



# **ENFORCEABILITY INDEX**

## **METHODOLOGY**

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### **SUMMARY**

The AWG Enforceability Index (the **enforceability index**) assesses legal rules and practical experience within selected countries based on whether, and the extent to which, they facilitate customary creditor rights and remedies and align with financing and leasing principles in the global aviation market.

This document sets out the methodology used to assign a score and a categorization to countries in the enforceability index. It enables users of the enforceability index and the country scorecards to understand the data applicable to, and analytical process by which, the score was determined.

Each finalized scorecard is determined by the AWG secretariat based on a non-commercial, non-political, objective assessment of all applicable available data.

September 2025

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## FORMULA & SCORING KEY

$$\text{Score} = 5(\text{A}) + 8(\text{B}) + 3.5(\text{C} + \text{D})$$

**Scoring:** 100 (highest) to 20 (lowest)

**Variable range:** 5 (highest) to 1 (lowest)

**100 – 88: very high** probability that customary creditor rights and remedies will be enforced under national law

**87 – 75: high** probability that customary creditor rights and remedies will be enforced under national law

**74 – 50: medium** probability that customary creditor rights and remedies will be enforced under national law

**49 and lower: low** probability that customary creditor rights and remedies will be enforced under national law

### Variables -

**A (25%)** is facilitative law, meaning (i) the extent to which the country has a *rules-based* legal system that (ii) includes the *financing and leasing principles*, substantively and procedurally

**B (40%)** is facilitative practice to the extent it enforces the *financing and leasing principles*, judicially and administratively

**C (17.5%)** is whether a country has designated a ‘communications channel’ with AWG to consult on enforcement issues, as and when they arise, and the extent to which the results of such consultations are timely and effective

**D (17.5%)** is a weighing of select rule of law and *political risk* indices measuring, or materially relevant to, regulatory enforcement of existing law and protection of property rights

### Definitions

**Financing and leasing principles** means asset-based financing principles that facilitate the prompt and predictable exercise of customary creditor rights and remedies, inside and outside insolvency of the debtor

**Political risk** means government action or inaction inconsistent with relied-upon current law that adversely impacts the contractual or other existing legal rights of a creditor (financier/lessor/owner/conditional seller)

**Rules-based** means centered on provisions that prescribe predictable outcomes, rather than discretionary standards

### FORMULA

The general formula used to calculate the enforceability index score for a country is as follows:

$$\text{Score} = 5(\text{A}) + 8(\text{B}) + 3.5(\text{C} + \text{D})$$

The scoring and categorization systems, and definitions for variables and certain key terms, are set out on the previous page.

Final scores are rounded to the nearest half number, with a minimum score of 1 and a maximum score of 5 for each variable.

Variables A and B, taken together, constitute 65% of the final score. They assess legal action relating to enforcement of financing and leasing principles, particularly the exercise of customary remedies. Of these two variables, variable B holds greater weight, reflecting the emphasis this index places on enforcement in practical experience. Variables C and D constitute the other 35%. They assess additional items which may impact, and be predictive of, such enforcement.

Variable A (25%) assesses the legal rules for enforcement of the financing and leasing principles in a country. Such rules must prescribe predictable outcomes under similar facts, rather than providing for discretionary standards that may be applied unevenly. It captures the state of *de jure*, black letter laws and regulations that provide the basis for the exercise of remedies by a creditor after default (such laws and regulations, if any, 'facilitative law').

Variable B (40%) examines *de facto* how laws and regulations are applied and whether there is consistent practice in a country resulting in outcomes that are substantially aligned with the financing and leasing principles (such practice, if any, 'facilitative practice').

Variable C (17.5%) is based on an AWG initiative to establish a communications channel with the government of each applicable country to address enforcement issues. This variable is an indicator of anticipated enforcement based on past AWG practice, where an open line of communication has proven constructive in achieving better alignment with financing and leasing principles. The establishment of an effective communications channel demonstrates an intent and effort by the applicable government to enforce the financing and leasing principles through the development, and application, of facilitative law and facilitative practice.

Variable D (17.5%) is a rule of law and political risk indicator, which is included to reflect the fact that legal systems exist within broader political and institutional frameworks that are materially relevant to enforcement of existing law. This variable assesses a country's practice of enforcing laws consistently and impartially, and, more generally, its overall political and economic stability.

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## DEFINED TERMS

**CAA** means the civil aviation authority of a country.

**communications channel** means one or more senior officials in a country's government designated as the primary point of contact for AWG regarding enforceability matters.

**creditor** means the person with the contractual rights to enforce remedies against an aircraft or engine, whether arising through a financing or lease or based on its ownership.

**customary creditor rights and remedies** means those rights and remedies creditors generally expect, and bargain for, in asset-based financing or leasing transactions within the aviation financing market, including repossession, deregistration and export of aircraft equipment.

**debtor** means the person granting rights to a creditor to enforce remedies against an aircraft or engine.

**DPOA** means a deregistration power of attorney.

**facilitative law** means laws and regulations for the enforcement of customary creditor rights and remedies that prescribe predictable outcomes under similar facts, rather than simply providing for discretionary standards that may be applied unevenly.

