

CONSOLIDATED TEXT OF THE UNCITRAL MODEL LAWS ON CROSS-BORDER INSOLVENCY, RECOGNITION AND ENFORCEMENT OF INSOLVENCY-RELATED JUDGMENTS AND ENTERPRISE GROUP INSOLVENCY

The following text has been prepared as an illustration of how the UNCITRAL Model Law on Cross-Border Insolvency (MLCBI), the Model Law on Recognition and Enforcement of Insolvency-Related Judgments (MLIJ), and the Model Law on Enterprise Group Insolvency (MLEG) could be enacted in a single consolidated text. The illustration was prepared following the "[Guidance note on enacting two or more of the UNCITRAL model laws on insolvency](#)" prepared by the UNCITRAL secretariat in consultation with experts. States wishing to enact only the MLCBI and the MLIJ or only the MLCBI and the MLEG can also use the guidance note and the following illustrative text for those purposes.

The illustration adopts the following key:

- (1) The text of the MLCBI is in black;
- (2) The text of provisions or excerpts of the **MLIJ are in violet**;
- (3) The text of provisions or excerpts of the **MLEG are in red**;
- (4) The numbering of the MLCBI provisions remains unchanged from the original text with two exceptions which are clearly indicated (art. 15(1), (2), (3), (4) become art. 15(1)(a), (b), (c), (d); and art. 21(1)(g) becomes 21(1)(h));
- (5) References in colored text in square brackets at the beginning of each article or paragraph indicate the original numbering/lettering of the provision from the **MLIJ** or the **MLEG**;
- (6) Any changes to the original text of the MLCBI, the **MLIJ** or the **MLEG** required as a consequence of the consolidated text (e.g. revised cross-references or slight editorial changes) are highlighted in underline or strikeout;
- (7) Additional drafting notes appear in the text in square brackets, in bold and in the color corresponding to the relevant model law.

UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY, RECOGNITION AND ENFORCEMENT OF INSOLVENCY-RELATED JUDGMENTS AND ENTERPRISE GROUP INSOLVENCY

Preamble

1. **[MLEG Preamble chapeau]** The purpose of this Law is to provide effective mechanisms for dealing with cases of cross-border insolvency and insolvency affecting the members of an enterprise group so as to promote the objectives of:

- (a) Cooperation between the courts and other competent authorities of this State and foreign States involved in cases of cross-border insolvency;
- (b) Greater legal certainty for trade and investment;
- (c) Fair and efficient administration of cross-border insolvencies that protects the interests of all creditors and other interested persons, including the debtor;
- (d) Protection and maximization of the value of the debtor's assets; and
- (e) Facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment;

(f) **[MLIJ Preamble 1(a)]** ~~To create~~ Creating greater certainty in regard to rights and remedies for recognition and enforcement of insolvency-related judgments;

- (g) [MLIJ Preamble 1(b)] ~~To avoid~~ Avoidance of the duplication of insolvency proceedings;
- (h) [MLIJ Preamble 1(c)] ~~To ensure~~ Ensuring timely and cost-effective recognition and enforcement of insolvency-related judgments.
- (i) [MLIJ Preamble 1(d)] ~~To promote~~ Promoting comity and cooperation between jurisdictions regarding insolvency-related judgments;
- (j) [MLIJ Preamble 1(e)] ~~To protect~~ Protecting and ~~maximize~~ maximizing the value of insolvency estates;
- (k) [MLEG Preamble (a)] Cooperation between courts and other competent authorities of this State and foreign States involved in ~~these~~ cases affecting the members of an enterprise group;
- (l) [MLEG Preamble (b)] Cooperation between insolvency representatives appointed in this State and foreign States in ~~these~~ cases affecting the members of an enterprise group;
- (m) [MLEG Preamble (c)] Development of a group insolvency solution for the whole or part of an enterprise group and cross-border recognition and implementation of that solution in multiple States;
- (n) [MLEG Preamble (d)] Fair and efficient administration of insolvencies concerning enterprise group members that protects the interests of all creditors of those enterprise group members and other interested persons, including the debtors;
- (o) [MLEG Preamble (e)] Protection and maximization of the overall combined value of the assets and operations of enterprise group members affected by insolvency and of the enterprise group as a whole;
- (p) [MLEG Preamble (f)] Facilitation of the rescue of financially troubled enterprise groups, thereby protecting investment and preserving employment; and
- (q) [MLEG Preamble (g)] Adequate protection of the interests of the creditors of each enterprise group member participating in a group insolvency solution and of other interested persons.

[NOTE: Preambular subparas. (d), (j) and (o) could be combined into a single subparagraph.]

2. [MLIJ Preamble 2(c)] In so far as this Law applies to the recognition and enforcement of an insolvency-related judgment, it is not intended to apply to the recognition and enforcement in the enacting State of an insolvency-related judgment issued in the enacting State.

CHAPTER I. GENERAL PROVISIONS

Article 1. Scope of application

1. This Law applies ~~where~~:
 - (a) Where assistance is sought in this State by a foreign court or a foreign representative in connection with a foreign proceeding; or
 - (b) Where assistance is sought in a foreign State in connection with a proceeding under [identify laws of the enacting State relating to insolvency]; or
 - (c) Where a foreign proceeding and a proceeding under [identify laws of the enacting State relating to insolvency] in respect of the same debtor are taking place concurrently; or

(d) Where creditors or other interested persons in a foreign State have an interest in requesting the commencement of, or participating in, a proceeding under [identify laws of the enacting State relating to insolvency]; or

(e) [MLIJ art. 1(1)] To the recognition and enforcement of an insolvency-related judgment issued in a State that is different to the State In which recognition and enforcement is sought; or

(f) [MLEG art. 1(1)] To enterprise groups where insolvency proceedings have commenced for one or more of its members, and addresses the conduct and administration of those insolvency proceedings and cooperation between those insolvency proceedings.

2. [MLIJ art. 1(2)] [MLEG art. 1(2)] This Law does not apply to a proceeding concerning *[designate any types of entities, such as banks or insurance companies, that are subject to a special insolvency regime in this State and that this State wishes to exclude from this Law]* *[designate any types of judgment that should be excluded from the provisions applicable to insolvency-related judgments]*.

[NOTE: Article 4 of the MLEG could be incorporated here as subpara. 3; it is included in this text as article 44.]

Article 2. Definitions

For the purposes of this Law:

(a) "Foreign proceeding" means a collective judicial or administrative proceeding in a foreign State, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

(b) "Foreign main proceeding" means a foreign proceeding taking place in the State where the debtor has the centre of its main interests;

(c) "Foreign non-main proceeding" means a foreign proceeding, other than a foreign main proceeding, taking place in a State where the debtor has an establishment within the meaning of subparagraph (f) of this article;

(d) "Foreign representative" means a person or body, including one appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;

(e) "Foreign court" means a judicial or other authority competent to control or supervise a foreign proceeding;

(f) [MLEG art. 2(l)] "Establishment" means any place of operations where the debtor or the enterprise group member debtor carries out a non-transitory economic activity with human means and goods or services.

(g) [MLIJ art. 2(c)] "Judgment" means any decision, whatever it may be called, issued by a court or administrative authority, provided an administrative decision has the same effect as a court decision. For the purposes of this definition, a decision includes a decree or order, and a determination of costs and expenses by the court. An interim measure of protection is not to be considered a judgment for the purposes of this Law;

(h) [MLIJ art. 2(d)] "Insolvency-related judgment":

(i) Means a judgment that:

a. Arises as a consequence of or is materially associated with an insolvency proceeding, whether or not that insolvency proceeding has closed; and

b. Was issued on or after the commencement of that insolvency proceeding; and

(ii) Does not include a judgment commencing an insolvency proceeding.

