

No Modification in the Resolution Plan Under IBC: SC

Recently, the Supreme Court (SC) held that the Committee of Creditors (CoC) approved resolution plan under the Insolvency and Bankruptcy Code (IBC) submitted to the National Company Law Tribunal (NCLT) cannot be modified. Earlier, in July 2021 the government introduced the Insolvency and Bankruptcy Code (Amendment Bill), 2021 in the Lok Sabha.

Key Points

SC's Ruling:

- **No Modifications:** The adjudicating authority cannot allow modifications or withdrawals of Resolution Plans approved by the Committee of Creditors at the behest of the successful Resolution Applicant, once the plan is submitted to it.
- **Timely Completion:** Corporate Insolvency Resolution Process (CIRP) carried out under the IBC must be completed within 330 days as laid down by the Code.
- 1. It quoted a report of the Parliamentary standing committee on finance which stated that 71% cases are pending for more than 180 days before NCLT (National Company Law Tribunal).
- 2. And asked the NCLT and the National Company Law Appellate Tribunal (NCLAT) to stick to this, and should therefore, while deciding IBC matters, respect the deadline keeping in mind the effect of such delays on the insolvency resolution process.
- 3. Judicial delay was one of the major reasons for the failure of the insolvency regime that was in effect prior to the IBC.
- 4. The time limit can be extended only in exceptional circumstances as otherwise, the open-ended process for further negotiations or a withdrawal, would have a deleterious impact on the Corporate Debtor, its creditors, and the economy at large as the liquidation value depletes with the passage of time.

Insolvency Resolution Process in India:

- **Eligibility:** Under IBC, companies (both private and public limited company) and Limited Liability Partnerships (LLP) can be considered as defaulting corporate debtors. A corporate debtor is any corporate organization which owes a debt to any person.
- **Default Amount:** The IBC can be triggered if there is a minimum default of Rs 1 Crore. This process can be triggered by way of filing an application before the NCLT.
- **Resolution Initiation:** The process can be initiated by two classes of creditors which would include financial creditors and operational creditors.
- 1. **Creditors:** A Creditor means any person to whom a debt is owed and includes a financial creditor, an operational creditor, etc.
- 2. **Financial Creditors:** The financial creditor in simple terms is the institution that provided money to the corporate entity in the form of loans, bonds etc. E.g. banks.
- 3. **Operational Creditors:** An operational creditor is the entity who has a claim for providing any of the four categories to the defaulted corporate- goods, services, employment and Government dues (central govt, state or local bodies).
- **Appointment of Interim Resolution Professional:** As soon as the matter is admitted by the NCLT, the NCLT proceeds with the appointment of an Interim Resolution Professional (IRP) who takes over the management of the defaulting debtor.
- **Committee of Creditors (CoC):** A committee consisting only of the financial creditors i.e. the CoC is formed by the IRP. Only operational creditors having aggregate dues of at least 10% of the total debt are invited into the meeting of CoC (Operational creditors are not a member of CoC). The operational creditors don't have any voting power.
- **Corporate Insolvency Resolution Process (CIRP):** It includes necessary steps to revive the company such as raising fresh funds for operation, looking for a new buyer to sell the company as a going concern, etc.
- 1. The CoC takes a decision regarding the future of the outstanding debt owed to it. The resolution plan can be implemented only if it has been approved by 66% of the creditors in the CoC.
- 2. The IBC (Amendment Bill), 2021 introduced an alternate insolvency resolution process for Micro, Small and Medium Enterprises (MSMEs) with defaults up to Rs 1 crore called the Pre-packaged Insolvency Resolution Process (PIRP).
- **Liquidation Proceedings:** In the event a resolution plan is not submitted or not approved by the Committee of Creditors (CoC), the CIRP process is deemed to have failed. In such a situation the liquidation proceedings commence subject to the order of the tribunal.

Way Forward

- **Some of the issues faced in the implementation of IBC can be eased by:**
 1. Conducting timely colloquium for judges of NCLT and increasing interaction between practitioners from various jurisdictions.
 2. NCLTs according to higher priority to applications filed in respect of avoidable transactions such as extortionate, preferential, undervalued, and fraudulent transactions.
 3. NCLTs discourage frequent adjournments and ensure timeliness of the resolution process.

