PRS Capsule October 2018

Key Highlights of PRS

Draft Cape Town Convention Bill, 2018 released

- The Ministry of Civil Aviation released the draft Cape Town Convention Bill, 2018.The draft Bill seeks to implement the Cape Town Convention (Convention on International Interests in Mobile Equipment), and Protocol (Protocol to the Convention on Matters Specific to Aircraft Equipment) in India.
- The Cape Town Convention/Protocol were adopted in Cape Town in November, 2001.
- India became a party to the Convention/Protocol in July, 2008.
- The Convention/Protocol primarily seeks to achieve efficient financing of high value mobile equipment, like airframes, helicopters and engines, in order to make the operations cost effective and affordable.

Objectives of the Convention/Protocol include:

- Creating an international interest in aircraft objects which will be recognised in all contracting states;
- Establishing an electronic international registry for registration of international interests, and providing information related to interests in a particular aircraft;
- Providing certain basic default remedies for creditors, to provide them with speedy interim relief;
- Creating a legal regime which is applicable universally and administers justice to both parties in case of a dispute.

Need for the legislation:

- Certain provisions of the Convention/ Protocol are in conflict with certain provisions of other laws such as the Civil Procedure Code, 2008, the Specific Relief Act, 1963, the Companies Act, 2013 and the Insolvency and Bankruptcy Code, 2016.
- Further, international financial institutions are not giving due weightage to accession to the Convention/Protocol by any country unless it is accompanied by an implementing law.
- For example, OECD provides 10% discount in the processing fee of a loan to acquire aircraft to airlines of any country that has enacted a law implementing the Convention/Protocol.

Ministry of Civil Aviation released the Digi Yatri policy

- The policy seeks to deliver a seamless, paperless and hassle-free experience to all passengers across all check-points at Indian airports.

Key features of the policy include:

Objectives:

- Enhancing passenger experience and providing a simple and easy experience to all air travellers.
- Achieving better throughput using digital framework.
- Reducing cost operations by removing redundancies at checkpoints.
- Introducing a Digi Yatra system with a digital ID backed by a government issued identity like Aadhaar, and Passport.

Applicability: The new process will cater to all passengers at any airport in India.

Digi Yatra platform:

- The Digi Yatra platform (with all the digital IDs) will be built by a joint venture company (JVC) or a special purpose vehicle (SPV). The JVC/SPV will be established by the Airports Authority of India (with a minority stake) and all private airport operators.
- The Digi Yatra ID platform will offer passenger services such as enrolment, authentication, and consented profile sharing. It will be an ID only platform, and provide an authentication service that airports may implement according to their own solution architecture.

Passenger consent:

- Creation and use of the Digi Yatra ID by a passenger will be completely voluntary. The platform will strictly take consent from the passenger for sharing of face data for the airport checkpoint clearance only.
- Airports may not create profile of users, or use this authentication for marketing without explicit user consent for marketing purpose.

Cabinet approves IRSDC as nodal agency for railway station redevelopment

- The Union Cabinet approved the Indian Railway Stations Development Corporation Limited (IRSDC) as the nodal agency and the main project development agency for redevelopment of railway stations.
- The lease tenure period for such projects will be 99 years. IRSDC will prepare the overall strategic plan and business plans for redevelopment of individual or a group of stations.
- Upon approval of business plans by the Ministry of Railways, IRSDC or other project development agencies will take up the work of station redevelopment.
- The Indian Railways, Rail Land Development Authority, or IRSDC will plan and develop Railway land. This will be done in consultation with urban local bodies, local development authorities or other union territories, to transfer land on free hold basis to Indian Railways.
- The Union Cabinet had approved the development of certain categories of stations by Zonal Railways on June 24, 2015.
- However, insufficient interest was shown by bidders on such projects, and issues such as multiple sub leasing were raised. Allowing a specialized executing agency (IRSDC) for such projects seeks to address these issues.

