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India's New Aircraft Objects Act, 2025: Impact on Aviation Insolvency and Finance

SHIVANSHU K. SRIVASTAVA* AND HERA MIRZA**

ABSTRACT

India's aviation industry, which operates largely on leased aircraft, has long faced a deep legal contradiction. The country's domestic insolvency law, the Insolvency and Bankruptcy Code, 2016, has consistently blocked creditors from repossessing their aircraft, directly clashing with India's 2008 commitment to the Cape Town Convention. This tension culminated in the Go First insolvency of 2023, when lessors found their valuable assets trapped, an event that damaged India's international compliance rating and drove up leasing costs. This paper scrutinises the government's response, the Protection of Interests in Aircraft Objects Act, 2025, which finally gives the Convention the force of law in India and allows it to override the moratorium of the Code. The Act activates "Alternative A," granting lessors a firm sixty-day window to reclaim aircraft from a failing airline. This analysis argues that the Act is a crucial step to rebuild global confidence and lower financial risk, while marking a significant policy pivot that prioritises rapid creditor remedies over the Code's traditional goal of corporate rescue, a creditor-first approach that may push more distressed airlines toward liquidation. Although the law is a net positive, its ultimate success depends on resolving ambiguous drafting, particularly conflicting override clauses and unclear governmental detention powers, which threaten to create fresh legal uncertainties.

Keywords: Cape Town Convention (CTC), Protection of Interests in Aircraft Objects Act 2025, Insolvency and Bankruptcy Code (IBC), aircraft leasing, aviation insolvency.

I. INTRODUCTION

The Indian aviation sector has undergone significant evolution, transforming from a luxury into a necessity for many, driven by demand for cheaper, safer, and faster travel. India currently stands as the third-largest domestic aviation market globally, characterised by immense growth potential, with the air travel market size expected to nearly double from an estimated \$13.89 billion in 2024 to \$26.8 billion by 2030. The country operates with approximately 1,550 aircraft and is poised for substantial fleet expansion, evidenced by 1,300 new aircraft orders. This

* Author is an Assistant Professor of Law at Babu Banarasi Das University, Lucknow, and Legal Advisor to the National Institute of Fashion Technology, Kangra, India.

** Author is a Research Scholar at the Faculty of Law, University of Lucknow, India.

expansion relies heavily on aircraft leasing, which has become the dominant mode of operation in the industry. Airline companies prefer leasing because it helps bypass high acquisition costs and mitigates financial risk. Critically, approximately eighty percent of Indian aircraft are currently operated under lease agreements, including significant portions of the fleets of major carriers such as IndiGo, Air India, and SpiceJet.

Despite the sector's rapid growth, the Indian legal and financial framework governing airline insolvency has historically presented severe challenges, creating a persistent legislative gap. The central issue has been the direct conflict between domestic insolvency law and India's international commitments regarding aircraft repossession. India acceded to the Convention on International Interests in Mobile Equipment (the Cape Town Convention)¹ and its Protocol on Matters Specific to Aircraft Equipment (the Aircraft Protocol)² in 2008, seven years after the Convention and Protocol were originally signed at Cape Town in 2001. The Convention's purpose is to establish a uniform international legal framework to facilitate the asset-based financing and leasing of high-value mobile equipment, ensuring that these interests are recognised and protected globally. However, until recently, India lacked dedicated statutory backing to enforce the provisions of the Convention. Upon the initiation of insolvency proceedings against a corporate debtor under the *Insolvency and Bankruptcy Code, 2016*, a moratorium came into force under Section 14 of the Code.³ This moratorium prohibits any action that might alter the status of the corporate debtor's assets. Because aircraft constitute the primary assets of an airline, the moratorium effectively disabled international lessors from exercising their contractual rights to repossess aircraft, even following the termination of lease agreements due to default. This situation created significant judicial uncertainty and impediment for lessors.

A. The catalyst for change: the Go First insolvency

This inherent conflict reached a critical juncture with the voluntary insolvency filing of Go First Airlines on 3 May 2023 before the National Company Law Tribunal.⁴ Go First became the latest in a long line of more than fifteen airlines to file for insolvency in India over the preceding two decades. Following the admission of Go First's petition, the ensuing moratorium prevented the airline's lessors from repossessing their aircraft objects, despite the airline having defaulted on

¹ Convention on International Interests in Mobile Equipment, opened for signature Nov. 16, 2001, 2307 U.N.T.S. 285 (entered into force Mar. 1, 2006) (acceded to by India 2008).

² Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, opened for signature Nov. 16, 2001, 2367 U.N.T.S. 517 (entered into force Mar. 1, 2006).

³ The Insolvency and Bankruptcy Code, 2016, § 14, No. 31, Acts of Parliament, 2016 (India).

⁴ *Go Airlines (India) Ltd., In re*, 2023 SCC ONLINE NCLT 197.

payments pegged at INR 2,660 crore by 28 April 2023. This event brought the plight of the lessors to the forefront of national policy discussion. The freezing of these leased aircraft severely undermined India's reputation in the global aviation finance market. Consequently, the Aviation Working Group, which assesses Cape Town Convention compliance worldwide, downgraded India's compliance score from 69 to 63, indicating increased risk for international lessors.⁵