[Definitions (i) through (s) below refer to terms used in the MLEG. These definitions could be placed here or in Chapter VII.]

(i) [MLEG art. 2(a)] “Enterprise” means any entity, regardless of its legal form, that is engaged in economic activities and may be governed by the insolvency law;

(j) [MLEG art. 2(b)] “Enterprise group” means two or more enterprises that are interconnected by control or significant ownership;

(k) [MLEG art. 2(c)] “Control” means the capacity to determine, directly or indirectly, the operating and financial policies of an enterprise;

(l) [MLEG art. 2(d)] “Enterprise group member” means an enterprise that forms part of an enterprise group;

(m)[MLEG art. 2(e)] “Group representative” means a person or body, including one appointed on an interim basis, authorized to act as a representative of a planning proceeding;

(n) [MLEG art. 2(f)] “Group insolvency solution” means a proposal or set of proposals developed in a planning proceeding for the reorganization, sale or liquidation of some or all of the assets and operations of one or more enterprise group members, with the goal of protecting, preserving, realizing or enhancing the overall combined value of those enterprise group members;

(o) [MLEG art. 2(g)]. “Planning proceeding” means a main proceeding commenced in respect of an enterprise group member provided:

(i) One or more other enterprise group members are participating in that main proceeding for the purpose of developing and implementing a group insolvency solution;

(ii) The enterprise group member subject to the main proceeding is likely to be a necessary and integral participant in that group insolvency solution; and

(iii) A group representative has been appointed;

Subject to the requirements of subparagraphs (o)(i) to (iii), the court may recognize as a planning proceeding a proceeding that has been approved by a court with jurisdiction over a main proceeding of an enterprise group member for the purpose of developing a group insolvency solution within the meaning of this Law;

(p) [MLIJ art. 2(a)] [MLEG art. 2(h)] “Insolvency proceeding” means a collective judicial or administrative proceeding, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of a debtor or of an enterprise group member debtor are or were subject to control or supervision by a court or other competent authority for the purpose of reorganization or liquidation;

(q) [MLIJ art. 2(b)] [MLEG art. 2(i)] “Insolvency representative” means a person or body, including one appointed on an interim basis, authorized in an insolvency proceeding to administer the reorganization or liquidation of the debtor’s or the enterprise group member debtor’s assets or affairs or to act as a representative of the insolvency proceeding;

(r) [MLEG art. 2(j)] “Main proceeding” means an insolvency proceeding taking place in the State where the enterprise group member debtor has the centre of its main interests;

(s) [MLEG art. 2(k)]. “Non-main proceeding” means an insolvency proceeding, other than a main proceeding, taking place in a State where the enterprise group member debtor has an establishment within the meaning of subparagraph (f) of this article.

Article 3. International obligations of this State

[MLIJ art. 3(1)] [MLEG art. 3] To the extent that this Law conflicts with an obligation of this State arising out of any treaty or other form of agreement to which it is a party with one or more other States, the requirements of the treaty or agreement prevail.

[NOTE: MLIJ art. 3(2) could be incorporated here as a second paragraph. In this text, MLIJ art. 3(2) is incorporated as article 33 below to make clear that a bilateral investment treaty governing recognition and enforcement of judgments would not displace the MLCBI, except in cases of actual conflict.]

Article 4. [Competent court or authority]^a

[MLIJ art. 4] [MLEG art. 5] The functions referred to in this Law relating to recognition of foreign proceedings, or a foreign planning proceeding, or to recognition and enforcement of an insolvency-related judgment, and cooperation with courts, foreign courts, insolvency representatives, and any group representative appointed shall be performed by *[specify the court, courts, authority or authorities competent to perform those functions in the enacting State]*. [MLIJ art. 4] An insolvency-related judgment may also be recognized or enforced by a court before which the issue of recognition is raised as a defence or as an incidental question, in which case recognition pursuant to article 17 shall not be required.

[NOTE: The second sentence [derived from the second phrase of MLIJ art. 4] could instead be incorporated as article 34 in Chapter VI below. MLEG article 5 is incorporated here, but it could be included as article 45 in Chapter VII below.]

Article 5. Authorization of [insert the title of the person or body administering reorganization or liquidation under the law of the enacting State] to act in a foreign State

[MLIJ art. 5] A *[insert the title of the person or body administering a reorganization or liquidation under the law of the enacting State]* is authorized to act in a foreign State on behalf of a proceeding under *[identify laws of the enacting State relating to insolvency]* or with respect to an insolvency-related judgement issued in this State, as permitted by the applicable foreign law.

Article 6. Public policy exception

^a A State where certain functions relating to insolvency proceedings have been conferred upon government-appointed officials or bodies might wish to include in article 4 or elsewhere in chapter I the following provision:

Nothing in this Law affects the provisions in force in this State governing the authority of *[insert the title of the government-appointed person or body]*.

[MLEG art. 6] Nothing in this Law prevents the court from refusing to take an action governed by this Law if the action would be manifestly contrary to the public policy of this State.

[NOTE: MLIJ article 7 is incorporated as article 35 in Chapter VI below. Alternatively, the phrase “including the fundamental principles of procedural fairness” could be incorporated here, but care should be taken to consider its interaction with existing practices regarding ordinary cooperation under the MLCBI.]

Article 7. Additional assistance under other laws

[MLIJ art. 6] [MLEG art. 8] Nothing in this Law limits the power of a court or, in the case of an enterprise group insolvency, an insolvency representative, or a [insert the title of the person or body administering a reorganization or liquidation under the law of the enacting State] to provide additional assistance to a foreign representative or a group representative under other laws of this State.

[NOTE: The text added is derived from article 8 of the MLEG. It could also be adopted as a separate provision such as article 46 in Chapter VII below.]

Article 8. Interpretation

[MLIJ art. 8] [MLEG art. 7] In the interpretation of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

CHAPTER II. ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO COURTS IN THIS STATE

Article 9. Right of direct access

A foreign representative is entitled to apply directly to a court in this State.

Article 10. Limited jurisdiction

The sole fact that an application pursuant to this Law is made to a court in this State by a foreign representative does not subject the foreign representative or the foreign assets and affairs of the debtor to the jurisdiction of the courts of this State for any purpose other than the application.

Article 11. Application by a foreign representative to commence a proceeding under [identify laws of the enacting State relating to insolvency]

A foreign representative is entitled to apply to commence a proceeding under [identify laws of the enacting State relating to insolvency] if the conditions for commencing such a proceeding are otherwise met.

Article 12. Participation of a foreign representative in a proceeding under [identify laws of the enacting State relating to insolvency]

Upon recognition of a foreign proceeding, the foreign representative is entitled to participate in a proceeding regarding the debtor under [identify laws of the enacting State relating to insolvency].

Article 13. Access of foreign creditors to a proceeding under [identify laws of the enacting State relating to insolvency]

1. Subject to paragraph 2 of this article, foreign creditors have the same rights regarding the commencement of, and participation in, a proceeding under [identify laws of the enacting State relating to insolvency] as creditors in this State.

