreds via industry associations
- Linking up the various stakeholders in the industry
- Dedicated to the adoption of the Luxembourg Protocol

Setting the Scene

Railways in the 21st Century

- Long history of global (relative) decline
- Cross border operation essential to serve global markets
- Significant underinvestment worldwide both in infrastructure and rolling stock

Setting the Scene

Railways in the 21st Century

- Transportation mode of preference for policy makers for good economic, environmental, social and public policy reasons
- New interest in high-speed inter urban links and municipal light rail

Setting the Scene

Railways in the 21st Century

- Major modal shift required from road to rail
- Open Access strategy in Europe
- Governments need resources for new rail infrastructure
- Public sector needs to offload risks and costs

Setting the Scene

Railways in the 21st Century

- More entrepreneurs needed for passenger transport
- Growing group of private operators means more private capital needed
- New technologies and ideas will stimulate procurement needs
- Funding rates matter if competition is to be encouraged

Financing Railway Rolling Stock

Public finance

- Equity, state loans and grants, aid

Public Export Finance

- ECA, state or para-statal loans

Private investment

- Private equity, secured credit, leasing, BOT, etc

Financing Railway Rolling Stock

Current constraints

- Cost of credit
- Funder security/collateral
- Creditor especially exposed on cross border financing or operations

Problems of bringing in private capital

No national title or security registry

Identifiers unstable (from a creditor's perspective)

No comparable running number for other rolling stock (e.g. metros)

