

FORUM ON ASIAN INSOLVENCY REFORM 2006

LEGAL AND INSTITUTIONAL REFORMS OF ASIAN INSOLVENCY SYSTEMS

PROGRAMME

**The Great Wall Sheraton Hotel
Beijing, China**

27-28 April 2006

Background

Efficient, predictable and transparent insolvency procedures are of key importance for reallocation of productive resources in the corporate sector, for investor confidence and forward looking corporate restructuring. By providing a platform for sustained policy-dialogue, the Forum for Asian Insolvency Reform (FAIR) contributes to keeping insolvency at the heart of reform efforts in the region.

Weak insolvency systems have been identified as one of the key shortcomings of the investment climate in Asian markets. At the November 1999 meeting on Insolvency Systems in Asia¹, the Organisation for Economic Co-operation and Development (OECD) was urged to continue promoting policy dialogue in the region. As a result, the OECD, in co-operation with Asia-Pacific Economic Co-operation (APEC), the Australian Agency for International Development (AusAID), the Asian Development Bank (ADB), the World Bank (WB) and the Government of Japan established the FAIR to discuss and exchange experience on insolvency reform in the Asian Region. The FAIR meetings gather key policy makers, members of the judiciary, academics, insolvency practitioners and other private sector representatives. The United Nations Commission on International Trade Law (UNCITRAL) and the International Association of Restructuring, Insolvency and Bankruptcy Professionals (INSOL) are also key participants.

Purpose of the FAIR

The FAIR aims at:

- Assisting the development of an Asian agenda for insolvency reform;
- Building a regional policy constituency and commitment to reforms;
- Disseminating regional experiences and comparative progress reviews, in order to increase the understanding for viable policy options; and
- Monitoring progress and helping to keep insolvency, restructuring and the related legal changes at the heart of reform efforts.

In close co-operation with international and regional partners, FAIR is organised around regular meetings that facilitate and deepen the dialogue on insolvency reform in the region. In addition to a continuous in-depth dialogue on specific aspects of insolvency reform, FAIR also undertakes informal peer country reviews of reform implementation. The shared goal of FAIR is to make sound policy conclusions and recommendations and to ground them in the situation and circumstances of each country of the region. The FAIR also facilitates identification of country-specific technical-assistance needs, which could then be addressed by bilateral donors or multilateral institutions.

Each FAIR is accompanied by substantive background documentation, which is subsequently published. The first FAIR was held in Indonesia in 2001 and focused on Insolvency Reforms in Asia: An Assessment of the Implementation Process and the Role of the Judiciary. The second FAIR, which was held in Thailand in December 2002, focused on Informal Workouts and reviewed the reform process in Thailand. The third FAIR took place on 10-11 November 2003 in Seoul to discuss Maximising Value of Non-Performing Assets. In 2004 the FAIR reconvened on 3-5 November in New Delhi and focused on Risk Management Issues and Insolvency Systems.

FAIR V

The fifth meeting of FAIR will take place on 27-28 April 2006 in Beijing, in co-operation with the Enterprise Research Institute of the Development Research Centre of the State Council of People's Republic of China. Participants will examine the main policy issues arising in legal and institutional reforms of the Asian insolvency systems in the last decade and will attempt to distil lessons stemming from international guidance and experience. Particular attention will be paid to new developments and insolvency reforms in China.

¹ The meeting on Insolvency Systems in Asia was convened in Sydney, Australia by the OECD in co-operation with the WB, the ADB, AusAID/Australian Treasury and APEC. See further http://www.oecd.org/document/41/0,2340,en_2649_201185_2380777_1_1_1_1,00.html

Day One

08:30 – 09:00 Registration

Opening session

09:00 – 09:30 Welcoming remarks

- Mr. Liu Shijing, Vice President of the Development Research Centre, China
- Mr. Robert Ley, Deputy Director for Financial and Enterprise Affairs, OECD
- Mr. Vijay Srinivas Tata, Chief Counsel, Finance, Private Sector and Infrastructure, Legal Vice Presidency, The World Bank
- Ms. Jenny Clift, Head, Technical Assistance and Co-ordination, UNCITRAL

