

Conference dedicated to the 25th anniversary of the Model Law on Cross-Border Insolvency

16 December 2022, 9:30 am to 12:30
pm
(Central European Time)

In conjunction with the 61st session of
UNCITRAL
Working Group V

(Vienna, 12-16 December 2022)



Webpage: <https://uncitral.un.org/en/mlcbi25>



CONTEXT

The UNCITRAL Model Law on Cross-Border Insolvency (MLCBI), the first text of UNCITRAL in the area of insolvency law, turned 25 years this year. By adopting the text in 1997, UNCITRAL was able to unite the international community behind the recognition that national insolvency laws, ill-equipped to keep pace with cross-border insolvencies, elevate risks of concealment or dissipation of assets and reduce chances of rescuing viable business or efficiently liquidating non-viable businesses. The MLCBI provides a template to States to address those issues. It has become a groundbreaking text in an area that has traditionally been considered difficult to harmonize at the global level because of many policy issues involved. Since its adoption, the MLCBI has influenced insolvency law reform, case law and practice around the globe, contributing to the harmonization of the international cross-border insolvency law framework, and has also shaped the subsequent work program of UNCITRAL in the area of insolvency law. UNCITRAL texts covering most if not all aspects of a strong and effective insolvency framework (listed below) and its current work on civil asset tracing and recovery and applicable law in insolvency proceedings are all linked to the MLCBI. The number of MLCBI enacting jurisdictions from different regions and legal traditions and MLCBI-related case law is constantly growing proving the relevance and flexibility of the text.

PURPOSE

On the occasion of this anniversary, a conference will be held on the last day of the 61st session of Working Group V, 16 December 2022, to assess evolution of the enactment, implementation, application and use of the text. The conference will bring together legislators and policy makers, judges as well as insolvency practitioners from across the world who will share their knowledge and experience with the subject. The conference will also aim at increasing the understanding of the MLCBI's interaction with the other two model laws on insolvency, recently adopted by UNCITRAL, namely the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments (2018) and the UNCITRAL Model Law on Enterprise Group Insolvency (2019).

Welcome and opening remarks

Chair of Working Group V and the [Principal Legal Officer of UNCITRAL](#)

Session 1

The MLCBI from the perspective of policy makers and legislators

- Dialogue on the evolution of MLCBI enactment across the globe since 2000: what was (not) envisaged by drafters of the text

Speakers: [Neil Cooper](#), Professor, Nottingham Trent University

Line Herman Langkjær, Professor, Aarhus University

[Wai Yee Wan](#), Associate Dean and Professor, City University of Hong Kong

- The benefits of further harmonization of cross-border insolvency law: views of international financial institutions

Speaker: Fernando Dancausa, Senior Financial Sector Specialist, World Bank Group

- Supplementary role of the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments (2018) (MLIJ) and the UNCITRAL Model Law on Enterprise Group Insolvency (2019) (MLEGI): presentation by the UNCITRAL secretariat of the Guidance Note and the consolidated text of three model laws (2021)

Presenter: [Maria-Angeliki Giannakou](#), Associate Legal Officer, UNCITRAL secretariat

Session 2

Issues commonly faced by judges when interpreting and applying the MLCBI and how they handle them

- Judges deliberate on procedural and substantive aspects arising from recognition of foreign proceedings

Moderators: [Geoffrey B. Morawetz](#), Chief Justice, Ontario Superior Court of Justice

[Sir Alastair H. Norris](#), Judge, High Court of England and Wales

Speakers: [Aedit Abdullah](#), Justice of the Supreme Court of Singapore

Olga Borja Cárdenas, Judge, Tribunal of Commercial Bankruptcy, First District Court of Mexico City and Mexico

Lydia Mugambe, former Justice of the High Court of Uganda

Marko Radovic, Judge, Commercial Court in Belgrade, Serbia.

- How do those aspects resonate with takeaways from the insolvency judicial training? Views from the World Bank Group

Speaker: Fernando Dancausa, Senior Financial Sector Specialist, World Bank Group

Session 3

Insolvency practitioners' experience with the MLCBI

"Cross-examination" of invited cross-border insolvency practitioners about their experience with the use of the MLCBI and additional issues addressed by the MLII and the MLEGI

- Lessons learned from the first 25 years of the MLCBI: a practitioner's viewpoint on implementing the MLCBI, its benefits, and interaction with existing State insolvency regimes
- The next 25 years and beyond: using the MLCBI and other Model Laws, as a tool for current and future insolvency proceedings. A discussion of the interplay between MLCBI, MLII, and MLEGI.