Focus should be on sensitizing various government and statutory authorities about the treatment of government and statutory dues under IBC to reduce the scope for litigation and consequent delay in the resolution of companies under corporate insolvency.

GOVERNANCE

Shoonya Campaign: NITI Aayog

Recently, NITI Aayog and Rocky Mountain Institute (RMI) and RMI India's have launched the Shoonya Campaign. It is an initiative to promote zero-pollution delivery vehicles by working with consumers and industry. RMI is an independent nonprofit organization founded in 1982.

Key Points

Shoonya Campaign:

- **Electric Deliveries:** The campaign aims to accelerate adoption of Electric Vehicles (EVs) in the urban deliveries segment and create consumer awareness about the benefits of zero-pollution delivery.
- **Shoonya Brand:** A corporate branding and certification programme is being launched to recognise and promote industry's efforts towards transitioning to EVs for final-mile deliveries. It will help e-commerce companies to distinguish their offerings from those of their competitors.
- **Online Tracking Platform :** An online tracking platform will share the campaign's impact through data such as vehicle kilometers electrified, carbon savings, criteria pollutant savings and other benefits from clean delivery vehicles.

Need of EVs for Final-Mile Deliveries:

- **Growing E-Commerce Market:** Between 2013 and 2017, India's online retail market grew at an average rate of 53% each year and is expected to become a \$150 billion market by 2022. By shifting the end-transportation of goods from the consumer, this has dramatically expanded the fleets of delivery vehicles.
- **Reduce Emissions:** Urban freight vehicles account for 10% of freight transportation-related CO2 emissions in India, and these emissions are expected to grow by 114% by 2030.
 1. EVs emit no tailpipe emissions, which can contribute immensely to an improved air quality.
 2. Even when accounting for their manufacture, they emit 15-40% less CO2 compared to their internal combustion engine counterparts and have lower operational cost.
- **Energy Security:** Shifting towards EVs will help India to reduce oil dependency while solving the challenge of energy scarcity and moving towards renewable and clean sources of energy.

Challenges:

- **Technological:** India is technologically deficient in the production of electronics that form the backbone of the EV industry, such as batteries, semiconductors, controllers, etc.
- **Infrastructural Support:** The lack of clarity over AC versus DC charging stations, grid stability and range anxiety (fear that batteries will soon run out of power) are other factors that hinder the growth of the EV industry.
- **Availability of Materials for Domestic Production:** Battery is the single most important component of EVs. India does not have any known reserves of lithium and cobalt which are required for battery production. India is dependent on countries like Japan and China for the import of lithium-ion batteries.
- **Lack of Skilled Workers:** EVs have higher servicing costs and higher levels of skills is needed for servicing. India lacks dedicated training courses for such skill development.

Initiatives Taken:

- **National Electric Mobility Mission Plan (NEMMP):** NEMMP was launched in 2013 with an aim to achieve national fuel security by promoting hybrid and electric vehicles in the country.
- **FAME Scheme:** The Indian government has created momentum through its Faster Adoption and Manufacturing of (Hybrid &) Electric Vehicles schemes that encourage, and in some segments mandates the adoption of EVs, with a goal of reaching 30% EV penetration by 2030.

- **National Mission on Transformative Mobility and Battery Storage:** The Mission will recommend and drive the strategies for transformative mobility and phased manufacturing programmes for EVs, EV Components and Batteries.
- **Fiscal Incentives:** To spur the production and consumption of EVs and charging infrastructure - such as income tax rebates, exemption from customs duties, etc.

INTERNATIONAL RELATION

Connectivity Projects: India and Southeast Asia

Recently, at the virtual ASEAN (Association of Southeast Asian Nations) summit on Future of India-ASEAN Connectivity Partnerships, the Indian government underlined the importance of cross-border connectivity between India and Southeast Asian nations. ASEAN brings together ten Southeast Asian states – Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam – into one organisation.