Limited legal infrastructure domestically and internationally

Repossession issues for creditors on debtor default or insolvency

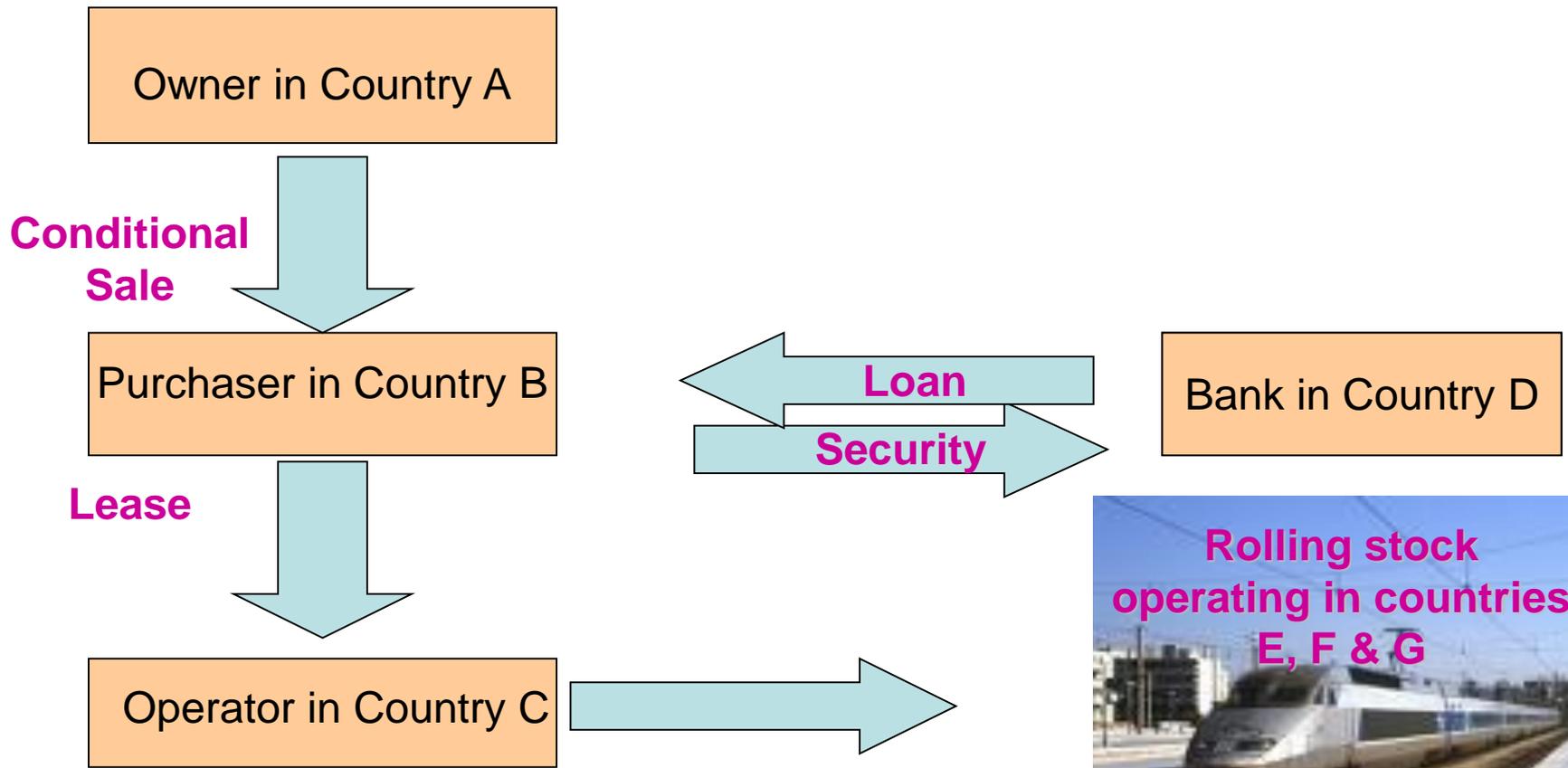
Public Policy and Public Interest