Indian Railways rationalises freight and passenger fares

The Indian Railways has rationalised: (i) the flexi-fare scheme, and (ii) freight fares. The changes in fares include:

Flexi-fare scheme:

- Flexi-fare will be discontinued in trains with average monthly occupancy less than 50% throughout the previous year. It will also be discontinued in lean traffic period of three months, in trains with average monthly occupancy between 50-75% throughout the previous year.
- Certain discounts in flexi-fares have also been introduced in less patronised classes (such as 2A, 3A, and CC) to increase their occupancy. The flexi-fare scheme was launched on September 9, 2016.
- These changes have been introduced based on the recommendations of a committee that was set up to review the scheme, recommendations of the CAG, and representation from passengers.

Freight rates:

- Indian Railways has rationalised its freight rates to ensure additional revenue generation across the network. An additional revenue of Rs 3,344 crore is expected from such rationalisation.
- This revenue will be utilised to improve passenger amenities. This rationalisation will result in an 8.75% increase in freight rates for major commodities such as coal, iron and steel, iron ore, and raw materials for steel plants.
- In addition, the haulage charge of containers has been increased by 5% and the freight rates of other small goods have been increased by 8.75%. Freight rates have not been increased for goods such as food grains, flours, pulses, fertilizers, salt, and sugar, cement, petroleum, and diesel.

Draft National Policy on Electronics 2018 released

The Ministry of Electronics and Information Technology released a draft National Policy on Electronics 2018.The draft policy aims to position India as a global hub for Electronics System Design and Manufacturing (ESDM), by enabling the industry to compete globally. Key features of the draft policy include:

Objectives:

- Key objectives of the draft policy include:
  - Promoting manufacturing of ESDM to achieve a turnover of USD 400 billion by 2025,
  - Improving ease of doing business for ESDM industry, and
  - Encouraging research and innovation in all sub-sectors of electronics.
- Promoting Competition: The draft policy seeks to create a competitive ESDM sector by incentivizing domestic manufacturing. This will be achieved by:
  - Providing direct tax benefits for setting up new manufacturing units or expanding existing units in the electronic manufacturing sector,
  - Promoting manufacture of electronic goods covered under the Information Technology Agreement of WTO, and
  - Exempting import duty on capital equipment not manufactured in India.
- Schemes for manufacturing: The Modified Special Incentive Package Scheme was launched in 2012 to compensate for disadvantages in domestic manufacturing. The scheme provides for capital subsidy of 25% for electronics industry in non-SEZ areas and 20% in SEZ areas. The draft policy proposes replacing this scheme with schemes that are easier to implement such as interest subsidy and credit default guarantee.
- Standards: A standards setting body will be established in the Ministry of Electronics and Information Technology. Further, an institutional mechanism will be set up for mandating compliance with standards for electronic products.
- Export promotion: The draft policy aims to promote export of electronics by:
  - Increasing rate of duty drawback for electronics,
  - Permitting duty free import of second hand capital goods, and
  - Entering into Free Trade Agreements with economies such as EU, and Africa.

Insolvency Law Committee submits report on cross-border insolvency

- The Insolvency Law Committee (Chairman: Mr. Injeti Srinivas) submitted it report recommending amendments to the cross-border insolvency provisions in the Insolvency and Bankruptcy Code, 2016.
- The Committee proposed a draft 'Part Z' in the Code, based on an analysis of the UNCITRAL Model Law on Cross-Border Insolvency, 1997.
- The Model Law provides a legal framework that states may adopt in their domestic legislation to deal with cross-border insolvency issues.

Key recommendations of the Committee include:

- **Applicability:** The Committee recommended that the draft Part Z should be extended to corporate debtors only, including foreign companies.
- **Duplicity of regimes:** The Committee noted that currently the Companies Act, 2013 contains provisions to deal with insolvency of foreign companies. It observed that once cross-border insolvency provisions are introduced in the Code, it will result in a dual regime to handle insolvency of foreign companies. It recommended that the Ministry of Corporate Affairs undertake a study of such provisions of the 2013 Act to analyse the efficacy of retaining them.
- **Reciprocity:** The Committee recommended adoption of the Model Law on a reciprocity basis initially. Reciprocity means that a domestic court will recognise and enforce a foreign court's judgment only if the foreign country has adopted similar legislation to the domestic country.
- **Centre of Main Interests (COMI):** The Model Law provides that if domestic courts determine that the debtor has its COMI in a foreign country; such foreign proceedings will be recognised as the main proceedings. This recognition will result in certain automatic relief, such as allowing foreign representatives greater powers in handling the debtor's estate. A list of indicative factors comprising COMI may be inserted through rule-making powers. Such factors may include location of the debtor's books and records, location of financing, etc.
- **Public policy considerations:** Part Z provides that the National Company Law Tribunal may refuse to take action under Part Z if it is contrary to public policy. The Committee recommended that in proceedings where the Tribunal is of the opinion that a violation of public policy may be involved, a notice must be issued to the central government to provide its submissions. If the Tribunal does not issue a notice, the central government may be empowered to apply to it directly.