2. Paragraph 1 of this article does not affect the ranking of claims in a proceeding under [identify laws of the enacting State relating to insolvency], except that the claims of foreign creditors shall not be ranked lower than [identify the class of general non-preference claims, while providing that a foreign claim is to be

ranked lower than the general non-preference claims if an equivalent local claim (e.g. claim for a penalty or deferred-payment claim) has a rank lower than the general non-preference claims].^b

Article 14. Notification to foreign creditors of a proceeding under [identify laws of the enacting State relating to insolvency]

1. Whenever under [identify laws of the enacting State relating to insolvency] notification is to be given to creditors in this State, such notification shall also be given to the known creditors that do not have addresses in this State. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.
2. Such notification shall be made to the foreign creditors individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other, similar formality is required.
3. When a notification of commencement of a proceeding is to be given to foreign creditors, the notification shall:
 - (a) Indicate a reasonable time period for filing claims and specify the place for their filing;
 - (b) Indicate whether secured creditors need to file their secured claims; and
 - (c) Contain any other information required to be included in such a notification to creditors pursuant to the law of this State and the orders of the court.

CHAPTER III. RECOGNITION ~~OF A FOREIGN PROCEEDING~~ AND RELIEF

[NOTE: This Chapter addresses recognition of foreign proceedings and insolvency-related judgments, but does not address foreign planning proceedings or relief available to a planning proceeding, which are addressed in Chapter VII.]

Article 15. Application for recognition of a foreign proceeding or an insolvency-related judgment

1. [foreign proceeding] (a) A foreign representative may apply to the court for recognition of the foreign proceeding in which the foreign representative has been appointed.
 - (b) An application for recognition shall be accompanied by:
 - (i) A certified copy of the decision commencing the foreign proceeding and appointing the foreign representative; or
 - (ii) A certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or
 - (iii) In the absence of evidence referred to in subparagraphs (a) and (b), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.
 - (c) An application for recognition shall also be accompanied by a statement identifying all foreign proceedings in respect of the debtor that are known to the foreign representative.

^b The enacting State may wish to consider the following alternative wording to replace paragraph 2 of article 13:

“2. Paragraph 1 of this article does not affect the ranking of claims in a proceeding under [identify laws of the enacting State relating to insolvency] or the exclusion of foreign tax and social security claims from such a proceeding. Nevertheless, the claims of foreign creditors other than those concerning tax and social security obligations shall not be ranked lower than [identify the class of general non-preference claims, while providing that a foreign claim is to be ranked lower than the general non-preference claims if an equivalent local claim (e.g. claim for a penalty or deferred-payment claim) has a rank lower than the general non-preference claims].”

(d) The court may require a translation of documents supplied in support of the application for recognition into an official language of this State.

2. *[insolvency-related judgment]* [MLJ Art. 11] (a) An insolvency representative or other person entitled under the law of the originating State to seek recognition and enforcement of an insolvency-related judgment may seek recognition and enforcement of that judgment in this State. The issue of recognition may also be raised as a defence or as an incidental question.

(b) When recognition and enforcement of an insolvency-related judgment is sought under subparagraph (a), the following shall be submitted to the court:

(i) A certified copy of the insolvency-related judgment; and

(ii) Any documents necessary to establish that the insolvency-related judgment has effect and, where applicable, is enforceable in the originating State, including information on any pending review of the judgment; or

(iii) In the absence of evidence referred to in subparagraphs (i) and (ii), any other evidence on those matters acceptable to the court.

(c) The court may require translation of documents submitted pursuant to subparagraph (b) into an official language of this State.

(d) The court is entitled to presume that documents submitted pursuant to subparagraph (b) are authentic, whether or not they have been legalized.

(e) Any party against whom recognition and enforcement is sought has the right to be heard.

[Application for recognition of a foreign planning proceeding in MLEG article 21 is addressed in article 59 below. Some States may wish to locate those provisions here as paragraph 15(3)]

Article 16. Presumptions concerning recognition of a foreign proceeding

1. If the decision or certificate referred to in paragraph 1, subparagraph (b) of article 15 indicates that the foreign proceeding is a proceeding within the meaning of subparagraph (a) of article 2 and that the foreign representative is a person or body within the meaning of subparagraph (d) of article 2, the court is entitled to so presume.

2. The court is entitled to presume that documents submitted in support of the application for recognition are authentic, whether or not they have been legalized.

3. In the absence of proof to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the centre of the debtor's main interests.

[NOTE: The presumption in article 16(2) is the same as the presumption that applies to documents submitted in support of the recognition of an insolvency-related judgment, per article 15(2)(d) (MLJ article 11(4)), as well as to those submitted in support of recognition of a foreign planning proceeding pursuant to article 59(6) (MLEG article 21(6)) below. The substance of all three provisions could also be incorporated in a single provision, which could be located here.]

Article 17. Decision to recognize a foreign proceeding

1. Subject to article 6, a foreign proceeding shall be recognized if:

(a) The foreign proceeding is a proceeding within the meaning of subparagraph (a) of article 2;

(b) The foreign representative applying for recognition is a person or body within the meaning of subparagraph (d) of article 2;

- (c) The application meets the requirements of paragraph 1, subparagraph (b) of article 15; and
 - (d) The application has been submitted to the court referred to in article 4.
2. The foreign proceeding shall be recognized:
- (a) As a foreign main proceeding if it is taking place in the State where the debtor has the centre of its main interests; or
 - (b) As a foreign non-main proceeding if the debtor has an establishment within the meaning of subparagraph (f) of article 2 in the foreign State.
3. An application for recognition of a foreign proceeding shall be decided upon at the earliest possible time.
4. The provisions of articles 15, paragraph 1, 16, 17 and 18 do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist.

Article 18. Subsequent information

From the time of filing the application for recognition of the foreign proceeding, the foreign representative shall inform the court promptly of:

- (a) Any substantial change in the status of the recognized foreign proceeding or the status of the foreign representative's appointment; and
- (b) Any other foreign proceeding regarding the same debtor that becomes known to the foreign representative.

Article 19. Relief that may be granted upon application for recognition of a foreign proceeding

1. From the time of filing an application for recognition until the application is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including:
- (a) Staying execution against the debtor's assets;
 - (b) Entrusting the administration or realization of all or part of the debtor's assets located in this State to the foreign representative or another person designated by the court, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy;
 - (c) Any relief mentioned in paragraph 1 (c), (d) and (h) of article 21.
2. *[Insert provisions (or refer to provisions in force in the enacting State) relating to notice.]*
3. Unless extended under paragraph 1 (f) of article 21, the relief granted under this article terminates when the application for recognition is decided upon.
4. The court may refuse to grant relief under this article if such relief would interfere with the administration of a foreign main proceeding.

[NOTE: Both the MLIJ (article 12) and the MLEG (article 22) contain provisions allowing for provisional relief. In this text, these provisions are included as article 39 below for the MLIJ and article 60 for the MLEG, but States could also integrate them here.]

Article 20. Effects of recognition of a foreign main proceeding

1. Upon recognition of a foreign proceeding that is a foreign main proceeding:

- (a) Commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities is stayed;
 - (b) Execution against the debtor's assets is stayed; and
 - (c) The right to transfer, encumber or otherwise dispose of any assets of the debtor is suspended.
2. The scope, and the modification or termination, of the stay and suspension referred to in paragraph 1 of this article are subject to *[refer to any provisions of law of the enacting State relating to insolvency that apply to exceptions, limitations, modifications or termination in respect of the stay and suspension referred to in paragraph 1 of this article]*.
3. Paragraph 1 (a) of this article does not affect the right to commence individual actions or proceedings to the extent necessary to preserve a claim against the debtor.
4. Paragraph 1 of this article does not affect the right to request the commencement of a proceeding under *[identify laws of the enacting State relating to insolvency]* or the right to file claims in such a proceeding.

