



Overview of Literature and Cases on Protocols

This document provides an overview of some relevant literature and cases on the use of protocols in cross-border insolvency cases. Overview per 1 September 2015.

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For more information on protocols visit the TRI Leiden page on insolvency protocols at:
www.tri-leiden.eu/project/categories/insolvency-protocols-project

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1. Books & Articles

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2. Case Law

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4. Cross-Border Insolvency Orders and Protocols

(Alphabetical)

All of these protocols can be found in a database available at www.tri-leiden.eu.

Most protocols were sourced from www.iiiglobal.org, the website of the International Insolvency Institute (III). Some have been published on the website of Cassels Brock, a Canadian law firm (www.casselsbrock.com) or the website of other law firms. The technical information, as described below, reflects the contents of these sites or is extracted, in similar format, from the protocols themselves.

Re 360Networks Inc.

Between British Columbia Supreme Court, Vancouver (Mr. Justice D.F. Tysoe), Case No. L011792, (June 28, 2001) and United States Bankruptcy Court for the Southern District of New York (Hon. Allan L. Gropper), Case No. 0113721alg, (August 29, 2001).

Re AbitibiBowater Inc.

Between Superior Court of Quebec, Montreal (Mr Justice Clément Gascon), Case No. 500-110-36133-94 (July 28, 2009) and United States Bankruptcy Court of Delaware.

Re AgriBio Tech Inc.

Between Ontario Superior Court of Justice, Toronto (Mr. Justice J.M. Farley), Case No. 31-OR371448, (June 16, 2000) and United States Bankruptcy Court for the District of Nevada (Hon. Linda B. Riegler), Case No. 50010534 LBR, (June 28, 2000) providing for Court-to-Court Communications.

Re AIOC Corporation and AIOC Resources AG

Between United States and Switzerland: United States Bankruptcy Court for Southern District Court of New York (Chief Judge Tina L. Brozman), Case Nos. 96 B 41895 and 96 B 41896, (April 3, 1998).

Re Androscoggin Energy LLC

United States Bankruptcy Court for the District of Maine (Hon. Louis H. Kornreich), Case No. 0412221LHK, (January 12, 2005), and Ontario Superior Court of Justice (Mr. Justice J.M. Farley), Court File No. 04CL5643 (January 6, 2005).

Re Barzel Industries Inc.

Between United States Bankruptcy Court of Delaware (Justice C.S. Sontchi), Case No. 09-13204 (CSS), (September 17, 2009) and the Ontario Superior Court of Justice, Toronto.

Re Bernard L. Madoff Investment Securities LLC

Between United States Bankruptcy Court for the Southern District of New York (Hon. B.R. Lifland), Case No. 08-1789 (BRL), (June 9, 2009) and several other jurisdictions.

Re Calpine Corporation

Between the United States Bankruptcy for the Southern District of New York (Hon. Burton R. Lifland), Case No. 0560200 (April 9, 2007) and Court of Queens Bench of Alberta (Madam Justice B.E.C. Romaine), Case No. 050117864 (April 7, 2007) including approval and adoption of the American Law Institute Guidelines for Court to Court Communications for Cross Border Cases.

Re Commodore Electronics Limited and Commodore International Limited

Between the United States Bankruptcy Court for the Southern District of New York and the Supreme Court of the Commonwealth of the Bahamas (December 8, 1994).

Re Eddie Bauer Inc.

Between Bankruptcy court of Delaware and Ontario Superior Court of Justice; Toronto (Mr. Justice Morawetz) Case No. 5735728 (June, 25, 2009) Order approving Cross-Border Insolvency Protocol between Canada and the United States.

Re Everfresh Beverages Inc.

Ontario Court of Justice; Toronto (Mr. Justice J.M. Farley), Case No. 32077978, (May 15, 1996). Orders Approving Cross-Border Insolvency Protocol between Canada and the United States in Re Everfresh Beverages Inc., Ontario Court of Justice, Toronto (Mr. Justice J.M. Farley), Case No. 32077978, (December 20, 1995) and United States Bankruptcy Court for the Southern District of New York. (Hon. Burton R. Lifland), Case No. 95 B 45405, (December 20, 1995).

Re Federal -Mogul Global Inc.

Between the United States Bankruptcy Court for the District of Delaware (Hon. Randall Newsome), Case No. 0110578, (October 4, 2001) and the Chancery Division of the High Court of Justice of England, (October 1, 2001) and Final Order Approving Cross-Border Insolvency Protocol in Re Federal-Mogul Global Inc. et al., United States Bankruptcy Court for the District of Delaware (Hon. Randall Newsome), Case No. 0110578, (January 7, 2002).