Moderators: [Annerose Tashiro](#), Attorney at Law, Schultze & Braun

[Evan J. Zucker](#), Counsel, Bankruptcy and Restructuring, Blank Rome LLP

Speakers: [Scott Atkins](#), President, INSOL International, Norton Rose Fulbright

[Ashok Kumar](#), Director, BlackOak LLC

[Charlotte Møller](#), Partner, Squire Patton Boggs

[Diana Rivera Andrade](#), Founding Partner, Rivera Andrade Law Firm

Concluding remarks

Chair of Working Group V

❖ Model laws

- UNCITRAL Model Law on Enterprise Group Insolvency with Guide to Enactment (2019)
- UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments with Guide to Enactment (2018)
- UNCITRAL Model Law on Cross-Border Insolvency (1997) with Guide to Enactment and Interpretation (2013)

❖ Legislative Guides

- UNCITRAL Legislative Recommendations on Insolvency of Micro- and Small Enterprises (2021)
- UNCITRAL Legislative Guide on Insolvency Law, parts one and two (2004)
- Part three: Treatment of enterprise groups in insolvency (2010)
- Part four: Directors' obligations in the period approaching insolvency (including in enterprise groups) (2019)
- Part five: Insolvency law for micro- and small enterprises (2021)

❖ Explanatory texts

- Guidance Note on Enacting Two or More of the UNCITRAL Model Laws on Insolvency (2021)
- Consolidated Text of the UNCITRAL Model Laws on Cross-Border Insolvency, Recognition and Enforcement of Insolvency-related Judgments and Enterprise Group Insolvency (2021)
- Digest of Case Law on the UNCITRAL Model Law on Cross-Border Insolvency (2020)
- UNCITRAL Model Law on Cross-Border Insolvency: The Judicial Perspective (2013, updates are upcoming)
- UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation (2009)

Available in the six languages of the United Nations at

<https://uncitral.un.org/en/texts/insolvency>

❖ UNCITRAL secretariat

José Angelo Estrella Faria, Principal Legal Officer and Head of Legislative Branch



José Angelo Estrella Faria is Principal Legal Officer and Head, Legislative Branch, at the UNCITRAL secretariat, and the current Secretary of Working Group VI that handles the project on negotiable multimodal transport documents. From 1 October 2008 to 31 July 2017, he was the Secretary-General of Unidroit. Until his appointment to Unidroit, Mr. Faria had worked at the UNCITRAL secretariat from 1996 to 2008. As secretary to the relevant intergovernmental working groups, he has been responsible for UNCITRAL work on privately financed infrastructure projects, electronic commerce and judicial sale of ships. He also supervised the work of Working Group III (Transport Law) between 2005 and 2008. Before joining the United Nations in 1992, he had worked as an attorney in Brazil, specialising in commercial and trade law. He has published articles and books, and taught various courses on legal harmonisation, commercial law and international law.

❖ Speaker

- **Neil Cooper, Professor, Nottingham Trent University**



Retired insolvency practitioner with 50 years experience in over 30 countries dealing with many high-profile cases

Past president of INSOL International

Honorary Life President of INSOL Europe

Honorary Professor, Nottingham Trent University

Involved in creation of the UNCITRAL Model Law on Cross Border Insolvency and all subsequent UNCITRAL insolvency instruments

At various times, consultant with World Bank Group, EBRD, ADB, UN, INSOL International and others

❖ Speaker

- **Wai Yee Wan, Associate Dean and Professor, City University of Hong Kong**



Wai Yee WAN is Associate Dean (Research and Internationalisation) and Professor, School of Law, City University of Hong Kong. Her main areas of research are in corporate law, mergers and acquisitions, securities regulation, financial consumer regulation and global restructuring and insolvency. Her publications have appeared in books and in international peer-reviewed legal journals, including American Journal of Comparative Law, Journal of Empirical Legal Studies, European Business Organisations Law Review, Journal of Corporate Law Studies and Journal of Business Law. She recently published a monograph, *Court-Supervised Restructuring of Large Distressed Companies in Asia: Law and Policy* (Hart Publishing 2022). In 2021, she has successfully obtained the Hong Kong Collaborative Research Fund award of HKD3.11 million for the project “Hong Kong Insolvency and Restructuring Law and Policy in Times of COVID-19 and Beyond” (as Project Coordinator). She is currently the co-Chair of the Insolvency Scholars Forum established under the umbrella of the Insolvency Law Academy (India).

❖ UNCITRAL secretariat

Maria-Angeliki Giannakou, Associate Legal Officer



Maria-Angeliki holds a specialization in commercial law (Master's degree with honors), a Bachelor's degree in Law from the University of Paris XIII Nord (with honors) and a Bachelor's degree in Communication and Media Studies from the National and Kapodistrian University of Athens (with honors). In 2021, she completed the Master of Advanced International Studies (M.A.I.S. 24th) from the Diplomatic Academy of Vienna (*Diplomatische Akademie Wien*). During her academic years, her theses covered topics in the field of international insolvency law, restructuring, digital assets, Blockchain, international commercial law, private international law, international economics, European law and international monetary law.