Key Points

Connectivity between India and Southeast Asia:

- India currently is working with ASEAN on multiple connectivity projects, through land, water, and air.
- Giving substance to ASEAN-India relations through connectivity will gradually change the geopolitical landscape of this region.
- In this context, India has now been actively developing infrastructure in Northeastern India. Bangladesh-China-India-Myanmar (BCIM) Corridor is part of this.
- These connectivity projects will not only curb existing insurgencies, but also help India's northeastern states to develop their economic potential and integrate with mainland India.
- Further, India-ASEAN Free Trade Agreement (FTA) is central to India's growing engagement with her eastern neighbours. It will enable small and medium-sized enterprises in the border areas to explore new business opportunities.

Examples of Cross Connectivity Projects:

• **India-Myanmar-Thailand Trilateral Highway:**

1. One of the flagship projects for land connectivity between ASEAN and India.
2. Connecting the three countries from Moreh in India to Mae Sot in Thailand to Bagan in Myanmar, was first proposed in 2002.
3. Besides this, the India, Myanmar, and Thailand Motor Vehicles Agreement (IMT MVA) is in the final stage. On realization, this will become the first-ever cross border facilitation agreement between South and Southeast Asia.

• **Kaladan Multi-Modal Transit Transport Project (KMMTTP):**

1. To develop connectivity through water, ASEAN and India are working on KMMTTP.
2. Initiated by the Indian government in 2008 and is entirely funded by India.
3. To seek an alternative route through Myanmar for the transportation of goods to the northeast region of India.
4. Connects Kolkata in India to Sittwe and Paletwa in Myanmar by sea and river respectively.
5. Alongside this initiative, India has contributed to build a sea link via Sittwe port in Myanmar in order to enable an alternative transit route through Bangladesh.

• **Mekong-India Economic Corridor (MIEC):**

1. Involves the integration of four Mekong countries – Vietnam, Myanmar, Thailand, and Cambodia - along with India, connecting Ho Chi Minh City, Dawei, Bangkok, and Phnom Penh with Chennai.
2. The corridor will provide opportunities for the participant countries to develop infrastructure, enhance their economic base with the region, and especially reduce the transit distance between India and ASEAN countries.

Way Forward

- **Extension of Trilateral Highway:** The Trilateral Highway can be extended to Cambodia, Laos and Vietnam. This will enable greater connectivity and economic integration of India's northeast with its eastern neighbours.
- **Digital Highway:** As such beyond movement of goods and physical connectivity, it is also important for two regions to explore ways to enhance digital connectivity. This is in concurrence with the Government of India efforts to turn India into a Global Data Hub.

- **Improving Maritime Connectivity:** With the introduction of the “Sagarmala” project, India plans to invest in port infrastructure for improved integration and connectivity through the sea. This is an encouraging step towards enhancing India-ASEAN Connectivity projects.

BIODIVERSITY & ENVIRONMENT

World Ozone Day

Every year, 16th September is observed as the International Day for the Preservation of the Ozone layer (World Ozone Day).

Key Points

About:

- After the Montreal Protocol on Substances that deplete the ozone layer signed by almost every country in 1987, the United Nation General Assembly, in 1994, proclaimed this day as the International Day for the Prevention of the Ozone Layer.
- 1. The Montreal Protocol has led to the phase-out of 99% of ozone-depleting chemicals in refrigerators, air-conditioners and many other products.
- 2. The latest Scientific Assessment of Ozone Depletion completed in 2018, shows that parts of the ozone layer have recovered at a rate of 1-3% per decade since 2000.
- 3. Ozone layer protection efforts have also contributed to the fight against climate change by averting an estimated 135 billion tonnes of carbon dioxide equivalent emissions, from 1990 to 2010.
- 4. In September 2009, the Vienna Convention and the Montreal Protocol became the first treaties in the history of the United Nations to achieve universal ratification. Establishment of a mechanism for cooperation to take action to protect the ozone layer was formalized in the Vienna Convention in 1985.
- 5. In 2016 as a continuation of the global effort the Parties to the Montreal Protocol reached agreement at their 28th Meeting of the Parties in Kigali, Rwanda to phase-down hydrofluorocarbons (HFCs). Recently, the Indian Government approved the ratification of the Kigali Amendment to the Montreal Protocol.

