Uncitral Legislative Guide On Insolvency Law

This book focuses on the obligations regarding management of an enterprise when it faces imminent insolvency or insolvency becomes unavoidable. The aim of imposing such obligations, which become enforceable once insolvency proceedings commence, is to protect the legitimate interests of creditors and other stakeholders and encourage timely action to address financial distress and minimize its effects. This publication addresses the key elements of provisions imposing such obligations, as well as the nature of the obligations, the time at which the obligations should arise, the persons to whom the obligations would attach, liability for breach of the obligations and enforcement of those obligations, specifically applicable defences, remedies, the persons who may bring an action to enforce the obligations and how those actions might be funded.
This book will be of great interest to practitioners, policymakers and academics, as well as students,

particularly postgraduate students, of law and business throughout the world.

We live in an age of economic turmoil. The recent crises emphasize the need for modern, sophisticated rules to govern businesses in financial distress in order to realize value from distressed companies and to protect economic institutions. This book provides information for legislators, policymakers, lawyers, accountants, academics, and administrators who seek to understand the workings of insolvency laws. Guided by the World Bank's Principles and Guidelines, it supplements the work in this field done by UNCITRAL.

Focusing on the Global Financial Crisis 2007-2010 and the new emerging Covid-19 crisis in 2020, this book examines the discourse on risk and uncertainty in the markets through the lens of financial crises. Such crises represent a failure of the law to regulate, and constitute the basis through which a new theory of legal constants can be introduced in comparative law. Crisis impose a dramatic reformulation of

the law, the Covid-19 confirms this trend, and new out-of-law instances are appearing beyond a paternalistic approach of direct State regulation. Restructuring procedures are playing a vital role in businesses' survival, and new out-of-law mechanisms such as moratorium agreements and private workouts have become essential to preserve businesses. It is clear that the role of the law has completely changed, and this book argues that constants outside of the law are new ways to promote an "uncodified-codification" of the law. The case for uncodified uncertainty in the Covid-19 crisis is a primary example of how no codification process can ignore the importance of out-of-law instances in the act of making law. This book explores how this approach influences the harmonisation process of international economic law between national insolvency regimes and international agreed frameworks, demonstrating the role of comparative law in formulating legal constants using Covid-19 and the complexity of modern financial markets as the criterion to introduce the reader to this new theory, which claims a new

role for comparative law in policy making processes within the framework of international economic law.

International Insolvency and Finance Law

Supplement on Security Rights in Intellectual Property

Uncitral

UNCITRAL Legislative Guide on Secured Transactions

United Nations Commission on International Trade Law Yearbook 2003

This set deals with the problems generated by those cases of insolvency (either of an individual or of a company) where the presence of contacts with more than one system of law brings into operation the principles and methods of private international law (also known as conflict of laws). Part I of the main work is mainly devoted to an examination of the body of rules and practice that has evolved in England during the course of the past two-and-a-half centuries, and surveys the current state of the law derived from a blend of statutory and case authorities. Contrasting approaches under a selection of foreign systems -- principally Australia, Canada, France and the USA -- are examined by way of comparison. There are up-to-date accounts of the circumstances under which insolvency proceedings can be opened in respect of debtors which are not primarily based in England, and of the grounds on which English courts will recognize foreign insolvency proceedings and give assistance to the foreign representative of the debtor's estate. Part II of the main work explores the progress towards the creation of international arrangements to co-

ordinate and rationalize the conduct of insolvency proceedings which have cross-border features, particularly where the debtor is capable of being subjected to concurrent proceedings in two or more jurisdictions. Central to the developments described in detail in this Part are the EC Regulation on Insolvency Proceedings and the UNCITRAL Model Law on Cross-Border Insolvency. This set includes the supplement to the second edition, which covers key developments in case law and legislation in the subject up to October 2006, and is an essential purchase for all who have already bought the main work. It includes the full text of the Cross-Border Insolvency Regulations 2006, along with commentary on the regulations. The supplement also includes the text of Council Regulation 694/2006, amending EC Regulation 1346/2000 on insolvency proceedings, and references to key developments in case law, including Eurofood IFSC Ltd, Daisytek ISA, and Cambridge Gas Transport Corp v Official Committee of Unsecured Creditors of Navigator Holdings plc. The commentary on case developments links back to the relevant paragraph in the main work. New to this Edition: · New supplement updating the second edition with commentary on recent developments, to October 2006 · Major recasting of chapter 6 (formerly dealing with the (by then) dormant EC Convention on Insolvency Proceedings) now giving an account of the EC Regulation on Insolvency Proceedings, in force since 31 May 02 · Adjustments throughout the book to explain the impact of the Regulation on other aspects of law and practice · Full account is taken of statutory and case law developments since 1998 · There is a new chapter assessing other international developments since 1998 including the ALI Transnational Insolvency Project; the World Bank Principles and Guidelines; and the UNCITRAL Legislative Guide on Insolvency Law (completed 2004)