**facilitative practice** means established practice, via administrative or judicial actions, applying laws and regulations in a manner that results in outcomes that are substantially aligned with the financing and leasing principles.

**financing and leasing principles** means asset-based financing principles that facilitate the prompt and predictable exercise of customary creditor rights and remedies, inside and outside insolvency of the debtor.

**political risk** means government action or inaction inconsistent with relied-upon current law that adversely impacts the contractual or other existing legal rights of a creditor.

**predictable** means rules-based processes producing outcomes that are substantially similar under similar facts and based on identifiable, uniformly-applied criteria rather than discretionary standards.

**predictive value** means the level of authority, influence, or deference a judicial decision or administrative action is expected to be given in future cases with similar facts.

**prompt** means within a timeframe that prevents material deterioration of the underlying asset value.

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## **FINANCING AND LEASING PRINCIPLES**

Financing and leasing principles facilitate the prompt and predictable repossession, de-registration, and export of aircraft equipment, inside and outside insolvency of the debtor (or 'customary creditor rights and remedies'). In deriving these principles, AWG assesses prevailing commercial practice in the global aviation financing and leasing market, with particular focus on the following:

- a) time-limited moratorium (no more than 60 days) in a debtor's insolvency proceedings with a debtor obligation to maintain the asset in accordance with the transaction documents
- b) the ability of a creditor to exercise remedies post-default without requiring a final determination on the merits (interim relief or relief pending final determination)
- c) prompt and predictable exercise of remedies post-default such that the value of the asset is preserved
- d) recognition of deregistration powers of attorney and ability to effect deregistration with such instruments without debtor consent or cooperation
- e) independent interests in engines are preserved regardless of installation on an airframe (no accession)

The methodology focuses on distinct characteristics and requirements of the underlying asset – aircraft equipment – in its scoring. As such, remedies may extend beyond the strict physical object. For example, repossession in this context necessarily includes records as, due to the strict regulatory environments in which aircraft operate, an aircraft without full maintenance records is significantly diminished in value. Similarly, the focus on prompt availability of remedies, and maintenance and preservation obligations of a debtor prior to repossession, results from the fact that aircraft are high value assets that deteriorate in value rapidly without proper maintenance and preservation.

## **VARIABLES**

### **Variable A**

Variable A is a measure of the legal rules for enforcement of the financing and leasing principles in a country (i.e. whether, and to what extent, such laws constitute facilitative law), comprising of laws both outside and inside of insolvencies. Legal rules outside of insolvency carries a maximum base score of 2.5 and legal rules within insolvency carries a maximum base score of 2.5. As this index focuses on asset value preservation particularly in the context of repossession delays, insolvency proceedings, and potentially lengthy general moratoria on exercise of remedies is a focus point.

The variable A score assesses (i) whether, and to what extent, legal rules align with financing and leasing principles to facilitate the prompt and predictable exercise of customary creditor rights and remedies, and (ii) whether practical legal rules are in place, such as civil aviation regulations, that, if applied, have the effect of enabling or undermining financing and leasing principles. For example, where non-judicial remedies are available but regulations expressly condition the exercise of such remedies on the provision of documents within a debtor's exclusive control, such as an original certificate of registration, such a requirement will negatively impact the score of variable A. Where regulations exist but are ambiguous and require additional interpretation by relevant actors (i.e. deregistration regulations that permit a CAA to require 'any other

documentation' prior to acting upon a deregistration power of attorney), a decrease to variable A may be applied.

Where the availability of a remedy may be materially impacted by a lack of clear procedural laws providing for the exercise of such remedy, the variable A score may be negatively impacted.

Variable A is not a fixed variable in that further decreases or increases may be applied if subsequent judicial or administrative interpretation and practice reveals, or resolves, problems or gaps in existing regulations.

Variable A scores are adjusted in increments of 0.5.

This variable is based on legal elements rather than actual practice and whether the relevant institutions (courts and CAAs) in a country have enforced or will enforce the legal rule. The latter is a matter of practical experience with enforcement, which is addressed by variable B. The most pertinent question considered by variable A is whether, in a rightly decided case or enforcement action in which correct legal arguments are presented, a court or administrative body in the relevant country would be legally required to grant remedies in a manner consistent with financing and leasing principles.

### **Variable B**

Variable B is comprised of (i) reported precedent, meaning (a) judicial decisions, and (b) administrative enforcement actions, and (ii) practical experience, as advised by legal or industry experts, in applying, enforcing or preventing financing and leasing principles (including targeted governmental intervention to suspend or weaken customary creditor rights and remedies). Precedent carries relatively and often substantially more weight than other practical experience. See the sections on **DATA SOURCES** and **ANALYTICAL PROCESS** below for an explanation of the process by which the score is determined for each country.

Variable B is assessed on the basis of a 'substantial outcomes' test, namely, whether existing judicial decisions and/or administrative actions, taken as a whole, result in outcomes substantially consistent with financing and leasing principles.