Maria-Angeliki is an Associate Legal Officer at UNCITRAL and is currently involved in the Working Group V project on asset tracing and recovery in insolvency proceedings.

❖ Moderator

- **Chief Justice Geoffrey B. Morawetz (Ontario Superior Court of Justice)**



Chief Justice Geoffrey Morawetz was admitted to the Ontario Bar in 1980. He is a Fellow of The Insolvency Institute of Canada, a Fellow of the American College of Bankruptcy, and a member of INSOL International and The International Insolvency Institute. Prior to his appointment to the Ontario Superior Court of Justice in 2005, Chief Justice Morawetz was consistently recognized as a top-tier practitioner of restructuring and insolvency law, in both Canadian and international publications. He has been an advisor to the Canadian Delegation at the United Nations Commission on International Trade Law (UNCITRAL), Insolvency Law since 2008. He served as Team Leader of the Commercial List from 2010-2013 at which time he was appointed Regional Senior Justice for the Toronto Region. On July 1, 2019, he was appointed Chief Justice of the Ontario Superior Court of Justice.

❖ Moderator

- **Sir Alastair Norris**



Sir Alastair retired after 18 years as a Chancery judge in England. After reading law at St John's College, Cambridge he was called to the Bar by Lincoln's Inn and practised in London as a barrister and as Queen's Counsel until 2001. He was then appointed as the Chancery Judge at Birmingham, where he sat for 6 years, presiding over many insolvency cases (including those of multi-national groups). On appointment to the High Court (Chancery Division) he returned to London and undertook much significant insolvency, restructuring and cross-border work. From 2015 until 2018 he was the Chair of the Insolvency Rules Committee and oversaw the introduction of a new set of procedural rules for in-Court and out-of-Court insolvencies. He co-authored the current Insolvency Practice Direction.

He is a regular participant in World Bank and INSOL sponsored judicial sharing programmes, and a member of the organising committee for the INSOL/UNCITRAL/World Bank Judicial Colloquia. He is also a Judicial Member of the International Insolvency Institute and a Fellow of the Chartered Institute of Arbitrators. He has formerly taught at Cambridge, the University of Westminster, the Inns of Court School of Law and the Judicial College of England and Wales.

❖ Speaker

- **Justice Aedit Abdullah**



Justice Aedit Abdullah was appointed Judicial Commissioner in 2014 and High Court Judge in 2017.

Justice Abdullah holds degrees in law and public management from the National University of Singapore (NUS), and obtained the BCL from Oxford University.

He began his working life as a Justices' Law Clerk in 1997. He then taught at the Faculty of Law, NUS, before re-joining the Singapore Legal Service, where he has held various appointments, including as Chief Prosecutor at the Attorney-General's Chambers. He has also been seconded to the Monetary Authority of Singapore (MAS) twice. He was appointed Senior Counsel in 2012.

Currently, he is the Judge in charge of Transformation and Innovation in the Judiciary, and is also Chair of the Promotion of Legal Technology Innovation Committee of the Singapore Academy of Law

❖ Moderator

- **Annerose Tashiro, Attorney at Law, Schultze & Braun**



Experience/Career History:

With Schultze & Braun since 2004. Annerose specializes in corporate recovery and insolvency work and is the Head of Schultze & Braun's Cross Border Team. She has acted domestically and internationally for many companies involved in debt restructuring and turnaround as well as for office holders on several high profile German insolvencies. She assists financial and trade creditors in international insolvency proceedings and restructuring scenarios.

Publications of Interest:

Annerose has earned a doctoral degree in German/Japanese insolvency law at the University of Düsseldorf and Keio-University in Tokyo (Dr. jur., 2006).

Annerose was the joint Chief Editor of magazine Eurofenix of INSOL Europe from summer 2009 till autumn 2017. She regularly publishes articles on national and international insolvency topics in German and international publications and contributes to the insolvency and restructuring law commentaries.

-Member of the Expert Group to the European Commission on Harmonisation of Insolvency Law since 2020

-American Bankruptcy Institute (ABI) - Vice President-International Affairs 2017-2021

-INSOL International Association of Restructuring, Insolvency & Bankruptcy Professionals – Board Member since 2019

-Membership in: International Insolvency Institute (III); German-Japanese Association of Lawyers; German-Japanese Business Council; International Women's Insolvency and Restructuring Confederation (IWIRC); Japanese Association for Turnaround Professionals.