This is the long-awaited second edition of this highly regarded comparative overview of corporate

law. This edition has been comprehensively updated to reflect profound changes in corporate law. It now includes consideration of additional matters such as the highly topical issue of enforcement in corporate law, and explores the continued convergence of corporate law across jurisdictions. The authors start from the premise that corporate (or company) law across jurisdictions addresses the same three basic agency problems: (1) the opportunism of managers vis-à-vis shareholders; (2) the opportunism of controlling shareholders vis-à-vis minority shareholders; and (3) the opportunism of shareholders as a class vis-à-vis other corporate constituencies, such as corporate creditors and employees. Every jurisdiction must address these problems in a variety of contexts, framed by the corporation's internal dynamics and its interactions with the product, labor, capital, and takeover markets. The authors' central claim, however, is that corporate (or company) forms are fundamentally similar and that, to a surprising degree, jurisdictions pick from among the same handful of legal strategies to address the three basic agency issues. This book explains in detail how (and why) the principal European jurisdictions, Japan, and the United States sometimes select identical legal strategies to address a given corporate law problem, and sometimes make divergent choices. After an introductory discussion of agency issues and legal strategies, the book addresses the basic governance structure of the corporation, including the powers of the board of directors and the shareholders meeting. It proceeds to creditor protection measures, related-party transactions, and fundamental corporate actions such as mergers and charter amendments. Finally, it concludes with an examination of friendly acquisitions, hostile takeovers, and the regulation of the capital markets. Samenvatting Inleiding Het insolventierecht is een materie waarin ontwikkelingen de laatste decennia talrijk en ingrijpend zijn geweest. Het belang van deze evoluties en wijzigingen is haast

niet te overzien en er kan zowaar worden gesproken over een zelfstandige rechtstak die zelfs verschillende malen in conflict is komen te staan met de overige rechtsgebieden(E. DIRIX, "Het insolventierecht op nieuwe wegen", RW 2011-12, 74.). Een toetsing van het Belgische insolventierecht aan de "Legislative Guide" kan op verschillende wijzen gebeuren. Ter afbakening van mijn onderwerp koos ik ervoor om een blik te werpen op de manier waarop een schuldeiser wordt behandeld in het insolventierecht. Hierbij ging ik uit van één omvattende rechtsvraag: "Worden de rechten van schuldeisers op een efficiënte, effectieve en billijke wijze gewaarborgd in het Belgisch insolventierecht?". Om een antwoord op deze vraag te bekomen, maak ik gebruik van een vierdelige toetsing. Corpus In het eerste deel van de bespreking wierp ik een blik op de Wet Continuïteit Ondernemingen. Deze nieuwe wetgeving is een spraakmakende regelgeving die na een korte toetsing reeds verschillende gebreken en tekortkomingen vertoonde. De wetgever koos namelijk voor een verregaande "open portaal" benadering die betrekking heeft op verschillende aspecten van de wet. Dit effect wordt verstrekt door de heersende rechtspraak. Een dergelijke zienswijze heeft echter een aanzienlijk gebrek aan controle tot gevolg waardoor een zeker misbruik van de procedure kan worden gemaakt. De Wet Continuïteit Ondernemingen heeft op dit moment aldus nood aan een duidelijke omkadering waardoor de rechten van schuldeiser in ere worden hersteld. Het tweede deel van de toetsing vertrekt vanuit het heikel punt van het gelijkheidsbeginsel. Door middel van de uitzonderingen op dit beginsel (zijnde de voorrechten en de conventionele voorrangsmechanismen), wenste ik een tweede domein te verkennen dat een invloed heeft op de wijze waarop een schuldeiser wordt behandeld in het insolventierecht. De uiteindelijke conclusie viel enigszins te betreuren. De bestaande wildgroei aan voorrechten is niets meer dan een "scheefgegroeide materie"(E. DIRIX en R. DE CORTE,