2021 Theme:

Montreal Protocol – Keeping us, our food, and vaccines cool.

IMPORTANT FACTS FOR PRELIM

AUKUS Grouping

Recently, the US has announced a new trilateral security partnership for the Indo-Pacific, between Australia, the UK and the US (AUKUS). The major highlight of this arrangement is the sharing of US nuclear submarine technology to Australia.

Key Points

- **Focusing on Indo-Pacific:** The security grouping AUKUS will focus on advancing strategic interests in the Indo-Pacific region.
- 1. Though the US has explicitly denied that the grouping is targeted against China, its Indo-Pacific orientation makes it an alliance against China's assertive actions in the South China Sea.
- 2. The three countries alongside Canada and New Zealand already share extensive intelligence through the Five Eyes alliance.
- **Transferring Nuclear Submarines to Australia:** As part of this initiative, Australia will acquire nuclear-powered submarines with help from the UK and the US.
- 1. This step is significant because the US has only shared nuclear submarine technology once before, and it started in 1958 with Great Britain.
- 2. Nuclear submarines that are quieter than their conventional counterparts but also more capable of being deployed for longer periods and needing to surface less frequently.
- 3. Alongside India's stated intent to acquire more nuclear-powered submarines, it will amount to a step-change increase in the Quad's undersea and anti-submarine warfare capabilities. Quad is a grouping of India, USA, Australia and Japan.
- 4. Australia is now set to join an elite group of only six countries – India, the US, the UK, France, Russia and China – that operate nuclear-powered submarines. It will also be the only country to have such submarines without having a civilian nuclear power industry.
- **Multi-Sectoral Cooperation:** AUKUS will also involve a new architecture of meetings and engagements between the three countries, as well as cooperation across emerging technologies (applied AI, quantum technologies and undersea capabilities).

Five Eyes Alliance

- The Five Eyes alliance is an intelligence-sharing arrangement between five English-speaking democracies: the US, UK, Canada, Australia and New Zealand.
- The alliance was created during the Cold War (1946-1991) that was fought between the United States and the Soviet Union, as well as their respective allies.
- The alliance was needed to share sensitive information regarding their adversaries on all possible fronts available.
- It is often described as the world's most successful intelligence alliance.

2.Exercise SCO Peaceful Mission 2021

The 6th edition of Exercise Peaceful Mission is being hosted by Russia in the Orenburg Region of South West Russia from 13th to 25th September 2021. India participated for the first time in the 5th edition of the Exercise (2018).

Key Points

- It is a Multilateral and Joint Counter Terrorism Exercise, which is conducted biennially as part of military diplomacy between Shanghai Cooperation Organisation (SCO) member states. The SCO is an economic and security bloc in which India and Pakistan were admitted as full members in 2017. Its founding members included China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan.
- The scope of the exercise includes professional interaction, mutual understanding of drills & procedures, establishment of joint command & control structures and elimination of terrorist threats.
- The aim is to foster close relations between SCO member states and to enhance abilities of the military leaders to command multi-national military contingents.
- The Indian military contingent comprising an all arms combined force of 200 personnel including 38 personnel from the Indian Air Force is participating in the Exercise 2021.

DAILY ANSWER WRITING PRACTICE

Qns. The economic emergency in Sri Lanka is a challenge as well as an opportunity for India to improve bilateral relations with the island nation. Comment. (250 words)

Ans:

Introduction

On 31 August 2021, Sri Lanka declared a state of economic emergency, as it is running out of foreign exchange reserves for essential imports like food. Tourism, a big dollar earner for Sri Lanka, has suffered since the Easter Sunday terror attacks of 2019, followed by the pandemic. Earnings fell from \$3.6 billion in 2019 to \$0.7 billion in 2020, even as FDI inflows halved from \$1.2 billion to \$670 million over the same period.