Where judicial decisions exist or administrative enforcement action has been taken, the score is assigned based on an assessment of how consistent the outcome of such is with financing and leasing principles, in increments of 0.5, from a minimum of 1 to a maximum of 5.

Consideration is given to the totality of jurisprudence and nature of the legal system in a country, unless impacted as described below by legislative mitigating action, as well as the relative authority of such precedent(s). The predictive value of existing precedent – i.e. the likelihood that future cases with similar facts will be addressed in the same way – is a key component of the variable B score. Factors impacting the predictive value determination include (i) whether the precedent is issued with a written, well-reasoned decision, (ii) whether the precedent arises out of contested proceedings, (iii) the quantity of precedent, and (iv) the authoritative nature of the precedent (i.e. binding vs. persuasive). Greater value is assigned to precedent addressing enforcement-related provisions and issues that is either (i) contested or (ii) within insolvency, given the significance, and unique challenges, of prompt availability of remedies in each of those cases. In assessing negative precedents leading to outcomes that are substantially inconsistent with financing and leasing principles, consideration is given to the legal arguments presented before the decision-maker, whether judicial or administrative.



In cases of first instance, a positive written decision affirming financing and leasing principles may mitigate negative effects of lack of promptness. Such mitigating effect of a positive final judgement fades if such lack of promptness persists in subsequent cases.

Where no or limited and non-definitive judicial decisions exist or administrative enforcement action has been taken, the baseline score is dependent on a country's variable A score. Where a country's variable A score is 4 or higher, a baseline score of 3 is assigned. Where a country's variable A score is lower than 4, a baseline score of 2.5 is assigned. This baseline score is then adjusted upwards or downwards by up to 1 point (that is, to a score of up to 4 or 3.5, as applicable, (increase) or down to 2 or 1.5, as applicable, (decrease)) in accordance with relevant lower-level experience (such as a pattern of administrative practice) or government signalling. In such countries, the score is adjusted based on advised experience. As examples, a country's practice with respect to DPOAs, and its issuance of official releases or positions may contribute to its variable B score more significantly in the absence of reported precedent.

In the event that a country's variable B score is negatively impacted due to precedent, the impact of such precedent will be reduced or eliminated in the event of legally authoritative mitigating action that addresses the negative precedent. Such legally authoritative mitigating action must have a direct impact on the effect of the inconsistent precedent and mitigate such inconsistency going-forward. If such inconsistent precedent is the only relevant precedent in the country, variable B's score will be reset to the baseline. If there are multiple precedents, the effect of the inconsistent precedent on the variable B score and analysis will be excluded.

### **Variable C**

Variable C is based on whether the government of the applicable country has designated a communications channel to consult with AWG on enforceability matters, generally and in specific instances. Establishment of such a communications channel is assigned a score of 3, with the score increasing by up to 2 points (that is, to a score of up to 5) where it proves to be effective. In the event a country declines to establish a communications channel or does not respond to AWG's request for such establishment, a score of 1 will be assigned. Once established, the score may also decrease if the communications channel proves to be ineffective. Variable C scores are adjusted in increments of 1.

The increase in score for effectiveness is determined based on a number of factors, including timeliness of responses, actual or anticipated cooperation in addressing and resolving enforceability matters, and extant procedures to facilitate enforcement. The most important factor in assessing effectiveness is whether the channel has successfully been utilized to address and resolve enforceability issues. Without active cooperation, which may include educational efforts and development of best practices guidance, the maximum variable C score that can be assigned to a country is 4 based on anticipated cooperation from substantial, positive signalling.

### **Variable D**

Variable D is an equal weighing of the following four independent rule of law and political risk indices, which were chosen with a primary emphasis on enforcement of law indicators, and a secondary emphasis on political and economic stability, rather than measurements relating to the political system or creditworthiness of the applicable government. Indices primarily measuring institutions or indicators of participatory democracy are also excluded to the extent identifiable and severable (such as in the focus on relevant sub-factors in the World Justice Project Rule of Law Index and the Heritage Foundation Index of Economic Freedom). The four indices were selected to represent a balanced and diversified approach to the political risk variable. The variable D score indicates the probability that rule of law and political risk elements, as measured in the selected indices, would not be an impediment to the enforcement of any



facilitative law and/or facilitative practice in a manner consistent with the financing and leasing principles.

#### Marsh Political Risk Map

The Marsh Political Risk Map, based on data and findings from BMI Research, is an annual index that measures political and economic stability. Intended primarily for multinational companies operating in many different jurisdictions as a way to better understand political risk, the Marsh index considers short-term political risk as well, taking into account ‘a government’s ability to propose and implement policy, social stability, immediate threats to the government’s ability to rule, the risks of a coup, and more’.

#### Economist Intelligence Unit (EIU) – Operational Risk Model

While the enforceability index’s inaugural publication includes input from the Economist Intelligence Unit’s Operational Risk Model for variable D scores, public accessibility issues has led AWG to remove this index as a variable D input in future scoring and updates. AWG is undertaking a review of potential replacement input sources.