"Zekerheidsrechten" in R. DILLEMANS en W. VAN GERVEN, Beginselen van Belgisch privaatrecht, Antwerpen, Story-Scientia, 1999, 144.) . Dit is een spijtige aangelegenheid aangezien ieder voorrecht dat verleend wordt, ten nadele gaat van andere schuldeisers. Ik dien hierbij wel te wijzen op het wetsontwerp tot wijziging van het Burgerlijk Wetboek wat de zakelijke zekerheden op roerende goederen betreft. De hervormingen die het wetsontwerp beoogt kunnen namelijk worden toegejuicht in het licht van de "Legislative Guide". Naast de voorrechten, spelen ook de conventionele voorrangsmechanismen een grote rol in dit deel van de toetsing. Deze bieden de schuldeiser een mogelijkheid om te ontkomen aan een situatie van samenloop. Wat de geldigheid hiervan betreft, maakt het Hof van Cassatie een onderscheid tussen de handelingen die je kan kwalificeren als de creatie van een zakelijke zekerheid enerzijds, en de overige verbintenisrechtelijke mechanismen die een samenloop situatie in hoofde van de begunstigde voorkomen anderzijds. Op grond van de evolutie in de rechtspraak zullen enkel deze laatste hun tegenwerpelijkheid behouden in het geval van een samenloop(I. PEETERS, "Cessie tot zekerheid: een verrassend slot van de controverse", (noot onder Cass. 3 december 2010), Bank. Fin R. 2011, 125; R. FRANSIS, "De conversie van de fiduciaire eigendomsoverdracht van een schuldvordering in een pand bij samenloop", (noot onder Cass. 3 december 2010), RW 2011, 1180.). In tegenstelling tot de regeling inzake de voorrechten, bereikt de wetgever hier wel een noemenswaardig evenwicht. Hoewel het belang van de wilsautonomie wordt onderstreept en de bescherming van de contractsvrijheid in het insolventierecht wordt erkend (E. DIRIX, "De zekerheidsoverdracht van schuldvorderingen herbezocht", in A. BOSSUYT, B. DECONINCK en E. DIRIX (eds.), Liber spei et amicitiae Ivan Verougstraete, Gent, Larcier, 2011, 309.), krijgt dit laatste beginsel geen vrijspel. Deel drie vertrekt vanuit een vraagstelling naar het al dan niet

bestaan van een billijk evenwicht tussen een erkenning van de rechten van schuldeisers en de belangen van de schuldenaar. Een rechtssysteem dat het belang inziet van een behoud aan verkregen rechten creëert niet enkel een stabiele markt, maar vereenvoudigt tevens de toekenning van een krediet en de daaraan gerelateerde voorwaarden (UNCITRAL, Legislative Guide on Insolvency Law, 2005, 13.). De "fresh start and discharge" doctrine die de Belgische wetgever naar Amerikaans voorbeeld in 1997 invoerde,(B. MOUTON, "Bevrijdingen in het faillissementsrecht: overzicht en stand van zaken", T. Fin. R. 2010, 3.) stelt het evenwicht op de proef. Dit beleid bestaat hoofdzakelijk uit de regeling inzake de verschoonbaarheid en de bevrijding van de kosteloze persoonlijke zekerheidssteller. De ontwikkelingen op het gebied van uitbreiding van personen die mede kunnen genieten van de verschoonbaarheid, geven aanleiding tot enkele moeilijke vraagstukken. Het aantal individuen dat mede kan genieten van een verschoonbaarheid blijkt namelijk alsmaar uit te dijen. Naast de echtgenoot en ex-echtgenoot, zal ook de wettelijk samenwonende kunnen genieten van de bevrijding. Deze irrationele uitbreidingen kunnen onmogelijk worden verzoend met de rechten en belangen van schuldeisers. Ook de bevrijding van de kosteloze persoonlijke zekerheidssteller vormt een uniek systeem dat geen navolging kent, en allicht niet zal kennen, binnen Europa (E. DIRIX, "Het insolventierecht op nieuwe wegen", RW 2011-2012, 76.). Het doel van een persoonlijke zekerheid is de schuldeiser van aanvullende mogelijkheden tot uitwinning te voorzien door middel van een bijkomende schuldenaar toe te voegen. Op deze wijze kan de schuldenaar een situatie van samenloop ontkomen (E. DIRIX en R. DE CORTE, "Zekerheidsrechten" in R. DILLEMANS en W. VAN GERVEN, Beginselen van Belgisch privaatrecht, Antwerpen, Story-Scientia, 1999, 230.). Door middel van art. 80 Faill. W. dreigt deze zekerheid echter elke relevante waarde te verliezen

