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Size: app. 250 pages (500 words per page) and some 100 pages for appendices

INTERNATIONAL COOPERATION IN BANKRUPTCY AND INSOLVENCY MATTERS

On the origins, development and future of
communication and cooperation in cross-border insolvency cases
between insolvency practitioners and courts.

A joint research-project of

INTERNATIONAL INSOLVENCY INSTITUTE

and

AMERICAN COLLEGE OF BANKRUPTCY

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Preface

List of Abbreviations

1. *General introduction* (app. 15 pages)

- (1) Similarities and differences in legal systems
- (2) Legal Culture and Bankruptcy: historic and comparative insights

2. *Prominent principles of domestic law* (app. 25 pages)

- (1) The principle of collectivity and the notion of a common pool
- (2) The principle equal treatment of creditors
- (3) The principle of respect for pre-insolvency rights.
- (4) The principle of rescue, rehabilitation or liquidation.
- (5) Flexibility of insolvency legislation.
- (6) World Bank 2001 Principles and Guidelines for Effective Insolvency and Creditor Rights Systems.
- (7) UNCITRAL's Legislative Guide on Insolvency Law 2004
- (8) Principles based approach in Europe

3. *Guiding approaches to international insolvency law* (app. 20 pages)

- (1) Territoriality
- (2) Universality
- (3) Alternatives
- (4) Cooperation

4. *Forms of regulation* (app. 25 pages)

- (1) Early Bankruptcy Treaties
- (2) 19th Century Conventions and Treaties
- (3) Unilateral regulation
 - a. U.S. Section 304
 - b. U.K. Section 426
 - c. Some European continental examples
 - c1. Germany (2003)

c2. Spain (2004)

c3. Others

5. *Regional regulation* (app. 60 pages)

- (1) Latin America (Bustamante Treaty etc.)
- (2) Northern Europe (Nordic Convention)
- (3) North America (failed US-Canada initiative; NAFTA)
- (4) Central Africa (OHADA)
- (5) Europe (Regulation; Directives)
- (6) South-East Asia (draft fase)

6. *Convergence* (app. 40 pages)

- (1) Harmonization through legislation.
 - a. Consumer insolvency.
 - b. Corporate rescue / Chapter 11 as guiding model
- (2) Alignment by courts and practitioners
 - a. The Early Cases (Maxwell 1992 / Olympia & York 1993)
 - b. International Bar Association - Model International Insolvency Co-Operation Act
 - c. International Bar Association - Cross-Border Insolvency Concordat (1995).
 - d. Insol International - Principles for A Global Approach to Multi-Creditor Workouts.
 - e. Cross-Border Insolvency Protocol in International Cases

7. *Turn of the century: Co-operation as anchored paradigm* (app. 35 pages)

- (1) United Nations Commission on International Trade Law (UNCITRAL) and the Model Law on Cross-Border Insolvency (1997)
- (2) Model Law's Inspiration and legislation: Mexico, Japan, South Africa, Spain, Poland, Rumania, U.S. Bankruptcy Code Chapter 15, UK Cross-Border Insolvency Regulation 2006

8. *Current and future trends in international cooperation in bankruptcy and insolvency matters*

(app. 30 pages)

- (1) Latin America
- (2) North America

- (3) Europe
- (4) Central Africa
- (5) South-East Asia

And the regional/global impact of recent developments, such as

- (a) UNCITRAL's Legislative Guide 2004 Recommendations on Conflict of Law provisions
- (b) American Law Institute – Transnational Insolvency Project – Principles of Cooperation in Transnational Insolvency Cases Among the members of NAFTA - Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases
- (3) Insol Europe's Best Practice Rules on Cross-Border Cooperation and Communication
- (4) Future perspectives on topics such as liability of directors, structure of secured credit, rights of shareholders

Bibliography

Appendices

1. Latin-American Treaties
2. Nordic Bankruptcy Convention
3. Uniform Act Organizing Collective Proceedings for Wiping Off Debts; Part VI. International Collective Proceedings
4. EU Insolvency Regulation
5. Model International Insolvency Co-Operation Act
6. Cross-Border Insolvency Concordat
7. Principles for A Global Approach to Multi-Creditor Workouts
8. UNCITRAL Model Law
9. American Law Institute – Principles
10. Insol Europe's Best Practice Rules