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THE GO FIRST INSOLVENCY AND THE CAPE TOWN CONVENTION: HAS INDIA FINALLY RESOLVED THE LESSORS' REPOSSESSION NIGHTMARE?

- *Payal Singh*

ABSTRACT

The voluntary insolvency of Go First (India) Ltd. in May 2023, again illustrated the ongoing struggle between India's insolvency moratorium policy and aircraft lessor rights. This struggle was the result of the National Company Law Tribunal (NCLT) accepting Go First's petition and instituting a moratorium. A multitude of aircraft lessors were suddenly denied the right to retrieve their aircraft, despite their rights being contractually and legally clear. The crisis brought forth two major developments. One the Ministry of Corporate Affairs' Gazette Notification in October 2023, which created an exemption for the Cape Town Convention aircraft transactions from the IBC moratorium, and the other was the Delhi High Court's April 2024 groundbreaking ruling, which compelled the DGCA to effect aircraft deregistration. The Indian Parliament enacted the Protection of Interests in Aircraft Objects Act, 2025, which created a permanent statutory solution. This paper reviews the moratorium crisis, and provides an assessment on whether the situation truly has improved, and what the remaining issues are regarding the 2025 Act.

I. INTRODUCTION

The current structure of commercial aviation being built on aircraft leasing is undeniable. Commercial aircraft can cost tens or even hundreds of millions of dollars, making leasing the preferred financing model for most airlines. Many airlines are unable to purchase every aircraft in their fleet. For most commercial airlines, it is more cost effective to lease than to purchase. The relationship between a lessor and a lessee is defined by the leasing contract. However, the airline's state of financial distress sets the domain of the legal relationship beyond the leasing contract, and is governed by the fusion of domestic insolvency law and international law¹.

India signed the Cape Town Convention and the Aircraft Protocol in 2008. The Convention and Protocol entered into force for India on 1 July 2018 after India completed the necessary ratification process. India adopted the creditor-friendly Alternative A under Article XI, Alternative A of the Aircraft Protocol, requiring that, following an insolvency-related event, the insolvency administrator must either cure all defaults and perform future obligations or return the aircraft object to the creditor within the declared waiting period. The insolvency of Jet Airways in 2019 became the first major judicial test of India's commitment to implementing Alternative A under the Cape Town Convention and Aircraft Protocol².

The Jet Airways insolvency of 2019 exposed the first crack: the IBC's automatic moratorium under section 14 effectively froze all lessor repossession attempts regardless of India's treaty commitments, and the NCLT declined to carve out aircraft from its protective sweep³. When Go First collapsed four years later in a blaze of unpaid invoices and grounded fleets, the same impasse materialised, this time with greater urgency, wider media attention, and—critically—the Government ultimately introduced executive and legislative measures to address the conflict⁴.

¹ Insolvency and Bankruptcy Code, 2016, No. 31, Acts of Parliament, 2016 (India) [hereinafter IBC].

² Convention on International Interests in Mobile Equipment, Nov. 16, 2001, 2307 U.N.T.S. 285 [hereinafter Cape Town Convention]; Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, Nov. 16, 2001, 2307 U.N.T.S. 517 [hereinafter Aircraft Protocol]; In re Jet Airways (India) Ltd., CP (IB) No. 2205/MB/2019 (NCLT Mumbai 2019).

³ IBC, *supra* note 1, § 14.

⁴ In re Go First (India) Ltd., CP (IB) No. 65/ND/2023 (NCLT New Delhi, May 10, 2023) [hereinafter Go First NCLT Order].

This paper proceeds in six parts. Part II traces the structural conflict between section 14 of the IBC and Article XI, Alternative A of the Aircraft Protocol. Part III analyses the Go First insolvency as the occasion on which that conflict became legally untenable. Part IV examines the October 2023 Gazette Notification and the Delhi High Court's April 2024 order. Part V provides a critical assessment of the Protection of Interests in Aircraft Objects Act, 2025. Part VI concludes with reflections on whether India has, at last, delivered on its Cape Town Convention commitments.

II. METHODOLOGY

This paper adopts a **doctrinal-empirical methodology** combining three complementary approaches: doctrinal legal analysis, comparative jurisdictional analysis, and empirical-proxy analysis. The doctrinal component examines the Insolvency and Bankruptcy Code, 2016 (IBC), the Aircraft Act, 1934, the Cape Town Convention and Aircraft Protocol, and the Protection of Interests in Aircraft Objects Act, 2025 (PIAO Act), alongside judicial decisions, particularly the **Go First** insolvency proceedings, and relevant regulatory instruments to assess the conflict between the IBC moratorium and India's obligations under Alternative A.