aangezien het risico van onvermogen in bepaalde gevallen gewoonweg niet gedekt wordt. De wetgever gaat met andere woorden rechtstreeks in tegen de essentie van dit concept. In het vierde en laatste deel van de toetsing ligt de nadruk op het vermogen en de daar bijhorende activa van de gefailleerde schuldenaar. In principe zal de gefailleerde op het ogenblik van het faillissement zich nog in verscheidene contractuele relaties bevinden waarin de wederzijdse plichten nog niet geheel werden vervuld.(UNCITRAL, Legislative Guide on Insolvency Law, 2005, 121.) Hierdoor zal reeds in een vrij vroeg stadium een afweging gemaakt moeten worden tussen de continuïteit van de overeenkomsten (m.a.w. dus een naleving van het gemene verbintenissen recht) en het behoud van de boedel die ten gevolge van die lopende overeenkomsten aanzienlijk dreigt te worden bezwaard.(E. DIRIX, "Insolventierecht en gemeenrecht" in X (ed.), Van alle markten: Liber amicorum Eddy Wymeersch, Antwerpen, Intersentia, 2008, 419.) Het Hof van Cassatie komt in een arrest van 2008 tot het besluit dat verleende contractuele gebruiksrechten kunnen aangetast worden,(E. DIRIX, "Lopende overeenkomsten bij faillissement en gerechtelijke reorganisatie", in H. BRAECKMANS, H. COUSY, E. DIRIX, B. TILLEMAN en M. VANMEENEN (eds.), Curatoren en vereffenaars: actuele ontwikkelingen II, Antwerpen, Intersentia, 2010, 162.) "zelfs wanneer door die overeenkomst rechten worden verleend die aan de boedel tegenwerpelijk zijn"(Cass. 10 april 2008, www.cass.be.) . De curator moet wel aantonen dat de overeenkomst in kwestie de vereffening van de boedel belet of abnormaal bezwaart. Deze interpretatie door het Hof van Cassatie kan mijns inziens worden bijgetreden. Het rechtszekerheidsbeginsel maakt namelijk deel uit van een resem principes en sleuteldoelstellingen waardoor het niet mogelijk is om hier een absolute werking aan toe te kennen. Dat zou immers leiden tot een tegenspraak met ondermeer het gelijkheidsbeginsel. Besluit Het Belgische insolventierecht kan worden

omschreven als een pro debitore regeling. In dat eenzelfde beleid is het me meermaals opgevallen dat de wetgever de rechten en belangen van schuldeisers gewoonweg uit het oog verliest. De door de wetgever gemaakte keuzen en de evoluties die door de rechtspraak teweeg werden gebracht, hebben tot gevolg dat een onevenwichtige situatie gecreëerd wordt tussen rechten van schuldeisers en de belangen van de schuldenaar.

"This book offers an empirically grounded theory that reframes the study of law and society from a predominantly national context, which dichotomizes the study of international law and national compliance into a dynamic perspective that places national, international, and transnational lawmaking and practice within a coherent single frame. By presenting and elaborating on a new concept, transnational legal orders it offers an original approach to the emergence of legal orders beyond nation-states. It shows how they originate, where they compete and cooperate, and how they settle on institutions that legally order fundamental economic and social behaviors that transcend national borders. This original theory is applied and developed by distinguished scholars from North America and Europe in business law, regulatory law and human rights"--

Part IV Directors' Obligations in the Period Approaching Insolvency

Draft UNCITRAL Legislative Guide on Insolvency Law

Asian Insolvency Systems

Draft Guide to Enactment of the UNCITRAL Model Legislative Provisions on Cross-Border Insolvency

The closure of many small and medium enterprises ("SMEs") following the global financial crisis of 2008 spurred the Chinese government to follow its international

counterparts in issuing an economic stimulus package. While it was effective in preventing many financially distressed SMEs from failure by boosting demand for its businesses, in the long run, such SMEs should be rescued through a statutory regime which affords them temporary protection from creditors and provides them an opportunity to restructure their businesses. In so doing, the premature liquidation of SMEs would be prevented and SMEs with viable businesses but in temporary financial difficulties would be given a chance to succeed again. Although China's new Enterprise Bankruptcy Law ("EBL") has shortcomings, it improves upon its predecessor legislation and, since it is still at an infantile stage of development, is bound for further reform. Despite the EBL's success in bringing Chinese corporate bankruptcy laws in line with international standards, full compliance with the UNCITRAL Model Law on Cross-Border Insolvency and UNCITRAL Legislative Guide on Insolvency Law remains to be seen. In September 2008, the South China Morning Post newspaper reported that the number of [applications for] corporate reorganization and bankruptcy cases had dropped, "leading to widespread speculation there are problems in the law's practical application". This article examines the implementation of the EBL, critiques key aspects of the EBL, and argues for a comprehensive assessment of the EBL and for bringing the EBL in full compliance with the international standards on cross-

border insolvency.

The UNCITRAL Yearbook is a compilation of all substantive documents related to the work of the Commission and its Working Groups. It also reproduces the annual Report of the Commission which is published as Supplement No. 17 of the "Official Records of the General Assembly". The Yearbook is published in English, French, Russian and Spanish and is available in the libraries that function as the United Nations Depository Libraries. Such libraries exist in national capitals and in a number of other major or university cities

UNCITRAL model law on cross-border insolvency -- Guide to enactment and interpretation of the UNCITRAL model law on cross-border insolvency -- General assembly resolution 52/158 of 15 december 1997 -- decision of the united nations commission on international trade law

The roles of the public and private sectors in the development of infrastructure have evolved considerably. In the 19th century, private companies, licensed by the government, developed many public services (energy, transport etc.); for most of the 20th century the trend was towards public provision of infrastructure and services, but in the later years a reverse trend towards private sector participation and competition was evident. This guide sets out recommended legislative principles designed to assist in the establishment of a framework favourable to privately

financed infrastructural projects. The guide aims to achieve a balance between facilitating and encouraging private involvement in this field, and the various public concerns (such as continuity of service, health and safety, environmental protection).