Body

Sri Lanka's crisis: A Challenge for India

- Sri Lanka's economic crisis may further push it to align its policies with Beijing's interests. This comes at a time when India is already on a diplomatic tightrope with Afghanistan and Myanmar.
- Other South Asian nations like Bangladesh, Nepal and the Maldives have also been turning to China to finance large-scale infrastructure projects.
- In February, Sri Lanka backed out from a tripartite partnership with India and Japan for its East Container Terminal Project at the Colombo Port, citing domestic issues.
- Sri Lanka lost the unviable Hambantota port to China for a 99-year lease. This impacts India as the port is located strategically in the Indian Ocean region, giving China a good vantage point.
- Nevertheless, Sri Lanka has increasingly relied on Chinese credit to address its foreign debt burden. Many loans have been negotiated between Colombo and Chinese institutions, including a recent syndicated loan for budgetary support of \$1.3 billion from China Development Bank and a \$1.5 billion currency swap pact with the People's Bank of China this March. This is a concern for India, as it may push Sri Lanka more towards China.
- China's exports to Sri Lanka surpassed those of India in 2020 and stood at \$3.8 billion (India's exports were \$3.2 billion).

Opportunity to improve bilateral relations

- Nurturing the Neighbourhood First policy with Sri Lanka will be important for India, albeit with due caution, to preserve its strategic interests in the Indian Ocean region.
- The Colombo port is crucial for India as it handles 60% of India's trans-shipment cargo.
- Regional platforms like the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation and the Indian Ocean Rim Association could be leveraged to foster cooperation in

common areas of interest like technology-driven agriculture and marine sector development, IT and communication infrastructure, renewable energy, and transport and connectivity.

- India's development partnership with Colombo has always been demand-driven, with projects covering social infrastructure like education, health, housing, access to clean water and sanitation, besides industrial development. India must pursue this in spirit of Neighbourhood Policy.
- Concessional financing of about \$ 2 billion has been provided to Sri Lanka through various Indian government-supported Lines of Credit across sectors (for railway connectivity, infrastructure, supply of defence equipment, security, and counter-terrorism and solar projects, among others). This can be augmented further to increase their infrastructure and other requirements to make Sri Lanka self-sufficient.
- Both countries could also cooperate on enhancing private sector investments to create economic resilience

Conclusion

India's bilateral relation with Sri Lanka has followed Gujral Doctrine which is based on non-reciprocity. India must once again step up and show its magnanimity by providing soft loans and credit lines, so that Sri Lanka can come out of this crisis. Our development agenda in Sri Lanka will also help build soft power and lead to better future ties.

DAILY QUIZ

Q1. With reference to "Swachh Survekshan Grameen 2021", consider the following statements:

1. It was launched at an event organized by NITI Aayog.
2. It aims to support acceleration of ODF plus interventions and results in the country.

Which of the given above statements is/are correct?

- a. 1 only
- b. 2 only**
- c. Both 1 and 2
- d. Neither 1 nor 2

Q2. Recently, the Union Cabinet has approved a Production-Linked Incentive (PLI) scheme for the textiles sector. In this context, consider the following statements with reference to PLI scheme:

1. It offers incentives on incremental sales for products manufactured in India.
2. It is notified by the DGFT (Directorate General of Foreign Trade) and implemented by the Ministry of Commerce and Industry.

Which of the given above statements is/are correct?

- a. 1 only**
- b. 2 only
- c. Both 1 and 2
- d. Neither 1 nor 2

Q3. Consider the following statements:

1. Portugal is situated on the Iberian Peninsula.
2. It is bordered by Gibraltar (a British overseas territory) and Morocco.

Which of the given above statements is/are correct?

- a. 1 only**
- b. 2 only
- c. Both 1 and 2
- d. Neither 1 nor 2

Q4. The 'Fortaleza Declaration' recently in the news, is related to the affairs of:

- a. ASEAN
- b. BRICS**
- c. OECD
- d. WTO

Q5. The new species, "Pyrostria laljii", a 15-meter-tall tree that belongs to the genus of the coffee family has recently been discovered. In which part of India has it been discovered?

- a. Western Ghats
- b. Araku Valley
- c. Andaman Islands
- d. Tropical rain forests of northeast**