#### World Justice Project Rule of Law Index – Regulatory Enforcement

The WJP Rule of Law Index is a measure of rule of law in 113 countries across eight factors: constraints on government powers, absence of corruption, open government, fundamental rights, order and security, regulatory enforcement, civil justice, and criminal justice. The enforceability index uses *only the regulatory enforcement sub-factor score in the calculation of variable D in order to target the most relevant sub-factor for application of financing and leasing principles and enforceability of customary creditor rights and remedies*. This index engages local experts per country to respond to a detailed questionnaire as well as polling companies to conduct surveys of the general public in producing its final results.

The methodology for this index is available at: <https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-rule-law-index-2017%E2%80%932018/methodology>.

#### Heritage Foundation Index of Economic Freedom – Property Rights

The Heritage Foundation’s Index of Economic Freedom measures principles of economic freedom based on 12 factors, one of which is *property rights, the sub-score used in the variable D calculations*. The property rights factor ‘assesses the extent to which a country’s legal framework allows individuals to accumulate private property freely, secured by clear laws that the government enforces effectively’ through independent experts, survey data, and open source data. Since one of the core tenets of financing and leasing principles is the recognition of various types of property rights and interests, as a measure of the extent and effectiveness of property rights, this index is relevant to the anticipated likelihood of the enforceability of customary creditor rights and remedies within a particular country, particularly in the absence of applicable direct precedent.

The methodology for this index is available at: <https://www.heritage.org/index/pages/about#indexMethodology>.

Where a country was excluded from any of the above indices, the calculation of the variable D score for such country is made without reference to the missing index. Variable D scores are rounded to the nearest whole number, rounding up for any count ending in 0.5.

## COUNTRY SELECTION

Countries included in the enforceability index are selected by the AWG secretariat, and approved by the AWG membership, based on two key criteria: (i) the volume of aviation finance and leasing activity in a country, and (ii) whether at least two acceptable local counsel (see DATA SOURCES) are available and willing to assist in the data-gathering process outlined in this methodology.

## CATEGORY OVERRIDE

In exceptional cases, the overall analysis of enforceability of customary creditor rights and remedies in a country may not be accurately reflected in the final score calculated by the formula and the AWG secretariat reserves the right to override the categorization of such country. This inaccuracy may arise as a result of variable D, which is 'fixed' by third party sources and not subject to enforceability watchlist placement, or as a result of a mismatch between legal rules (variable A) and judicial/administrative practice (variable B).

For example, where the AWG secretariat concludes that such an inaccuracy exists, an override will be applied to the categorization of the applicable country which differs from the score calculated by the formula. Such an adjustment and its rationale will be expressly noted in the 'select explanatory comments' section of the scorecard and so noted on the enforceability index.

## DATA SOURCES

For the two variables that require legal facts and analysis – variables A and B – the AWG secretariat developed a questionnaire, the template of which is available for review on the enforceability index website <https://indices.awg.aero/enforceabilityIndex> and requested *consensus responses* from multiple law firms, on a *pro bono* basis, involved in aviation finance in each country. To the extent possible, the foremost legal experts in the field of aviation law in each country were selected, drawing from recommendations from experienced industry leaders in aviation finance and aircraft leasing.

The questionnaire requests data relating to six key indicators of financing and leasing principles: (1) strict enforcement of contractual terms; (2) timely repossession, de-registration, and export (inside insolvency); (3) timely repossession, de-registration, and export (outside insolvency); (4) rights of the holder of de-registration power of attorney; (5) recognition of independent rights and interests in engines (non-accession); and (6) legal protectionism. Legal protectionism is further sub-divided into law and practice surrounding (i) foreign governing law clauses; (ii) exclusive jurisdiction of foreign courts; (iii) recognition and enforcement of foreign court judgements; and (iv) recognition and enforcement of foreign arbitral awards. Local counsel, on a consensus basis, propose a score for each indicator and provide leading court decisions that support their recommendation.

Other sources of data considered are (1) AWG's direct experience, and those of its members, in working with CAAs and other government offices in connection with the exercise of customary creditor rights and remedies, (2) the views of the Executive Committee of its Legal Advisory Panel, (3) Watson Farley & Williams LLP's Global Aviation Resource Index (GARI) (4) Pillsbury's World Aircraft Repossession Index, (5) surveys of existing literature, and (6) other input from legal practitioners and other experts.

AWG assesses all of the above data and information objectively, without consideration of commercial or political factors.

## **ANALYTICAL PROCESS**

For variables A and B, questionnaire responses are rigorously reviewed at multiple levels, including in follow-up communications with respondents seeking clarification or elaboration on the written responses. AWG also conducted reviews of cited primary source materials to the extent possible, subject to practical linguistic limitations. Data on experience with financing and leasing principles in each scored country were also solicited from and shared by leading actors in the aviation finance and leasing industries.

For variable C, the AWG secretariat sent a formal letter to the director of each country's CAA or other appropriate authority or office explaining the enforceability index and requesting the establishment of a communications channel. Countries that positively responded to the request were given a provisional score of 3, and, in the months prior to the initial publication of the enforceability index, AWG maintained communications in order to further refine the variable C score based on effectiveness of the communications channel established. AWG will continue to monitor and utilize such communications channels and adjust scoring, positively or negatively.