Sakakawea Collection

The Uncitral Experience

The Framework of Corporate Insolvency Law

International Insolvency Law

UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects

As Asian markets are now increasingly integrated in the world economy their domestic insolvency systems need to meet the expectations of international investors and lenders. Many Asian jurisdictions are responding by reforming insolvency laws, introducing new procedures and strengthening institutions, but others are much less active. These conference proceedings include papers showing how far various Asian countries have come in building effective and predictable insolvency systems and shows to what extent their systems provide confidence to investors and

lenders.--Publisher's description.

A fresh and insightful guide to post-financial crisis cross-border insolvency, this book interrogates the current regime and sets out a pattern to improve its future. In recent decades, and especially since the global financial crisis, a number of important initiatives have focused ondeveloping effective solutions for managing the insolvency of multinational enterprises and financial institutions. Irit Mevorach here takes stock of the varying success of previous policy, and identifies the gaps and biases that could be bridged by a new approach.The book first sets out the theoretical debates regarding cross-border insolvency and surveys the strengths and weaknesses of the prevailing method - modified universalism - synthesizing divergences into a rubric for both commercial entities and financial institutions. Adhering to these norms morerobustly, Mevorach argues, would enhance global welfare and produce the best outcomes for businesses and institutions.Drawing upon sources from international law as well as behavioural and

economic theory, Mevorach considers how to translate modified universalism into binding international law and how to choose the right instrument for cross-border insolvency; the impact instrument design has on decisions andchoices, and how to encourage compliance. In particular, the book proposes tools and mechanisms that could potentially overcome, or at least take into account, behavioural biases in decision-making in order to create a system that works for businesses, and offers a blueprint for the future ofcross-border insolvency.

International insolvency is a newly-established branch of the study of insolvency that owes much to the phenomenon of cross-border incorporations and the conduct of business in more than one jurisdiction. It is largely the offspring of globalization and involves looking at both law and economic rules. This book is a compendium of essays by eminent academics and practitioners in the field who trace the development of the subject, give an account of the influences of economics, legal history and private

international law, and chart its relationship with finance and security issues as well as the importance of business rescue as a phenomenon. Furthermore, the essays examine how international instruments introduced in recent years function as well as how the subject itself is continually being innovated by being confronted by the challenges of other areas of law with which it becomes entangled.

"The Legislative Guide provides a comprehensive statement of the key objectives and principles that should be reflected in a State's insolvency laws. It is intended to inform and assist insolvency law reform around the world, providing a reference tool for national authorities and legislative bodies when preparing new laws and regulations or reviewing the adequacy of existing laws and regulations. The advice provided aims at achieving a balance between the need to address a debtor's financial difficulty as quickly and efficiently as possible; the interests of the various parties directly concerned with that financial difficulty, principally creditors and other stakeholders in the debtor's

business; and public policy concerns, such as employment and taxation. The Legislative Guide assists the reader to evaluate the different approaches and solutions available and to choose the one most suitable to the local context. ... Part three addresses the treatment of enterprise groups in insolvency, both nationally and internationally. While many of the issues addressed in parts one and two are equally applicable to enterprise groups, there are that only apply in the enterprise group context. Part three thus builds upon and supplements parts one and two. At the domestic level, the commentary and recommendations of part three cover various mechanisms that can be used to streamline insolvency proceedings involving two or more members of the same enterprise group. These include: procedural coordination of multiple proceedings concerning different debtors; issues concerning post-commencement and post-application finance in a group context; avoidance provisions; substantive consolidation of insolvency proceedings affecting two or more group members; appointment

of a single or the same insolvency representative to all group members subject to insolvency; and coordinated reorganization plans. In terms of the international treatment of groups, part three focuses on cooperation and coordination, extending provisions based upon the Model Law on Cross-Border Insolvency to the group context and, as appropriate, considering the applicability to the international context of the mechanisms proposed to address enterprise group insolvencies in the national context."--Publisher website.

Commencement of Insolvency Proceedings

Directors' obligations in the period approaching insolvency.

