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THE QUEST FOR COORDINATION OF PROCEEDINGS IN CROSS-BORDER INSOLVENCY CASES IN EUROPE

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1. Basic Model of the EU Insolvency Regulation

The EU Insolvency Regulation, which is now in force more than five years, is based on a specific model. The model results in a split of insolvency proceedings against a certain debtor, who has assets or operations in two or more jurisdictions of the EU (Denmark excluded): main insolvency proceedings can be opened in Member State A, when the centre of the debtor's main interest (COMI) is in Member State A (Article 3(1)); secondary insolvency proceedings can be opened in the other Member States where the debtor has an establishment in the meaning of Article 2(h). These proceedings, as they are both concerned with the same debtor, should be coordinated, but they do not operate on an equal footing: "Main insolvency proceedings and secondary proceedings can ... contribute to the effective realisation of the total assets only if all the concurrent proceedings pending are coordinated. The main condition here is that the various liquidators must cooperate closely, in particular by exchanging a sufficient amount of information. In order to ensure the dominant role of the main insolvency proceedings, the liquidator in such proceedings should be given several possibilities for intervening in secondary insolvency proceedings which are pending at the same time", thus recital (20) preceding the text of the EU Insolvency Regulation (italics by the author).1

The model is based of seven basic principles:
1. Main insolvency proceedings opened in a Member State have universal scope. Its procedural and substantial effects in principle are applicable all over Europe;
2. Secondary insolvency proceedings to be opened in other Member States have a supportive function in relation to the main proceedings. They are modeled however as domestic insolvency proceedings, see Annex B to the Regulation;
3. The material effects of the main proceedings are halted when secondary proceedings elsewhere are opened. When this is not the case, the law of the State in which main proceedings are opened shall not affect certain rights of third parties nor have effect in certain contractual relations, e.g. labor contracts;
4. Any creditor shall have the right to lodge claims in any of the insolvency proceedings; he may participate in all proceedings and each appointed liquidator

[1] A consolidated version of the text of the Insolvency Regulation can be found on my website, www.bobwessels.nl, weblog document 2007-01-doc16. The Annexes to the Insolvency Regulation have been amended several times, the latest version being of June 2007, see my weblog under 2007-06-doc3.

shall lodge in all other proceedings the claims which have already been lodged in the proceedings in which he is appointed, unless a creditor opposes;
5. Dividends in all proceedings are pooled in that dividends obtained in proceeding X are deducted from dividends to be obtained in other proceedings;
6. If by liquidation of assets in any secondary proceedings it is possible to meet all claims, the liquidator shall transfer any remaining assets to the liquidator in the main proceedings;
7. The so-called dominance of the main proceedings creates a leading role for the liquidator, appointed in the main proceedings, to coordinate all insolvency proceedings pending against the same debtor. In the text of the Regulation a mutual duty to share information or to cooperate is not given to courts in states in which insolvency proceedings are pending, although the general opinion gains the upper hand that cooperation between court is not excluded either and would reflect the general duty of Member States to be loyal to the goals of the EC.

2. Coordinating powers

The concept of one insolvent debtor with one estate to satisfy all creditors is reflected – though less systematically – by the powers assigned to the liquidator in the main insolvency proceedings by the Insolvency Regulation. The following illustrates these rights and powers:
(i) he has the power to apply for opening of secondary proceedings in other Member States (Article 29);
(ii) he can ask liquidators in the secondary proceedings for information (Article 31(1)); and
(iii) he can demand that they cooperate with him (Article 31(2));
(iv) he can exercise the power to put forward certain proposals in the context of the secondary proceedings (pursuant to Article 31(3));
(v) he may request a stay of the process of liquidation in these secondary proceedings (Article 33(1));
(vi) he may request the termination of a stay (Article 33(2));
(vii) he may propose a rescue plan in the secondary proceedings (see Article 34(1)), also during the stay of the process of liquidation (Article 34(3));
(viii) he shall lodge in other proceedings claims which have already been lodged in the main proceedings (Article 32(2));
(ix) he has the power to participate in the other proceedings on the same basis as the creditors (Article 32(3));
(x) he has the right to request the return to the main proceedings of anything already obtained by creditors as they have satisfied their claims by any means on the assets of the debtor situated in the other Member State (Article 20); and
(xi) he has the power to collect any remaining assets from the secondary proceedings if all claims in these proceedings have been met (Article 35).
These powers have their origin in the Insolvency Regulation and therefore may be regarded as the 'community' powers of the main liquidator. In addition, he may use in the whole of the EU (except for Denmark) the powers the law of the opening state provides him (Article 18).2

[2] See further De Boer and Wessels, The Dominance of main Insolvency Proceedings Under the EU Insolvency Regulation, in: Omar (ed.), International Insolvency Law: Themes and Perspectives, Ashgate, 2007 (forthcoming).