Bank's capital requirements and Basel II and III

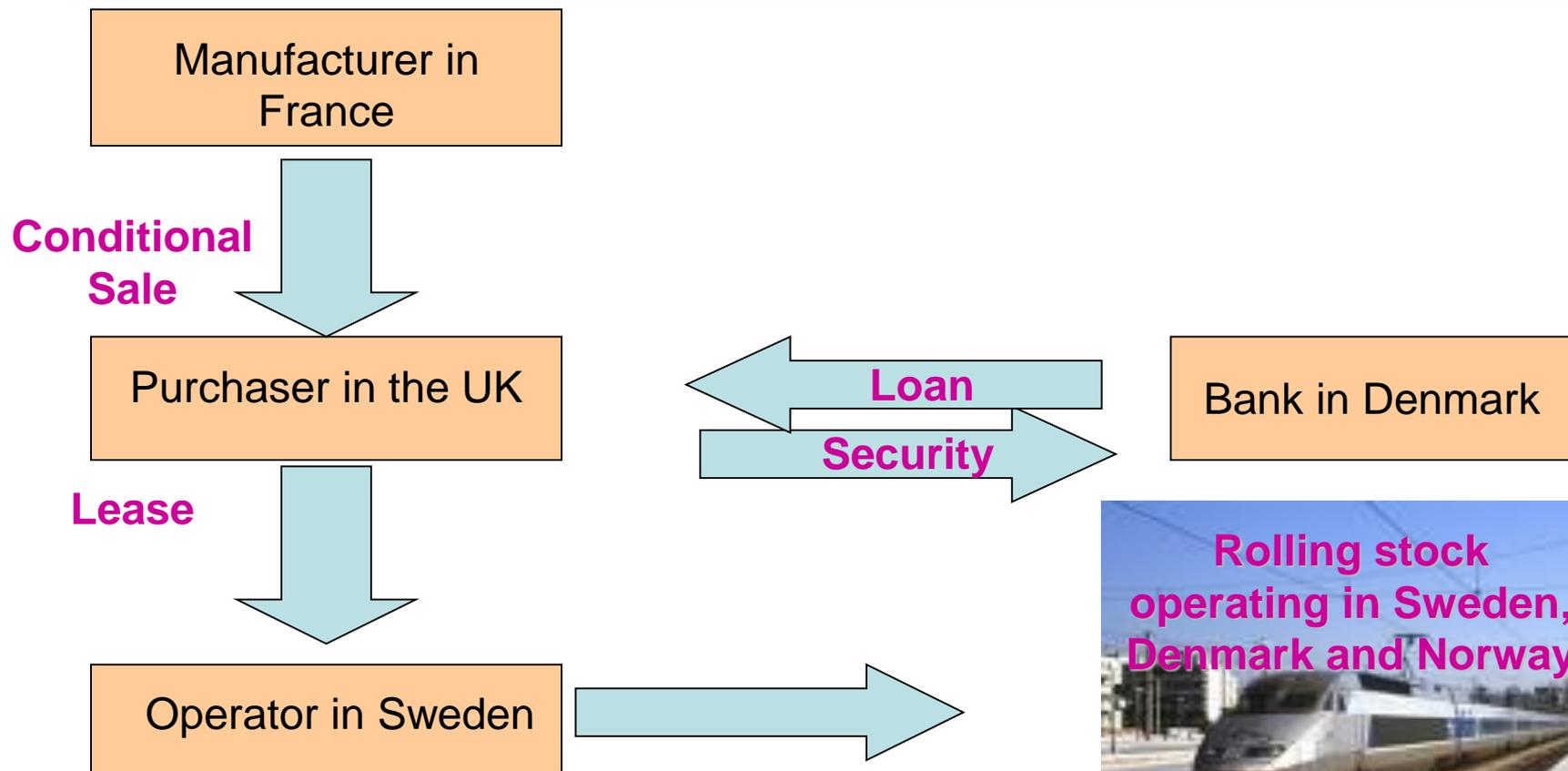
Limited commercial tracking of assets

Cross border risks

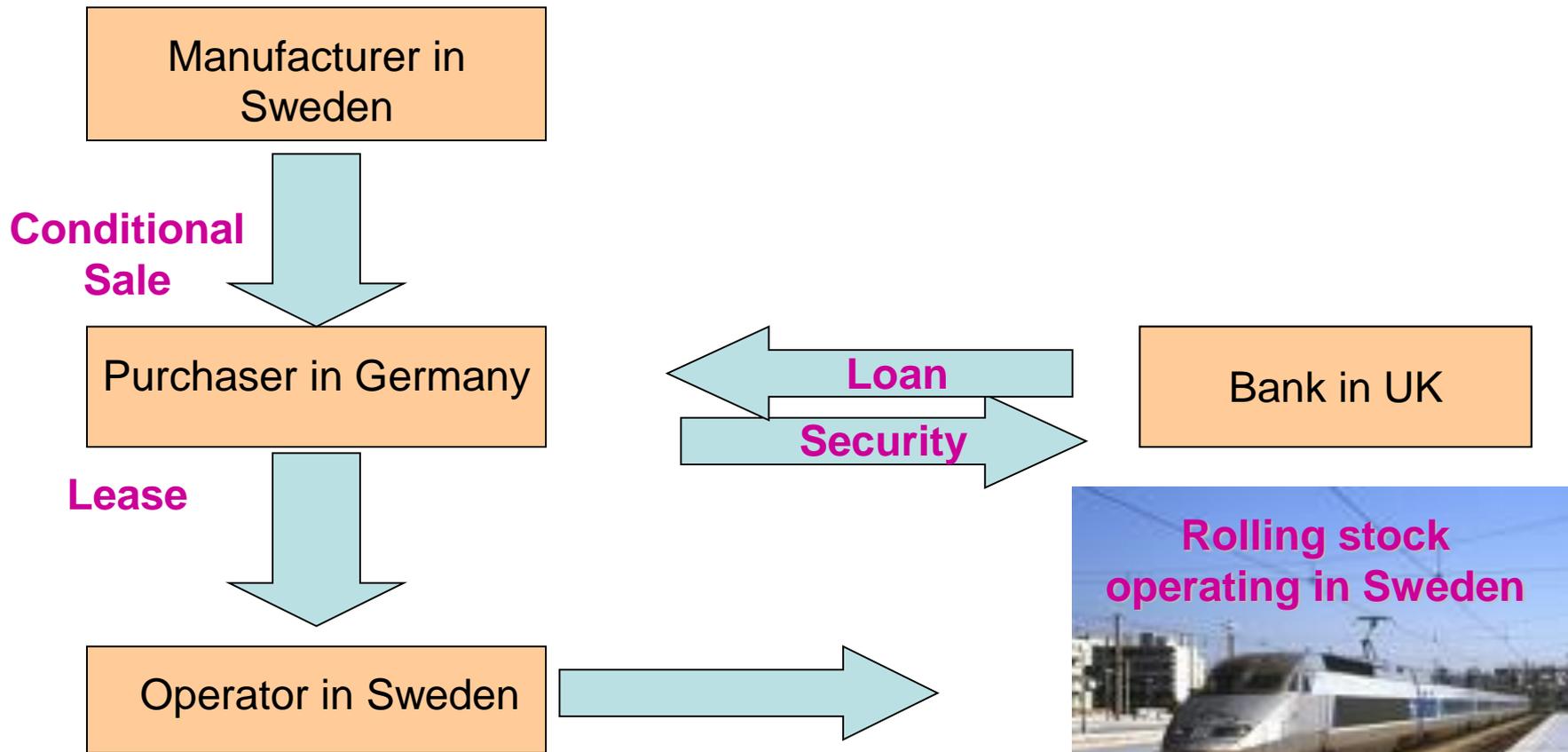
Financing Railway Rolling Stock today



Financing Railway Rolling Stock today