After critical examination of the questionnaire responses and other data sources, the AWG secretariat produced a draft scorecard for each selected country. Such drafts were the subject of extensive, multi-layered review, including by its legal advisory panel, with the secretariat then setting final scores taking into account all supported comments.

## **SEMI-ANNUAL UPDATES**

Updates to the enforceability index are published semi-annually at the end of March and September of each year. The July updates will also contain updated calculations for variable D based on the annual update schedule for each of the underlying indices. A shortened form of the initial questionnaire will be sent those completing the initial questionnaire or subsequently agreeing to participate, requesting the confirmation of the existing information and/or updates to reflect changes since the previous update or interim adjusted scoring. The semi-annual updates will review and potentially adjust all four variables. The analysis and assessment process will be the same as the one followed for the initial questionnaire, as set forth above.

In order to maintain the evergreen nature and continuous accuracy of the enforceability index, a scored country will be removed from the enforceability index if its questionnaire responses are not updated, due to a lack of response from at least two law firms, for more than one regular semi-annual update cycle.

## **INTERIM MATERIAL DEVELOPMENTS: ENFORCEABILITY WATCHLIST AND ADJUSTED SCORING**

In addition to the semi-annual updates, the enforceability index will include an Enforceability Watchlist, and, eventually, adjusted or confirmed scoring issued when material developments lead to a re-assessment of variables A, B, or C. Placement on the Enforceability Watchlist indicates that AWG has become aware of material developments in a country that may affect the

score but has not yet completed its assessment of the impact of such material developments. This could be due to a change in law (variable A), a new judicial or administrative action (variable B), or a country establishing a communications channel (variable C). Once the material development has been reported to AWG (in the cases of variables A and B) or has occurred (in the cases of variable C), the applicable country may be placed on the Enforceability Watchlist, which will signal to users of all versions of the enforceability index that the stated enforceability index score, while not yet revised, should be viewed with caution in light of ongoing developments that are not yet reflected therein.

An initial notice that a country has been placed on the Enforceability Watchlist will also provide a projected scoring action with reference to the country's existing score (increase/decrease/no change/conditional) as well as an outlook on enforceability of financing and leasing principles (positive/confirmatory/negative/conditional) based on the most recent relevant material developments. For example, if a court order refusing to grant a customary remedy has been issued, but is being appealed, the country will be placed on the Enforceability Watchlist with a negative enforceability outlook and either (i) a projected scoring action of 'decrease' if its existing variable B score is high or (ii) a projected scoring action of 'no change' if its existing variable B score is already low.

Once a country is placed on the Enforceability Watchlist, AWG will closely monitor ongoing developments and issue reports on a bi-weekly basis with fact-based, events-driven updates for such bi-weekly period. A country will remain on the watchlist until AWG makes a final determination regarding the impact of the totality of the developments on scoring. A country's score may be adjusted while it remains on the watchlist during semi-annual updates. If such an adjustment occurs, the projected scoring action for that country going forward will be with reference to the new adjusted score.