A comparative analysis of Ireland and Singapore evaluates IDERA enforcement, insolvency carve-outs, and compliance with international aviation finance standards, using AWG Compliance Index scores and IATA jurisdiction-risk classifications as benchmarks.

Given the absence of publicly available transaction-level lease-rate data, the paper employs an **empirical-proxy approach**, relying on AWG compliance scores, IATA risk ratings, and published estimates of lease-rate premia to assess the economic impact of legal uncertainty. These indicators support, rather than replace, the paper's normative analysis.

The study primarily relies on official legislative, judicial, and institutional sources. Its principal limitation is the unavailability of granular commercial lease-rate data, making empirical findings indicative rather than definitive.

III. THE STRUCTURAL CONFLICT: SECTION 14 IBC AND ARTICLE XI, ALTERNATIVE A OF THE AIRCRAFT PROTOCOL

A. The Moratorium Regime Under the IBC

Section 14 of the Insolvency and Bankruptcy Code, 2016 provides for an automatic moratorium that comes into effect upon the admission of an application to initiate the corporate insolvency resolution process. During the moratorium, the institution or continuation of suits or proceedings against the corporate debtor, the transfer of its assets, the enforcement of security interests, and the recovery of property occupied by or in the possession of the corporate debtor are prohibited⁵.

The logic of a moratorium is sound when the resolution plan is designed to address the needs of a collection of financial claims. The challenges arise when the “assets” in question are not claims or bank accounts, but a forty-tonne aircraft which is leased from a foreign company and, by its lease contract and by a treaty of which India is a signatory, the lessor is entitled to repossession of the aircraft on termination of the lease. This particular instance of conflict was not addressed by the drafters of the IBC in 2016.

The regulatory framework governing aircraft in India has also undergone significant change. The colonial-era Aircraft Act, 1934, which empowered the DGCA to maintain the civil aircraft register, has been replaced by the Bharatiya Vayuyan Adhiniyam, 2024. The new statute received Presidential assent on December 11, 2024, and came into force on January 1, 2025. While substantially preserving the regulatory framework governing civil aviation, the Bharatiya Vayuyan Adhiniyam modernises the statutory framework and provides the legal basis for implementing subsequent aviation legislation, including the Protection of Interests in Aircraft Objects Act, 2025.

⁵Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, (2020) 8 SCC 531, 567 (India).

B. Alternative A of the Aircraft Protocol: The Two-Month Rule

Article XI of the Aircraft Protocol allows Contracting States different insolvency options. Alternative A, which India accepted, is stronger than Alternative B. Under Alternative A, the insolvency administrator (or the debtor, if the debtor is self-administering) must, during the "waiting period" declared by the Contracting State: (i) cure all defaults, and undertake all future obligations, or (ii) provide the creditor with the opportunity to take possession of the aircraft object in accordance with the law⁶.

India declared a waiting period of two calendar months. The purpose of this provision is clear. An aircraft that is grounded and not flying is an asset that is rapidly losing value and incurring additional cost for maintenance and support. The drafters of the Protocol appreciated that the gap between the insolvency of airlines and the continuing ownership interest of aircraft lessors could not be sustained for the length of the standard corporate insolvency procedure, which in India, has been known to stretch for twelve to eighteen months, if not longer⁷. The two-month limit was meant to provide the administrator with a choice, and in turn, give lessors a known and enforceable exit⁸.

What remained a question in 2018, and was to be answered in the Jet Airways and Go First cases through litigation and not through legislation, was: if the administrator does not cure or return in two months, how does the lessor recover the aircraft from the Indian registry, given the Indian moratorium order?⁹

C. The Deregistration Bottleneck

An aircraft can only be deployed in the country of aircraft registration. The repossession of an aircraft requires deregistration from the current aircraft registry. In India, the role of maintaining

⁶ Aircraft Protocol, supra note 2, art. XI, Option A, para. 3

⁷ IBC, supra note 1, § 14

⁸ Aircraft Protocol, supra note 2, art. XI, Option A, para. 3

⁹ In re Jet Airways (India) Ltd., CP (IB) No. 2205/MB/2019 (NCLT Mumbai 2019); Go First NCLT Order, supra note 4.

the civil aircraft register is assigned to the DGCA and is governed by the Aircraft Act of 1934, and the Aircraft Rules of 1937. In practice, the DGCA frequently refrained from processing deregistration requests where insolvency proceedings and the section 14 moratorium were pending. The Directorate considered that acting upon IDERA requests during the pendency of insolvency proceedings could conflict with the orders of the NCLT, resulting in significant delays in aircraft repossession.

Aviation Working Group, an international NGO that observes whether contracting states comply with the provisions of the Cape Town Convention, assesses the performance of states in repossession activities and provides a negative rating for states that fail to comply with the provisions of the Convention. A negative rating for India was not uncommon, and surveys issued by IATA on lessors listed the risk of Indian jurisdiction as a major concern regarding lease pricing for Indian carriers. The cost was borne by the carriers and the end user, the passenger, in the form of increased fares¹⁰.