Article 21. Relief that may be granted upon recognition of a foreign proceeding

1. Upon recognition of a foreign proceeding, whether main or non-main, where necessary to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including:
- (a) Staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities, to the extent they have not been stayed under paragraph 1 (a) of article 20;
 - (b) Staying execution against the debtor's assets to the extent it has not been stayed under paragraph 1 (b) of article 20;
 - (c) Suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under paragraph 1 (c) of article 20;
 - (d) Providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;
 - (e) Entrusting the administration or realization of all or part of the debtor's assets located in this State to the foreign representative or another person designated by the court;
 - (f) Extending relief granted under paragraph 1 of article 19;
 - (g) [\[MLIJ art. X\] Recognizing and enforcing an insolvency-related judgment;](#)
 - (h) Granting any additional relief that may be available to *[insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State]* under the laws of this State.
2. Upon recognition of a foreign proceeding, whether main or non-main, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in this State to the foreign representative or another person designated by the court, provided that the court is satisfied that the interests of creditors in this State are adequately protected.
3. In granting relief under this article to a representative of a foreign non-main proceeding, the court must be satisfied that the relief relates to assets that, under the law of this State, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

[NOTE: Subparagraph (1)(g) above reflects the content of article X of the MLIJ. States may instead wish to insert the text of article X as a separate paragraph under this article. In either case, enacting States should consider the relationship between subparagraph 21(1)(g) of the consolidated text (article X of the

MLIJ) and the MLEG, as well as subparagraphs 41(f) and (g)(iv) (articles 14(f) and (g)(iv) of the MLIJ) below.]

Article 22. Protection of creditors and other interested persons

1. In granting or denying relief under article 19 or 21, or in modifying or terminating relief under paragraph 3 of this article, the court must be satisfied that the interests of the creditors and other interested persons, including the debtor, are adequately protected.
2. The court may subject relief granted under article 19 or 21 to conditions it considers appropriate.
3. The court may, at the request of the foreign representative or a person affected by relief granted under article 19 or 21, or at its own motion, modify or terminate such relief.

Article 23. Actions to avoid acts detrimental to creditors

1. Upon recognition of a foreign proceeding, the foreign representative has standing to initiate [*refer to the types of actions to avoid or otherwise render ineffective acts detrimental to creditors that are available in this State to a person or body administering a reorganization or liquidation*].
2. When the foreign proceeding is a foreign non-main proceeding, the court must be satisfied that the action relates to assets that, under the law of this State, should be administered in the foreign non-main proceeding.

Article 24. Intervention by a foreign representative in proceedings in this State

Upon recognition of a foreign proceeding, the foreign representative may, provided the requirements of the law of this State are met, intervene in any proceedings in which the debtor is a party.

CHAPTER IV. COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

[NOTE: The cooperation and coordination provisions of the MLEG are included as subchapter 2 of Chapter VII below. Some States may wish to integrate that subchapter into the provisions of Chapter IV.]

Article 25. Cooperation and direct communication between a court of this State and foreign courts or foreign representatives

1. In matters referred to in subparagraphs (a) to (e) of article 1, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through a [*insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State*].
2. The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives.

Article 26. Cooperation and direct communication between the [insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State] and foreign courts or foreign representatives

1. In matters referred to in subparagraphs (a) to (e) of article 1, a [*insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State*] shall, in the exercise of its functions and subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.
2. The [*insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State*] is entitled, in the exercise of its functions and subject to the supervision of the court, to communicate directly with foreign courts or foreign.

Article 27. Forms of cooperation

Cooperation referred to in articles 25 and 26 may be implemented by any appropriate means, including:

- (a) Appointment of a person or body to act at the direction of the court;
- (b) Communication of information by any means considered appropriate by the court;
- (c) Coordination of the administration and supervision of the debtor's assets and affairs;
- (d) Approval or implementation by courts of agreements concerning the coordination of proceedings;
- (e) Coordination of concurrent proceedings regarding the same debtor;
- (f) *[The enacting State may wish to list additional forms or examples of cooperation].*

CHAPTER V. CONCURRENT PROCEEDINGS

Article 28. Commencement of a proceeding under [identify laws of the enacting State relating to insolvency] after recognition of a foreign main proceeding

After recognition of a foreign main proceeding, a proceeding under *[identify laws of the enacting State relating to insolvency]* may be commenced only if the debtor has assets in this State; the effects of that proceeding shall be restricted to the assets of the debtor that are located in this State and, to the extent necessary to implement cooperation and coordination under articles 25, 26 and 27, to other assets of the debtor that, under the law of this State, should be administered in that proceeding.

Article 29. Coordination of a proceeding under [identify laws of the enacting State relating to insolvency] and a foreign proceeding

Where a foreign proceeding and a proceeding under *[identify laws of the enacting State relating to insolvency]* are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under articles 25, 26 and 27, and the following shall apply:

- (a) When the proceeding in this State is taking place at the time the application for recognition of the foreign proceeding is filed,
 - (i) Any relief granted under article 19 or 21 must be consistent with the proceeding in this State; and
 - (ii) If the foreign proceeding is recognized in this State as a foreign main proceeding, article 20 does not apply;
- (b) When the proceeding in this State commences after recognition, or after the filing of the application for recognition, of the foreign proceeding,
 - (i) Any relief in effect under article 19 or 21 shall be reviewed by the court and shall be modified or terminated if inconsistent with the proceeding in this State; and
 - (ii) If the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in paragraph 1 of article 20 shall be modified or terminated pursuant to paragraph 2 of article 20 if inconsistent with the proceeding in this State;
- (c) In granting, extending or modifying relief granted to a representative of a foreign non-main proceeding, the court must be satisfied that the relief relates to assets that, under the law of this State, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

Article 30. Coordination of more than one foreign proceeding

In matters referred to in article 1, in respect of more than one foreign proceeding regarding the same debtor, the court shall seek cooperation and coordination under articles 25, 26 and 27, and the following shall apply:

- (a) Any relief granted under article 19 or 21 to a representative of a foreign non-main proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding;
- (b) If a foreign main proceeding is recognized after recognition, or after the filing of an application for recognition, of a foreign non-main proceeding, any relief in effect under article 19 or 21 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding;
- (c) If, after recognition of a foreign non-main proceeding, another foreign non-main proceeding is recognized, the court shall grant, modify or terminate relief for the purpose of facilitating coordination of the proceedings.

Article 31. Presumption of insolvency based on recognition of a foreign main proceeding

In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under *[identify laws of the enacting State relating to insolvency]*, proof that the debtor is insolvent.

Article 32. Rule of payment in concurrent proceedings

Without prejudice to secured claims or rights in rem, a creditor who has received part payment in respect of its claim in a proceeding pursuant to a law relating to insolvency in a foreign State may not receive a payment for the same claim in a proceeding under *[identify laws of the enacting State relating to insolvency]* regarding the same debtor, so long as the payment to the other creditors of the same class is proportionately less than the payment the creditor has already received.

CHAPTER VI. RECOGNITION AND ENFORCEMENT OF INSOLVENCY-RELATED JUDGMENTS

Article 33. International obligations of this state with regard to insolvency-related judgments

[MLIJ art. 3(2)] This Law shall not apply to a judgment where there is a treaty in force concerning the recognition or enforcement of civil and commercial judgments, and that treaty applies to the judgment.