B. Central argument: the Protection of Interests in Aircraft Objects Act, 2025

The legislative response to this critical gap, intended to restore international confidence, was the *Protection of Interests in Aircraft Objects Act, 2025* (Act No. 17 of 2025),⁶ which has received the President's assent. The purpose of the Act is explicit: to implement the Convention on International Interests in Mobile Equipment and its Protocol. This paper asserts that the enactment of the Act is a significant and necessary legislative step aimed at resolving the long-standing jurisdictional conflict between the Code and the Cape Town regime. By aligning domestic law with international standards, the Act grants statutory recognition and speedy enforcement remedies to lessors and creditors. The immediate impact of implementing the Convention through the Act is expected to be a significant reduction in the jurisdictional risk premium for international financing and leasing transactions within India. This confidence boost is projected to lower the cost of leasing aircraft for Indian carriers by approximately fifteen to twenty percent, ultimately contributing to more reasonable airfares for passengers. While some commentators contend that the Act alone may not be a complete "panacea for all the ills plaguing the aviation industry",⁷ its introduction marks a decisive shift toward stabilising the framework for aviation finance. This paper further contextualises the problem by providing an overview of the industry and its challenges. It analyses the new legislative provisions, scrutinises their economic and legal ramifications, and evaluates lingering concerns regarding their implementation and impact on domestic stakeholders.

II. THE IMPERATIVE FOR STATUTORY COMPLIANCE: MARKET CHALLENGES AND POLICY FAILURE

India's journey toward robust statutory compliance under the Cape Town Convention was driven not by foresight alone, but rather necessitated by recurring domestic airline crises and

⁵ Thejas Velaga & Aastha Gupta, *Airline Insolvency in India: Balancing Interests Between the Insolvency and Bankruptcy Code and the Cape Town Convention*, 17 NUJS L. REV. 62 (2024).

⁶ The Protection of Interests in Aircraft Objects Act, 2025, No. 17, Acts of Parliament, 2025 (India).

⁷ Sandeepa Bhat B., *Protection of Interests in Aircraft Objects Act 2025: Indian Skies are Still Murky*, 5 LEX AD COELUM 1 (2025).

the severe deterioration of international confidence in the Indian legal framework. The *Protection of Interests in Aircraft Objects Act, 2025* emerged as a direct response to fundamental instabilities within the domestic aviation market.

A. Financial vulnerability of Indian airlines

The Indian aviation sector has proven historically volatile, marked by frequent economic woes and systemic failures. The voluntary insolvency filing of Go First Airlines on 3 May 2023⁸ positioned it as the latest addition to a group of more than fifteen airlines that had filed for insolvency over the preceding two decades.⁹ Other notable airlines that have ceased operations include Jet Airways (2019), Kingfisher Airlines, Zoom Air, Air Deccan, Vayudoot, ModiLuft, and Damania Airways, among others, while SpiceJet has experienced significant decline. This vulnerability is rooted in multiple challenging factors endemic to the Indian market.

High operating costs are a persistent burden, with airlines frequently struggling to make ends meet. Costs are significantly affected by external factors such as fluctuating Aviation Turbine Fuel prices,¹⁰ which can constitute up to forty-five percent of the airfare. Currency depreciation compounds the problem: a weaker Rupee severely harms airline profitability, especially since most leasing contracts and spare-parts acquisitions are denominated in foreign currencies. Specific operational crises also play a role. In the case of Go First, the immediate trigger for mounting losses and insolvency was attributed to faulty engines supplied by Pratt & Whitney,¹¹ which resulted in the grounding of twenty-eight of its fifty-four aircraft. Finally, market concentration is a concern: the frequent failure of airlines has produced an unhealthy duopoly, currently dominated by the Air India group and IndiGo. The potential liquidation of a major carrier such as Go First further concentrates market share, raising significant competition concerns and potential consumer harm.

B. The pre-Act legislative gap and judicial uncertainty

The core driver of the need for the 2025 Act was the inability of the existing legal framework to reconcile domestic insolvency goals with international asset-protection norms. India acceded to the Cape Town Convention and its Aircraft Protocol¹² in 2008, yet lacked dedicated statutory implementation¹³ to give their provisions the force of law domestically. This resulted in the

⁸ *Go Airlines (India) Ltd., In re*, *supra* note 4.

⁹ Jashim Uddin Ahmed et al., *The Bankruptcy of Jet Airways in India*, 11 IJUM J. CASE STUD. MGMT. 31 (2020).

¹⁰ Severin Borenstein, *Why Can't US Airlines Make Money?*, 101 AM. ECON. REV. 233, 233-37 (2011).

¹¹ Himesh Thakur, Syed Fazl Askari & Vaibhav Sharma, *Go Air Insolvency in India: A Comprehensive Examination*, PSL ADVOCATES & SOLICITORS KNOWLEDGE CENTRE (Feb. 24, 2024).

¹² Convention on International Interests in Mobile Equipment, *supra* note 1; Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2.

¹³ Velaga & Gupta, *supra* note 5.

Convention's provisions being rendered a dead letter. The legislative gap was filled by the general law of the land, specifically the *Insolvency and Bankruptcy Code, 2016*.¹⁴ This misalignment created several critical issues upon airline default.

First, on the imposition of the moratorium: when the National Company Law Tribunal admits an insolvency petition (such as the one filed by Go First), a moratorium is immediately imposed under Section 14 of the Code.¹⁵ Second, on the prohibition of repossession: Section 14(1)(d) of the Code bars any recovery by a lessor of "any property in possession or occupation" of the corporate debtor.¹⁶ This provision is intended to preserve the corporate debtor's assets and maintain the business as a going concern during the Corporate Insolvency Resolution Process. Third, on the resulting impotence of lessors: given that approximately eighty percent of commercial aircraft in India are leased, the moratorium prevented international lessors from exercising their contractual rights to repossess their aircraft.