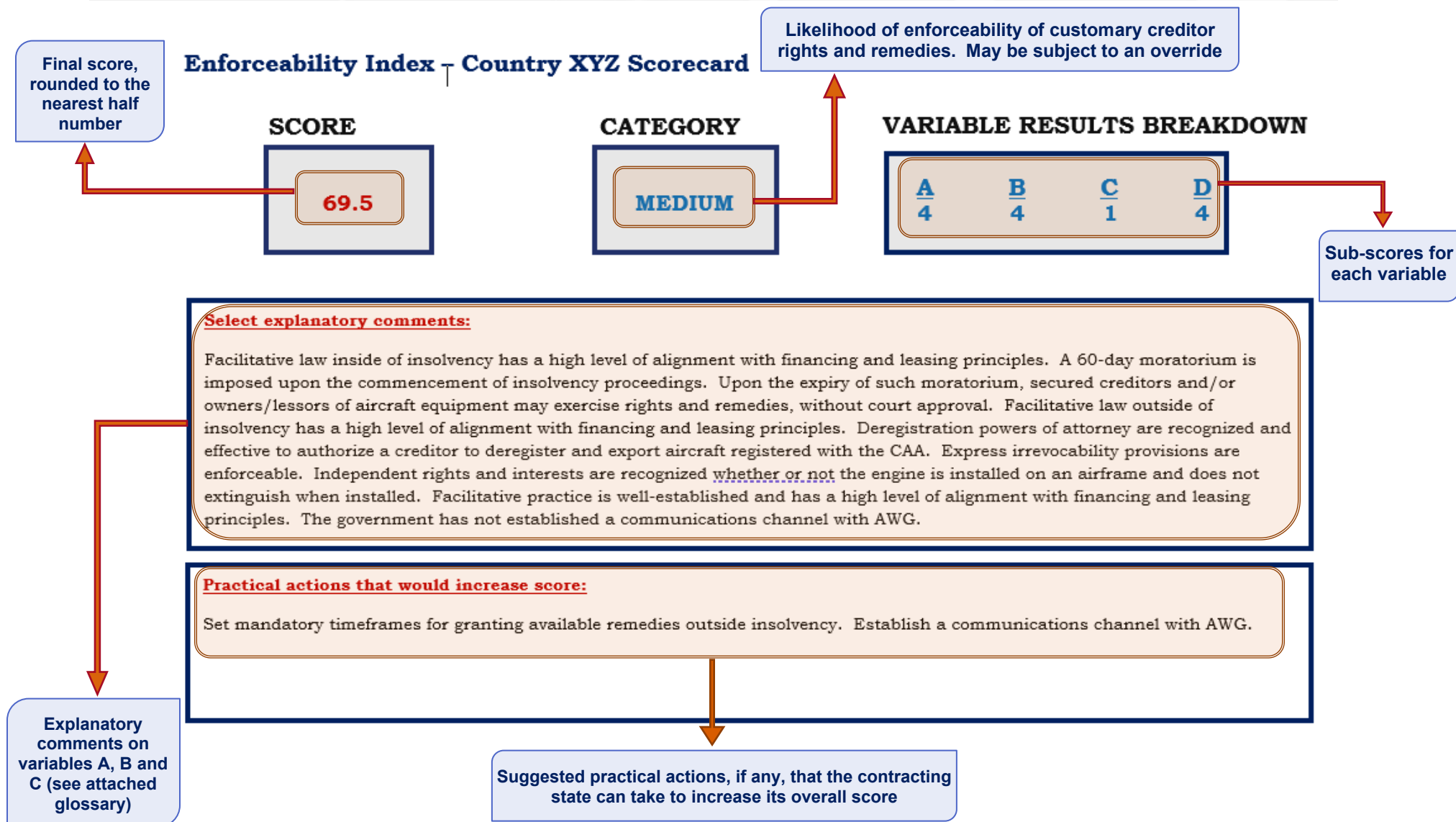
Once AWG has sufficient information such that a scoring determination can be made, either by way of adjustment or confirmation, the analysis and assessment will follow the process set forth above and either a scoring adjustment notice or scoring confirmation notice (each, a '**scoring notice**') will be issued. Upon such scoring adjustment or scoring confirmation, the country will be removed from the Enforceability Watchlist and its adjusted or confirmed score will be reflected in all versions of the enforceability index.

## **DISCLAIMER**

**No responsibility, duty, or liability is accepted by the Aviation Working Group (or any of its members or its legal counsel) or any contributing counsel to any person regarding this summary or the information provided herein or omitted, which may contain errors. This index is a high-level assessment with speculative and predictive features (including what courts or other authorities may or may not do, acting on correct or incorrect legal analysis or impacted by other factors) which are inherently uncertain. No person is permitted to rely on any part of the enforceability index. Instead, parties should retain their own counsel.**

**The enforceability index does not reflect risks that may be introduced by way of contractual agreement among contract parties, or the impact of any legal arguments presented before a decision-maker.**

**The License Terms and Conditions, available on the Enforceability Index website <https://indices.awg.aero/about/terms> including, without limitation, the section on forward-looking statements at section 5(f) thereof, are incorporated in full as though set out in full herein.**

**READING THE SCORECARD – SAMPLE SCORECARD & COMPONENTS**




## READING THE SCORECARD – GLOSSARY OF EXPLANATORY PHRASES

'[Country] law inside of insolvency does not align with financing and leasing principles. A[n indefinite] [[x]-day] moratorium is imposed upon the commencement of insolvency proceedings.'

Denotes that customary creditor rights and remedies within insolvency are subject to a moratorium barring the exercise of remedies with [no exceptions][limited exceptions (such as being subject to discretionary court approval)]. The duration of such moratorium is not limited by statute. This comment corresponds to a score of between 1 and 2.5 for variable A depending on the legal rules outside of insolvency.

'[Country] law inside of insolvency has a low level of alignment with financing and leasing principles. A [[x]-day] moratorium is imposed upon the commencement of insolvency proceedings. [Such moratorium may be extended up to [x] number of times for a maximum period of [x] months.]'

Denotes that customary creditor rights and remedies within insolvency are subject to a moratorium barring the exercise of remedies. There are limited circumstances under which creditors of aircraft equipment may exercise rights and remedies during the debtor's insolvency, subject to discretionary court approval. The duration of such moratorium is limited to a maximum of [x] days. This comment corresponds to a score of between 1 and 3.5 for variable A depending on the legal rules outside of insolvency.

'[Country] law inside of insolvency has a medium level of alignment with financing and leasing principles. A [[x]-day] moratorium is imposed upon the commencement of insolvency proceedings. [Such moratorium may be extended up to [x] number of times for a maximum period of [x] months.]'

Denotes that customary creditor rights and remedies within insolvency are subject to a moratorium barring the exercise of remedies. Creditors of aircraft equipment may exercise rights and remedies during the debtor's insolvency under limited circumstances, subject to court approval which must be granted if certain rules-based conditions are met. The duration of such moratorium is limited to a maximum of [x] days. This comment corresponds to a score of between 2 and 4.5 for variable A depending on the conditions and legal rules outside of insolvency.