Re Financial Asset Management Foundation

Between Supreme Court of British Columbia (Chief Justice Donald I. Brenner) Case No. 11213464/VA.01 (August 1, 2001) and United States Bankruptcy Court for the Southern District of California (Hon. Louise Adler) Case No. 0103649304 (July 25, 2001).

Re Inverworld, Inc.

Between United States District Court for the Western District of Texas (Hon. Frederick Biery), Case No. SA99C0822FB, (October 22, 1999) and U.K. High Court of Justice, Chancery Division, (1999) and the Grand Court of the Cayman Island, (1999).

Re Laidlaw Inc.

Between Ontario Superior Court of Justice, Toronto (Mr. Justice J.M. Farley), Case No. 01CL-4178, (August 10, 2001) and United States Bankruptcy Court for the Western District of New York (Hon. Michael J. Kaplan), Case No. 0114099, (August 20, 2001).

Re Lehman Brothers Holding Inc.

Between United States Bankruptcy Court for the Southern District of New York (Hon. James Peck), Case No. 08-13555 (JMP), (June 17, 2009) and court in many other jurisdiction including the Netherlands.

Re Livent Inc.

Between United States Bankruptcy Court for the Southern District of New York (Hon. Arthur Gonzales), Case No. 98B48312, and Ontario Superior Court of Justice, Toronto (Mr. Justice J.D. Ground), Case No. 98CL3162, (June 11, 1999).

Re Loewen Group

Between United States Bankruptcy Court for the District of Delaware (Chief Judge Peter J. Walsh) Case No. 991244 (June 30, 1999) and Ontario Superior Court of Justice, Toronto (Mr. Justice J.M. Farley) Case No. 99CL3384 (June 1, 1999).

Re Manhattan Investment Fund Limited

Between United States Bankruptcy Court for the Southern District of New York (Hon. Burton R. Lifland), Case No. 0010922BRL, (April 2000) and High Court of Justice of the British Virgin Islands (Chief Justice Austin Ward), Case No. 19 of 2000, (April, 2000) and Supreme Court of Bermuda (Mr. Justice Kenneth A. Benjamin), Case No. 2000/37, (April 2000).

Re Masonite International Inc.

Between Ontario Superior Court of Justice, Toronto (Mr. Justice Campbell), Case No. 09807500CL (March 16, 2009) and United States Bankruptcy Court for the District of Delaware (Hon. Peter J. Walsh), Case No. 0910844 (PJW), (April 14, 2009) substantially incorporating the principles of the American Law Institute Guidelines for Court-to-Court Communications in Cross-Border Cases.

Re Matlack Inc.

Between Ontario Superior Court of Justice, Toronto (Mr. Justice J.M. Farley), Case No. 01CL-4109, (April 19, 2001) and United States Bankruptcy Court for the District of Delaware (Hon. Mary F. Walrath), Case No. 0101114 (MFW), (May 24, 2001) including approval and adoption of the American Law Institute Guidelines for Court-to-Court Communications in Cross-Border Cases.

Re Maxwell Communication plc

Between the United States and the United Kingdom. United States Bankruptcy Court for the Southern District of New York (Hon. Tina L. Brozman), Case No. 91 B 15741, (January 15, 1992) and the High Court of Justice, Chancery Division, Companies Court, Case No. 0014001 of 1991, (December 31, 1991).

Re Milacron Canada LTD.

Between the Superior Court of Justice of Ontario, Toronto (Hon. Justice Campbell), Court File No. CV-09-8060-00CL, (March 10, 2009) and the United States Bankruptcy Court for the Southern District of Ohio, Western Division.

Re Mosaic Group Inc.

Between the Ontario Court of Justice, Toronto (Mr. Justice J.M. Farley), Court File No. 02CL-4816, (December 7, 2002) and the United States Bankruptcy Court for the Northern District of Texas (Hon. Harlin DeWayne Hale), Case No. 0281440, (January 8, 2003), including approval and adoption of the American Law Institute Guidelines for Court-to-Court Communications in Cross Border Cases.

Re Nakash

United States Bankruptcy Court for the Southern District of New York, Case No. 94 B 44840, (May 23, 1996) and District Court of Jerusalem, Case No. 1595/87, (May 23, 1996).

Re Nortel Networks Corporation

Between Ontario Superior Court of Justice, Toronto (Mr. Justice Geoffrey B. Morawetz), Case No. 09CL7950 (January 14, 2009) and United States Bankruptcy Court for the District of Delaware (Hon. Kevin Gross), Case No. 0910138 (KG), (January 15, 2009) including approval and adoption of the American Law Institute Guidelines for Court-to-Court Communications in Cross-Border Cases.