The Go First crisis vividly manifested these defects. Go First's filing¹⁷ placed all of its fifty-three leased aircraft under the moratorium. Lessors were disabled from repossessing the aircraft despite Go First owing them approximately INR 2,660 crore¹⁸ as of 28 April 2023, and they remained unable to repossess their aircraft for months after the commencement of the insolvency proceedings. Although India had, in fact, declared its adoption of Alternative A under Article XI of the Protocol, specifying a waiting period of sixty days,¹⁹ this declaration was not legally enforceable owing to the absence of domestic legislation until the 2025 Act.

C. International consequences of non-compliance

The unresolved conflict and the Go First crisis had severe repercussions, tarnishing India's reputation in the global aviation finance market. The Aviation Working Group, the international body monitoring Cape Town Convention compliance, downgraded India's compliance ranking multiple times. The score fell from 69 to 63 following the Go First incident,²⁰ a downgrade that signalled increased risk for lessors and financiers operating in India. The overall calculated impact of Go First's shutdown on international investors was estimated at USD 2.1 billion.

The crisis also increased leasing costs. Fearing the invocation of the unfavourable framework of the Code, lessors began to invoke their rights (such as IDERA provisions) even at the slightest

¹⁴ The Insolvency and Bankruptcy Code, 2016, No. 31, Acts of Parliament, 2016 (India).

¹⁵ *Id.* § 14.

¹⁶ *Id.* § 14(1)(d).

¹⁷ *Go Airlines (India) Ltd., In re, supra* note 4.

¹⁸ Thakur et al., *supra* note 11.

¹⁹ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. XI.

²⁰ Velaga & Gupta, *supra* note 5.

hint of trouble; lessors filed pleas to repossess SpiceJet aircraft shortly after Go First's filing. To offset potential losses and risks in repossessing aircraft from India, lessors stipulated stricter lease conditions and increased lease rents, and Indian carriers reportedly had to pay twelve to thirteen percent extra in lease rentals owing to the regime of the Code. Furthermore, Indian airlines were missing out on a ten percent discount offered by the Organisation for Economic Co-operation and Development on processing fees for loans used to acquire aircraft, pending full implementation of the Convention. This increase in costs ultimately harmed the Indian economy and consumers; the monthly loss for approximately fifty lessors in the Go First case was estimated at USD 17.5 million.

D. Temporary measures and policy foresight

Faced with severe international pressure, the government attempted to resolve the impasse temporarily. It intervened by issuing a notification dated 3 October 2023, through the Ministry of Corporate Affairs, to exempt leased aircraft objects from the moratorium under Section 14(1).²¹ This notification was viewed as a hurried, even desperate, move designed to address the immediate Go First issue and to serve as a prelude to the eventual introduction of the Cape Town Convention Bill. The Delhi High Court later upheld the retrospective application of the notification.²²

Critics argued that the notification represented an extreme choice designed to please lessors, potentially harming the objective of maximising asset value under the Code. By immediately allowing repossession, the measure threatened the economic viability of the airline as a going concern and undeniably increased the pressure on Go First towards liquidation.²³ The Code aims for the restructuring and preservation of the corporate debtor's asset value, objectives that were prejudiced by this abrupt shift favouring creditor interests. Ultimately, the inherent limitations and conflicts embedded in the framework of the Code, dramatically highlighted by the insolvency of Go First, made the legislative enactment of the Convention's provisions essential to ensure India's relevance and competitiveness in the global aviation finance and leasing market.

²¹ Ministry of Corp. Affairs, Notification, S.O. 4321(E) (Oct. 3, 2023) (exempting transactions relating to aircraft, aircraft engines, airframes and helicopters from § 14(1) of the Insolvency and Bankruptcy Code, 2016).

²² *Accipiter Investments Aircraft 2 Ltd. v. Union of India*, 2024 SCC ONLINE DEL 3125.

²³ Velaga & Gupta, *supra* note 5.

III. THE LEGISLATIVE SOLUTION

The *Protection of Interests in Aircraft Objects Act, 2025* (Act No. 17 of 2025)²⁴ was enacted to rectify the long-standing legal deficiency in the Indian aviation sector, specifically addressing the conflict between international financing principles and domestic insolvency laws. The Bill, introduced as Bill No. IX of 2025, received the President's assent on 16 April 2025, with the explicit objective of implementing the Convention on International Interests in Mobile Equipment²⁵ and its Protocol on Matters Specific to Aircraft Equipment,²⁶ both signed at Cape Town on 16 November 2001.

A. Ratification and application

The Act formally provides the long-awaited statutory backing necessary to enforce the Convention and Protocol in India. Despite India's accession to the Convention in 2008, the absence of corresponding domestic legislation meant that the Convention's provisions remained largely a dead letter. The Act addresses this directly through statutory implementation: Section 3 of the 2025 Act declares the application of the Cape Town regime relating to aircraft objects in India, subject to the declarations deposited by India.²⁷ The Act also secures its authority over previous conflicting legislation. Section 9(1) provides a non-obstante clause,²⁸ stating that "In the case of any inconsistency between a provision of this Act and any other law for the time being in force, the provisions of this Act shall prevail to the extent of such inconsistency". This provision explicitly supersedes the moratorium under Section 14 of the *Insolvency and Bankruptcy Code*²⁹ in respect of leased aircraft objects.

B. Redefining repossession rights on insolvency (Alternative A)

The most transformative aspect of the new legislation is the formal implementation of Alternative A under Article XI of the Aircraft Protocol,³⁰ which India had previously declared but failed to enact. This mechanism fundamentally alters the balance of power between lessors and creditors on the one hand and the debtor airline on the other during insolvency proceedings.

²⁴ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6.

²⁵ Convention on International Interests in Mobile Equipment, *supra* note 1.

²⁶ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2.

²⁷ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6, § 3.

²⁸ *Id.* § 9(1).

²⁹ The Insolvency and Bankruptcy Code, 2016, *supra* note 14, § 14.

