



WORLD BANK GROUP
Finance & Markets

UNCITRAL Working Group V – Insolvency Law

Report on the Treatment of MSME

Insolvency - <http://documents.worldbank.org/curated/en/home>

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*51st session, 10-19 May
2017, New York*

Importance of MSMEs - G20 Communiqué



G20 Communiqué, Antalya, November 2015 – para. 10

“We have placed a special focus on promoting long-term financing for SMEs, and **we welcome the Joint Action Plan on SME Financing...**”

Joint Action Plan on SME Financing – page 2

“The priority reform measures are:

1. Improvements of the **credit reporting** framework for SMEs
2. Reforms that allow banks and non-banks to lend to SMEs against movable **collateral**
3. **Insolvency** reforms”

G20 Communiqué and Action Plan on SME Financing

- G20 Communiqué of November 2015 endorsed the G20 Action Plan on SME Financing (Action Plan)
- The Action Plan focuses on the areas of **Credit Infrastructure** as **key priority reform** measures in financial markets infrastructure reform for SME financing
- The Action Plan is a joint effort between the G20 Investment and Infrastructure Working Group and the G20 Global Partnership for Financial Inclusion
- The Plan's priority areas are meant to increase the availability of finance for SMEs to grow and create jobs through further reform in the three areas listed below in G20 and receptive non-G20 countries, bringing them closer to international best practices