IV. GO FIRST: THE CRISIS THAT FORCED A RESOLUTION

A. The Collapse and the NCLT Admission

On May 2, 2023, Go First submitted a voluntary insolvency petition to the New Delhi NCLT. Go First attributed its financial collapse primarily to the prolonged grounding of aircraft equipped with Pratt & Whitney PW1100G-JM geared turbofan (GTF) engines, which significantly reduced its operational capacity and aggravated its existing financial distress. The NCLT approved the petition on May 10, 2023, and the moratorium under section 14 of the IBC was immediately enforced¹¹.

At the time of petition admission, Go First had approximately 54 aircraft, which were leased from various lessors across the U.S., Ireland, and the United Arab Emirates. The total value of

¹⁰ Aviation Working Group, AWG Cape Town Convention Asset Tracking System (CATS) – Country Status Report (2023), <https://www.awg.aero/> (last visited June 26, 2026) [hereinafter AWG CATS Report]; International Air Transport Association, Aviation Leasing and Finance Report 2024, <https://www.iata.org/> (last visited June 27, 2026) [hereinafter IATA Report]

¹¹ Go First NCLT Order, *supra* note 4

the aircraft was estimated in the billions. The lessors were owed tens of millions in lease rentals, maintenance reserves, and supplemental rent, which had accrued as defaults¹².

B. The Moratorium's Effect on Lessors

Section 14(1)(d) of the IBC prohibits, with respect to the corporate debtor, the recovery of any property by a lessor, where such property is in the possession of the corporate debtor¹³. The NCLT, exercising its powers, prohibited lessors from recovering their aircraft. Although several lessors issued termination notices and demanded the return of their aircraft, the section 14 moratorium, read together with the DGCA's refusal to process deregistration requests during the insolvency proceedings, prevented those contractual rights from being effectively enforced. The NCLT's interim resolution professional did not assist the lessors in their attempts to repossess the aircraft, and the DGCA, in light of the moratorium, refused to approve aircraft deregistration requests¹⁴.

Under Alternative A of the Aircraft Protocol, two months passed, and the defaults were not cured and no voluntary return was facilitated. Accordingly, lessors were in the rare situation of having a triggered treaty right, a clearly enforceable contractual right as a matter of private law, and no means to exercise either¹⁵.

C. The Delhi High Court Writ Proceedings

Accipiter Investments Aircraft 2 Ltd. and others were lessors who petitioned for writs in the Delhi High Court under Article 226 of the Indian Constitution for a mandamus for the DGCA to process their applications for deregistration and to issue export certificates of airworthiness subsequent to deregistration so that the aircraft would be removed from Indian airspace. The

¹² Id.

¹³ IBC, supra note 1, § 14(1)(d)

¹⁴ Go First NCLT Order, supra note 4; Directorate General of Civil Aviation, Office Order No. AW-17013/01/2023-AT (May 2023)

¹⁵ Aircraft Protocol, supra note 2, art. XI, Option A, para. 3.

DGCA, in essence, stated that it would be acting in contradiction to, and in parallel with, an NCLT moratorium¹⁶.

The proceedings were commercially significant as the legal issues were not confined to the Go First case, but rather to the essence of the credibility of India's treaties in the context of being an aircraft leasing jurisdiction. Many lessors provided additional materials to demonstrate the economic impact of the deadlock, including the Aviation Working Group survey on the impact of India's compliance deficits on the cost of financing for Indian carriers¹⁷.

V. THE EXECUTIVE RESPONSE AND JUDICIAL ENFORCEMENT

A. The October 2023 Gazette Notification

The Ministry of Corporate Affairs issued Notification No. S.O. 4321(E), published in the Official Gazette on 3 October 2023. This Gazette Notification exercised the power of the Central Government to specify which transactions shall not be impacted by the moratorium. Specifically, the Notification stated that transactions involving aircraft, engines, airframes, and helicopters covered by the Cape Town Convention would be exempt from the moratorium¹⁸.

This Notification was important for several reasons. Acting under section 14(3)(a) of the Insolvency and Bankruptcy Code, the Central Government specified that transactions, arrangements and agreements relating to aircraft objects to which the Cape Town Convention and Aircraft Protocol apply would not be subject to the moratorium under section 14¹⁹.

The Notification, however, did not authorize lessors to take the actions mentioned in the previous paragraph. The Notification, issued through a subordinate legislative process, was necessarily distinguishable from a permanent statutory amendment. The Notification could be challenged for

¹⁶Accipiter Investments Aircraft 2 Ltd. v. Union of India, 2024 SCC OnLine Del 3125 (Del. H.C. Apr. 26, 2024) (India).

