



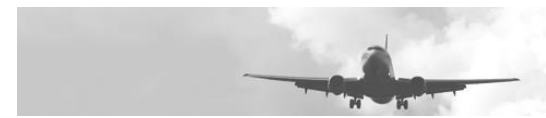
APTS | ALVES PEREIRA & TEIXEIRA DE SOUSA

LEASED AIRCRAFTS STRANDED IN RUSSIA
THE FOCUS TURNS TO INSURANCE

13TH LIABILITY SEMINAR, Berlin
European Air Law Association

JOÃO MARQUES DE ALMEIDA

Chronology of Events



- 24th February 2022 – Russia Invades Ukraine
- 25th February 2022 – Council Regulation (EU) 2022/328, amending Council Regulation (EU) No 833/2014 of 31 July 2014, and imposing additional sanctions on Russia:
 - Article 3c forbids *(i)* the sale, supply, transfer or export of goods used in the aviation or space industry, *(ii)* the provision of insurance or reinsurance in relation to said goods to any person, entity or body in Russia or for use in Russia, *(iii)* overhaul, repair, inspection, *(iv)* technical assistance (maintenance) or brokering services and *(v)* finance related to said goods and technology.
 - Prohibitions *(i)* and *(iv)* effective as of 28 March 2022 for contracts concluded before 26 February 2022
 - *(ii)*, *(iii)* and *(v)* immediately effective (26 February 2022)
- 26th February 2022 – aircraft insurance coverage no longer provided by EU insurers



Chronology of Events



- 8th March 2022 – similar sanctions approved by the UK
- 9th March 2022 – aircraft insurance coverage no longer provided by UK insurers
- 12th and 14th March 2022 –Bermuda and Ireland suspended CoAs
- 14th March 2022 - Russia responded to aviation sanctions by:
 - Prohibiting the export of aircraft
 - Validating airworthiness certificates and related documents issued by foreign aviation administrations in respect of Russian-operated aircraft, including those expiring after 1st March 2022
 - Allowing domestic Russian airlines to re-register aircraft on the Russian register without first deregistering the aircraft from their existing state of registration (typically Ireland or Bermuda)
- 28th March 2022 - aircraft lessors to terminate their lease agreements w/ Russian operators