3. Function of secondary proceedings

In the light of the basic model of the Regulation and the powers of a main liquidator for intervening in secondary proceedings it should be clear that a secondary proceeding modeled on the basis of an insolvency proceeding as known in a Member State's national insolvency law is at least confusing. It should be noted though that the ideas on which the model is based go back several decades and result from years of negotiations between (in the beginning six and at the end 15) Member States each of which would have a keen eye on protecting its national interests. The focus of the secondary proceedings is mainly on the protection of local interests. Secondly, these negotiations took place in times when insolvency was nearly similar to court controled liquidation. EC states only have introduced reorganisation-type of proceedings only since the mid 80s of last century.

As already demonstrated, there are however other aspects of the function of secondary proceedings, which allows to view the secondary proceedings being a national proceeding in form, though with quite an European context which puts a stamp on its substance:

(i) Despite secondary proceedings being opened in another Member State (in which the debtor has an establishment), secondary proceedings are concerned with the same (insolvent) debtor as the main insolvency proceedings;

(ii) Despite the secondary proceedings only being permitted to be proceedings as listed in Annex B, and therefore winding-up proceedings with territorial effect (Article 3(2) and Article 27), the Insolvency Regulation provides the liquidator appointed in the main insolvency proceedings with several powers to intervene or change the character of the secondary proceedings and to align the proceedings in accordance with developments in the main proceedings (see above);

(iii) Despite the opening of secondary proceedings, its effects are restricted by matter of law to the assets of the debtor situated in the territory of the Member State within which the secondary proceedings are opened (Article 3(2) and Article 27);

(iv) Despite of the fact that secondary insolvency proceedings relate as of the moment of opening to assets located within the territory of the Member State within which the secondary proceedings are opened (Article 2(g)), debts of the main estate already existing prior to the opening of the secondary proceedings are to be recovered too from the assets of the secondary proceedings;

(v) Despite 'local' creditors being able to lodge claims in secondary proceedings, they are also allowed to lodge claims in the main proceedings or in other secondary proceedings opened in other Member States and both the main and the secondary liquidator shall lodge in the other proceedings claims which have already been lodged (Article 32(1)) in the proceedings for which they have been appointed (Article 32(2));

Secondary proceedings have an auxiliary function and therefore should be considered in the context of the main proceedings. The mutual connection between both proceedings is founded on the maxim that, ultimately, the administration concerns one debtor with one estate and one group of creditors.

4. Duty to communicate

It is therefore logical that Article 31(1) states that, subject to the rules restricting the communication of information, the liquidator in the main proceedings and the liquidators in the secondary proceedings shall be duty bound to communicate information to each other. The mutual duty to communicate (and to cooperate, see Article 31(2)) is a fundamental element of the Regulation and therefore liquidators in both main and secondary proceedings must be seen as principle agents for realizing the goals of the Regulation (see recital 2 and 3): 'The proper functioning of the internal market requires that cross-border insolvency proceedings should operate efficiently and effectively' and where insolvency of businesses 'also affects the proper functioning of the internal market', the need for coordination of the measures to be taken regarding an insolvent debtor's assets is in the hands of the liquidators.
It should be emphasised that the duties of communication (and cooperation) are mutual, thus the main liquidator will also be obliged to inform the liquidator in secondary proceedings and to cooperate with him. The duty to communicate is not limited to procedural insolvency topics. Topics covered by the mutual duties to communicate could relate to: (i) the assets, (ii) the actions planned or underway in order to recover assets: actions to obtain payment or actions to set aside, (iii) possibilities for liquidating assets, (iv) claims lodged, (v) verification of claims and disputes concerning them, (vi) the ranking of creditors, (vii) planned reorganization measures, (viii) proposed compositions, (ix) plans for the allocation of dividends, and (x) the progress of operations in the proceedings. The above demonstrates that the duty to communicate includes several topics of a non-procedural nature. The duty to mutually communicate cross-border information may be limited by national legislation on data exchange, e.g. legislation relating to the protection of computerized personal data. Both liquidators shall 'immediately' (Article 31(1)) communicate any information which may be relevant to the other proceedings.