Part four

Micro, Small, and Medium Enterprise Insolvency

UNCITRAL Model Law on Cross-border Insolvency with Guide to Enactment and Interpretation

Note

The Model Legislative Provisions and the Legislative Guide on Public-Private Partnerships were prepared by the United Nations Commission on International

Trade Law (UNCITRAL) and adopted at its fifty-second session (Vienna, 8-19 July 2019). In addition to representatives of member States of the Commission, representatives of many other States and of several international organizations, both intergovernmental and non-governmental, participated actively in the preparatory work. The Model Legislative Provisions translate into legislative language the advice given in the recommendations contained in the Legislative Guide. The Model Legislative Provisions are intended to assist in the establishment of a legislative framework favourable to public-private partnerships (PPPs). The Model Legislative Provisions follow the corresponding notes in the Legislative Guide, which offer an analytical introduction with references to financial, regulatory, legal, policy and other issues raised in the subject area. The user is advised to read the Model Legislative Provisions together with the Legislative Guide, which provide background information to enhance understanding of the legislative recommendations. The Model Legislative Provisions deal with matters that it is important to address in legislation specifically concerned with PPPs. They do not deal with other areas of law that, as discussed in the Legislative Guide, also have an impact on PPPs. Moreover, the successful implementation of PPPs typically requires various measures beyond the establishment of an appropriate legislative framework, such as

adequate administrative structures and practices, organizational capability, technical expertise, appropriate human and financial resources and economic stability.

Going for Broke focuses on insolvency as an additional civil remedy in the arsenal of asset recovery practitioners, specifically in the context of grand corruption investigations and proceedings. The recovery of corruption proceeds is often sought through criminal prosecution and confiscation or civil lawsuits. Insolvency proceedings can also be an effective mechanism in the right circumstances, with their own advantages and disadvantages. The scenario that is most likely to benefit from this type of remedy is one in which bribes and stolen funds have been routed through special-purpose companies. This guidebook is intended as a practical tool to help policy makers, public officials, and those who have been entrusted with recovering their nations' stolen assets. It informs them about the ways that insolvency can be used to pursue proceeds of corruption. It may also serve as a quick reference for other practitioners: insolvency professionals, auditors, financial institutions, in-house counsel, and other professionals who deal with corruption.

This book provides a critical examination of modern English corporate insolvency law, in particular the procedures under the Insolvency Act 1986, from both

conceptual and functional points of view. It focuses throughout on identifying a rational explanation for the form that the rules and institutions of the modern law take or, where there is no such rational explanation, the history which has resulted in the present position. A central theme of the book is that the nature and fundamental purpose of insolvency proceedings themselves dictate many of the features of English insolvency proceedings. For example, collective execution on behalf of creditors necessitates definition of the insolvent estate and the provision of rules concerning provable debts and transaction avoidance. Many key features of the insolvency procedures are therefore essentially matters of practicality rather than principle, albeit practicalities applied justly and fairly. The book covers the nature and purpose of insolvency law; the procedures; the administration, supervision and regulation of insolvency proceedings; the insolvent estate and transaction avoidance; investigation and wrongdoing by directors; phoenixism and pre-packing; distribution of the insolvent estate; and, lastly, cross-border insolvency. It examines the various principles of insolvency law in the context of practice, drawing upon historical perspectives where appropriate. By explaining how the law takes the form that it does, the book promotes an understanding of the present law and institutions as a whole, and shows how this understanding might inform future developments.

International Cooperation in Bankruptcy and Insolvency is published in cooperation with the International Insolvency Institute and the American College of Bankruptcy. The Honorable Bruce A. Markell, Dr. Bob Wessels and Prof. Jason Kilborn provide readers with invaluable insights into the origin, development and future of communication and cooperation in cross-border insolvency cases between insolvency practitioners and the courts. The globalization of the world's economy has led to highly complex international aspects of financial reorganization and restructuring. This publication analyzes the structures, systems, and practices that have developed and are quickly emerging to coordinate and enhance international administrations.

Toetsing Van Het Belgische Insolventierecht Aan The Uncitral Legislative Guide on Insolvency Law

Insolvency in Private International Law

International Secured Transactions

National Laws and International Texts

Legislative Guide on Insolvency Law

The "Model Law" deals with security interests in all types of tangible and intangible movable property, such as goods, receivables, bank accounts, negotiable instruments, negotiable documents,

This book presents problems that often arise in the context of international/cross-border insolvencies; analyzes and compares national legislations and jurisprudence; elucidates the solutions offered by international/regional instruments; and explores the differences in the implementation of these instruments by various countries and the consequences of these differences. It examines in detail a number of famous and less famous cases tried by national courts, in which it became readily apparent that insolvency law remains one of the bastions of national law. In addition, the book discusses the notion of transplanting foreign [international] insolvency rules and especially the influence that US insolvency law has exerted on other countries' insolvency [and international insolvency] law. Far from adopting an unrealistically optimistic stance, it soberly examines the complications of cross-border insolvencies, while also presenting potential solutions.