[Note: Alternatively, MLIJ art. 3(2) could be incorporated as a second paragraph in article 3 above. Its placement here in article 33 may make it clearer that a bilateral investment treaty governing recognition and enforcement of judgments would not displace the MLCBI, except in cases of conflict.]

Article 34. Competent court or authority

[MLIJ art. 4] An insolvency-related judgment may also be recognized or enforced by a court before which the issue of recognition is raised as a defence or as an incidental question in the course of proceedings, in which case recognition pursuant to article 17 shall not be required.

[NOTE: This article could also be integrated into article 4 above.]

Article 35. Public Policy Exception

[MLIJ art. 7] Nothing in this Law prevents the court from refusing to ~~take an action governed by this Law~~ recognize or enforce an insolvency-related judgment if doing so would be manifestly contrary to the public policy, including the fundamental principles of procedural fairness, of this State.

Article 36. Effect and enforceability of an insolvency-related judgment

[MLIJ art. 9] An insolvency-related judgment shall be recognized only if it has effect in the originating State and shall be enforced only if it is enforceable in the originating State.

Article 37. Effect of review in the originating State on recognition and enforcement

[MLIJ art. 10] 1. Recognition or enforcement of an insolvency-related judgment may be postponed or refused if the judgment is the subject of review in the originating State or if the time limit for seeking ordinary review in that State has not expired. In such cases, the court may also make recognition or enforcement conditional on the provision of such security as it shall determine.

2. A refusal under paragraph 1 does not prevent a subsequent application for recognition or enforcement of the judgment.

[Article 38. Procedure for seeking recognition and enforcement of an insolvency-related judgment]

[NOTE: MLIJ art. 11 could be inserted here. In this text, it is incorporated as article 15(2).]

Article 39. Provisional Relief

[MLIJ art. 12] 1. From the time recognition and enforcement of an insolvency-related judgment is sought until a decision is made, where relief is urgently needed to preserve the possibility of recognizing and enforcing an insolvency-related judgment, the court may, at the request of an insolvency representative or other person entitled to seek recognition and enforcement under article 15, paragraph , subparagraph (a), grant relief of a provisional nature, including:

- (a) Staying the disposition of any assets of any party or parties against whom the insolvency-related judgment has been issued; or
- (b) Granting other legal or equitable relief, as appropriate, within the scope of the insolvency-related judgment.

2. *[Insert provisions (or refer to provisions in force in the enacting State) relating to notice, including whether notice would be required under this article.]*

3. Unless extended by the court, relief granted under this article terminates when a decision on recognition and enforcement of the insolvency-related judgment is made.

[NOTE: MLIJ article 12 could alternatively be incorporated into article 19 above]

Article 40. Decision to recognize and enforce an insolvency-related judgment

[MLIJ art. 13] Subject to articles 35 and 41, an insolvency-related judgment shall be recognized and enforced provided:

- (a) The requirements of article 33 with respect to effectiveness and enforceability are met;
- (b) The person seeking recognition and enforcement of the insolvency-related judgment is an insolvency representative within the meaning of article 2, subparagraph (q) or another person entitled to seek recognition and enforcement of the judgment under article 15, paragraph 2, subparagraph (a);
- (c) The application meets the requirements of article 15, paragraph 2, subparagraph (b); and
- (d) Recognition and enforcement is sought from a court referred to in article 4, or the question of recognition arises by way of defence or as an incidental question before such a court.

Article 41. Grounds to refuse recognition and enforcement of an insolvency-related judgment

[MLIJ art. 14] In addition to the ground set forth in article 35, recognition and enforcement of an insolvency-related judgment may be refused if:

- (a) The party against whom the proceeding giving rise to the judgment was instituted:
 - (i) Was not notified of the institution of that proceeding in sufficient time and in such a manner as to enable a defence to be arranged, unless the party entered an appearance and presented their case without contesting notification in the originating court, provided that the law of the originating State permitted notification to be contested; or
 - (ii) Was notified in this State of the institution of that proceeding in a manner that is incompatible with the rules of this State concerning service of documents;
- (b) The judgment was obtained by fraud;
- (c) The judgment is inconsistent with a judgment issued in this State in a dispute involving the same parties;
- (d) The judgment is inconsistent with an earlier judgment issued in another State in a dispute involving the same parties on the same subject matter, provided the earlier judgment fulfils the conditions necessary for its recognition and enforcement in this State;
- (e) Recognition and enforcement would interfere with the administration of the debtor's insolvency proceedings, including by conflicting with a stay or other order that could be recognized or enforced in this State;
- (f) The judgment:
 - (i) Materially affects the rights of creditors generally, such as determining whether a plan of reorganization or liquidation should be confirmed, a discharge of the debtor or of debts should be granted or a voluntary or out-of-court restructuring agreement should be approved; and
 - (ii) The interests of creditors and other interested persons, including the debtor, were not adequately protected within the meaning of article 22, paragraph 1, or article 65, paragraph 1, in the proceeding in which the judgment was issued;
- (g) The originating court did not satisfy one of the following conditions:
 - (i) The court exercised jurisdiction on the basis of the explicit consent of the party against whom the judgment was issued;
 - (ii) The court exercised jurisdiction on the basis of the submission of the party against whom the judgment was issued, namely that the defendant argued on the merits before the court without objecting to jurisdiction or to the exercise of jurisdiction within the time frame provided in the law of the originating State, unless it was evident that such an objection to jurisdiction would not have succeeded under that law;
 - (iii) The court exercised jurisdiction on a basis on which a court in this State could have exercised jurisdiction; or
 - (iv) The court exercised jurisdiction on a basis that was not incompatible with the law of this State;
- (h)[*optional*] The judgment originates from a State whose insolvency proceeding is not or would not be recognizable under Chapter III, unless:
 - (i) The insolvency representative of a proceeding that is or could have been recognized under Chapter III participated in the proceeding in the originating State to the extent of engaging in the substantive merits of the cause of action to which that proceeding related; and

- (ii) The judgment relates solely to assets that were located in the originating State at the time the proceeding in the originating State commenced.

[It is important that enacting States consider the relationship between subparagraph 41(f) (article 14(f) of the MLIJ) and article 22 of the MLCBI. Subparagraph 41(f) should be drafted by enacting States to ensure that relief granted to a foreign proceeding that would be subject to a requirement of adequate protection under article 22, paragraph 1 of the MLCBI, or article 65, paragraph 1 below (article 27(1) of the MLEG) would also be subject to that requirement when recognized as an insolvency-related judgment. Further, adopting States should consider the relationship between subparagraph 41(g)(iv) and article 21 of the MLCBI, as modified by article X, as well as its relationship with the MLEG.]

Article 42. Equivalent effect

[MLIJ art. 15]1. An insolvency-related judgment recognized or enforceable under this Law shall be given the same effect it [has in the originating State] [would have had if it had been issued by a court of this State].

2. If the insolvency-related judgment provides for relief that is not available under the law of this State, that relief shall, to the extent possible, be adapted to relief that is equivalent to, but does not exceed, its effects under the law of the originating State.

[NOTE: As noted in the footnote to article 15(1) in the MLIJ, the enacting State may wish to note that it should choose between the two alternatives provided in square brackets, which is further explained in para. 121 of the MLIJ Guide to Enactment.]

Article 43. Severability

[MLIJ art. 16] Recognition and enforcement of a severable part of an insolvency-related judgment shall be granted where recognition and enforcement of that part is sought, or where only part of the judgment is capable of being recognized and enforced under this Law.