³⁰ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. XI.

The Act establishes a fixed waiting period. The provisions of Article XI of the Protocol, subject to India's declaration, apply to remedies on insolvency.³¹ Upon the occurrence of an insolvency-related event, the insolvency administrator (or debtor) is obliged to give possession of the aircraft object to the creditor no later than the end of the waiting period specified in the declaration. India's declared waiting period is sixty days, that is, two calendar months.³²

The Act also prescribes conditions for retention. The insolvency administrator or debtor may retain possession of the aircraft object only by curing all defaults (excluding the default constituted solely by the opening of insolvency proceedings) and simultaneously agreeing to perform all future obligations under the agreement by the end of the waiting period. If these future obligations are subsequently defaulted upon, a second waiting period does not apply. Pending repossession, the asset must be preserved: until the creditor is given the opportunity to take possession, the insolvency administrator or debtor must preserve the aircraft object and maintain it and its value in accordance with the agreement. This fixed two-month window aims to remove ambiguity regarding asset recovery, thereby compelling distressed airlines toward pre-insolvency workouts rather than reliance on extended, court-mediated restructuring plans enabled by the pre-existing moratorium.

C. Streamlining deregistration and export (IDERA)

The Act integrates mechanisms designed for the rapid deregistration and physical transfer of aircraft, which are vital steps for lessors seeking repossession. It applies the provisions of Article XIII (de-registration and export request authorisation) of the Protocol,³³ which allows the creditor, when the debtor has agreed, to procure the de-registration of the aircraft and the export and physical transfer of the aircraft object from the territory where it is situated. Critically, the remedies related to de-registration and export specified in Article IX(1) must be made available by the registry authority and administrative authorities no later than five working days³⁴ after the creditor notifies those authorities that it is entitled to procure such remedies. The application of IDERA is subject to the provisions of the *Bharatiya Vayuyan Adhiniyam, 2024*³⁵ (which replaced the *Aircraft Act, 1934*) and the rules thereunder.³⁶

³¹ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6, § 6.

³² Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. XI.

³³ *Id.* art. XIII.

³⁴ *Id.* art. IX(1).

³⁵ The Bharatiya Vayuyan Adhiniyam, 2024, No. 16, Acts of Parliament, 2024 (India).

³⁶ The Aircraft Rules, 1937, rr. 30(7), 32A (India).

D. Institutional structure and jurisdiction

The new law establishes clear administrative and judicial pathways for implementation. The Directorate General of Civil Aviation is designated as the Registry Authority under the Act³⁷ and is empowered to issue the directions necessary for the implementation of the Convention and Protocol; it is responsible for matters concerning the registration and de-registration of aircraft. On jurisdiction, the High Court having territorial jurisdiction is designated as the relevant court for disputes arising under the Act,³⁸ a choice that centralises disputes and aims to ensure uniform judicial interpretation of the new framework.

As to interests and the registry, the Act allows for the registration of international interests, prospective international interests, and notices of national interests in the International Registry. Registration of an international interest remains effective until discharged or until the expiry of the specified period, and it grants priority over subsequently registered or unregistered interests. As to governmental powers, the Act expressly notes that the Central Government reserves the right to allow a public service entity to detain an aircraft object where payment of related dues, such as airport service or Air Traffic Control charges, is pending.³⁹ The creditor must declare the occurrence of default by notifying the registry authority before exercising any remedy.

IV. IMPACT AND TRANSFORMATION: RECALIBRATING AVIATION FINANCE AND INSOLVENCY IN INDIA

The enactment of the *Protection of Interests in Aircraft Objects Act, 2025* marks a significant regulatory shift, moving India away from the protracted asset freezing common under the *Insolvency and Bankruptcy Code, 2016* and towards alignment with the international, creditor-friendly regime established by the Cape Town Convention. This recalibration is designed to restore international confidence and fundamentally stabilise the dynamics of aviation finance in India.

A. Resolving the legal hierarchy: the overriding effect

Historically, the Code posed a severe challenge to lessors because the moratorium imposed under Section 14⁴⁰ prohibited the recovery of "any property in possession or occupation" of the corporate debtor. This effectively froze the repossession of aircraft, as vividly demonstrated by

³⁷ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6.

³⁸ *Id.*

³⁹ *Id.* § 9(3).

⁴⁰ The Insolvency and Bankruptcy Code, 2016, *supra* note 14, § 14.

the cases of *Jet Airways* (2019)⁴¹ and *Go First* (2023),⁴² where lessors were prevented from timely de-registration or repossession. Following Go First's insolvency filing in May 2023, lessors were unable to repossess their fifty-three leased aircraft for over eight months.⁴³

The Act definitively resolves this conflict by incorporating a robust hierarchy of laws. As to statutory primacy, the Act contains a non-obstante clause (Section 9(1)) which mandates that, in the case of any inconsistency between a provision of the 2025 Act and any other law for the time being in force, the provisions of the 2025 Act prevail to the extent of such inconsistency.⁴⁴ This overriding effect directly addresses the legislative gap, granting the Cape Town regime statutory backing and thus superseding the moratorium in respect of aircraft objects. There was also a measure of judicial precedent: even before the Act's passage, the government attempted a temporary fix through the notification of 3 October 2023, which exempted leased aircraft from the moratorium under Section 14(1).⁴⁵ The Delhi High Court later upheld the retrospective application of that notification,⁴⁶ further paving the way for the application of Cape Town Convention principles in India.

B. Economic benefits and cost reduction

The long-term economic goal of the Act is to transform India into a more reliable destination for aircraft leasing and financing. The lack of reliable enforcement prior to the Act led to serious repercussions, particularly the downgrading of India's compliance ranking⁴⁷ by the Aviation Working Group, which issued a warning following the Go First crisis. This increased risk translated directly into higher costs for Indian airlines. The full implementation of the Convention through the 2025 Act is expected to generate significant cost savings.