5. Duty to cooperate

In addition to the mutual duty to communicate, Article 31(2) establishes ('Subject to the rules applicable to each of the proceedings') a mutual duty to cooperate. The liquidator in the main proceedings and the liquidators in the secondary proceedings shall be duty bound to cooperate with each other. The liquidators have a duty to act in concert with a view to the development of proceedings and their coordination, and to facilitate their respective work. To ensure the smooth course of operations in the various proceedings and the alignment of distributions, sharing of information and cooperation between the liquidators is necessary. The structure of the cooperation required can be identified in recital (20), cited above: (i) aim: main insolvency proceedings and secondary proceedings can only 'contribute to the effective realisation of the total assets' if all the concurrent proceedings pending are coordinated; (ii) nature: the main condition being that the various liquidators 'must cooperate closely, in particular by exchanging a sufficient amount of information.' The practical implications of cooperation (and

communication) have been pointed out in several legal commentaries; such implications include: (i) the necessity of understanding the powers of the foreign liquidator and of having (general) knowledge of the insolvency law system of the other Member State, (ii) the use of a common language (English is most commonly suggested in this respect), (iii) the use of technology (special servers; chatrooms), (iv) the availability of translations and the burden of their costs.

6. Proposals on the liquidation or the use of assets

Finally, Article 31(3) reflects the dominance of the main proceedings. It provides that the liquidator in the secondary proceedings shall give the liquidator in the main proceedings an early opportunity of submitting proposals on the liquidation or use of the assets in the secondary proceedings. Under the system of the Regulation it follows that the secondary liquidator informs, in a timely manner and under his own initiative, the main liquidator in order that the main liquidator will not be confronted with a fait accompli. As a consequence of this obligation the main liquidator may be able, for example, to prevent the sale of assets involved in the secondary proceedings, the preservation of which may be deemed desirable in respect of the reorganization of the business at the centre of main interests. Another consequence could be that he will request for a stay of the process of liquidation (Article 33).
The obligation laid down in Article 31(3) concerns important assets or decisions, such as the continuation or cessation of the activities of the establishment in the secondary proceedings. It should however not be interpreted so widely that, in practice, it paralyses the work of the liquidator in the secondary proceedings. He is appointed in a national insolvency proceeding to which the law of the Member State within which the secondary proceeding are opened is applicable, see Article 28.

7. Need for guidance

The Insolvency Regulation's concept of EU-universality of the main proceedings is that, ultimately, the administration concerns one debtor with one estate and one group of creditors. This maxim dominates the mutual relationship between the main insolvency proceedings opened in one Member State and one or more secondary proceedings opened in another Member State in order to protect the local interests. In line with this maxim the Insolvency Regulation assigns the liquidator in the main insolvency proceedings with several intervening and coordinating powers. Once secondary proceedings have been opened in another Member State, the liquidator in the secondary proceedings is attributed exclusive (domestic) power over the assets situated in that Member State depriving the main liquidator of his domestic powers in this respect. This does not involve that the secondary proceedings are completely isolated and separated from the main proceedings and that the main liquidator has become broken-winged. On the contrary: as the main insolvency proceedings and the secondary proceedings are interdependent proceedings, the liquidator in the secondary proceedings has to fulfill his task under the dominance of the main liquidator. Coordination of the secondary proceedings and the main proceedings is essential for the effective

realisation of the total assets. So Article 31(1) and (2) provides for the mutual duty to communicate any information which may be relevant to the other proceedings – within limits as to the extent of the details or national legislation – and to cooperate. In the words of German Professor Paulus, the model laid down (with additional details) in the Regulation is to be regarded as a road map (*Landkarte*), that needs an interpretation given in a cooperative (and not a contentious) way. The model of coordination between liquidators, on which the Regulation rests, aims to ensure the greatest possible efficiency in the administration of winding-up of this one debtor's estate.
The provision relating to communication and cooperation itself leaves many open questions. Which information has to be shared? Should they contain copies of documents? Translations? Who will bear the costs? What is "immediately" communicate? What is an "early" opportunity for submitting proposals? What happens when the secondary liquidator does not take notice of such proposals of the main liquidator. Furthermore, the provision lacks a rule concerning how conflicts between the main and the secondary liquidator are to be decided. A central underlying ratio though is clear: close cooperation with trust between liquidators in main and secondary insolvency proceedings is indispensable in order to achieve an efficient and optimal administration of the insolvent debtor's assets.