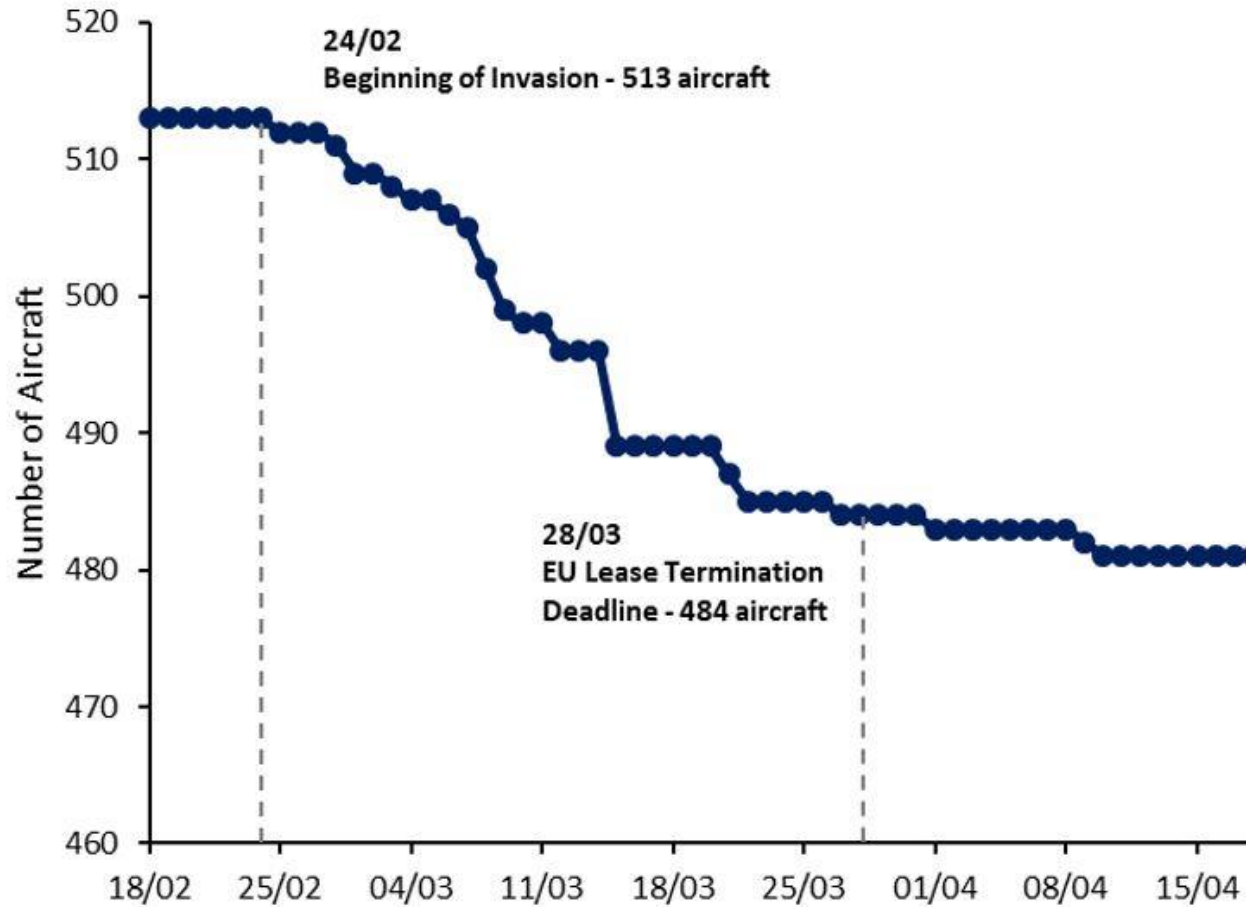
Chronology of Events



- Russia is violating article 18 of the Chicago Convention (aircraft cannot be validly registered in more than one State)
- Russia is violating the Cape Town Convention
- Russia illegally suspended bilateral agreements with Ireland and Bermuda on registration of aircrafts
- Aircrafts currently being flown in Russia without approved maintenance and valid airworthiness certification
- Risk of “cannibalization” of aircraft engines and parts