The discussions of the Forum will be moderated by Mr. Neil Cooper, International Consultant, OECD and former President of INSOL International

SESSION I: Asian insolvency reforms in the last decade

09:30 – 11:00 Presentations:

- China bankruptcy law reform, *Mr. Zhu Shaoping, Vice Director General, Financial and Economic Committee of the National People's Congress, China*
- Comparative overview of Asian insolvency reforms in the last decade, *Prof. Soogeon Oh, Professor of Law, Ewha Womans University, Korea*
- Policy Hurdles to Effective Implementation of Asian Insolvency Regimes, *Dr. Terence Halliday, American Bar Foundation*

Panellists :

- *Mr. Chen Xionghong, Director General, Enterprise Research Institute, Development Research Centre of the State Council of China*
- *Mr. Kunihiro Shinoda, Chair, Strengthening Economic Legal Infrastructure Co-ordinating Group, APEC*
- *Mr. Richard Fisher, International Consultant, Asian Development Bank*
- *Ms. Jenny Clift, Head of Technical Assistance and Co-ordination, International Trade Law, UNCITRAL*
- *Mr. Vijay Srinivas Tata Chief Counsel, Finance, Private Sector and Infrastructure, Legal Vice Presidency, The World Bank*

11:00 – 11:30 Coffee break

SESSION II: Enterprise reorganisation

11:30 – 13:00 Presentations:

- Enterprise reorganisation under the draft bankruptcy law of China, *Mr. Li Shuguang, Director of Bankruptcy Law & Restructuring Centre, China University of Politics and Law*
- Reorganisation of state-owned enterprises, *Mr. Li Bing, Deputy Director General, State Asset Supervision and Administration Committee(SASAC)*
- Reorganization and liquidation of listed companies, *Mr. Tong Daochi, Deputy Director General, Listed Company Supervisory Dept., China Securities Regulatory Commission(CSRC)*
- Enterprise reorganisation in Asia: possible policy choices and approaches, *Prof. Charles Booth, University of Hawai and University of Hong Kong*

Panellists:

- *Mr. Pairoj Vongvipanond, Senior Research Fellow, Dhurakij Pundit University, Thailand*
- *Mr. Motoyuki Yufu, Principal Administrator, OECD*

13:00 – 14:30 *Lunch*

SESSION III: Informal workouts

14:30 – 16:00 Presentations:

- A Model Agreement to Promote Company Restructuring, *Mr. Richard Fisher and Mr. Michael Sloan, International consultants, Asian Development Bank*
- Institutional capacity reform to support an effective informal workout regime: the experience of the Asian Bankers Association and the Asian Business Advisory Council, *Mr. Kenneth Waller, Economic Advisor, Commonwealth Bank of Australia*

Panellists:

- *Mr. Nick Hood, INSOL International*
- *Mr. Steven Kargman, United States*

16:00 – 16:30 *Coffee break*

SESSION IV: Courts and the judiciary

16:30 – 17:30 Presentations:

- Courts and enterprise reorganisation in China, *Mr. Sun Xiaoming, Presiding Judge, Second Civil Court, Supreme Court of China*
- Legal and institutional supports of the judiciary, *Mr. Wisit Wisitsora-At, Director General, Office of Justice Affairs, Legal Execution Department, Thailand*
- Specialised courts: the Indian experience with insolvency tribunals, *Justice A. K. Sikri, Company Judge, Delhi High Court*
- The role of judges and judicial expertise: lessons from the Global Judges Forum, *Mr. Vijay Srinivas Tata, Chief Counsel, Finance, Private Sector and Infrastructure, Legal Vice Presidency, The World Bank and Mr. Gordon Johnson, Partner, Kirkland and Ellis*

SESSION V: Regulatory and institutional issues

17:30 – 18:30 Presentations:

- The Chinese experience, *Mr. Huang Yi, Director General, Policy and Law Department, China Banking Regulatory Commission*
- The Case for a strong regulatory framework: the World Bank Principles in Asia, *Mr. Mahesh Uttamchandani, Senior Counsel, The World Bank*
- Supervision of insolvency administrators: a practitioner's perspective, *Mr. Bob Sanderson, INSOL International*

