

INSOL Europe/LexisPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Luxembourg

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Restructuring and Insolvency analysis: This article looks at how Luxembourg would recognise insolvency or restructuring proceedings commenced in a third country state. In particular, it considers whether the English Part 26 scheme or Part 26A restructuring plan would be recognised in Luxembourg. Written by the Luxembourg Country Coordinator for INSOL Europe, Christel Dumont at Dentons.

Q1. Has your country adopted the United Nations Commission on International Trade Law (UNCITRAL) Model law on Insolvency? If not, does it intend to do so in the near future?

No, Luxembourg has not adopted the UNCITRAL Model law on Insolvency and there is no intention to do so in the near future.

Q2. What are your country’s private international law provisions for the recognition of insolvency proceedings commenced in countries outside of the EU Member States (ie Third Party States like the UK)?

Luxembourg applies the universality principle.

Q3. Would your country recognise an English scheme of arrangement (under Part 26 of the Companies Act 2006 (CA 2006)) or an English restructuring plan (under CA 2006, Pt 26A) now post Brexit and on what basis? (e.g. Lugano Convention, Hague Convention, Rome I or other private international law rules)

An English scheme of arrangement or an English restructuring plan should in principle be recognised post-Brexit, based on the Lugano convention.

INSOL Europe/LexisNexis table of ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’

A table produced by INSOL Europe in partnership with Lexis Nexis (also incorporating information from Lexology Getting The Deal Through) will be available shortly.

We look at how EU Member States would recognise insolvency or restructuring proceedings commenced in a third country, such as the UK (post-Brexit), the US, Japan, Australia or Canada. As always, you should contact local lawyers in the relevant jurisdiction to check the current measures in force.