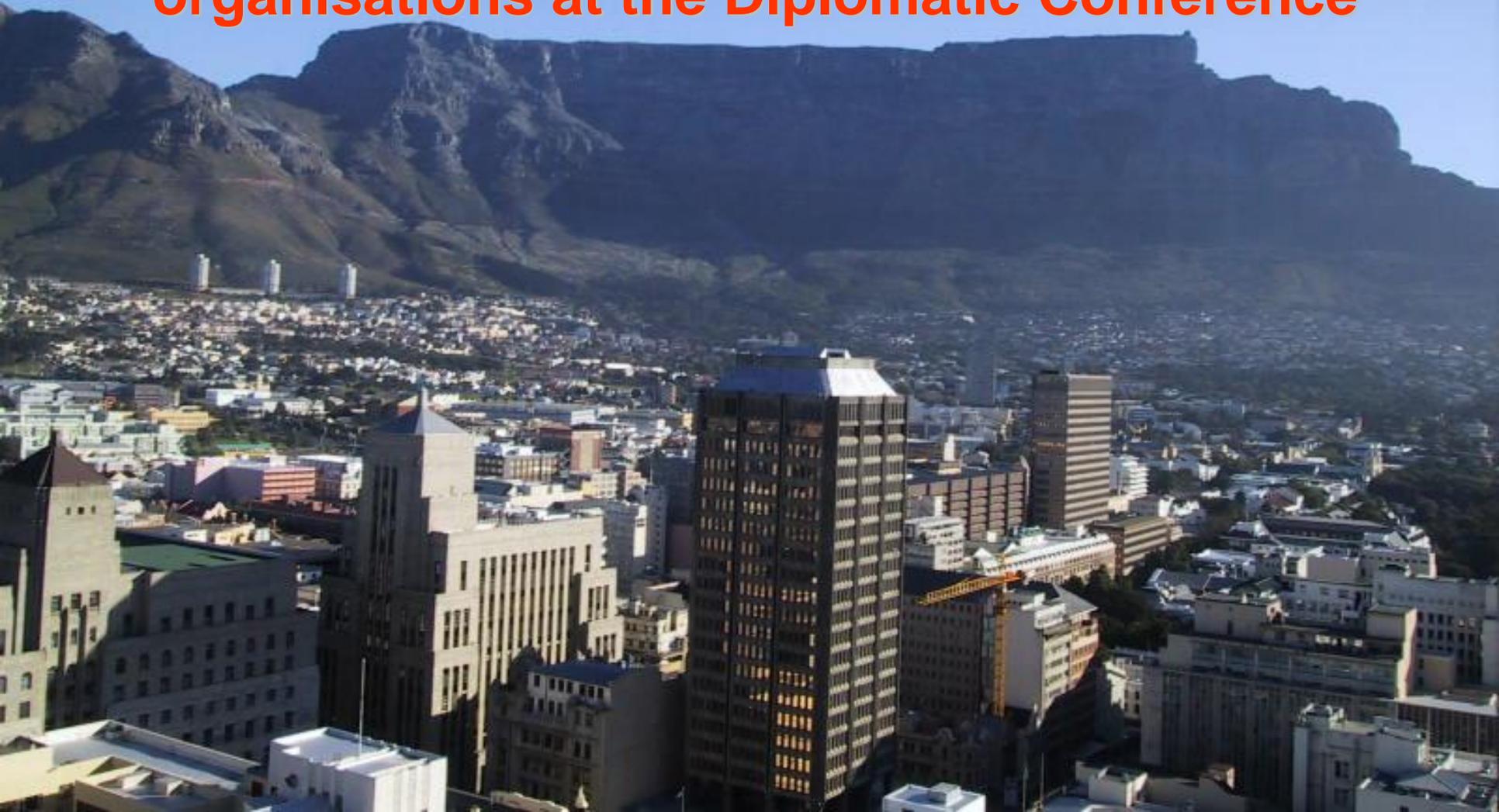


Financing Railway Rolling Stock today



Cape Town October/November 2001

participants from 58 States and 11 international organisations at the Diplomatic Conference