❖ **Moderator**

- **Evan Zucker, Counsel, Bankruptcy and Restructuring, Blank Rome LLP**



Evan J. Zucker is Of Counsel in Blank Rome LLP's Finance, Bankruptcy and Restructuring group. Evan concentrates his practice on corporate reorganizations and related complex litigation in national and cross-border matters. Evan was inducted as a member of the International Insolvency Institute. Prior to becoming a member of the International Insolvency Institute, Evan was the Chairperson for the International Insolvency Institute's NextGen Program. Evan currently is also the Vice-Chair of the Chapter 11 Advisory Committee for the United States Bankruptcy Court for Eastern District of New York, a member of the Junior Lawyer Training Initiative for the United States Bankruptcy Court for Eastern District of New York, and an active member of the American Bankruptcy Institute. Evan is also the co-chair of Blank Rome LLP's New York Pro Bono Committee. Evan is an adjunct professor on bankruptcy practice at St. John's University School of Law. Evan routinely publishes and speaks on bankruptcy topics, including the model laws promulgated by UNCITRAL's Working Group V, asset-tracing and judgment enforcement issues in insolvency proceedings, and the causes of retail insolvencies around the world. Previously, Evan served as a law clerk to the Hon. Jerome Feller, U.S. Bankruptcy Judge for the Eastern District of New York. Evan received his B.B.A., with High Distinction, from Emory University and his J.D., *cum laude*, from St. John's University School of Law.

❖ Speaker

- **Scott Atkins, President, INSOL International, Norton Rose Fulbright**



Scott Atkins is Global Co-Head of Restructuring at Norton Rose Fulbright and Chair of its Australian practice.

Scott is President of INSOL International and an inaugural INSOL Fellow.

Scott has deep expertise in cross-border insolvency advising nations and their governments on insolvency and restructuring law reform, including the systemic and structural reforms required across economies to facilitate and support the effective operation of such laws.

Scott drafted landmark new insolvency and corporate rescue laws for Myanmar which are now in effect: he is a member of a range of taskforces focused on MSME insolvency law reform and is working with Armenia and Bhutan to modernise their insolvency laws.

❖ Speaker

- **Ashok Kumar, Director, BlackOak LLC**



Ashok Kumar has 30 years of experience in legal practice specialising in Corporate Restructuring and Insolvency. He leads the practice at BlackOak LLC. Ashok is involved in restructuring & insolvency law and practice initiatives, such as the Law Reform Committee of the Singapore Academy of Law, Director of the Insolvency Practitioners Association of Singapore, Board Member of the Singapore Global Restructuring Initiative, Adjunct Lecturer at the Singapore Management University, Committee Member of the Insolvency Practice Group of INSOL International and Co-chair of the Asset Tracing and Recovery Colloquium Discussion Group of INSOL International, and a member of the International Insolvency Institute. He has released various publications in his core practice area and is the Editor of 'Singapore Academy of Law Practitioner' online publication, restructuring & insolvency section.

❖ Speaker

- **Charlotte Møller, Partner, Squire Patton Boggs**



Charlotte Møller is a partner in the Restructuring & Insolvency Practice Group. Charlotte's practice is focused on advising on the restructuring of defaulting facilities and enforcement of security, as well as advising chief restructuring officers and directors of distressed companies more generally, and also insolvency practitioners.

Charlotte has detailed knowledge of the UK Special Administration regime for investment firms and has worked on a large number of cross-border restructurings, primarily in the shipping, airline, energy and natural resources industries. She regularly represents clients regarding the enforcement of security over UK assets, particularly in the context of the sale and purchase of non-performing loan portfolios and real estate.

❖ Speaker

Diana Rivera Andrade, Founding Partner, Rivera Andrade Law Firm



Attorney from Universidad Javeriana with four postgraduate degrees: Commercial Law from Universidad de los Andes, Financial Legislation from Universidad de los Andes, Conflict Resolution from Universidad Javeriana and Civil Procedural Law from Universidad Externado de Colombia. She also holds a Master's Degree in Private Law from Universidad de los Andes. Diana Rivera has more than 20 years of experience in commercial law, corporate law, procedural law, private contracting and bankruptcy law. Diana Rivera is also a founding member of the Colombian Chapter of the Ibero-American Institute of Insolvency Law and is a member of INSOL. Additionally, Diana Rivera is currently a professor of Commercial Law at the Universidad de los Andes, as well as a professor of the Specialization in Commercial Procedures at the same university. She is also a professor of Commercial Law at Universidad Javeriana and Universidad de la Sabana. Furthermore, she is a guest lecturer at different universities and partner of the firm Rivera Andrade Estudio Jurídico.