National Financial Reporting Authority

- The Ministry of Corporate Affairs constituted the National Financial Reporting Authority (NFRA).
- The NFRA is established as an independent regulator for auditors.

Jurisdiction

- The jurisdiction of NFRA for investigation of Chartered Accountants and their firms under section 132 of the Act would extend to listed companies and large unlisted public companies, the thresholds for which shall be prescribed in the Rules.
- The Central Government can also refer such other entities for investigation where public interest would be involved.

Chairperson and Members

- The National Financial Reporting Authority shall consist of a chairperson, who shall be a person of eminence and having expertise in accountancy, auditing, finance or law to be appointed by the Central Government and such other members not exceeding fifteen consisting of part-time and full-time members as may be prescribed.
- Provided that the terms and conditions and the manner of appointment of the chairperson and members shall be such as may be prescribed.
- The chairperson and members shall make a declaration to the Central Government in the prescribed form regarding no conflict of interest or lack of independence in respect of his or their appointment.
- The chairperson and members, who are in full-time employment with National Financial Reporting

Authority shall not be associated with any audit firm (including related consultancy firms) during the course of their appointment and two years after ceasing to hold such appointment.

Expert Committee submits report on regulating audit firms

- An Expert Committee submitted its report to the government on “Regulating Audit Firms and Networks”. The Committee was constituted in April, 2018 pursuant to the directions of the Supreme Court.
- The report examined the legal regime of auditors and recommended measures to promote development of the audit profession in India.
- The Committee scrutinised the networking arrangements adopted by the big four audit firms to understand their legal structure and method of operation.
- The Committee also addressed issues concerning conflict of interest and transparency arising out of non-audit services provided by auditors and their network, and recommended necessary checks and balances.
- In addition, the report also dealt with issues of concentration of market power in the audit services market.
- Committee found the establishment of the National Financial Reporting Authority (NFRA) as a necessary institutional reform, which would align the Indian audit landscape with the global position on having an independent regulator for auditors.
- The NFRA is established as an independent regulator for auditors.
- The Committee recommended measures to further strengthen the operation of NFRA to address contemporary challenges in relation to auditors, audit firms and networks operating in India.
- The report also dealt with issues concerning advertising, multi-disciplinary practice firms, and branding, and suggested measures to rationalise the existing laws.

Competition Commission of India releases note on affordable healthcare

- The Competition Commission of India released a policy note on ‘Making Markets Work for Affordable Healthcare.
- The note examines issues in the pharmaceutical and healthcare sector which may restrict competition and consumer choice.

Key observations and recommendations of the Commission include:

Role of intermediaries:

- The Commission observed that drug companies in India charge unreasonably high trade margins which contribute to high drug prices.
- Further, self-regulation by trade associations also contributes towards high margins as they control the entire drug distribution system which reduces competition.
- The Commission recommended the use of electronic trading of drugs to induce price competition among retailers.

Branded generic drugs:

- In India, the pharmaceutical market is dominated by branded generic drugs which limit the price competition induced by generic drugs. In India, branded drugs enjoy a price premium due to perceived quality assurance.
- The Commission recommended that the regulatory framework should ensure consistent application of quality control measures, in order to address issues of quality perception.

Vertical arrangements in healthcare services:

- The Commission noted that in-house pharmacies of super speciality hospitals are insulated from competition as patients are not typically allowed to purchase any product from outside.
- Therefore, it recommended that hospitals should allow consumers to buy standardised consumables from the open market.
- Further, the Commission noted that there is no regulatory framework that governs portability of

patient data, treatment record, and diagnostic reports between hospitals.