Cape Town Convention on International Interests in mobile equipment

Adopted in 2001 together with the Aircraft Protocol

Both have been in force since 2006 and now cover close to 70 countries

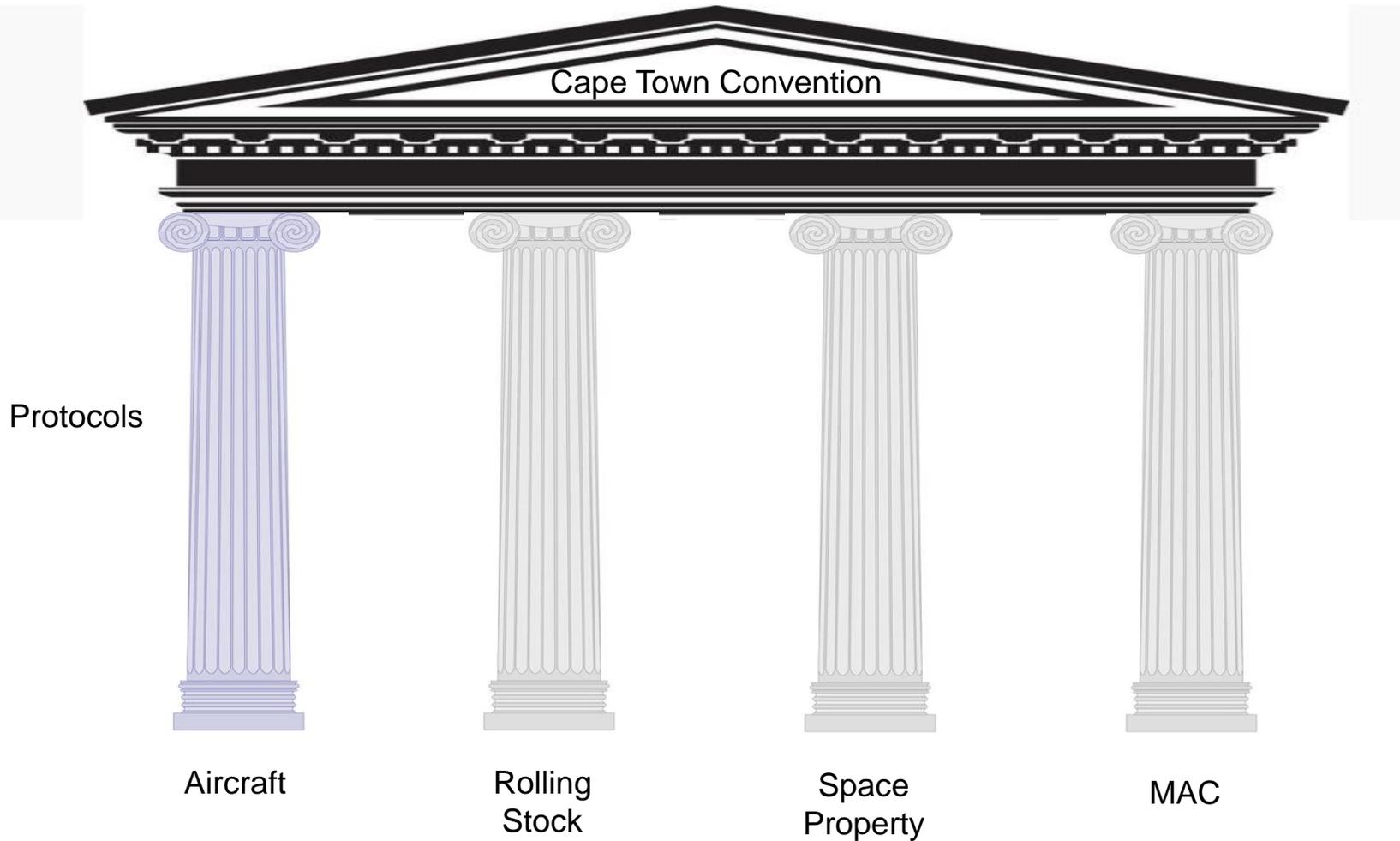
Creates a new system of international legal rights for secured creditors

A new type of global security interest (the “International Interest”) for designated movable equipment, internationally recognised with established priorities

Security registrable (voluntary) and searchable 24/7 in a public registry, through the internet

A common system for enforcing creditor rights on debtor default or insolvency

How it works



The Convention secures

Lessor under a lease

Creditor under a secured
loan

Vendor's rights under a
conditional sale (where
title is retained)