Panellists:

- *Mr. Sumant Batra, International consultant, The World Bank*
- *Mr. Zhang Xianchu, Associate Professor, University of Hong Kong, Hong Kong China*
- *Ms. Karen Axford, Australian Securities and Investments Commission*

19:00 – 21:30 *Welcoming Dinner hosted by the Enterprise Research Institute of the Development Research Centre China, King & Wood and Zhong Lun*

Day Two

SESSION VI: Priority claims

09:00 – 10:30 Presentations:

- Issues of liability and claim sequence in the draft Chinese bankruptcy law, *Prof. Wang Weiguo, Dean of the Civil and Business Law School, China University of Politics and Law*
- Employee claims priority: possible approaches in China, *Mr. Guo Jun, Deputy Director General, Law Department, All China Federation of Trade Unions*
- Social protection: priorities, pensions and other strategies for protecting employees in the context of insolvency, *Mr. Gordon Johnson, Partner and Mr. James Sprayregen, Partner, Kirkland and Ellis*

Panellists:

- *Ms. Jenny Clift, UNCITRAL*
- *Mr. Mahesh Uttamchandani, The World Bank*

10:00 – 10:30 Coffee break

SESSION VII: Creditor participation

10:30 - 12:00 Presentations:

- Participation of creditors in insolvency proceedings in Asia: a comparative overview,
 - *Mr. Steven Miller, Partner, Johnson Stokes & Master,*
 - *Mr. David Kidd, Partner, Allen and Overy, Hong Kong China*
 - *Mr. Alan Tang, Grant Thornton, Hong Kong China*
 - *Mr. Sumant Batra, International Consultant, The World Bank*

Panellists:

- *Mr. Lampros Vassiliou, Partner, DLA Piper Rudnick Gray Cary*
- *Prof. Roman Tomasic, Professor of Law, Victoria University, Australia*

SESSION VIII: Treatment of corporate groups

12:00 – 13:00 Presentations

- Issues arising in cross-border insolvency of groups of companies in Japan, *Dr. Shinjiro Takagi, Chair, Industrial Revitalisation Corporation of Japan*
- The experience of China, *Mr. Li Bo, Deputy Director General, Statute and Law, People's Bank of China*
- Lessons from recent cases of insolvency of groups of companies, *Muriel Alhadeff, Associate, White and Case*
- Policy choices and possible approaches, *Mr. Sijmen de Ranitz, President, INSOL International*

13:00 – 14:30 Lunch

SESSION IX: Cross-Border Insolvency

14:30 – 16:00 Presentations:

- Lessons from recent Asian cross-border insolvency cases, *Mr. Ramesh Kannan, Partner, Tan Kok Quan Partnership*
- Experience in Europe and other regions, *Mr. Thierry Bosly, Partner, White and Case*
- Further developments in cross-border insolvency law, *Prof. Christoph Paulus, insolvency expert, The World Bank*

Panellists:

- *Mr. Chaewoong Lim, Judge, Korean Supreme Court*
- *Mr. Richard Fisher, International Consultant, ADB*
- *Ms. Jenny Clift, UNCITRAL*

16:00 – 16:30 Coffee break

SESSION X: Conclusions and future work

16:30 – 18:00 Chair: Mr. Robert Ley, Deputy Director for Financial and Enterprise Affairs, OECD

Summary of discussions

- *Mr. Chen Xionghong, Director General, Enterprise Research Institute, Development Research Centre of the State Council of China*
- *Mr. Kunihiko Shinoda, Chair, Strengthening Economic Legal Infrastructure Coordinating Group, APEC*
- *Mr. Wisit Wisitsora-At, Director General, Office of Justice Affairs, Legal Execution Department, Thailand*
- *Prof. Soogeon Oh, Professor of Law, Ewha Womans University, Korea*
- *Mr. Neil Cooper, International Consultant, OECD and former President of INSOL*

Future work

- **Topics for future meetings of the FAIR**
- **Discussion of a proposal for the establishment of a regional Network for on-going dialogue on insolvency reforms, capacity building and technical assistance initiatives, Australia**
- **Other initiatives**

General discussion