Regulation and competition:

- Due to multiplicity of regulators in the pharmaceutical sector, the implementation of regulations is not uniform.
- This has resulted in multiple standards of same products and different levels of regulatory compliance.
- The Commission recommended that a mechanism to harmonise the processes followed by state licensing authorities could be developed.

CCEA approves Minimum Support Prices for Rabi crops for 2019-20 marketing season

- The Cabinet Committee on Economic Affairs approved the Minimum Support Prices (MSPs) for Rabi crops for the 2019-20 marketing season.
- The Cabinet Committee on Economic Affairs, determines the Minimum Support Prices (MSP) of various agricultural commodities based on the recommendations of the Commission for Agricultural Costs and Prices (CACP).
- Table shows the change in MSPs for the Rabi crops as compared to the 2018-19 marketing season.

Table: MSPs notified for Rabi crops for 2019-20 marketing season (in Rs/quintal)

Crop	**2018-19**	**2019-20**	**Change**
Wheat	1,735	1,840	6.1%
Barley	1,410	1,440	2.1%
Gram	4,400	4,620	5.0%
Masoor	4,250	4,475	5.3%
Rapeseed and Mustard	4,000	4,200	5.0%
Safflower	4,100	4,945	20.6%

CCEA approves creation of Fisheries and Aquaculture Infrastructure Development Fund

- The Cabinet Committee on Economic Affairs approved the creation of Fisheries and Aquaculture Infrastructure Development Fund.
- The Fund will provide concessional finance for investment in fisheries development to (i) state and union territory governments and entities, (ii) cooperatives, and (iii) entrepreneurs, among others.
- The loans will be provided for a period of five years from 2018-19 to 2022-23 with repayments to be made over a period of 12 years. The fund is estimated to be worth Rs 7,522 crores.
- National Bank for Agriculture and Rural Development (NABARD), National Cooperatives Development Corporation and Scheduled banks will be Nodal Loaning Entities

Ministry of Home Affairs issues notification on grant of citizenship

- The Ministry of Home Affairs issued a notification under the Citizenship Act, 1955. Under the Act,

the central government can register a person as a citizen or grant a certificate of naturalisation, on receipt of an application.
- The notification delegates these powers to the District Collector or Secretary of the Home Department, in case of persons belonging to minority communities in Afghanistan, Pakistan, and Bangladesh.
- These include Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians.
- The notification is applicable to such individuals residing in the states of Chhattisgarh, Gujarat, Madhya Pradesh, Maharashtra, Rajasthan, Uttar Pradesh, and Union Territory of Delhi.

Presidents of Russia and Uzbekistan visit India

- The Presidents of Russia and Uzbekistan visited India.

Key agreements signed with the two countries are mentioned below:

Russia: India and Russia signed eight agreements for cooperation in various sectors including:

- Railways
- Fertilizers
- Micro, Small and Medium industries

Uzbekistan: India and Uzbekistan signed 17 agreements for cooperation in various areas including:

- Tourism
- Agriculture and allied sectors
- Health and medical science
- Illicit drug trafficking

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Prime Minister visits Japan

The Prime Minister, Mr. Narendra Modi, visited Japan. India and Japan signed 32 agreements for cooperation in various areas including:

- Exchange of information in maritime domain awareness
- Artificial intelligence technologies
- Primary healthcare
- Developing food processing industry
- Renewable energy
- Environment protection
- Electronics

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Cabinet approves merger of National Council for Vocational Training and National Skill Development Agency

The Union Cabinet approved the establishment of the National Council for Vocational Education and Training, which seeks to regulate skill development and vocational training.

It subsumes two existing regulatory institutions:

- National Council for Vocational Training
- National Skill Development Agency

Chairperson and Members:

- The Council would be headed by a Chairperson and will have Executive and Non-Executive Members.
- The regulator will follow the best practices of regulatory processes, which will help ensure that it performs its functions professionally and as per the applicable laws.

Functions of the Council will include:

- Recognition and regulation of entities engaged in vocational education and training.
- Approval of qualifications developed by awarding bodies and Sector Skill Councils.