Cape Town Convention status

Aircraft Protocol operating in close to 70 jurisdictions (including Norway, Denmark and Sweden)

International registry for aircraft running in Dublin since 2006

Over 800,000 registrations to date - estimated value of over half a trillion USD

Registrar – Special purpose company established by SITA

Aviation Working Group: “Cape Town” will save the air transport industry \$161 Billion 2009 - 2030

gettyimages

Luxembourg 2007

participants from 42 States and 12 international organisations at the Diplomatic Conference



The Luxembourg Protocol applies to all railway rolling stock

broadly defined: “..vehicles movable on a fixed railway track or directly on, above or below a guideway” so covers

- Inter-urban and urban rolling stock
- Specialist boring and other rail mounted equipment
- Metro trains and trams
- People movers/shuttles at airports
- Cranes and gantries at ports
- Cable cars

Unique Vehicle Identification?

Rolling stock must be uniquely identifiable to register interest

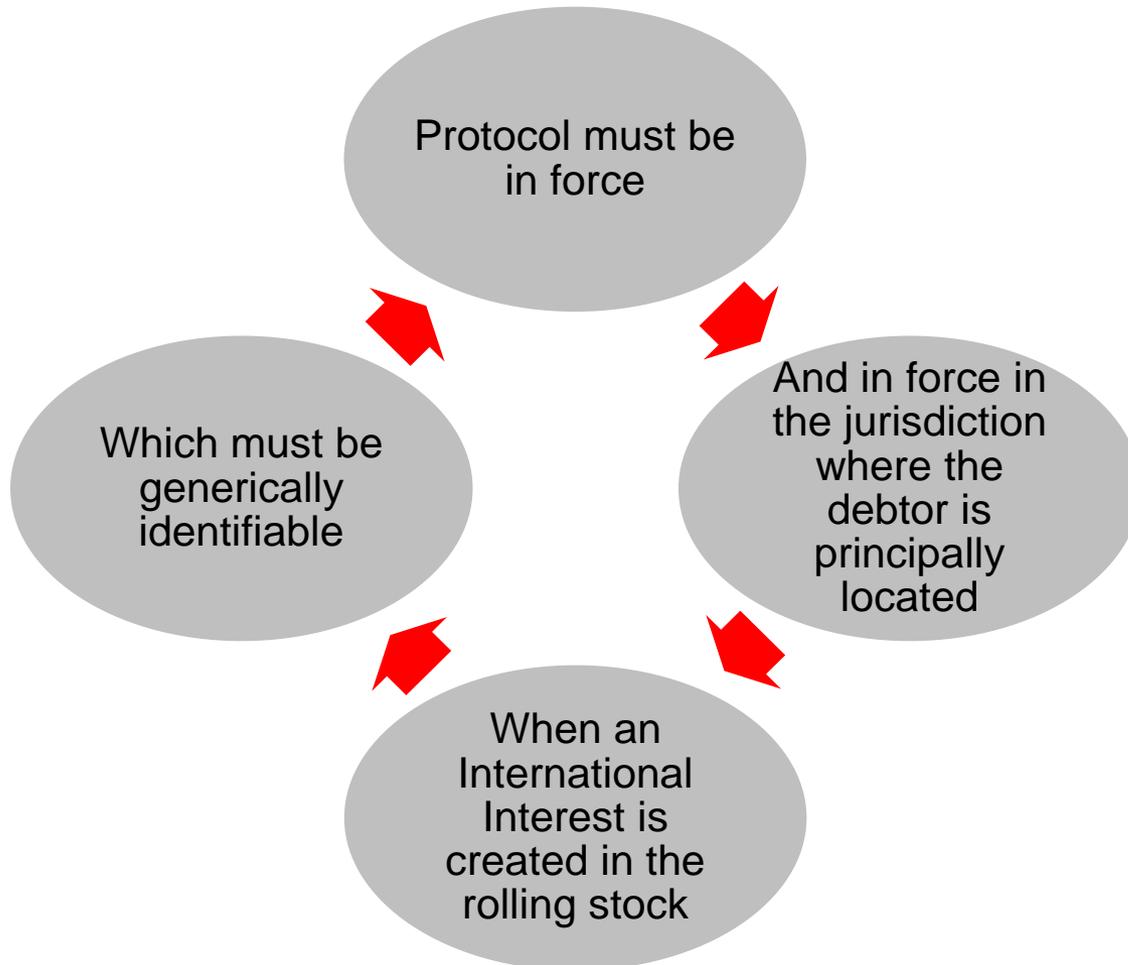
Unique Vehicle Rail Identification System (URVIS) will be established by registry regulations

First global unique and permanent identification system for Rolling Stock

Unique 20 digit number allocated by registrar in Luxembourg, never re-used

Affixed permanently to rolling stock by manufacturer, maintainer or keeper

When does the Luxembourg Protocol apply?