CHAPTER VII. ENTERPRISE GROUP INSOLVENCY

[Note: A number of sections in this Chapter could alternatively be placed in other parts of the consolidated text. They are included here, in a separate chapter on enterprise groups for the sake of simplicity. Where placement would affect cross-references, the relevant section numbers are underlined.]

Subchapter 1. General Provisions Relating to Enterprise Group Insolvency

Article 44. Jurisdiction of the enacting State

[MLEG art. 4] Where an enterprise group member has the centre of its main interests in this State, nothing in this Law is intended to:

- (a) Limit the jurisdiction of the courts of this State with respect to that enterprise group member;
- (b) Limit any process or procedure (including any permission, consent or approval) required in this State in respect of that enterprise group member's participation in a group insolvency solution being developed in another State;
- (c) Limit the commencement of insolvency proceedings in this State, if required or requested; or

(d) Create an obligation to commence an insolvency proceeding in this State in respect of that enterprise group member when no such obligation exists.

[NOTE: As noted above, article 4 of the MLEG could alternatively be inserted as paragraph 3 of article 1.]

Article 45. Competent court or authority

[NOTE: MLEG article 5 is reflected in article 4 above. Alternatively, it could be included here.]

Article 46. Additional assistance under other laws

[NOTE: MLEG article 8 is reflected in article 7 above. Alternatively, it could be included here.]

Subchapter 2. Cooperation and coordination

Article 47. Cooperation and direct communication between a court of this State and other courts, insolvency representatives and any group representative appointed

[MLEG art. 9] 1. In the matters referred to in subparagraph (f) of article 1, the court shall cooperate to the maximum extent possible with other courts, insolvency representatives and any group representative appointed, either directly or through an insolvency representative appointed in this State or a person appointed to act at the direction of the court.

2. The court is entitled to communicate directly with, or to request information or assistance directly from, other courts, insolvency representatives or any group representative appointed.

Article 48. Cooperation to the maximum extent possible under article 47

[MLEG art. 10] For the purposes of article 47, cooperation to the maximum extent possible may be implemented by any appropriate means, including:

- (a) Communication of information by any means considered appropriate by the court;
- (b) Participation in communication with other courts, an insolvency representative or any group representative appointed;
- (c) Coordination of the administration and supervision of the affairs of enterprise group members;
- (d) Coordination of concurrent insolvency proceedings commenced with respect to enterprise group members;
- (e) Appointment of a person or body to act at the direction of the court;
- (f) Approval and implementation of agreements concerning the coordination of insolvency proceedings relating to two or more enterprise group members, including where a group insolvency solution is being developed;
- (g) Cooperation among courts as to how to allocate and provide for the costs associated with cooperation and communication;
- (h) Use of mediation or, with the consent of the parties, arbitration, to resolve disputes between enterprise group members concerning claims;
- (i) Approval of the treatment and filing of claims between enterprise group members;
- (j) Recognition of the cross-filing of claims by or on behalf of enterprise group members and their creditors; and

(k) [The enacting State may wish to list additional forms or examples of cooperation].

[NOTE: The provisions of article 10 of the MLEG could be placed here or added to the list of ‘Forms of cooperation’ contained in article 27 above.]

Article 49. Limitation of the effect of communication under article 47

[MLEG art. 11] 1. With respect to communication under article 47, a court is entitled at all times to exercise its independent jurisdiction and authority with respect to matters presented to it and the conduct of the parties appearing before it.

2. Participation by a court in communication pursuant to article 47, paragraph 2, does not imply:
 - (a) A waiver or compromise by the court of any powers, responsibilities or authority;
 - (b) A substantive determination of any matter before the court;
 - (c) A waiver by any of the parties of any of their substantive or procedural rights;
 - (d) A diminution of the effect of any of the orders made by the court;
 - (e) Submission to the jurisdiction of other courts participating in the communication; or
 - (f) Any limitation, extension or enlargement of the jurisdiction of the participating courts.

[NOTE: Article 11 of the MLEG could be placed here or following article 27 above.]

Article 50. Coordination of hearings

[MLEG Art. 12] 1. A court may conduct a hearing in coordination with another court.

2. The substantive and procedural rights of the parties and the jurisdiction of the court may be safeguarded by the parties reaching agreement on the conditions to govern the coordinated hearing and the court approving that agreement.
3. Notwithstanding the coordination of the hearing, the court remains responsible for reaching its own decision on the matters before it.

[NOTE: Article 12 of the MLEG could be placed here or following article 27 above.]

Article 51. Cooperation and direct communication between a group representative, insolvency representatives and courts

[MLEG art. 13] 1. A group representative appointed in this State shall, in the exercise of its functions and subject to the supervision of the court, cooperate to the maximum extent possible with other courts and insolvency representatives of other enterprise group members to facilitate the development and implementation of a group insolvency solution.

2. A group representative is entitled, in the exercise of its functions and subject to the supervision of the court, to communicate directly with or to request information or assistance directly from other courts and insolvency representatives of other enterprise group members.

Article 52. Cooperation and direct communication between an insolvency representative appointed in this State, other courts, insolvency representatives of other group members and any group representative appointed

[MLEG art. 14] 1. An insolvency representative appointed in this State shall, in the exercise of its functions and subject to the supervision of the court, cooperate to the maximum extent possible with other courts, insolvency representatives of other enterprise group members and any group representative appointed.

2. An insolvency representative appointed in this State is entitled, in the exercise of its functions and subject to the supervision of the court, to communicate directly with or to request information or assistance directly from other courts, insolvency representatives of other enterprise group members and any group representative appointed.

Article 53. Cooperation to the maximum extent possible under articles 51 and 52

[MLEG art. 15] For the purposes of article 51 and article 52, cooperation to the maximum extent possible may be implemented by any appropriate means, including:

- (a) Sharing and disclosure of information concerning enterprise group members, provided appropriate arrangements are made to protect confidential information;
- (b) Negotiation of agreements concerning the coordination of insolvency proceedings relating to two or more enterprise group members, including where a group insolvency solution is being developed;
- (c) Allocation of responsibilities between an insolvency representative appointed in this State, insolvency representatives of other group members and any group representative appointed;
- (d) Coordination of the administration and supervision of the affairs of the enterprise group members; and
- (e) Coordination with respect to the development and implementation of a group insolvency solution, where applicable.

Article 54. Authority to enter into agreements concerning the coordination of insolvency proceedings

[MLEG art. 16] An insolvency representative and any group representative appointed may enter into an agreement concerning the coordination of insolvency proceedings relating to two or more enterprise group members, including where a group insolvency solution is being developed.

Article 55. Appointment of a single or the same insolvency representative

[MLEG art. 17] A court may coordinate with other courts with respect to the appointment and recognition of a single or the same insolvency representative to administer and coordinate insolvency proceedings concerning members of the same enterprise group.

Article 56. Participation by enterprise group members in an insolvency proceeding commenced in this State

[MLEG art. 18] 1. Subject to paragraph 2, if an insolvency proceeding has commenced in this State with respect to an enterprise group member that has the centre of its main interests in this State, any other enterprise group member may participate in that insolvency proceeding for the purpose of facilitating cooperation and coordination under this Law, including developing and implementing a group insolvency solution.