8. European Communication and Cooperation Guidelines For Cross-border Insolvency

The absence of guidance in Article 31 of the EC Insolvency Regulation in general results in ad hoc and case-by-case communication and cooperation without a solid and practical framework which might guarantee the realisation of the overriding objective of enabling liquidators and courts to efficiently and effectively operate in cross-border insolvency proceedings in the context of the Insolvency Regulation. A group of practitioners, supported by several judges, have discussed proposals to address the principal issue of the liquidators' duties of communication and cooperation in cross-border insolvency instances. The group mooted the idea of the possibility/necessity of the establishment of a (non-binding) set of standards for communication and cooperation in cross-border insolvency cases, which are subject to the application of the EC Insolvency Regulation. These proposals were supported by INSOL Europe, the European insolvency practitioners organisation. The intensive and lively discussions have led to "European Communication and Cooperation Guidelines For Cross-border Insolvency", drafted by Professor Miguel Virgós (Madrid, Spain) and myself.
These Guidelines reflect the central principle of cooperation and coordination between insolvency proceedings pending in two or more Member States for several practical issues, where the text of the Regulation is left open. They too should serve as a realistic set of rules that should ensure as best as possible to make the Regulation work in practice, so that either liquidation or reorganisation of the debtor's estate is dealt with efficiently. In their final form (see the Annex) the European Communication and Cooperation Guidelines For Cross-border Insolvency should function as a first step in a framework to realize the objective of enabling liquidators and courts to efficiently and effectively operate in cross-border insolvency proceedings in the context of the EC Insolvency Regulation. In

individual cases, the Guidelines are to be seen as minimum requirements and may need to be supplemented by other measures designed to address particular conditions. The Guidelines have not been designed as a cookbook of recipes certain to succeed in all cases. They should inspire all actors to tailor solutions in specific cases. The Guidelines strongly endorse the use of agreements concerning cooperation or 'protocols' as a means to codify coordination in decision making procedures related to two or more insolvency proceedings in two or more Member States' jurisdictions. Although INSOL Europe will create a platform for further developing the guidelines and certain forms or templates, it is envisaged that the Guidelines (often called CoCo Guidelines) serve as a sound and well-tailored framework for cross-border cooperation and as a basic reference for individual liquidators, professional insolvency practitioners' associations, judges and other public authorities in all EU Member States and internationally. It will most likely be for national professional associations of insolvency practitioners to introduce or to strengthen ethical or professional rules concerning a relative new subject: cross-border communication and cooperation. These associations may consider the use of the Guidelines as a template in order to review their existing rules and to initiate a plan designed to address any deficiencies as quickly as may be practical within their authority. The Guidelines presuppose that liquidators act with the appropriate knowledge of the EC Insolvency Regulation and its applicability in practice, which would include the operation of these Guidelines. Only a good understanding of the model on which the Insolvency Regualtion is build and an awareness of the interwoven relationship between main and secondary insolvency proceedings will bring financially troubled bussiness the benefits of the Insolvency Regulation.

European Communication and Cooperation Guidelines For Cross-border Insolvency

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Guideline 1 Overriding objective

1.1. These Guidelines embody the overriding objective of enabling courts and liquidators to operate efficiently and effectively in cross-border insolvency proceedings within the context of the EC Insolvency Regulation.
1.2. In achieving the objective of Guideline 1.1., the interests of creditors are paramount and are treated equally.
1.3. All interested parties in cross-border insolvency proceedings are required to further the overriding objective as set out above in Guideline 1.1.

Guideline 2 Aim

2.1. The aim of these Guidelines is to facilitate the coordination of the administration of insolvency proceedings involving the same debtor, including through the use of a governance protocol.
2.2. In particular, these Guidelines aim to promote:
(i) The orderly, effective, efficient and timely administration of proceedings;
(ii) The identification, preservation and maximisation of the value of the debtor's assets (which includes the debtor's undertaking or business) on a world-wide basis;
(iii) The sharing of information in order to reduce the costs involved; and
(iv) The avoidance or minimization of litigation, costs and inconvenience to all parties affected by proceedings.
2.3. In individual insolvency proceedings, the Guidelines require cases to be administered with a view:
(i) To ensure that the creditors' interests are paramount and that they are on an equal footing;
(ii) To save expense;
(iii) To deal with the debtor's estate in ways which are proportionate to the amount of money involved, to the importance of the case, to the complexity of the issues, and to the number of jurisdictions involved; and
(iv) To ensure that the case is dealt with timely and fairly.