¹⁷ AWG CATS Report, *supra* note 14

¹⁸ Ministry of Corporate Affairs, Government of India, Notification No. S.O. 4321(E) (Oct. 3, 2023)

¹⁹ 2023 Gazette Notification, *supra* note 22

having used section 14(2) in a manner which is ultra vires, and for conflicting with the parent Act²⁰. The Notification could be reasonably defended, but as of the date of the Notification, it had not been challenged in the Supreme Court.

B. The Delhi High Court Division Bench Judgment (April 2024)

On April 26, 2024, Justice Tara Vitasta Ganju of the Delhi High Court delivered her judgment on the lessors' writ petitions. The court addressed the matter through three separate but complementary doctrines which converged on the conclusion that the DGCA was compelled to initiate the process of deregistration.

The Court interpreted the Cape Town Convention and Aircraft Protocol together with the October 2023 Notification and the applicable domestic legal framework. It concluded that, following the Notification, aircraft objects covered by the Convention were no longer subject to the section 14 moratorium and that the DGCA was therefore required to discharge its statutory duty to process valid deregistration requests.

Second, the court examined the DGCA's position in the framework of the relevant statute. The court held that, once the relevant jurisdictional threshold of a valid termination notice and a signed Irrevocable Deregistration and Export Request Authorisation (IDERA) was satisfied, the DGCA's task of maintaining the civil aircraft register was a ministerial one. The court held that the NCLT moratorium could not transform a ministerial statutory duty into a discretionary one.

Third, the court held that the October 2023 Gazette Notification had, in any event, resolved the moratorium question by executive action, and that the DGCA's continued refusal to act amounted to an unlawful disregard of a binding executive instrument as well as the court's own interim directions. The court directed the DGCA to deregister fifty-four Go First aircraft within a specified timeframe and to issue the necessary export certificates.

²⁰ M.P. JAIN, INDIAN CONSTITUTIONAL LAW 1423–1428 (8th ed. 2018)

C. The Supreme Court's Refusal to Stay

The Go First insolvency estate challenged the Delhi High Court's ruling in the Supreme Court of India by way of a Special Leave Petition. The Supreme Court refused to stay the High Court's ruling, which effectively permitted deregistration. The SLP was pending, and the Supreme Court did not provide any ruling on the merits at that point. The Supreme Court declined to stay the operation of the Delhi High Court's deregistration directions while the Special Leave Petition remained pending. As of the date of writing, no final judgment on the merits had been delivered. However, its refusal to stay the High Court's deregistration order has been generally viewed by industry participants as reinforcing the practical enforceability of lessors' rights pending final adjudication. However, the market and legal observers interpreted the Supreme Court's inaction, together with the broader executive and legislative developments, as signalling that treaty obligations should not remain suspended²¹.

VI. THE PROTECTION OF INTERESTS IN AIRCRAFT OBJECTS ACT, 2025: A GENUINE LEGISLATIVE SOLUTION?

A. The Structure and Content of the Act

The Protection of Interests in Aircraft Objects Act, 2025 (hereafter referred to as the "PIAO Act") was passed by Parliament on 3rd April, 2025 and received Presidential assent on 16th April, 2025²². The Act then came into force on May 1, 2025. The Act is India's first standalone legislation implementing the Cape Town Convention and Aircraft Protocol and giving domestic legal effect to the rights and remedies recognised under those instruments. The enactment of the PIAO Act represents a significant advancement from prior disparate executive orders and judicial rulings²³.

²¹ Go First (India) Ltd. v. Accipiter Investments Aircraft 1 Ltd., SLP (C) No. 12034/2024 (S.C. India, May 2024); Vienna Convention, supra note 13, art. 27; AWG CATS Report, supra note 14

²² Protection of Interests in Aircraft Objects Act, 2025, No. 7, Acts of Parliament, 2025 (India) [hereinafter PIAO Act]

²³ UNIDROIT, Status of the Cape Town Convention and Aircraft Protocol (updated Apr. 2025), <https://www.unidroit.org/instruments/security-interests/cape-town-convention> (last visited June 28, 2026)

There are three main aspects of the PIAO Act that deserve attention. First, the PIAO Act recognizes the enforceability of international interests in specific aircraft objects in Indian law, i.e., aircraft frames, aircraft engines, and helicopters. The Act recognises international interests in aircraft objects and provides the statutory framework for their recognition and enforcement before competent Indian courts and authorities. The most important characteristic of the PIAO Act is that it introduces a broad non-obstante clause²⁴. This clause resolves the subordination issue concerning treaty rights and the general provisions of the IBC.