2. An enterprise group member that has the centre of its main interests in another State may participate in an insolvency proceeding referred to in paragraph 1 unless a court in that other State prohibits it from so doing.
3. Participation by any other enterprise group member in an insolvency proceeding referred to in paragraph 1 is voluntary. An enterprise group member may commence its participation or opt out of participation at any stage of such a proceeding.
4. An enterprise group member participating in an insolvency proceeding referred to in paragraph 1 has the right to appear, make written submissions and be heard in that proceeding on matters affecting that enterprise group member's interests and to take part in the development and implementation of a group insolvency solution. The sole fact that an enterprise group member is participating in such a proceeding does not subject the enterprise group member to the jurisdiction of the courts of this State for any purpose unrelated to that participation.
5. A participating enterprise group member shall be notified of actions taken with respect to the development of a group insolvency solution.

Subchapter 3. Appointment of a group representative and relief available in a planning proceeding in this State

Article 57. Appointment of a group representative and authority to seek relief

[MLEG art. 19] 1. When the requirements of article 2, subparagraphs (o) (i) and (ii), are met, the court may appoint a group representative. Upon that appointment, a group representative shall seek to develop and implement a group insolvency solution.

2. To support the development and implementation of a group insolvency solution, a group representative is authorized to seek relief pursuant to this article and article 58 in this State.

3. A group representative is authorized to act in a foreign State on behalf of the planning proceeding and, in particular, to:

- (a) Seek recognition of the planning proceeding and relief to support the development and implementation of a group insolvency solution;
- (b) Seek to participate in a foreign proceeding relating to an enterprise group member participating in the planning proceeding; and
- (c) Seek to participate in a foreign proceeding relating to an enterprise group member not participating in the planning proceeding.

Article 58. Relief available to a planning proceeding

[MLEG art. 20] 1. To the extent needed to preserve the possibility of developing or implementing a group insolvency solution or to protect, preserve, realize or enhance the value of assets of an enterprise group member subject to or participating in a planning proceeding or the interests of the creditors of such an enterprise group member, the court, at the request of the group representative, may grant any appropriate relief, including:

- (a) Staying execution against the assets of the enterprise group member;
- (b) Suspending the right to transfer, encumber, or otherwise dispose of any assets of the enterprise group member;
- (c) Staying the commencement or continuation of individual actions or individual proceedings concerning the assets, rights, obligations, or liabilities of the enterprise group member;

- (d) Entrusting the administration or realization of all or part of the assets of the enterprise group member located in this State to the group representative or another person designated by the court, in order to protect, preserve, realize or enhance the value of assets;
 - (e) Providing for the examination of witnesses, the taking of evidence, or the delivery of information concerning the assets, affairs, rights, obligations, or liabilities of the enterprise group member;
 - (f) Staying any insolvency proceeding concerning a participating enterprise group member;
 - (g) Approving arrangements concerning the funding of the enterprise group member and authorizing the provision of finance under those funding arrangements; and
 - (h) Granting any additional relief that may be available to an insolvency representative under the laws of this State.
2. Relief under this article may not be granted with respect to the assets and operations located in this State of any enterprise group member participating in a planning proceeding if that enterprise group member is not subject to an insolvency proceeding, unless an insolvency proceeding was not commenced for the purpose of minimizing the commencement of insolvency proceedings in accordance with this Law.
3. With respect to the assets and operations located in this State of an enterprise group member that has the centre of its main interests in another State, relief under this article may only be granted if that relief does not interfere with the administration of insolvency proceedings taking place in that other State.

Subchapter 4. Recognition of a foreign planning proceeding and relief

Article 59. Application for recognition of a foreign planning proceeding

[MLEG art. 21] 1. A group representative may apply in this State for recognition of the foreign planning proceeding to which the group representative was appointed.

2. An application for recognition shall be accompanied by:
- (a) A certified copy of the decision appointing the group representative; or
 - (b) A certificate from the foreign court affirming the appointment of the group representative; or
 - (c) In the absence of evidence referred to in subparagraphs (a) and (b), any other evidence concerning the appointment of the group representative that is acceptable to the court.
3. An application for recognition shall also be accompanied by:
- (a) A statement identifying each enterprise group member participating in the foreign planning proceeding;
 - (b) A statement identifying all members of the enterprise group and all insolvency proceedings that are known to the group representative that have been commenced in respect of enterprise group members participating in the foreign planning proceeding; and
 - (c) A statement to the effect that the enterprise group member subject to the foreign planning proceeding has the centre of its main interests in the State in which that planning proceeding is taking place and that that proceeding is likely to result in added overall combined value for the enterprise group members subject to or participating in that proceeding.
4. The court may require a translation of documents supplied in support of the application for recognition into an official language of this State.
5. The sole fact that an application pursuant to this Law is made to a court in this State by a group representative does not subject the group representative to the jurisdiction of the courts of this State for any purpose other than the application.

6. The court is entitled to presume that documents submitted in support of the application for recognition are authentic, whether or not they have been legalized.

[NOTE: This article may be incorporated above as article 15(3).]

Article 60. Provisional relief that may be granted upon application for recognition of a foreign planning proceeding

[MLEG Art. 22] 1. From the time of filing an application for recognition of a foreign planning proceeding until the application is decided upon, where relief is urgently needed to preserve the possibility of developing or implementing a group insolvency solution or to protect, preserve, realize or enhance the value of assets of an enterprise group member subject to or participating in a planning proceeding or the interests of the creditors of such an enterprise group member, the court may, at the request of the group representative, grant relief of a provisional nature, including:

- (a) Staying execution against the assets of the enterprise group member;
- (b) Suspending the right to transfer, encumber, or otherwise dispose of any assets of the enterprise group member;
- (c) Staying any insolvency proceeding concerning the enterprise group member;
- (d) Staying the commencement or continuation of individual actions or individual proceedings concerning the assets, rights, obligations, or liabilities of the enterprise group member;
- (e) In order to protect, preserve, realize or enhance the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation, or otherwise in jeopardy, entrusting the administration or realization of all or part of the assets of the enterprise group member located in this State to an insolvency representative appointed in this State. Where that insolvency representative is not able to administer or realize all or part of the assets of the enterprise group member located in this State, the group representative or another person designated by the court may be entrusted with that task;
- (f) Providing for the examination of witnesses, the taking of evidence, or the delivery of information concerning the assets, affairs, rights, obligations, or liabilities of the enterprise group member;
- (g) Approving arrangements concerning the funding of the enterprise group member and authorizing the provision of finance under those funding arrangements; and
- (h) Granting any additional relief that may be available to an insolvency representative under the laws of this State.

2. *[Insert provisions of the enacting State relating to notice.]*

3. Unless extended under [article 62, paragraph 1 \(a\)](#), the relief granted under this article terminates when the application for recognition is decided upon.

4. Relief under this article may not be granted with respect to the assets and operations located in this State of any enterprise group member participating in a foreign planning proceeding if that enterprise group member is not subject to an insolvency proceeding, unless an insolvency proceeding was not commenced for the purpose of minimizing the commencement of insolvency proceedings in accordance with this Law.

5. The court may refuse to grant relief under this article if such relief would interfere with the administration of an insolvency proceeding taking place where an enterprise group member participating in the foreign planning proceeding has the centre of its main interests.

Article 61. Recognition of a foreign planning proceeding

[MLEG art. 23] 1. A foreign planning proceeding shall be recognized if:

- (a) The application meets the requirements of [article 59, paragraphs 2 and 3](#);
 - (b) The proceeding is a planning proceeding within the meaning of [article 2, subparagraph \(o\)](#); and
 - (c) The application has been submitted to the court referred to in [article 4](#).
2. An application for recognition of a foreign planning proceeding shall be decided upon at the earliest possible time.
3. Recognition may be modified or terminated if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist.
4. For the purposes of paragraph 3, the group representative shall inform the court of material changes in the status of the foreign planning proceeding or in the status of its own appointment occurring after the application for recognition is made, as well as changes that might bear upon the relief granted on the basis of recognition.