'[Country] law inside of insolvency has a high level of alignment with financing and leasing principles. A [[x]-day] moratorium is imposed upon the commencement of insolvency proceedings. Upon the expiry of such moratorium, creditors of aircraft equipment may exercise rights and remedies, [subject to certain rules-based conditions] [with][without] court approval.'

Denotes that customary creditor rights and remedies within insolvency are subject to a limited [x]-day moratorium barring the exercise of remedies. Creditors may exercise remedies upon the expiration of the limited moratorium. Such exercise may be subject to certain rules-based conditions and/or non-discretionary court approval. Where court approval is not required, it will be identified in the comment. This comment corresponds to a score of between 2.5 and 5 for variable A depending on the conditions and legal rules outside of insolvency.



'Debtor has no obligation to preserve the asset while it remains in the debtor's possession.'	Denotes that, inside of insolvency, the debtor has no obligation to preserve the value of the asset while it remains in the debtor's possession. This comment corresponds to a decrease of up to 1 in the variable A score.
'Debtor [has][may have] a limited obligation to preserve the asset while it remains in the debtor's possession.'	Denotes that, inside of insolvency, the debtor [has][may have] some obligations to preserve the value of the asset in its possession. Such obligations may be subject to discretionary court approval and be limited in nature (such as preserved to an airworthiness standard rather than contractual terms). This comment corresponds to a decrease of up to 1 in the variable A score.
'Debtor has an obligation to preserve the asset while it remains in the debtor's possession.'	Denotes that, inside of insolvency, the debtor has an obligation to preserve the value of the asset in its possession. Such obligation is automatic and not subject to court discretion, with a standard that materially preserves the value of the asset consistent with creditors' commercially reasonable expectations. This comment corresponds to no decrease in the variable A score.
'Contractual terms may be modified without the consent of the affected creditor within insolvency.'	Denotes that, inside of insolvency where the debtor intends to emerge (i.e. restructuring/rehabilitation rather than liquidation), contractual terms may be modified without the consent of the affected creditor, subject to certain conditions (such as upon a majority or supermajority vote of the creditor class). This comment corresponds to a decrease of up to 1 in the variable A score.
'Contractual terms may not be modified without the consent of the affected creditor within insolvency.'	Denotes that, inside of insolvency where the debtor intends to emerge (i.e. restructuring/rehabilitation rather than liquidation), contractual terms may not be modified without the consent of the affected creditor. This comment corresponds to no decrease in the variable A score.
'[Country] law outside of insolvency does not align with financing and leasing principles. Customary creditor rights and remedies [are][may] not [be] available.'	Denotes that some or all customary creditor rights and remedies are not available as a matter of law. This comment corresponds to a score of between 1 and 2.5 for variable A depending on the legal rules inside insolvency.
'[Country] law outside of insolvency has a low level of alignment with financing and leasing principles.'	Denotes that some or all customary creditor rights and remedies are not available, or only partially available, or at significant cost to the creditor.

	This comment corresponds to a score of between 1.5 and 3 for variable A depending on the legal rules inside insolvency.
'[Country] law outside of insolvency has a medium level of alignment with financing and leasing principles.'	Denotes that most or all customary creditor rights and remedies are available, but the exercise of such rights and remedies are subject to court approval. Such court approval is discretionary and likely to delay the timely exercise of remedies and increase costs. This comment corresponds to a score of between 2 and 4 for variable A depending on the legal rules inside insolvency.
'[Country] law outside of insolvency has a high level of alignment with financing and leasing principles.'	Denotes that most or all customary creditor rights and remedies are available. The exercise of such rights and remedies (i) may be subject to non-discretionary court approval, <u>or</u> (ii) is not subject to court approval. In each case, the creditor may be required to satisfy certain rules-based conditions prior to obtaining court approval or exercising remedies without court approval. This comment corresponds to a score of between 2.5 and 5 for variable A depending on the timing for the required court approval and legal rules inside insolvency.
'Deregistration powers of attorney are not recognized and not effective to authorize a creditor to deregister and export aircraft registered with the CAA.'	Denotes that deregistration powers of attorney are not recognized and therefore cannot be used by a creditor to deregister/export aircraft on behalf of the debtor upon default. This comment corresponds to a decrease of up to 1 in the variable A score.
'Deregistration powers of attorney are recognized and effective to authorize a creditor to deregister and export aircraft registered with the CAA [subject to certain conditions outside of creditor control], but [are][may be] revocable by a debtor[, or upon a debtor's insolvency,] notwithstanding any express irrevocability provisions therein.'	Denotes that deregistration powers of attorney are recognized but are subject to certain conditions outside of the control of the creditor and/or [are][may be] revocable by the debtor even if there is an express irrevocability provision contained in such power of attorney. This comment corresponds to a decrease of up to 1 in the variable A score.
'Deregistration powers of attorney are recognized and effective to authorize a creditor to deregister and export aircraft registered with the CAA. Express irrevocability provisions are enforceable.'	Denotes that deregistration powers of attorney are recognized and express irrevocability provisions are enforceable. This comment corresponds to no decrease in the variable A score.