Cross-Border Insolvency Law in Australia engages with several current multi-billion dollar insolvencies such as those of Nortel Networks and Lehman Brothers to provide the reader with state of the art knowledge of the complex problems posed by transnational insolvency. As the number of transnational insolvencies grows due to prevailing economic conditions, practitioners are

increasingly required to navigate the mass of legal rules applicable to cross-border insolvency situations. The associated challenges are heightened by the diversity of legal structures employed by modern business entities and a patchwork of costly, inefficient, and unpredictable national legal rules. The response has been a proliferation of international legal instruments such as the UNCITRAL Model Law, supra-national rules such as the EU Insolvency Regulation, and judicial practice, adding further layers of complexity. Writing from an Australian perspective, the authors analyse this network of legal rules and subsequent case law. In addition, they explain the theoretical underpinnings of these rules in an accessible manner to build a solid foundation for practice, facilitate advanced reasoning, and enable the development of sophisticated arguments for law reform. Comparative case law from jurisdictions such as the United States and United Kingdom is also included. This book is highly relevant to insolvency practitioners faced with the recovery of assets transnationally, transactional lawyers for whom knowledge of potential insolvency pitfalls is essential, and academics. It is invaluable for students at both undergraduate and postgraduate level seeking a sound understanding of this challenging area of law. Features oÂeo Provides a concise theoretical account of international insolvency to develop clear

understanding of the concepts underpinning the cross-border insolvency practice oÂeo Includes a comparative overview of key international developments and case law oÂeo Highlights key trends in practice to ensure practitioners remain current oÂeo Offers innovative arguments and approaches to this complex area of law Related Titles Assaf, Shields & Kincaid, Voidable Transactions in Company Insolvency, 2014 Brown, Symes & Wellard, Australian Insolvency Law: Cases & Materials, 2015 Rodrigo, Demand Guarantees: Operation, Enforcement and the Autonomy Principle, 2015 Symes, Australian Insolvency Law, 3rd ed, 2015

The latest release contains the following information. - CYPRUS: Introduction; Objectives of Secured Transactions Regime; Basic Approaches to Security; Creation of Security Interest; Filing System; Publicity; Priority; Pre-Default Rights and Obligations; Consumer Protection; Default and Enforcement; Insolvency; Conflict of Laws and Territorial Application; Conclusion - DENMARK: Introduction; Objectives of Secured Transactions Regime; Basic Approaches to Security; Creation; Filing System; Insolvency; Conclusion - GERMANY: Introduction; Basic Approaches to Security; Creation of Security Rights; Publicity and Filing Systems; Enforcement; Insolvency; Conflict of Laws and Territorial Application; Recognition and Enforcement of Foreign

Judgments and Arbitral Awards; Conclusion - POLAND: Introduction; Basic Approaches to Security; Creation; Filing System; Priority; Default and Enforcement; Insolvency - UKRAINE: Key Objectives of Secured Transactions Regime; Basic Approaches to Security; Creation of Security Interests; Priority; Pre-Default Rights and Obligations of the Parties; Default and Enforcement; Insolvency; Conflicts of Law and Territorial Application International Secured Transactions examines the UNCITRAL Draft Guide on Secured Transactions which is designed to promote increased access to low-cost credit by encouraging the introduction of effective and efficient domestic secured transactions laws around the world. This publication also offers an analysis of current secured transactions law in over 30 commercial jurisdictions. Many of the jurisdictions covered have laws that significantly track the UNCITRAL Draft Guide. Leading practitioners from major law firms in North and South America, Europe, and Asia provide insightful, practical commentary on their respective security interests' regimes, comparing them with the provisions of the UNCITRAL legislative guidelines and, ultimately, advising on the status of their implementation in their respective countries. About the Center for International Legal Studies The Center for International Legal Studies (CILS) is a non-profit research, training, and law publications institute, established

and operating under Austrian law. Its international headquarters are in Salzburg, Austria, having operated from there since 1976. CILS cooperates internationally with numerous institutions of higher legal education, lawyers' professional associations and international organizations such as UNCITRAL, the ITU, and WIPO, and is participating - with a 16 member delegation in the United Nations' Information Technology Summits (WSIS) in Geneva and Tunis. The essential purpose of the Center for International Legal Studies is the promotion of the dissemination of information among members of the international legal community through legal research and publication projects, post-graduate and professional training programs, and annual legal education conferences. Countries covered include Argentina, Australia, Brazil, Canada, Colombia, Czech Republic, Denmark, Germany, Hungary, Ireland, Israel, Italy, Japan, Jersey, New Zealand, Philippines, Romania, Russian Federation, Slovak Republic, Spain, Sweden, Switzerland, Thailand, United States, and Venezuela. Additional countries to be added are Austria, Belgium, Chile, China, Finland, France, Greece, Luxembourg, Mexico, Peru, Portugal, Serbia, Singapore, South Africa, Taiwan, United Kingdom, and the Ukraine. The publication will include special reports on European Union aspects and UNIDROIT, an introductory chapter prepared by UNCITRAL, and appendices

provided by UNCITRAL.
Going for Broke
Official Records
Closing the Implementation Gap
China's New Enterprise Bankruptcy Law -- A Great Leap Forward, But Just How Far
Compilation of Comments by International Organizations : Note

This book reconsiders the treatment of distressed Micro, Small and Medium Enterprises (MSMEs). Recognising that insolvency systems traditionally suit larger enterprises, and that they do not always apply neatly to smaller entities, the book proposes a 'modular' approach designed to facilitate the treatment of smaller enterprises in distress.