Article 62. Relief that may be granted upon recognition of a foreign planning proceeding

[MLEG art. 24] 1. Upon recognition of a foreign planning proceeding, where necessary to preserve the possibility of developing or implementing a group insolvency solution or to protect, preserve, realize or enhance the value of assets of an enterprise group member subject to or participating in the foreign planning proceeding or the interests of the creditors of such an enterprise group member, the court, at the request of the group representative, may grant any appropriate relief, including:

- (a) Extending any relief granted under [article 60, paragraph 1](#);
 - (b) Staying execution against the assets of the enterprise group member;
 - (c) Suspending the right to transfer, encumber, or otherwise dispose of any assets of the enterprise group member;
 - (d) Staying any insolvency proceeding concerning the enterprise group member;
 - (e) Staying the commencement or continuation of individual actions or individual proceedings concerning the assets, rights, obligations, or liabilities of the enterprise group member;
 - (f) In order to protect, preserve, realize or enhance the value of assets for the purpose of developing or implementing a group insolvency solution, entrusting the administration or realization of all or part of the assets of the enterprise group member located in this State to an insolvency representative appointed in this State. Where that insolvency representative is not able to administer or realize all or part of the assets of the enterprise group member located in this State, the group representative or another person designated by the court may be entrusted with that task;
 - (g) Providing for the examination of witnesses, the taking of evidence, or the delivery of information concerning the assets, affairs, rights, obligations, or liabilities of the enterprise group member;
 - (h) Approving arrangements concerning the funding of the enterprise group member and authorizing the provision of finance under those funding arrangements; and
 - (i) Granting any additional relief that may be available to an insolvency representative under the laws of this State.
2. In order to protect, preserve, realize or enhance the value of assets for the purposes of developing or implementing a group insolvency solution, the distribution of all or part of the enterprise group member's assets located in this State may be entrusted to an insolvency representative appointed in this State. Where that insolvency representative is not able to distribute all or part of the assets of the enterprise group

member located in this State, the group representative or another person designated by the court may be entrusted with that task.

3. Relief under this article may not be granted with respect to the assets and operations located in this State of any enterprise group member participating in a foreign planning proceeding if that enterprise group member is not subject to an insolvency proceeding, unless an insolvency proceeding was not commenced for the purpose of minimizing the commencement of insolvency proceedings in accordance with this Law.

4. The court may refuse to grant relief under this article if such relief would interfere with the administration of an insolvency proceeding taking place where an enterprise group member participating in the foreign planning proceeding has the centre of its main interests.

Article 63. Participation of a group representative in proceedings in this State

[MLEG art. 25] 1. Upon recognition of a foreign planning proceeding, the group representative may participate in any proceeding concerning an enterprise group member that is participating in the foreign planning proceeding.

2. The court may approve participation by a group representative in any insolvency proceeding in this State concerning an enterprise group member that is not participating in the foreign planning proceeding.

Article 64. Approval of a group insolvency solution

[MLEG art. 26] 1. Where a group insolvency solution affects an enterprise group member that has the centre of its main interests or an establishment in this State, the portion of the group insolvency solution affecting that enterprise group member shall have effect in this State once it has received any approvals and confirmations required in accordance with the law of this State.

2. A group representative is entitled to apply directly to a court in this State to be heard on issues related to approval and implementation of a group insolvency solution.

Subchapter 5. Protection of creditors and other interested persons

Article 65. Protection of creditors and other interested persons

[MLEG art. 27] 1. In granting, denying, modifying or terminating relief under this Law, the court must be satisfied that the interests of the creditors of each enterprise group member subject to or participating in a planning proceeding and other interested persons, including the enterprise group member subject to the relief to be granted, are adequately protected.

2. The court may subject relief granted under this Law to conditions it considers appropriate, including the provision of security.

3. The court may, at the request of the group representative or a person affected by relief granted under this Law, or at its own motion, modify or terminate such relief.

Subchapter 6. Treatment of foreign claims

Article 66. Undertaking on the treatment of foreign claims: non-main proceedings

[MLEG art. 28] 1. To minimize the commencement of non-main proceedings or facilitate the treatment of claims in an enterprise group insolvency, a claim that could be brought by a creditor of an enterprise group member in a non-main proceeding in another State may be treated in a main proceeding commenced in this State in accordance with the treatment it would be accorded in the non-main proceeding, provided:

- (a) An undertaking to accord such treatment is given by the insolvency representative appointed in the main proceeding in this State. Where a group representative is appointed, the undertaking should be given jointly by the insolvency representative and the group representative;
 - (b) The undertaking meets the formal requirements, if any, of this State; and
 - (c) The court approves the treatment to be accorded in the main proceeding.
2. An undertaking given under paragraph 1 shall be enforceable and binding on the insolvency estate of the main proceeding.

Article 67. Powers of the court of this State with respect to an undertaking under article 66

[MLEG art. 29] If an insolvency representative or a group representative from another State in which a main proceeding is pending has given an undertaking in accordance with article 66, a court in this State, may:

- (a) Approve the treatment to be provided in the foreign main proceeding to the claims that might otherwise be brought in a non-main proceeding in this State; and
- (b) Stay or decline to commence a non-main proceeding.

Supplemental Provisions

[NOTE: The supplemental provisions in MLEG articles 30 to 32 have been included for States that may wish to adopt a more extensive approach with respect to treatment of the claims of foreign creditors (see MLEG Guide, paras. 28-29). These provisions additionally permit the use of articles 66 and 67 above (MLEG articles 28 and 29) in a proceeding taking place in the enacting State with respect to an enterprise group member whose centre of main interests (COMI) is in another jurisdiction.]

Article 68. Undertaking on the treatment of foreign claims: main proceedings

[MLEG art. 30] To minimize the commencement of main proceedings or to facilitate the treatment of claims that could otherwise be brought by a creditor in an insolvency proceeding in another State, an insolvency representative of an enterprise group member or a group representative appointed in this State may undertake to accord to those claims the treatment in this State that they would have received in an insolvency proceeding in that other State and the court in this State may approve that treatment. Such undertaking shall be subject to the formal requirements, if any, of this State and shall be enforceable and binding on the insolvency estate.

Article 69. Powers of a court of this State with respect to an undertaking under article 68

[MLEG art. 31] If an insolvency representative or a group representative from another State in which an insolvency proceeding is pending has given an undertaking under article 68, a court in this State may:

- (a) Approve the treatment in the foreign insolvency proceeding of the claims that might otherwise be brought in a proceeding in this State; and
- (b) Stay or decline to commence a main proceeding.

Article 70. Additional relief

[MLEG art. 32] 1. If, upon recognition of a foreign planning proceeding, the court is satisfied that the interests of the creditors of affected enterprise group members would be adequately protected in that proceeding, particularly where an undertaking under article 66 or 68 has been given, the court, in addition

to granting any relief described in [article 62](#), may stay or decline to commence an insolvency proceeding in this State with respect to any enterprise group member participating in the foreign planning proceeding.

2. Notwithstanding [article 64](#), if, upon submission of a proposed group insolvency solution by the group representative, the court is satisfied that the interests of the creditors of the affected enterprise group member are or will be adequately protected, the court may approve the relevant portion of the group insolvency solution and grant any relief described in [article 62](#) that is necessary for implementation of the group insolvency solution.