First, the Act should reduce the risk premium. By providing legal predictability, it should lower the jurisdictional risk premium applied by international lessors and financiers; Air India, for instance, anticipates that the improvement in India's compliance score will significantly reduce leasing costs by approximately eight to ten percent,⁴⁸ while some sources suggest the reduction could be as high as fifteen to twenty percent. Second, the resulting high-compliance status makes Indian airlines eligible for the Cape Town Convention discount offered by financing bodies. Third, there is an anticipated consumer benefit: the Minister, Kinjarapu Rammohan

⁴¹ Ahmed et al., *supra* note 9.

⁴² *Go Airlines (India) Ltd., In re*, *supra* note 4.

⁴³ Andrew Curran, *Indian Court Orders Deregistration of Go First Aircraft*, CH-AVIATION (Apr. 30, 2024).

⁴⁴ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6, § 9(1).

⁴⁵ Ministry of Corp. Affairs, *supra* note 21.

⁴⁶ *Accipiter Investments Aircraft 2 Ltd.*, *supra* note 22.

⁴⁷ Velaga & Gupta, *supra* note 5.

⁴⁸ AZB & Partners, *Indian Aviation Update: Cape Town Act, 2025 Receives President's Assent* (Apr. 2025).

Naidu, suggested that, if the Bill were passed, airfares should eventually come down because the premium leasing rate would decrease.⁴⁹ Prior to the Act, the regime of the Code forced air carriers to pay twelve to thirteen percent extra in lease rentals.

C. Operational and market stability: fixed-time remedies

The cornerstone of the operational transformation is the implementation of fixed, time-bound remedies, specifically Alternative A of Article XI of the Aircraft Protocol. The Act formally implements Alternative A⁵⁰ with a waiting period of sixty days, or two calendar months.⁵¹ Upon the occurrence of an insolvency-related event, the insolvency administrator or debtor must either cure all defaults (except the insolvency filing itself) and agree to perform future obligations, or give possession of the aircraft object to the creditor by the end of the sixty-day waiting period.

The Act also ensures swift execution of physical remedies such as de-registration and export, governed by Article XIII (de-registration and export request authorisation) of the Protocol.⁵² These remedies must be made available by the registry authority (the Directorate General of Civil Aviation) and administrative authorities no later than five working days after the creditor notifies them of its entitlement to the remedies. Notably, the Delhi High Court had already ordered the Directorate General of Civil Aviation to process de-registration requests for Go First aircraft within this five-day period.⁵³ This fixed two-month repossession window removes ambiguity and compels financially distressed airlines to engage in pre-insolvency workouts and diligent investor transactions much earlier in the distress timeline,⁵⁴ rather than relying on the extended, court-mediated restructuring plans permitted by the former moratorium. The reduction in enforcement delays, estimated internationally from ten months down to two months, enhances predictability for creditors.

D. Promoting domestic leasing

The Act is also aligned with the Central Government's objective of promoting and developing an effective mechanism for aircraft financing and leasing within India. Initiatives such as Project Rupee Raftaar (2019)⁵⁵ aimed to make India a global hub for aviation financing and

⁴⁹ Lok Sabha Deb. on The Protection of Interests in Aircraft Objects Bill, 2025 (India).

⁵⁰ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6, § 6.

⁵¹ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. XI.

⁵² *Id.* art. XIII.

⁵³ *Accipiter Investments Aircraft 2 Ltd.*, *supra* note 22.

⁵⁴ *Explainer: Protection of Interests in Aircraft Objects Bill, 2025*, ASIAN LEGAL BUSINESS (June 30, 2025).

⁵⁵ Working Grp. on Developing Avenues for Aircraft Financing and Leasing Activities in India, Ministry of Civil Aviation, *Project Rupee Raftaar: Development of Aircraft Financing and Leasing in India, Report of the Working Group* (Jan. 10, 2019).

leasing, potentially on par with international centres. The certainty provided by the Act supports the viability of domestic aircraft-leasing companies, particularly those establishing themselves in the GIFT City International Financial Services Centre,⁵⁶ thereby reducing reliance on overseas jurisdictions.

V. CRITICAL EVALUATION: LINGERING CONCERNS AND POLICY NUANCES

While the *Protection of Interests in Aircraft Objects Act, 2025* is celebrated as a long-overdue statutory measure to secure international compliance and boost investor confidence, its implementation raises profound policy questions regarding the balancing of stakeholder interests and the introduction of new legal ambiguities. The Act, although necessary to end India's reputation for legal uncertainty, does not present a complete "panacea for all the ills plaguing the aviation industry".⁵⁷

A. The fundamental imbalance: debtor viability versus creditor speed (Alternative A)

The most contentious aspect of the Act is its formal incorporation of Alternative A under Article XI of the Aircraft Protocol,⁵⁸ which India had previously only declared. This choice enforces a fixed sixty-day, or two-calendar-month, waiting period⁵⁹ for the return of the aircraft object upon the occurrence of an insolvency-related event.

This prejudices the objectives of the Code. The primary goal of the *Insolvency and Bankruptcy Code, 2016* is the restructuring, preservation, and maximisation of the asset value⁶⁰ of the corporate debtor, typically by maintaining the airline as a going concern during the Corporate Insolvency Resolution Process. Alternative A, with its short, fixed timeline, is inherently creditor-friendly and allows lessors to terminate leases and export aircraft regardless of the stage of the domestic insolvency proceedings. Critics argue that the government has chosen one extreme (pleasing lessors) over the other (denying the debtor a real opportunity for resolution).⁶¹ Allowing immediate or near-immediate repossession under Alternative A "undeniably push[es] Go First towards liquidation".⁶²

⁵⁶ AZB & Partners, *supra* note 47.