Section 9 gives statutory effect to the exclusion of Convention aircraft objects from the operation of the insolvency moratorium, thereby implementing India's obligations under the Cape Town Convention and Aircraft Protocol. This section of the PIAO Act embodies what the 2023 Gazette Notification had sought to accomplish, and it does so through the legislative process, thereby removing the ultra vires effect of the Gazette Notification²⁵.

Third, section 12 of the PIAO Act creates a five working day deadline for the Director General of Civil Aviation (DGCA) to process a deregistration request if a deregistration request is accompanied by a registered IDERA. This section of the PIAO Act addresses what had been the practice of the Director General of Civil Aviation regarding the deferral of deregistration requests²⁶.

B. Does the PIAO Act Finally Resolve the Nightmare?

There is good reason to treat the PIAO Act as a real resolution. The Go First deadlock stemmed from a lack of a *lex specialis* statute. In the absence of a special statute, Cape Town Convention rights would be subordinate to the domestic insolvency framework. The PIAO Act provides a solution to this problem. With a non-obstante clause at the level of the IBC, no other NCLT can interpret the moratorium as extending to Cape Town Convention aircraft. No other DGCA can

²⁴ PIAO Act, *supra* note 29, §§ 3–5

²⁵ *Id.* § 9.

²⁶ *Id.* § 12

cite an insolvency proceeding as a reason to deny a valid IDERA-backed request to deregister an aircraft within the five-day period. The structural problem has been resolved legislatively.

There are also reasons for caution. There are three main concerns.

The first is physical access and cooperation from airport authorities. The PIAO Act addresses the legal right to deregister and the DGCA's obligation to deregister. However, it does not, and probably cannot, address the practical challenges of physically taking back an aircraft from Indian Airports, including getting access to the maintenance hangar, cooperation from ground handling staff, and customs clearance. There may also be challenges in dealing with personnel or liens asserted by third parties against the aircraft. The *Accipiter* litigation showed that even with legal clarity at the deregistration stage, physical repossession may still be an issue. Although those limitations are operational, and not strictly legal, they are important in addressing the concerns of lessors.

The second issue concerns the treatment of engines. In many aircraft leases, the leases for the airframe and engines are separate, and multiple lessors may hold interests in airframes and engines respectively. The Cape Town Convention and Aircraft Protocol regard aircraft objects, which are defined to include aircraft engines as separate objects. The PIAO Act retains this framework, but the more realistic aspects of engine repossession from an airline which has physically integrated the leased engines to a separately leased airframe, are not addressed by the Act with the degree of specificity that the market would expect. In the *Go First* proceedings, engine lessors encountered significant challenges in locating the engines and asserting their separate right to repossess the engines, as against the airframe lessors and the insolvency estate. This difficulty is compounded by the doctrine of accession, a property law principle under which a leased engine physically attached to a separately leased airframe may be treated as part of the airframe, potentially transferring ownership to the airframe owner. Notably, the Cape Town Convention and Aircraft Protocol treat aircraft engines as distinct 'aircraft objects' capable of separate international interests, and the PIAO Act retains this framework. However, the Act does not expressly address the priority dispute that arises under the doctrine of accession when a leased engine is installed on a separately owned or leased airframe – a lacuna that may require

judicial resolution in future insolvency proceedings. The Cape Town Convention recognises aircraft engines as separate aircraft objects capable of supporting independent international interests, thereby substantially limiting the application of domestic accession principles in relation to Convention rights.

The third issue is more systemic than it is transactional. The non-obstante clause in section 3 of the PIAO Act will, if tested, require a constitutional court to decide its position against the non-obstante clause in the IBC, particularly section 238, and its non-obstante clause. Where two Acts of Parliament each contain a non-obstante clause, the general rule of statutory interpretation is that the later Act prevails over the earlier Act. The PIAO Act would be the later, and more specific, statute, and would therefore prevail. However, such a hierarchy would be subject to judicial interpretation, and the question whether parliament intended to override section 238 of the IBC would likely generate litigation.

C. The Aviation Working Group and India's Compliance Status

The Aviation Working Group was attentive to the legislative journey in India. Following the *Accipiter* judgment and the enactment of the PIAO Act, the Aviation Working Group recognised that India had significantly strengthened its legal framework for implementing the Cape Town Convention. While these reforms substantially improved India's compliance position, the AWG has continued to emphasise that long-term compliance depends upon consistent judicial interpretation and practical enforcement.

The AWG ratings improve compliance for India. AWG Ratings are one of the major inputs for IATA and almost all large Lessors, in determining the credit spread for leases to the airlines in a given jurisdiction. As India moves from a high risk jurisdiction to a medium risk one, and, post PIAO Act, to a nearly compliant jurisdiction, financing costs for Indian carriers should fall—ultimately benefiting consumers of Indian aviation²⁷.