This publication seeks to assist the establishment of a legal framework for an efficient and effective national corporate insolvency regime which strikes a balance between the financial difficulties of debtors and the interests of creditors and other relevant parties, as well as addressing public policy concerns. The text of this draft legislative guide was adopted by UNCITRAL in June 2004 and approved by UN General Assembly resolution 59/40 in December 2004.

The purpose of the publication is to assist States in developing

modern secured transactions laws with a view to promoting the availability of secured credit. The Guide is intended to be useful to States that do not currently have efficient and effective secured transaction laws, as well as to States that already have workable laws but wish to modernize their laws and modernize them with the laws of other States.

This volume containsthe reports and discussions presented at the conference "The Future of Secured Credit in Europe" in Munich from July 12th to July 14th, 2007. It aims at taking the debate to a new stage by exploring the need and possible avenues for creating a European law of security interests. The first part examines - from an economic and a community law perspective - the case for European lawmaking on secured credit and the legislative approach to be taken. The intention in the second and third part is to look in more detail at the choices European lawmakers will have to make in devising a European law of secured credit. The second part focuses on secured transactions involving corporeal movables (tangibles), whereas the third part considers categories of collateral that may require special rules.

Orderly and Effective Insolvency Procedures

UNCITRAL Legislative Guide on Insolvency Law

Uncitral Legislative Guide on Public-Private Partnerships

Transnational Legal Orders
Overcoming Biases and Closing Gaps

This comprehensive book provides a clear analysis of the European Restructuring Directive, which aims to improve national frameworks governing business restructuring and insolvency as well as to provide debt relief for individuals. Gerard McCormack explores the key aspects of the Directive including the moratorium on litigation and enforcement claims against the financially-troubled business, the provision for new financing, the division of creditors into classes, the introduction of a restructuring plan and the rules for approval of the plan by a court or administrative authority.

Written by IMF's Legal Department, this book outlines the key issues involved in designing and implementing orderly and effective insolvency procedures, which play a critical role in fostering growth and competitiveness and may also assist in the prevention and resolution of financial crises. The book draws on lessons learned from firsthand experience by some of the IMF's 182 member countries. It includes an analysis of the major policy choices that countries need to address when designing an insolvency system, a discussion of the advantages and disadvantages of these choices, and a number of specific recommendations.

UNCITRAL Legislative Guide on Insolvency LawPart IV Directors' Obligations in the Period Approaching InsolvencyUnited Nations Publications

The overall objective of the UNCITRAL Legislative Guide on Secured Transactions (the

Guide) is to promote low-cost credit by enhancing the availability of secured credit. In line with this objective, the Supplement on Security Rights in Intellectual Property (the Supplement) is intended to make credit more available and at a lower cost to intellectual property owners and other intellectual property rights holders, thus enhancing the value of intellectual property rights as security for credit. The Supplement, however, seeks to achieve that objective without interfering with fundamental policies of law relating to intellectual property.

The Future of Secured Credit in Europe

Cross-Border Insolvency Law

The Anatomy of Corporate Law

A Modular Approach

Insolvency Tools to Support Cross-Border Asset Recovery in Corruption Cases

This is the first volume in the new Oxford International and Comparative Insolvency Law Series. The series will provide a comparative analysis of all important aspects of insolvency proceedings and domestic insolvency laws in the main economically developed and emerging countries, starting with the opening of proceedings. This volume addresses the commencement of insolvency proceedings over business debtors and the conditions in which they may arise. It explains the types of proceedings available and the participants involved. The book also analyses the effect of such action on the various players, assets

and liabilities concerned. The detail and uniform nature of the treatment of topics helps practitioners to understand specific features of a foreign legal system and effectively brief foreign counsel. For all readers, the book provides access, through analysis in the detailed commentary, to material that was previously only available in a foreign language. Most major legal families (including various mixed legal systems) are covered to reflect the needs of the international insolvency community and intergovernmental organizations. This is the only book that offers a thorough comparative analysis of existing domestic insolvency laws concerning the opening of insolvency proceedings in the main economically developed and emerging countries.

The Future of Cross-Border Insolvency

Secured Credit and the Harmonisation of Law

A Comparative and Functional Approach

International Cooperation in Bankruptcy and Insolvency Matters

Themes and Perspectives