⁵⁷ Bhat, *supra* note 7.

⁵⁸ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. XI.

⁵⁹ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6, § 6.

⁶⁰ Dr. T.K. Viswanathan, *The Report of the Bankruptcy Law Reforms Committee, Volume I: Rationale and Design* 27 (Nov. 2015).

⁶¹ Velaga & Gupta, *supra* note 5.

⁶² *Id.*

There is also a market-concentration risk. The failure of airlines, evidenced by the list of more than fifteen carriers filing for insolvency in the last two decades,⁶³ has already contributed to an oligopolistic airline market. The liquidation of a major player such as Go First, which was among the largest airlines in India, further concentrates market share, leading to potential competition concerns and consumer harm. The creditor-favouring sixty-day window minimises the chances of successful restructuring attempts by distressed airlines.

Finally, the feasibility of the resolution timeframe is doubtful. Resolution of insolvency in India generally takes significantly longer than the fixed sixty-day period stipulated by Alternative A. India's low ranking, at one hundred and eighth out of one hundred and ninety countries, in the ease of resolving insolvency highlights that insolvency resolution is a protracted process domestically. This timing disparity makes it difficult for the resolution professional to cure all defaults and propose a viable resolution plan within the short window before repossession becomes mandatory.

B. Legislative drafting ambiguities and overlaps

Despite the objective of providing clarity and predictability, the Act contains specific drafting issues that threaten to introduce judicial uncertainty. The first is an inconsistency in the overriding provisions. The Act seeks primacy through Section 9(1), which includes a non-obstante clause stating that the Act prevails over any other inconsistent law.⁶⁴ However, the same legislation includes a provision (Section 9(2)) that the Act is to be in addition to, and not in derogation of, any other law for the time being in force.⁶⁵ The coexistence of these two seemingly contradictory non-obstante clauses is viewed by legal commentators as a reflection of "faulty drafting".⁶⁶ If Section 9(2) were deemed applicable, the remedies sought by lessors would remain subject to existing domestic laws, undermining the Convention's intended effect. A second issue is harmonisation with domestic aviation law. The provision relating to de-registration and export authorisation (IDERA, Article XIII) is expressly subjected to the provisions of the *Bharatiya Vayuyan Adhiniyam, 2024*⁶⁷ (which replaced the *Aircraft Act, 1934*) and the rules thereunder.⁶⁸ The industry requires appropriate clarification for harmonious

⁶³ Ahmed et al., *supra* note 9.

⁶⁴ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6, § 9(1).

⁶⁵ *Id.* § 9(2).

⁶⁶ Bhat, *supra* note 7.

⁶⁷ The Bharatiya Vayuyan Adhiniyam, 2024, *supra* note 35.

⁶⁸ The Aircraft Rules, 1937, *supra* note 36.

interpretation and practical implementation⁶⁹ concerning the interface between the new Act and the *Bharatiya Vayuyan Adhiniyam, 2024*.⁷⁰

A third concern relates to the detention powers of public service entities. Section 9(3) grants the Central Government or public service entities the right to detain or arrest an aircraft object where dues related to public services (such as airport services or Air Traffic Control charges) are pending.⁷¹ While the government defends the power to detain aircraft for pending dues,⁷² this provision is flagged as a concern because it permits the seizure of the asset even when the lessor or creditor is attempting to retrieve it,⁷³ thereby potentially undermining the commercial certainty guaranteed by the Act.

C. Procedural implementation and due diligence

For the Act to function effectively and reduce operational delays (from the internationally observed ten months down to two months), immediate procedural steps are required. There is, first, a pressing need for supplementary rules. The proper enforcement of the 2025 Act urgently requires the Central Government to formulate and prescribe supplementary rules, the two most critical areas being a clear process for the de-registration of aircraft and the designation of one or more entry points under Article XIX of the Aircraft Protocol⁷⁴ for the transmission of information to the International Registry.

A second concern is the absence of mandatory alternative dispute resolution. The Act designates the High Court as the court of relevant jurisdiction.⁷⁵ Given the inherent delays in the Indian judicial system, some argue that the legislative choice to rely solely on the High Court, instead of mandating alternative dispute resolution mechanisms, may compromise the spirit of speedy relief promised by the Convention.⁷⁶ A third observation concerns the indemnification of the insolvency administrator: Section 19(4) provides that creditors shall indemnify the insolvency administrator for the costs incurred in preserving and maintaining the aircraft, a provision that reportedly finds no reference in the original Convention or Aircraft Protocol.

⁶⁹ AZB & Partners, *supra* note 47.

⁷⁰ The Bharatiya Vayuyan Adhiniyam, 2024, *supra* note 35.

⁷¹ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6, § 9(3).

⁷² Lok Sabha Deb., *supra* note 49.

⁷³ Bhat, *supra* note 7.

⁷⁴ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. XIX.

⁷⁵ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6.

⁷⁶ Bhat, *supra* note 7.

VI. RECOMMENDATIONS FOR EFFECTIVE IMPLEMENTATION

The successful implementation of the *Protection of Interests in Aircraft Objects Act, 2025* is paramount to ensuring that India capitalises on the expected reduction in jurisdictional risk premiums and firmly aligns its aviation finance market with international standards. The efficacy of the legislation is, however, jeopardised by inherent drafting ambiguities and the need for supplementary regulatory frameworks. A multi-pronged approach encompassing urgent legislative clarification, dedicated rule-making, and institutional restructuring is required for the Act to achieve its objectives fully.