²⁷ IATA Report, *supra* note 14

D. Comparative Benchmarks: Lessons from Ireland and Singapore

The analysis in Parts VI. A to VI.C shows that the conflict between the IBC moratorium and India's obligations under Alternative A was not simply the result of inconsistent judicial interpretation, but reflected a broader structural gap in India's domestic legal framework. The enactment of the PIAO Act was intended to address this gap by aligning Indian law more closely with the requirements of the Cape Town Convention. To evaluate whether these reforms have achieved that objective, this Part compares India's post-PIAO framework with those of Ireland and Singapore, two jurisdictions widely regarded by the Aviation Working Group (AWG) and the International Air Transport Association (IATA) as benchmarks for effective implementation of the Cape Town Convention.

1. IRELAND

Ireland is widely recognised as the world's leading aircraft leasing jurisdiction and is home to a substantial proportion of the global commercial aircraft leasing industry. The CTC legislative framework is set under the provisions of the International Interests in Mobile Equipment (Cape Town Convention) Act 2005 (No. 15 of 2005) and in each relevant Member State through the European Communities (Unidroit Convention on International Interests in Mobile Equipment) (Amendment) Regulations 2012 . On ratification, Ireland opted for Alternative A and fully implemented the IDERA in a purely administrative manner via the Irish Aviation Authority .The Irish Aviation Authority ordinarily processes valid IDERA-based deregistration requests within five working days in accordance with the applicable statutory framework²⁸.

Ireland adopted Alternative A according to section 5(2A) of the 2005 Act (inserted by section 53 of the State Airports (Shannon Group) Act 2014 (No. 27 of 2014)), which provides that the waiting period under Alternative A is 60 days . By adopting Alternative A, upon the occurrence of an insolvency-related event, a practitioner in insolvency or the debtor must either surrender possession of the aircraft object to the creditor or cure all defaults by the earlier of the end of the

²⁸ International Interests in Mobile Equipment (Cape Town Convention) Act 2005 (No. 15 of 2005) (Ir.).

60-day waiting period or the date on which the creditor would be entitled to possession. At that time, the creditor does not need court permission to take possession²⁹.

Ireland has invariably featured on the AWG list as a jurisdiction with a "Very High" probability level for CTC compliance, given its long-standing tradition of commitment to the aircraft leasing and financing industry. In this case, it has been easy to see the Irish model as one which holds out a direct legislative precedent for India: a five-working-day administrative window for deregistration—nonjudicial, avoidable only by an express statutory statement to the effect that the commencement of insolvency proceedings does not affect the priority or enforceability of interested registered. The provisions of the PIAO Act are closely modeled on this, and the five-working-day requirement for deregistration under section 5 of the PIAO Act mimics that found in the IAA.

2. SINGAPORE

Singapore acceded to the CTC and Aircraft Protocol in 2012 and made its declaration pursuant to Alternative A from the date of accession. The implementing law governs aircraft deregistration at the administrative level if a valid IDERA backs it—the Air Navigation Act (Cap. 6) Law and the Civil Aviation Authority of Singapore (CAAS) Regulations. CAAS generally processes IDERA-related applications within the administrative timelines prescribed under its regulatory framework³⁰.

Singapore courts have not encountered the moratorium-versus-IDERA conflict that arose in India. While the Insolvency, Restructuring and Dissolution Act (IRDA) does not contain an express statutory carve-out for all CTC-protected aircraft assets, a nuanced exception has been carved out for aircraft leases to ensure compliance with the 60-day waiting period under Alternative A. In practice, Singapore's legal and regulatory framework has enabled effective enforcement of valid IDERAs without generating the conflicts experienced in India³¹.

²⁹ Id. § 5(2A).

³⁰ Air Navigation Act (Cap. 6) (Sing.); Civil Aviation Authority of Singapore (CAAS) Regulations.

³¹ Insolvency, Restructuring and Dissolution Act 2018 (No. 40 of 2018) (Sing.)

Singapore's significance for this paper lies not only in its statutory architecture but in its role as a common-law jurisdiction with a comparable trajectory of economic development to India. Unlike Ireland, which is primarily a domicile for lessors, Singapore is predominantly a lessee jurisdiction—serving as the seat of airlines such as Singapore Airlines, Scoot, and Jetstar Asia. This makes its experience with IDERA enforcement from the perspective of a debtor-state directly analogous to India's regulatory ambitions. Singapore's consistent "Very High" classification in the AWG Compliance Index demonstrates that a civil-aviation-specific IDERA statute, operating in parallel with a general insolvency framework, can deliver full compliance without doctrinal conflict.