The Status of the Luxembourg Rail Protocol

Adopted 2007 (not yet in force)

Appointment of Registrar (SITA subsidiary) December 2014

Ratified by EU, Gabon and Luxembourg

Signed by Italy, Germany, France, Mozambique, Sweden, Switzerland and UK - all moving towards ratification

Other EU and non-European countries now actively working on ratifications

4 ratifications required, and secretariat (OTIF) must also authorise that the Registry is ready, before the Protocol “goes live”

Expected to be in force by mid 2019

Why the Protocol is Important

Creates a new legal framework for domestic financings of railway equipment, reducing risk and cost, even where the assets are not operating outside of a country's borders

Relieves State budget as private investors, pension funds and banks finance old and new fleets

Facilitates syndication of multinational or multi-asset debt

URVIS identifier will be unique and permanent to run alongside other local numbering system resulting in a global system for identifying and tracking the location and status of rolling stock

Why the Protocol is Important

Resolves cross border and conflict of laws issues

Creates a **common** system, operating in various different countries, protecting the interest of secured creditors, owners and operators

Protects rolling stock financed in one part of a continent when it is operating outside of that jurisdiction, encouraging cross border operation within the same gauge system

Opens out new opportunities with the Belt and Road Initiative

Secures and reduces the cost of credit given to buyers outside of a country by ECAs as part of export support programme

General Benefits

Reduces bank capital costs and debt financing costs as risks decrease

Eliminates complex documentation and structures – saving money

Facilitates operating and finance leasing and other private sector finance

Makes the industry more competitive against road, sea and aircraft transport modes

Benefits in Sweden

For local manufacturers

- Stimulates more demand
- Supports exports of rolling stock – more ways for the customer to pay
- ECA should reduce its charges for credit support on exports
- Attracts new investors
- Operating leasing encourages standardisation

For banks, institutions and finance companies

- New business opportunities within and outside of Sweden
- Lower capital costs
- Easier to repossess assets in the region

Benefits in Sweden

For operators

- Cheaper funding
- Safer operations within region
- Reduces dependency on state budgets
- Opens up operating leasing – in and out – giving more flexibility
- Facilitates offloading of obsolescence risks
- Potential to monetise surplus assets
- ECA support cost decreases for new procurements

Export Credit Agencies

ECAs and aircraft – the ASU and the 10% “Cape Town Discount”

ECA engagement – a major factor in the adoption of the Aircraft Protocol

Railways now potentially at a competitive disadvantage compared to aviation

2014 Rail Sector Understanding (RSU) in place (just extended)

- But runs out in 2020
- Rail Working Group actively working with ECAs and the OECD to find solutions

Benefits For Sweden

For Government - Economic

- Offloads balance sheet finance and risk burdens
- Focuses state resources and debt on infrastructure
- Encourages a more competitive market
- Supports foreign inward investment
- Facilitates economic development, jobs, innovation and new skills

Benefits For Sweden

For Government - Strategic

- Social, environmental and economic advantages of rail development
- Complementary to “Open Access”
- Helps municipal rail transportation
- Good for exports
- More cohesive regional rail systems
- Will support OBOR/BRI project

Conclusion

Railways are now the **sunrise** industry for good economic, social, environmental and political reasons

New investment, BRI and “open access” will mean significant additional need for passenger and freight rolling stock as demand increases

And more private finance through loans and leases, where security of the collateral will be critical

Leading to a larger industry, more dynamic, transparent and competitive industry

The Protocol offers a better legal solution for asset based financing

It’s a “win” for all operators and manufacturers in relation to domestic financing and export credits

Further Materials

[Luxembourg Protocol in a Nutshell \(English\)](#)

[Full Luxembourg Protocol](#)

[Rail Working Group brochure](#)

[Key talking points](#)

[Working towards a global common identifier for railway rolling stock](#)

www.railworkinggroup.org

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