Foreign Exposure to Russian Operated Aircraft

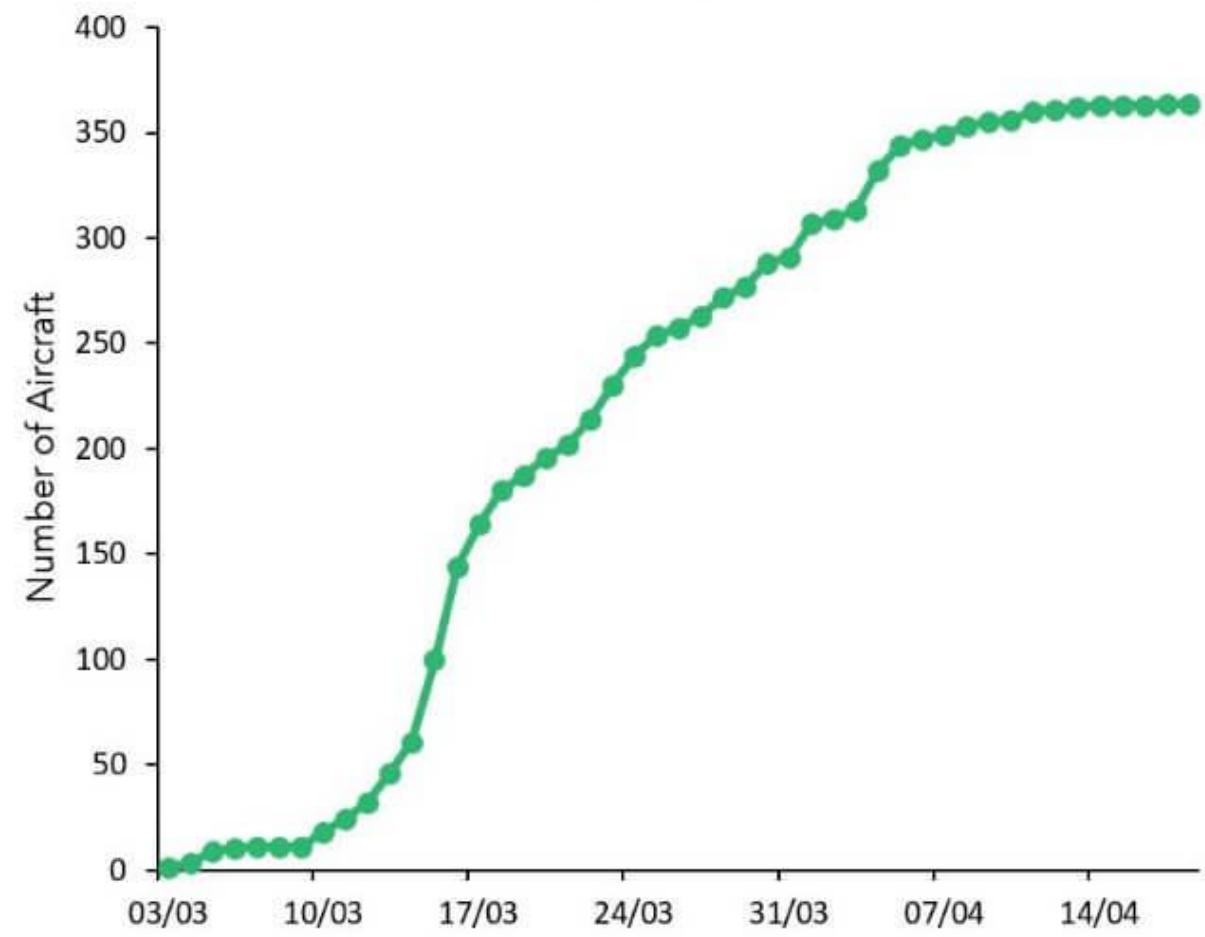


Estimate Financial Exposure (S&P) – 16 to 35 billion EUR



*Credit <https://www.iba.aero/insight/how-many-leased-aircraft-have-returned-from-russia/>

Russian aircraft re-registrations timeline



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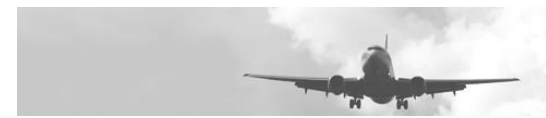
Typical Coverage Options



Hull All Risks	Hull War Risks	Contingent Hull All Risks	Contingent Hull War Risks
<ul style="list-style-type: none">• Purchased by the operator• Covers hull and liability losses• Excludes War and Allied Perils	<ul style="list-style-type: none">• Purchased by the operator• Endorsement of the War Risk Exclusion• Covers Confiscation, nationalisation, seizure	<ul style="list-style-type: none">• Purchased by the lessor• Backstops the All Risks cover from lessee• Covers claims where primary policy does not	<ul style="list-style-type: none">• Purchased by the lessor• Backstops the War Risks policy from lessee• Covers claims where primary policy does not



Pending Disputes



- Is insurance coverage still available?
 - AVN111 Sanctions Embargo Clause
 - EU FAQs of 3 May and 21 December 2022
 - Notices of coverage termination (30 days notice AVN111? 7 days notice Hull War Risks (LSW 555D/AVN67?))
- Which policy (Hull All Risks vs Hull War Risks Cover)?
 - Actual Total Loss? Physically Lost (irretrievable deprivation of possession)? Constructive Total Loss?
 - Seized / Confiscated / nationalized by Russia vs act of lessee/airline facilitated by Russia
 - Coverage Limits – Any one occurrence vs Aggregate annual loss / Single event vs multiple events



Pending Disputes



- Primary Policy vs Contingent Policy
 - Is primary coverage available to Lessors after the termination of the lease agreements?
 - Is this loss excluded in AVN67C endorsement?
- Future Impact on Aviation Insurance market?
 - Premium increase
 - Hull War confiscation risks sub-limited





Any question?

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