3. BENCHMARKING INDIA'S POST-PIAO ACT FRAMEWORK

The AWG Compliance Index uses a numerical score (from 0 to 100), not alphabetical bands. The score corresponds to probability categories:

- Very High (88–100)
- High (75–87)
- Medium (63–74)
- Low (62 and lower)

Ireland and Singapore remain two of the leading jurisdictions for implementing the Cape Town Convention and Alternative A insolvency framework. Ireland has long been recognised as the world's leading aircraft leasing jurisdiction, supported by comprehensive legislation implementing the Convention and an efficient administrative system for IDERA-based deregistration. Singapore similarly provides a creditor-friendly legal framework through its domestic legislation and administrative practices, ensuring that aircraft repossession rights are respected consistently during insolvency proceedings. Before the Go First insolvency, India had adopted Alternative A through its treaty declarations but lacked effective domestic legislation to ensure timely enforcement, allowing the Insolvency and Bankruptcy Code moratorium to delay repossession. Following the October 2023 Gazette Notification, the Delhi High Court's decision in *Accipiter Investments Aircraft 2 Ltd. v. Union of India*, and the enactment of the Protection of Interests in Aircraft Objects Act, 2025, India's legal framework has moved substantially closer

to international best practices. Nevertheless, the practical effectiveness of these reforms will ultimately depend on consistent judicial interpretation, efficient administrative implementation by the DGCA, and future judicial clarification of the relationship between the PIAO Act and the Insolvency and Bankruptcy Code.

*Sources: Aviation Working Group, Cape Town Convention Compliance Index scores (2023–2025); IATA Aviation Leasing and Finance Reports; IAA Annual Reports; CAAS Annual Reports*³².

Three structural conclusions emerge from this comparative analysis:

- **Operational Verifiability:** The five-working-day statutory deregistration window in section 5 of the PIAO Act matches the operationally verified timelines of the IAA and closely rivals the CAAS's seven-working-day protocol, giving India a credible claim to enforcement rather than a paper commitment.
- **Deconfliction of Statutes:** The express exclusion of aircraft assets from the IBC moratorium under section 4 of the PIAO Act completely substantially addresses the principal structural divergence between India's pre-reform framework and the benchmark models.
- **Score Trajectory:** India's compliance trajectory reflects significant improvement following the 2023 executive measures and the enactment of the PIAO Act. Nevertheless, the AWG continues to evaluate compliance on the basis of both legislative reform and consistent practical enforcement, meaning that future implementation will remain an important consideration.

³² AWG CATS Report, supra note 14; IATA Report, supra note 14.

E. The Economic Impact of Legal Reform

The discussion in the preceding sections suggests that the PIAO Act addresses the structural weaknesses that had long existed in India's legal framework governing aircraft leasing and insolvency. However, an equally important question is whether these legal reforms have had any measurable economic impact. More specifically, did the legal uncertainty surrounding aircraft repossession increase leasing costs for Indian airlines, and has the enactment of the PIAO Act begun to reduce that burden? Because aircraft lease agreements and lease-rate data are generally confidential, this analysis relies on publicly available indicators as proxies for market conditions.

The Go First insolvency highlighted the economic consequences of legal uncertainty in aircraft leasing. Prior to the 2023 reforms, delays in deregistration and uncertainty surrounding aircraft repossession increased the perceived legal risk of leasing aircraft to Indian airlines. Industry bodies such as the Aviation Working Group and IATA have consistently observed that stronger compliance with the Cape Town Convention improves creditor confidence and may reduce financing and leasing costs over time. The October 2023 notification, the Delhi High Court's *Accipiter* judgment, and the enactment of the Protection of Interests in Aircraft Objects Act, 2025, have significantly strengthened India's legal framework. However, the long-term economic benefits will depend on consistent implementation and market experience, and it remains too early to draw definitive conclusions regarding the precise effect on lease rates or financing costs.

*Sources: Aviation Working Group, Cape Town Convention Compliance Index scores (2019–2025); IATA Aviation Leasing and Finance Reports; IATA Economic Performance of the Airline Industry.*³³

The October 2023 Gazette Notification, the Delhi High Court's decision in *Accipiter Investments Aircraft 2 Ltd. v. Union of India*, and the enactment of the Protection of Interests in Aircraft Objects Act, 2025 represent significant steps towards aligning India's domestic legal framework with its international obligations under the Cape Town Convention. These developments have strengthened the legal position of lessors by clarifying that aircraft objects covered by the

³³ AWG CATS Report, *supra* note 14; IATA Report, *supra* note 14.

Convention are exempt from the general insolvency moratorium and by providing a statutory mechanism for the timely deregistration of aircraft.

Although industry bodies such as the Aviation Working Group (AWG) and the International Air Transport Association (IATA) have consistently recognised that greater legal certainty contributes to a more favourable aircraft leasing environment, the precise economic impact of these reforms cannot yet be conclusively quantified. Aircraft lease agreements, financing terms, and lease-rate premiums are commercially confidential and are influenced by numerous factors, including global interest rates, aircraft supply and demand, airline creditworthiness, and broader macroeconomic conditions. Consequently, it is difficult to isolate the specific effect of the PIAO Act on leasing costs or financing premiums.

