



Draft Protection and Enforcement of Interests in Aircraft Objects Bill, 2022

For Prelims: Cape Town Convention and Protocol, International Civil Aviation Organisation (ICAO), League of Nations, International Institute for the Unification of Private Law (UNIDROIT)

For Mains: Draft Protection and Enforcement of Interests in Aircraft Objects Bill, 2022

Why in News?

Recently, the **Ministry of Civil Aviation** released the **draft Protection and Enforcement of Interests in Aircraft Objects Bill, 2022**.

- The proposed law will **help international aircraft leasing companies to repossess and transfer planes out of India** in case of a **financial dispute with an Indian airline** at a time many regional airlines have been refused planes for rent.
- The proposed legislation comes more than 14 years after **India acceded to Cape Town Convention**.

What are the Key Points of Draft Legislation?

- **About:** The Bill implements the provisions of the **Convention on International Interests in Mobile Equipment and Protocol on Matters Specific to Aircraft Equipment** which was adopted at a **conference in Cape Town in 2001**.
 - **India acceded to the two instruments in 2008.**
 - These **provide default remedies** for the creditor and create a legal regime for disputes.
- **Need:** The draft legislation is necessary because several Indian laws such as the **Companies Act, 2013** and the **Insolvency and Bankruptcy Code, 2016** are in conflict with the Cape Town Convention and Protocol.
 - International leasing companies **faced challenges in repossessing and exporting aircraft when Jet Airways shut down in 2019** and failed to pay its aircraft rentals.
 - Also, the Indian entities have suffered as international financial institutions demand implementation legislation.
- **Objective:** The proposed law provides remedies **such as repossession of an aircraft object, or its sale or lease or collection of income** from its use as well as de-registration and export of planes.
 - It also suggests **remedies pending final adjudication of a claim** as well as safeguards a creditor's claim during insolvency proceedings against its Indian buyer.

What is the Cape Town Convention and Protocol?

- **Background:** The Convention on International Interests in Mobile Equipment was concluded in Cape Town on 16th November 2001, as was the Protocol on Matters Specific to Aircraft Equipment.
 - The Convention and the Protocol, were adopted under the **joint auspices** of the

International Civil Aviation Organisation (ICAO) and the **International Institute for the Unification of Private Law (UNIDROIT)**.

- ICAO is a **United Nations (UN) specialized agency**, established in 1944, which laid the foundation for the standards and procedures for peaceful global air navigation. India is a member.
- **Objective:** To **resolve the problem of obtaining certain and opposable rights to high-value aviation assets**, namely airframes, aircraft engines and helicopters which, by their nature, **have no fixed location**.
 - This problem arises primarily from the fact that **legal systems have different approaches to lease agreements**, which **creates uncertainty for lending institutions regarding the efficacy of their rights**.
 - This **hampers the provision of financing** for such aviation assets and increases the borrowing cost.
- **Advantages of the Convention and the Protocol:**
 - **Predictability & enforceability.** The Convention and Protocol improve predictability with respect to the opposability of the securities and the interest held by sellers of aviation assets.
 - **Cost savings:** The Convention and Protocol are intended to reduce risks for creditors, and consequently, the borrowing costs to debtors, through the resulting improved legal certainty.
 - This promotes the granting of credit for the acquisition of more modern and thus more fuel-efficient aircraft.
 - The airlines of States that adopt the Convention and the Protocol may receive a **ten percent (10%) discount on export credit premiums**.

What is UNIDROIT?

- The **International Institute for the Unification of Private Law (UNIDROIT)** is an **independent intergovernmental Organisation** with its seat in the **Villa Aldobrandini in Rome**.
- Its purpose is to study needs and methods for **modernising, harmonising and coordinating private and in particular commercial law** as between States and groups of States and to formulate uniform law instruments, principles and rules to achieve those objectives.
- It was established in **1926 as part of the League of Nations**.
- It was reestablished in 1940 following the **League's dissolution through a multilateral agreement, the UNIDROIT Statute**.
- It has 63 member countries, with **India as a partner**.

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