A. Legislative clarification and harmonisation

The immediate priority for effective implementation rests on removing internal inconsistencies within the Act and clarifying its supremacy over prior domestic legislation. The first task is to resolve the contradictory overriding clauses. The Act features conflicting directives regarding its legal standing: Section 9(1) purports to grant the Act an overriding effect against any inconsistent law,⁷⁷ implicitly superseding conflicting provisions in the Code, while the subsequent Section 9(2) states that the provisions of the Act are to be "in addition to, and not in derogation of any other law for the time being in force".⁷⁸ Legal analysis indicates that the simultaneous presence of these contradictory non-obstante clauses reflects "faulty drafting" that could undermine the intended supremacy of the Cape Town regime.⁷⁹ It is recommended that the Central Government either amend the statute to affirm the primacy of Section 9(1) expressly or issue an authoritative clarification to prevent remedies from once again becoming subject to general domestic laws, such as those governing charge registration under the *Companies Act, 2013*.⁸⁰

A second task is harmonising the aviation legislation. Clarity is required regarding the interplay between the 2025 Act and the *Bharatiya Vayuyan Adhiniyam, 2024*.⁸¹ The provisions relating to the enforcement of the Irrevocable De-registration and Export Request Authorisation⁸² are expressly subject to the 2024 Adhiniyam. The government must consider appropriate clarification or supplementary legal instruments to ensure harmonious interpretation⁸³ and seamless practical implementation of de-registration and export procedures across both statutes.

⁷⁷ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6, § 9(1).

⁷⁸ *Id.* § 9(2).

⁷⁹ Bhat, *supra* note 7.

⁸⁰ The Companies Act, 2013, § 77, No. 18, Acts of Parliament, 2013 (India).

⁸¹ The Bharatiya Vayuyan Adhiniyam, 2024, *supra* note 35.

⁸² Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. XIII.

⁸³ AZB & Partners, *supra* note 47.

A third task is to define the limits on detention powers. The reservation of power to the Central Government or public service entities under Section 9(3) to detain or arrest an aircraft object for pending public service dues, such as airport fees, is a critical policy nuance that requires precise delineation.⁸⁴ While sovereign dues must be secured, this power must be strictly limited to ensure that it does not counteract the fixed sixty-day waiting period guaranteed to lessors under Alternative A.⁸⁵ The exercise of detention powers must not unduly delay the expedited repossession rights that are the fundamental guarantee provided by the Act to restore international confidence.

B. Urgent rule-making for operational efficiency

The efficient execution of the Cape Town mechanisms depends on the prompt formulation of comprehensive rules by the Central Government, pursuant to the powers conferred under Section 10(1) of the Act. The government should prescribe timelines for the rules: the rule-making power under Section 10 is currently open-ended, and, to counter bureaucratic inertia and ensure that the benefits of the Act are swiftly realised, the government must prescribe clear timelines for the finalisation and issuance of all necessary supplementary rules.

The government should also streamline IDERA and export procedures. Detailed rules must be developed immediately to establish a clear set of norms for respecting IDERA and governing the entire process of de-registration and export. Any delay by the regulator (the Directorate General of Civil Aviation) in execution would inherently vitiate the purpose of providing time-bound remedies in insolvency. These rules must align the administrative requirements of the Directorate General of Civil Aviation with the five-working-day deadline stipulated in the Aircraft Protocol⁸⁶ for executing de-registration and export remedies. Finally, the Central Government must prescribe rules for the designation of one or more entities as entry points under Article XIX of the Aircraft Protocol.⁸⁷ This institutional measure is important because it allows the designated entity to filter out applications submitted without proper consent, thereby preventing the International Registry from being burdened with invalid entries, which could otherwise undermine the transparency and predictability the regime seeks to establish.

⁸⁴ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6, § 9(3).

⁸⁵ Bhat, *supra* note 7.

⁸⁶ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. IX(1).

⁸⁷ *Id.* art. XIX.

C. Procedural and institutional enhancements

Beyond the statutory framework, improvements to the mechanisms governing dispute resolution and cost allocation are essential. The first is the integration of alternative dispute resolution. The Act currently designates the High Court as the court of relevant jurisdiction.⁸⁸ Reliance solely on the general judicial system may compromise the expedited relief promised by the Convention, given the inherently protracted nature of proceedings in Indian courts.⁸⁹ It is recommended that the Ministry actively pursue the integration of mandatory alternative dispute resolution mechanisms, such as specialised arbitration or tribunals, for aviation finance disputes, to enable speedier and more specialised resolution and to avoid prolonged court battles.

The second is to clarify the indemnification provision under Section 19(4). Concern has been raised in Parliament regarding Section 19(4),⁹⁰ which obliges creditors to indemnify the insolvency administrator for the costs incurred in preserving and maintaining the aircraft. This provision is noted as lacking reference in the original Convention or Aircraft Protocol. Since Alternative A already imposes the preservation obligation on the insolvency administrator or debtor, this provision introduces a grey area regarding cost allocation. The Minister must clarify or amend this section to define precisely whether preservation expenses incurred during the moratorium period are to be borne by the lessor (creditor) or the debtor, ensuring that this domestic requirement does not offset the financial benefits secured by the Act.

The third enhancement is the promotion of skilled-workforce development. The aviation sector faces an acute shortage of skilled professionals, including pilots, air traffic controllers, and maintenance engineers. Recommendations include the introduction of a National Aviation Skill Development Scheme and the establishment of world-class training centres to generate the required workforce, thereby ensuring that the industry's sustained operational growth can match the infrastructure development enabled by the Act.

VII. CONCLUSION

The enactment of the *Protection of Interests in Aircraft Objects Act, 2025*⁹¹ represents a seminal legislative achievement, formally integrating the Convention on International Interests in

⁸⁸ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6.