Accordingly, the economic assessment presented in this paper should be understood as indicative rather than definitive. The available evidence suggests that strengthening India's compliance with the Cape Town Convention is likely to enhance creditor confidence and improve the country's attractiveness as an aircraft leasing jurisdiction. However, the long-term success of these reforms will ultimately depend upon consistent judicial interpretation, efficient administrative implementation by the Directorate General of Civil Aviation (DGCA), and sustained enforcement of the statutory protections introduced by the PIAO Act. Future empirical research, supported by publicly available market data, will be necessary to determine whether these legal reforms translate into measurable reductions in aircraft financing and leasing costs.

VII. CRITICAL ASSESSMENT

The path from the Jet Airways moratorium impasse in 2019 to the Go First crisis in 2023, the executive intervention in October 2023, the Delhi High Court's order in April 2024, and Parliament's PIAO Act of 2025 is a classic example of the delay between ratifying a treaty and its successful domestic implementation. It took India several years after the Cape Town Convention entered into force domestically in 2018 to enact dedicated implementing legislation that clearly gives effect to the core obligations of Alternative A. That delay likely contributed to

higher perceived jurisdictional risk, potentially increasing financing and leasing costs while damaging India's reputation as an aircraft leasing jurisdiction.

The PIAO Act has substantially addressed the principal legal deficiency identified during the Go First insolvency. As a matter of law, Cape Town Convention planes are no longer covered by the IBC moratorium. The deregistration obligation of the DGCA is now time-bound and non-discretionary. The non-obstante clause strengthens the priority of treaty-backed lessor rights within the statutory framework, although its interaction with other overriding statutes, including the IBC, may ultimately require judicial clarification.

But three risks of residual significance remain. First, the interaction between the non-obstante clause of the PIAO Act and section 238 of the IBC has not yet been considered by the Supreme Court of India. Should the Supreme Court find that there is a conflict between the two sections, a determined estate may attempt to relitigate the issue of priority between secured and unsecured creditors. Second, the regulations that currently govern the physical repossessing of aircraft have not been amended to reflect the provisions of the PIAO Act. Third, while the PIAO Act provides a savings clause for transactions that occurred prior to the Act coming into force, it is not explicit as to what is to occur in relation to ongoing proceedings in which neither the 2023 Gazette Notification nor the PIAO Act have been invoked.

While it is true, therefore, that India has largely resolved the problem of the repossession of aircraft by defunct airlines, such a resolution is only legal and statutory rather than operational. The “nightmare” has not yet truly ended; it is, however, in remission until the next airline becomes insolvent.

CONCLUSION

Looking back at the Go First insolvency case, it is safe to say that it was the event that India's aviation leasing system required to prompt the need for legislative changes. The Cape Town Convention and the Aircraft Protocol entered into force for India in 2018, but comprehensive domestic implementing legislation was not enacted until the Protection of Interests in Aircraft

Objects Act, 2025. However, the Indian Courts shackled aircraft leasing companies with the IBC moratoria up until October 2023. The combination of the October 2023 Gazette Notification, the Delhi High Court's decision in *Accipiter Investments Aircraft 2 Ltd. v. Union of India*, the Supreme Court's refusal to stay the deregistration directions, and the enactment of the PIAO Act.

The question in the title of this paper requires a more elaborate answer. India has substantially strengthened its legal framework governing aircraft repossession under the Cape Town Convention, although the long-term success of these reforms will depend on consistent implementation and future judicial interpretation. The statutory non-obstante clause demonstrates Parliament's intention that Convention aircraft objects should not ordinarily remain subject to the general insolvency moratorium. The DGCA's duty to deregister aircraft is, as a result, now a statutory, time-bound, and enforceable duty. The Alternative A obligations now have a legislative expression in India.

However, some of the structural challenges that allowed the nightmare to occur in the first place, like the absence of a comprehensive, IDERA-enabled deregistration framework, the gap in engine removal framework, and the unresolved constitutional challenge of conflicting non-obstante clauses, remain. While the nightmare may have ended, the conditions for its reemergence are not eliminated.

There is no question that India has met one of the most important criteria to join global markets: it has established dedicated legislation for aircraft objects. The signal that sends to global aircraft financing market participants, lessors, financiers, and insurers, and to the Aviation Working Group, is the most important step India could take to regain its position as an aviation leasing jurisdiction. The courts and the regulators will take over from this point and have the task of implementing the provisions of the PIAO Act and the fidelity to the object and purpose of the treaty as indicated by Parliament.