Re Olympia & York Developments Limited

Between Ontario Court of Justice, Toronto (Mr. Justice R.A. Blair), Case No. B125/92, (July 26, 1993) and United States Bankruptcy Court for the Southern District of New York (Hon. James L. Garrity, Jr.), Case No's 92B4269842701, (July 15, 1993) (Reasons for Decision of the Ontario Court of Justice: (1993), 20 C.B.R. (3d) 165).

Re Philip Services Corporation

Between United States Bankruptcy Court for the District of Delaware (Hon. Mary Walrath), Case No. 99B02385, (June 28, 1999) and Ontario Superior Court of Justice, Toronto (Mr. Justice Robert A. Blair), Case No. 99CL3442, (June 25, 1999).

Re Pioneer Companies

Between the Quebec Superior Court, (Re PCI Chemicals Canada Inc.,) (Madam Justice Danielle Mayrand), Case No. 500005066677012, (August 1, 2001) and United States Bankruptcy Court for the Southern District of Texas, (Re Pioneer Companies Inc.) Case No. 0138259, (August 1, 2001): providing for Court-to-Court communications consistent with The American Law Institute Guidelines for Court-to-Court Communications in Cross-Border Cases.

Re Pope & Talbot Ltd.

Between the British Columbia Supreme Court, Vancouver (Chief Justice Donald I. Brenner), Case No. SO77839, (December 14, 2007) and the United States Bankruptcy Court for the District of Delaware, (Hon. Christopher Sontchi), Case No. 0711738 including approval and adoption of the American Law Institute Guidelines for Court-to-Court Communications in Cross-Border Cases.

Re Progressive Moulded Products Ltd.

Between the Ontario Superior Court of Justice, Toronto (Mr. Justice Geoffrey B. Morawetz), Case No. CV08759000CL, (June 24, 2008) and the United States Bankruptcy Court, including approval and adoption of the American Law Institute Guidelines for Court-to-Court Communications in Cross-Border Cases.

Re PSINet Inc. et al.

between Ontario Superior Court of Justice, Toronto (Mr. Justice J.M. Farley), Case No. 01CL-4155, (July 10, 2001) and United States Bankruptcy Court for the Southern District of New York (Hon. Robert E. Gerber), Case No. 0113213, (July 10, 2001) including approval and adoption of the American Law Institute Guidelines for Court-to-Court Communications in Cross-Border Cases.

Re Quebecor World Inc.

Between the Superior Court for the Province of Quebec (Mr. Justice Robert Mongeon), Case No. 50011032338085 (January 21, 2008) and the United States Bankruptcy Court, Southern District of New York (Hon. James Peck), Case No. 0810152, (April 17, 2008), including approval and adoption of the American Law Institute Guidelines for Court to Court Communications in Cross-Border Cases.

Re Refco Capital Markets

Supreme Court of Bermuda (Mr. Justice Ian Kawaley), Case No. 2005:328 (December 12, 2006) (Approving the application of the American Law Institute Guidelines for Court-to-Court Communications in Cross-Border Cases.).

Re Semcrude, L.P., et al.

Between the United States Bankruptcy court for the District of Delaware (Hon. B.L. Shannon), Case No. 08-11525 (BLS), (September 24, 2009) and the Alberta Court of Queen's Bench.

Re Sendo International Limited

Between the commercial Court of Nanterre, France (Mr. Justice Jerome Mandrillon) and the Chancery Division of the High Court of Justice, London (June 1, 2006.).

Re Smurfit Stone Container Canada Inc.

Between Ontario Superior Court of Justice, Toronto (Madam Justice Sarah E. Pepall), Case No. 09796600CL (March 12, 2009) and United States Bankruptcy Court for the District of Delaware (Hon. Brendan L. Shannon), Case No. 0910235 (BLS), (March 12, 2009) substantially incorporating the principles of the American Law Institute Guidelines for Court-to-Court Communications in Cross-Border Cases.

Re Sol-Vex Canada Limited and Re Sol-Vex Corporation

Between Alberta Court of Queen's Bench (Mr. Justice G.R. Forsyth), Case No. 970110022, (January 28, 1998) and United States Bankruptcy Court for the District of New Mexico (Hon. Mark McFeely), Case No. 119714362MA, (January 28, 1998).

Re Systech Retail Systems Corporation

Between the Ontario Court of Justice, Toronto (Mr. Justice J.D. Ground), Court File No. 03CL-4836, (January 20, 2003) and the United States Bankruptcy Court for the Eastern District of North Carolina, Raleigh Division (Hon. A. Thomas Small), Case No. 03001425ATS, (January 30, 2003) including approval and adoption of the American Law Institute Guidelines for Court –to-Court Communications in Cross-Border Cases.

Re Tee-Comm Electronics Inc.

Between Ontario Court of Justice and United States Bankruptcy Court for the District of Delaware (Hon. Peter J. Walsh), Case No. 971100 (PJW), (July 3, 1997).

Re T&N Ltd.

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