Legislative Guide
on Insolvency Law

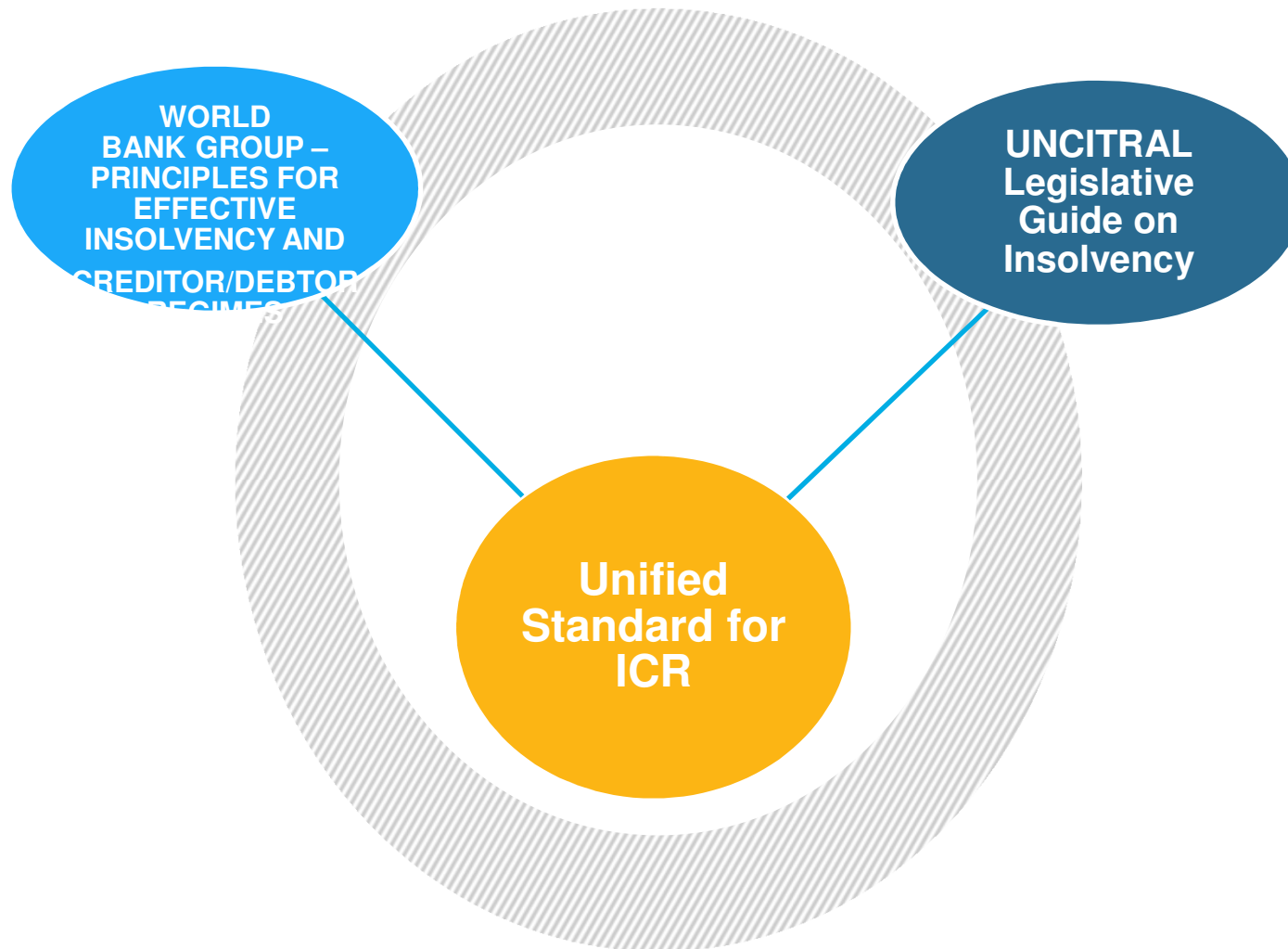
International Standards in Insolvency

THE WORLD BANK

**PRINCIPLES FOR
EFFECTIVE INSOLVENCY AND
CREDITOR/DEBTOR REGIMES**

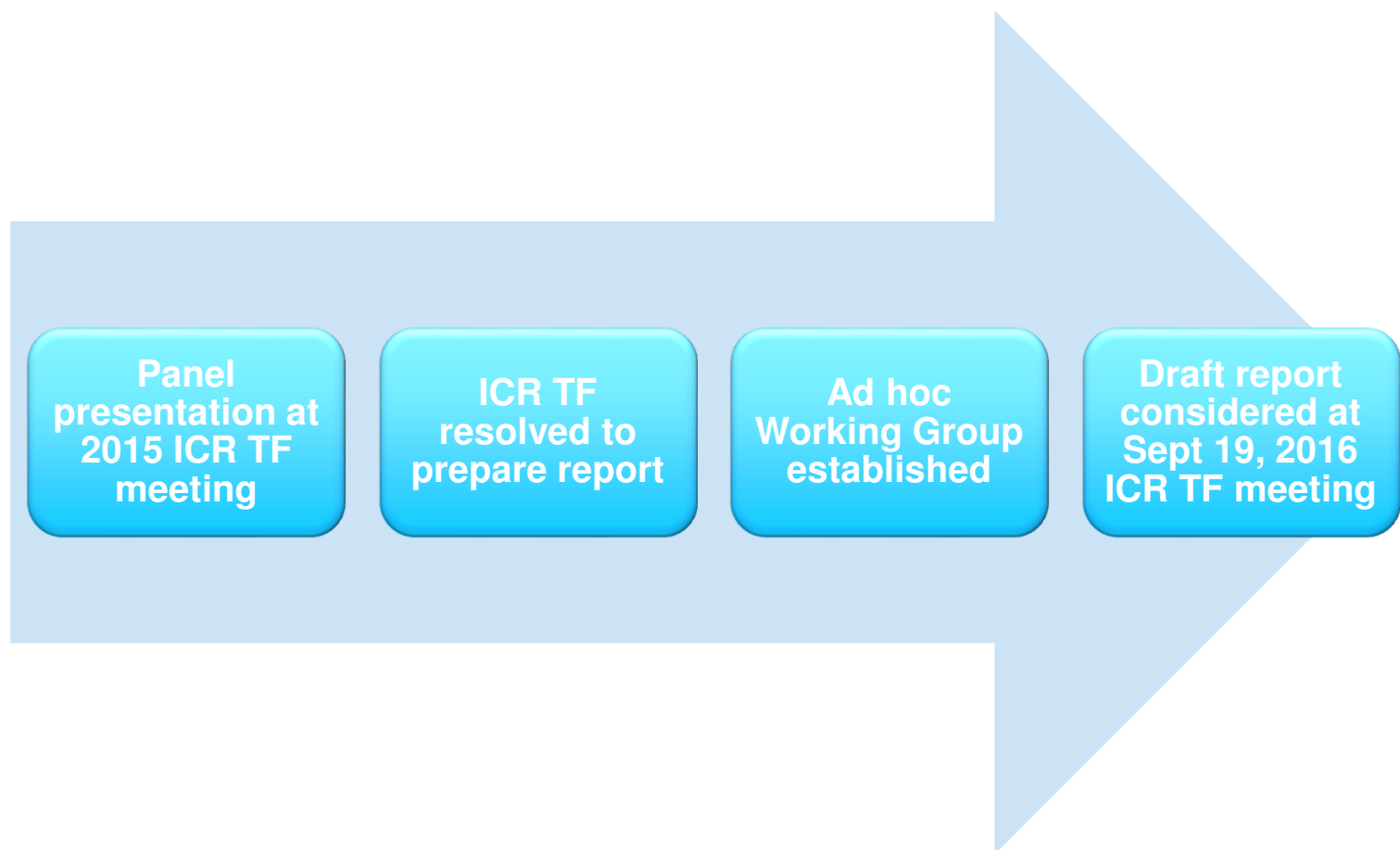


International Best Practice and Standards for ICR



Insolvency and Creditor/Debtor Regimes Task Force

Report on Treatment of MSME Insolvency arises from meeting of ICR Task Force:



Scope of Report

The Report considers:

- **The definition of MSMEs and whether MSME insolvency can be considered a topic**
- **The particular challenges facing MSME insolvency**
- **How the ICR Standard regards MSME insolvency**
- **Some examples of countries that have introduced MSME insolvency provisions**

The Report does not :

- **Seek to define MSMEs**
- **Prescribe solutions to the challenges facing MSME insolvency**

The Report



The Report is available at:

<http://documents.worldbank.org/curated/en/home>

Chapter II: Defining MSME Insolvency

Defining MSME Insolvency is problematic:

- **No common definition across the world of MSMEs due to economic variations between countries**
- **Incorporated vs. unincorporated: different regimes applicable.**
- **Different definitions within countries themselves**
- **A few typical metrics for defining an MSME Insolvency are: number of employees, turnover/sales, size of loan**

MSME Insolvency distinct from “simple cases”:

- **Key characteristic: number of creditors’ criterion – in theory can apply to large companies as well as MSMEs**
- **In country-specific examples, this criterion is one of the most widespread**

Chapter II: Challenges facing MSMEs

MSMEs face particular challenges that make them different to large enterprises:

- **Less sophisticated, less capital and fewer resources**
- **Informality**
- **Entrepreneurs generally forced to take high level of personal financial risk – lack of start-up/seed capital**
- **Limited ability to access finance (credit gap)**

Since MSMEs fail in large numbers, effectiveness of insolvency systems has particular effect on MSMEs

- **Lender terms (including costs of credit) affected by insolvency system**
- **Social stigma can be reduced / jobs preserved / greater entrepreneurship**

Chapter III: Challenges for MSMEs Entering Insolvency

Particular issues occur more frequently for MSMEs than for large enterprises:

- **Incentives to access insolvency procedures**
- **Creditor passivity**
- **Limited information during insolvency**
- **Accessing finance during insolvency**
- **Overlaps between business and personal insolvency regimes**
- **Insufficient assets to fund insolvency proceedings**

Chapter IV: Responses to MSME Insolvency Issues

How ICR International Standards have dealt with MSME Insolvency:

- **MSME-specific solutions not proposed**
- **Intersection of personal and business insolvency – limits role of Standards**

Different jurisdictions deal with MSMEs in a variety of ways (overlaps with simple cases regimes):

- **Shortening timelines or eliminating elements of proceedings (inc. pre-packs)**
- **MSME-specific regime**

Chapter IV: Responses to MSME Insolvency Issues

OHADA:

- **Eligibility to be “small case” – no more than 20 employees & max turnover of approx. \$ 80,000**
- **Impact of being a “small case” – simplified versions of all types of proceedings (preventive settlement, reorganization, liquidation):**
 - ☐ Filing without a plan
 - ☐ Reorganization plan may be limited in content
 - ☐ Simplified liquidation process if no immovable property

Argentina:

- **Eligibility to be “small case” – one of several criteria must be met:**
 - ☐ Liabilities do not exceed equivalent of 300 minimum wage payments (approx. \$ 154, 652)
 - ☐ No more than 20 unsecured creditors
 - ☐ No more than 20 employees
- **Impact of being a “small case” – streamlined process e.g. lighter formalities to commence process, no creditors committee:**
 - ☐ Lighter formalities to commence process
 - ☐ Establishment of creditors committee no longer mandatory
 - ☐ Special proceedings enabling creditors to offer competing restructuring to that proposed by debtor not permitted
 - ☐ IP will continue to have role after ratification of agreement unless creditors agree otherwise

Chapter V: Conclusions

Recommendations of the ICR Task Force Meeting, September 19, 2016:

- Definition of MSMEs should not be prescriptive
- Initially, existing regimes should be modified rather than new MSME regimes established – *an MSME-specific regime may not always be suitable but further exploration is needed*
- Consideration needs to be given to specific liquidation provisions due to high likelihood of liquidation
- Use of non-judicial assistance should be considered
- Intersections between personal insolvency and MSME need to be further explored

Questions?