Guideline 3 Status

3. Nothing in these Guidelines is intended:
(i) To interfere with the independent exercise of jurisdiction by each of the national courts involved, including their respective authority or supervision over a liquidator;
(ii) To interfere with national rules or ethical principles by which a liquidator is bound according to applicable national law and professional rules; or
(iii) To confer substantive rights or to interfere with any function or duty arising out of the EC Insolvency Regulation or to impinge on applicable national law.

Guideline 4 Liquidator

4.1. A liquidator is any appointed person or body whose function is to administer or liquidate assets of which the debtor has been divested or to supervise the administration of its affairs, either in reorganisation or in liquidation proceedings.

4.2. A liquidator is required to act with the appropriate knowledge of the EC Insolvency Regulation and its application in practice.
4.3. A liquidator is required to act honestly, objectively, fairly and expeditiously in dealing with all parties concerned, including the courts.

Guideline 5 Direct Access

5. Any foreign liquidator should be granted direct access to any court necessary for the exercise of legal rights to the same extent that a national liquidator is so permitted.

Guideline 6 Communications

6.1. Liquidators are required to communicate with each other directly and as soon as they are appointed.
6.2. The liquidator appointed in the main proceedings should always take the initiative to start or to continue communications with other liquidators.
6.3. Substantive replies by a liquidator to queries from other liquidators should always be responded to as soon as reasonably practicable.

Guideline 7 Information

7.1. Liquidators are required to provide prompt and full disclosure to all other liquidators involved of all relevant information about the existence and status of the insolvency proceedings in which they have been appointed.
7.2. Liquidators are required to provide information periodically which may be relevant to the other proceedings detailing the conduct of the proceedings.
7.3. Liquidators in possession of such information are required to inform the courts insofar as they are subject to any reporting duties under national law, of any material development in any such other proceedings.
7.4. A foreign liquidator should be permitted to use all legal methods to obtain information that would be available to a creditor or to a liquidator in any national insolvency proceedings.
7.5. To the fullest extent permissible under any applicable law, relevant non-public information should be shared by a liquidator with other liquidators subject to appropriate confidentiality arrangements to the extent that this is commercially and practically sensible.
7.6. The duty to provide information in the meaning of this Guideline includes the duty to provide copies of documents at reasonable costs on request.

Guideline 8 Information by a Liquidator in Secondary Proceedings

8.1. The liquidator in any secondary proceedings should provide all relevant information to the liquidator in main proceedings without any delay so as to facilitate the submission of proposals on the liquidation or use of assets in secondary proceedings.
8.2. The liquidator in any secondary proceedings is encouraged to provide advice to the liquidator in the main proceedings concerning any views on how to best to proceed.
8.3. The liquidator in main proceedings is encouraged to involve liquidators in any secondary proceedings in devising those proposals referred to above in Guideline 8.1.
8.4. Where a reorganisation or rescue plan can be adopted in secondary proceedings which, in attaining the aims pursued under Guideline 2.2(ii), would give better value to creditors in main proceedings or reduce the overall size of debts, the liquidator in main

proceedings and the courts shall take advantage of the opportunity to promote the adoption of this plan.

Guideline 9 Authentication

9.1. Except to the extent provided for under any applicable law, where existing authentication of documents is required, methods should be established so as to permit rapid authentication and secure transmission of faxes and other electronic communications relating to cross-border insolvencies on any basis that permits their acceptance as official and genuine communications by liquidators and courts in other jurisdictions.
9.2. To the extent permissible under national law, courts are encouraged to provide or publish judgments, orders or rulings also in languages other than those regularly used in proceedings or encourage translations to be made as much as possible.

Guideline 10 Language

10.1. Liquidators shall determine the language in which communications take place on the basis of convenience and the avoidance of costs. The court is advised to allow use of other languages in all or part of the proceedings if no prejudice to a party will result.
10.2. Courts are encouraged, to the maximum extent permissible under national law, to accept any documents related to those communications in language decided upon under Guideline 10.1, without the need for a translation into the language of proceedings before them.

Guideline 11 Obligations Incurred by and Fees of Liquidators

11.1. Obligations incurred by the liquidator during proceedings and the liquidator's fees are funded from the assets within those proceedings in which the liquidator is appointed.
11.2. Obligations and fees incurred by the liquidator in the main proceedings prior to the opening of any secondary proceedings but concerning assets to be included in the estate in principle will be funded by the estate corresponding to the secondary proceedings.