⁸⁹ Bhat, *supra* note 7.

⁹⁰ Lok Sabha Deb., *supra* note 49.

⁹¹ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6.

Mobile Equipment⁹² and its Aircraft Protocol⁹³ into the domestic legal architecture of India. After a prolonged period of legal uncertainty, which persisted despite India's accession to the Convention in 2008, this statutory mandate decisively resolves the long-standing conflict between international asset-protection norms and the domestic moratorium provisions of the *Insolvency and Bankruptcy Code, 2016*.⁹⁴ The impetus for this swift legislative action was dramatically highlighted by the insolvency filing of Go First Airlines in 2023,⁹⁵ when lessors were effectively prevented from repossessing their fifty-three leased aircraft for over eight months owing to the moratorium.

The Act addresses this instability by enshrining a clear legal hierarchy, ensuring that provisions concerning aircraft objects prevail over conflicting domestic laws, including the moratorium. Furthermore, the incorporation of Alternative A of Article XI of the Protocol⁹⁶ formalises a stringent, time-bound remedy, mandating the return of aircraft objects to the creditor within a fixed period of two calendar months, that is, sixty days,⁹⁷ upon insolvency, unless defaults are cured. Concurrently, the implementation of the Irrevocable De-registration and Export Request Authorisation⁹⁸ ensures that the necessary de-registration and export remedies are made available by the regulatory authorities no later than five working days.⁹⁹ This overhaul fundamentally alters the risk calculus for international lessors and financiers operating in the Indian market. By providing clear legal certainty and expedited remedies, the Act is anticipated to significantly reduce the jurisdictional risk premium, leading to substantial reductions in leasing costs, with estimates suggesting savings of eight to twenty percent^{100,101} for Indian carriers. This transformation is crucial for bolstering the financial health of Indian airlines and positioning domestic hubs, such as the GIFT City International Financial Services Centre, as competitive centres for aviation finance and leasing.

The efficacy of this creditor-centric framework must, however, be balanced against the core objectives of domestic insolvency law. The choice of Alternative A, with its short sixty-day

⁹² Convention on International Interests in Mobile Equipment, *supra* note 1.

⁹³ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2.

⁹⁴ The Insolvency and Bankruptcy Code, 2016, *supra* note 14.

⁹⁵ *Go Airlines (India) Ltd., In re*, *supra* note 4.

⁹⁶ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. XI.

⁹⁷ The Protection of Interests in Aircraft Objects Act, 2025, *supra* note 6, § 6.

⁹⁸ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. XIII.

⁹⁹ *Id.* art. IX(1).

¹⁰⁰ AZB & Partners, *supra* note 47.

¹⁰¹ Lok Sabha Deb., *supra* note 49.

window, is recognised as an extreme measure that favours lessors' interests.¹⁰² This short period "undeniably push[es] Go First towards liquidation",¹⁰³ potentially undermining the Code's goal of maintaining the corporate debtor as a going concern and maximising its asset value through comprehensive restructuring.¹⁰⁴ This policy dichotomy poses a difficult choice for India, especially considering that the average time taken for insolvency resolution domestically often exceeds the sixty-day deadline. The need for timely repossession must not entirely foreclose genuine efforts at airline revival during the Corporate Insolvency Resolution Process.

To ensure the long-term success of the Act and maximise its benefits, the subsequent regulatory phase must urgently address the lingering ambiguities and procedural requirements. As to statutory clarity, immediate attention must be given to reconciling the contradictory non-obstante clauses within the Act¹⁰⁵ (Section 9(1) asserting primacy, potentially undermined by the non-derogation language elsewhere), so as to provide unambiguous legal certainty for financiers. As to rule-making, the Central Government must swiftly formulate and prescribe comprehensive supplementary rules governing the registration of interests and the de-registration and export procedures of the Directorate General of Civil Aviation;¹⁰⁶ clarity is also required regarding the designation of entry points for the International Registry (Article XIX)¹⁰⁷ and the harmonisation of the Act with the *Bharatiya Vayuyan Adhiniyam, 2024*.¹⁰⁸ As to procedural certainty, the legal ambiguities surrounding the liability of the debtor or creditor to indemnify the insolvency administrator for preservation costs (Section 19(4)),¹⁰⁹ a point lacking direct reference in the Protocol, require authoritative clarification to prevent disputes; and, while the High Courts are the designated forum, reliance solely on the general courts, given the inherently protracted nature of the Indian judicial process, necessitates exploring robust procedural mechanisms, possibly incorporating fast-track resolution processes, to ensure that the promised speedy remedies are delivered in practice.

In conclusion, the *Protection of Interests in Aircraft Objects Act, 2025* is a critical measure that rescues India's standing in global aviation finance, shifting the country from a regime of legal uncertainty to one of international compliance. This legislative milestone represents a necessary but insufficient condition for market stability. The true test of India's commitment lies in the

¹⁰² Velaga & Gupta, *supra* note 5.

¹⁰³ *Id.*

¹⁰⁴ Viswanathan, *supra* note 60.

¹⁰⁵ Bhat, *supra* note 7.

¹⁰⁶ The Aircraft Rules, 1937, *supra* note 36.

¹⁰⁷ Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 2, art. XIX.

¹⁰⁸ The Bharatiya Vayuyan Adhiniyam, 2024, *supra* note 35.

¹⁰⁹ Lok Sabha Deb., *supra* note 49.

transparent and efficient execution of the Act, which demands thoughtful regulatory diligence to ensure that the legal mandate translates into practical, reliable, and swift enforcement, thereby protecting the interests of both international creditors and the domestic aviation ecosystem.
