

Release related to Major Indian Court Decision applying the Cape Town Convention

Executive Summary

On 19 March 2015, the High Court of Delhi at New Delhi issued the first substantive decision analyzing and applying the Convention on International Interests on Mobile Equipment and its Aircraft protocol (the '**Cape Town Convention**').

The in a High Court, [joint ruling](#) designated WP(C) 871/2015 and WP(C) 747/2015 involving action required to be taken by the Indian Directorate General of Civil Aviation (the '**DGCA**') in respect of certain aircraft leased to Spicejet (the '**Spicejet Decision**'), strongly endorsed the Cape Town Convention and action required under the treaty.

The Spicejet Decision stands for the proposition that the DGCA must de-register an aircraft, without a court order and whether or not a government lien exists or is asserted, where an irrevocable de-registration and export authorization under the Cape Town Convention (an '**IDERA**') has been properly submitted by a creditor.

Neither administrative discretion nor reference to a general public interest may be invoked to prevent such mandatory de-registration.

Reflecting India's international obligations under the Cape Town Convention, and noting the implementation of such in the de-registration context through new Aircraft Rule 30(7), the Spicejet Decision rightly applies a different rule than that in the Indian pre-Cape Town Convention cases.

The High Court in Spicejet Decision based its decision on a careful reading of the Cape Town Convention and India's declaration thereunder, the text of Aircraft Rule 30(7), and, importantly, the Indian Constitution which requires respect for international law and treaty obligations. Citing the Vienna Convention on the Law of Treaties, the authoritative text on international treaty law, the High Court reasoned that India may not cite its internal law as a justification for failing to perform its obligations under the Cape Town Convention.

Note on AWG Involvement

The Aviation Working Group submitted papers in this case setting out the requirements under the Cape Town Convention. It did not express a view on any factual element.

The Aviation Working Group welcomes this important case, and continues its work with the Indian government to further strengthen the foundation for the full, timely, and accurate application of Cape Town Convention.

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