Arrested Development and Judicial Parallelism

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Basis of International Co-operation

• Common Law
• EC Regulation
• Old Colonial Mafia – Section 426
• UNCITRAL Model Law - CBIR
• Other “Clubs”
Common Law

- The aptly named “Navigator"
- Attitudes of Trading Nation States
- “Comity” or
- No Treaty or Statute
- How can I help?
- *Cambridge Rubin and New Cap*
- Choose your remedy very carefully

EC Regulation 1346/2000

- CoMi is the Key
- First to move advantage
- Selective Comity
- Interplay with Judgments Regulation
- Mandatory Procedure
- Scope Narrowing
Old Colonial Mafia

- Section 426 IA 1986
- “If we can we should”
- Strong Sense of respect
- Courts countenance assisting aggressors
- Statutory Obligation
- Very reciprocal enforcement
- *HIH, New Cap, England v Smith*

UNCITRAL Model Law

- Not Reciprocal at all
- Incoming fire recognition
- Depends on enactment
- Limits of assistance dependent on statute
- Limits on Forum Shopping
- Definitional and procedural differences
- CLOUT
- CBIR and Chapter 15
- *Condor and Metcalfe*
What to Look For

- Collective Remedies
- Recognisable core features Preferences/ Fraudulent Transfers
- Seagon, Gourdain, Madoff
- Private remedies are out of fashion
- One man’s solution is another man’s problem
- Schemmers and Stanford
- UKSC: Rubin v Eurofinance 7-8 March 2012

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