Guideline 12 Cooperation

12.1. Liquidators are required to cooperate in all aspects of the case.
12.2. Liquidators ensure that cooperation takes place with other liquidators with a view to minimising conflicts between parallel proceedings and maximising the prospects for the rehabilitation and reorganization of the debtor's business or the value of the debtor's assets subject to realisation, as may be the case.
12.3. Cooperation is intended to address all issues that are important to the actual case.
12.4. Cooperation may be best attained by way of an agreement or "protocol" that establishes decision-making procedures, although decisions may continue to be made informally as long as they are compatible with the substance of any such agreement or "protocol".
12.5. In case where any matter is not specifically provided for within the protocol, the liquidators shall act in a manner designed to promote the overriding objective set out above in Guideline 1.1.

Guideline 13 Cross-Border Sales

13.1. Where during any period of cooperation between liquidators in main and any secondary proceedings assets are to be sold or otherwise disposed of, every liquidator should seek to sell these assets in cooperation with the other liquidators so as to realise the maximum value for the assets of the debtor as a whole.
13.2. Any national court, where required to act, should approve those sales or disposals that will produce such maximum value.

Guideline 14 Assistance in Reorganization

14.1. Where main insolvency proceedings are aimed at ensuring the rehabilitation and reorganisation of the debtor's business, all other liquidators shall cooperate in any manner consistent with the objective of reorganisation or the sale of the business as a going concern wherever possible, mindful of the interests protected by local insolvency proceedings.
14.2. Liquidators should cooperate so as to obtain any necessary post-commencement financing, including through the granting of priority or secured status to lenders providing finance to the debtor and related entities as may be appropriate and insofar as permitted under any applicable law.

Guideline 15 Coordination between Secondary Proceedings

15. Liquidators in all secondary proceedings are required to comply with these Guidelines.

Guideline 16 Courts

16.1. Courts are advised to seek to give effect to the overriding objective of enabling courts and liquidators to operate efficiently and effectively in cross-border insolvency proceedings within the context of the EC Insolvency Regulation, in the meaning of Guideline 1.
16.2. Courts are advised to operate in a cooperative manner to resolve any dispute relating to the intent or application of these Guidelines or the terms of any cooperation agreement or protocol.
16.3. Courts are advised to consider whether an appointment of the liquidator in main proceedings or a nominated agent of such liquidator as a liquidator or a co-liquidator in secondary proceedings would better ensure coordination between different proceedings under the courts' supervision.
16.4. To the maximum extent permissible under national law, courts conducting insolvency proceedings or dealing with requests for assistance or deciding on any matters relating to communications from other courts should cooperate with each other directly, through liquidators or through any person or body appointed to act at the direction of the courts.
16.5. Courts should encourage liquidators to report periodically, as part of national reporting duties, on the way these Guidelines and/or agreed Protocols are applied, including any practical problems which have been encountered.

Guideline 17 Notices

17.1. Notice of any court hearing or the making of any order by a court should be given to each of the liquidators at the earliest possible point in time where the hearing or order is relevant to that liquidator.
17.2. Where a liquidator cannot be present in person before the court, the court is advised to invite the liquidator to communicate any observations to the court prior to any order being made.
17.3. The liquidators should provide for the keeping of an accessible record of notices in the meaning of Guideline 17.1, which shall be regularly updated, to note the dates and relevant descriptions of any legal documents communicated, including those filed or transferred electronically.

Guideline 18 Scope

18. Whilst the aim of these Guidelines is to facilitate the coordination of the administration of insolvency proceedings involving the same debtor (including through the use of a protocol), liquidators or administrators and courts outside the scope of the EC Insolvency Regulation are encouraged, wherever possible, to use these Guidelines so as to facilitate or increase the prospects of cooperation in other proceedings taking place.

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Prof. Wessels has an extensive experience as a counsel for international business and insolvency law. His clients included (the legal advisors of) Dell Products Europe, Ernst & Young, Frito-lay (the European division of PepsiCo Inc.), Philips International, Rabo Bank Netherlands, Royal Aircraft Fokker, United Pan-Europe Communications (UPC), Yukos Oil and BenQ Mobile Holding.

He acted as Special Technical Consultant to the IMF, the World Bank and the European Commission (TAIEX) advising in Indonesia (Jakarta), Georgia (Tblisi) and Estonia (Tallinn) on implementing and applying new insolvency legislation.

Prof. Wessels has written over twenty books, including a 10 Volumes Dutch series on Insolvency Law, and – in English – books such as *Current Topics in International Insolvency Law* (2004), *International Insolvency Law* (2006), and *Cross-Border Insolvency Law. International Instruments and Commentary* (2007).

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