'Independent rights and interests are not recognized for uninstalled engines.'	Denotes that rights and interests in uninstalled engines are not recognised. This comment corresponds to a decrease of up to 1 in the variable A score.
'Independent rights and interests are only recognized for uninstalled engines. Recognition of rights agreements [are][may] not [be] effective to preserve interests in an installed engine vis-à-vis airframe creditors/owners.'	Denotes that rights and interests in uninstalled engines are recognised, but that a recognition of rights agreement may not be effective to preserve such interests in an engine once installed as against an airframe creditor or owner. This comment corresponds to a decrease of up to 1 in the variable A score.
'Independent rights and interests are only recognized for uninstalled engines. Recognition of rights agreements are effective to preserve interests in an installed engine vis-à-vis airframe creditors/owners.'	Denotes that rights and interests in uninstalled engines are recognised. A recognition of rights agreement is effective to preserve such interests in an engine once installed as against an airframe creditor or owner. This comment corresponds to a decrease of up to 0.5 in the variable A score.
'Independent rights and interests in engines are recognized whether or not the engine is installed on an airframe and does not extinguish when installed. A recognition of rights agreement from the airframe owner/interest holders is not necessary to preserve the independence of the engine interests.'	Denotes that rights and interests in engines independent of airframes are recognized whether or not the engine is installed and no recognition of rights agreement is required to preserve such interests. This comment corresponds to no decrease in the variable A score.
'Please refer to the annotations for additional information on the legal rules regarding [deregistration powers of attorney][independent rights and interests in engines][other specified issue].'	Denotes that there are particularities in the law of the jurisdiction having to do with the named issue that do not fall within the glossary terms and users should refer to the annotations for additional information.
'[Country] judicial and administrative practice is not well-established and does not align with financing and leasing principles.'	Denotes that there is no or limited and non-definitive precedent or practical experience on the application and enforcement of customary creditor rights and remedies, and such precedent/experience did not facilitate the prompt and consistent exercise of such rights and remedies. This comment corresponds to a decrease of up to 1 in the variable B score.

‘[Country] judicial and administrative practice is not well-established and has a medium level of alignment with financing and leasing principles.’	Denotes that there is no or limited and non-definitive precedent or practical experience on the application and enforcement of customary creditor rights and remedies, and such precedent/experience is mixed on the facilitation of prompt and consistent exercise of such rights and remedies. This comment corresponds to no decrease in the variable B score
‘[Country] judicial and administrative practice is not well-established and has a high level of alignment with financing and leasing principles.’	Denotes that there is no or limited and non-definitive precedent or practical experience on the application and enforcement of customary creditor rights and remedies, and such precedent/experience facilitated prompt and consistent exercise of such rights and remedies. This comment corresponds to an increase of up to 1 in the variable B score.
‘[Country] judicial and administrative practice is well-established and does not align with financing and leasing principles.’	Denotes that there are many and/or strong precedent or practical experience on the application and enforcement of customary creditor rights and remedies, and such precedent/experience did not facilitate the prompt and consistent exercise of such rights and remedies. This comment corresponds to a score of 1 or 1.5 for variable B.
‘[Country] judicial and administrative practice is well-established and has a medium level of alignment with financing and leasing principles.’	Denotes that there are many and/or strong precedent or practical experience on the application and enforcement of customary creditor rights and remedies, and such precedent/experience is mixed on the facilitation of prompt and consistent exercise of such rights and remedies. This comment corresponds to a score of between 2 and 3.5 for variable B.
‘[Country] judicial and administrative practice is well-established and has a high level of alignment with financing and leasing principles.’	Denotes that there are many and/or strong precedent or practical experience on the application and enforcement of customary creditor rights and remedies, and such precedent/experience facilitated prompt and consistent exercise of such rights and remedies. This comment corresponds to a score of between 4 and 5 for variable B.
‘The government has established a communications channel with AWG.’	Denotes the establishment of a communications channel, which has not yet been tested for efficacy. This comment corresponds to a score of 3 for variable C.
‘The government has established a communications channel with AWG, and work on	Denotes the establishment of a communications channel, which has proven effective and efficient at addressing and resolving financing and

aviation financing and leasing principles has been effective and efficient.'	leasing principles. This comment corresponds to a score of 4 or 5 for variable C depending on the level and extent of coordinated work.
'The government has established a communications channel with AWG, but work on aviation financing and leasing principles has not been effective and efficient.'	Denotes the establishment of a communications channel, which has not proven effective and efficient at addressing and resolving financing and leasing principles. This comment corresponds to a score of 1 or 2 for variable C depending on depending on the extent of the lack of responsiveness or ineffectiveness.
'The government has not established a communications channel with AWG.'	Denotes the lack of a communications channel, where the government has not responded to the AWG request or has declined to establish a communications channel per such request. This comment corresponds to a score of 1 for variable C.
'A category override has been applied.'	Denotes the application of an override to the category due to a mismatch between the overall analysis of the enforceability of customary creditor rights and remedies and the calculated score. The final score will remain as calculated to give users the most amount of information while still signalling AWG's overall determination on the most appropriate categorization for the country.