Insolvency In Private International Law National And International Approaches Oxford Private International Law Series

Freedom of establishment is one of the four fundamental freedoms of the European Union. The principle is that natural persons who are European Union Citizens, and legal entities formed in accordance with the law of a Member State and having its registered office, central administration or principal place of business within the EU, may take up economic activity in any Member State in a stable and continuous form regardless of nationality or mode of incorporation. This book examines the way in which EU law has influenced how national courts in Europe assert jurisdiction in cross-border corporate disputes and insolvencies, and the mechanism which allows them to decide which national law should apply to the substance of the dispute. The book also considers the potential for EU Member States to compete for devising national corporate and insolvency legislation that will attract incorporations or insolvencies. Central to the book is the concept of national choice of law. In considering the impact of freedom of establishment on private international law for corporations, the book uniquely analyses both corporate and insolvency law together, presenting the topic in the broadest possible sense. Importantly, the doctrine of abuse in corporate and insolvency law is covered, raising the question of 'forum shopping' and regulatory competition which underpins the intersection between freedom of establishment and private international law. Through examination of the most recent and leading judgments of the European Court of Justice in Centros and Cadbury Schweppes, the book derives certain conclusions as to the operation of the doctrine of abuse and the limits thereof in the context of freedom of establishment. Being the first in the field to examine the leading ECJ cases of Inspire Art, Sevic and Cartesio regarding the real seat doctrine, the book makes the judgment that there is no incompatibility as such between the doctrine and the freedom of establishment. Ultimately, the book analyses to what extent diversity in the corporate and insolvency laws of the Member States should be preserved, so as to encourage competition between jurisdictions in Europe.

Cross-Border Insolvency, 4th edition provides a comprehensive and up to date consideration of the topic of cross border insolvency. Written in a clear and accessible manner it guides the user seamlessly through this complex area of law. The coverage of the book is divided into two parts. The first part describes the key cross-border insolvency regimes including the EC Insolvency Regulation, the UNCITRAL Model Law on Cross-Border Insolvency, section 426 of the Insolvency Act 1986, and the common law. The second part focuses on specific issues in more detail, such as the court's insolvency jurisdiction, ancillary winding-up, enforcement of foreign insolvency judgments, foreign discharge of debts and insolvency set-off. The fourth edition gives full analysis of the fundamental changes to cross border insolvency law and practice in England including: The impact of the Supreme Court decision in Rubin v Eurofinance; The revised UK Insolvency Rules; Proposals for revision of the EC Insolvency Regulation; Scope of section 426 - HSBC v Tambrook Jersey; Developments in offshore jurisdictions: Primeo Fund and Saad Investments (Cayman), Re C (BVI); Kelmsley v Barclays Bank PLC. Previous print edition ISBN: 9781845921040

Der 17. Band (2015/2016) des Yearbook of Private International Law bietet wie jedes Jahr hochinteressante Informationen zu allen wichtigen Entwicklungen auf dem Gebiet des Internationalen Privatrechts. Wie wird sich der Brexit auf das IPR auswirken? Obwohl es sehr schwierig ist, bereits Einschatzungen zu treffen, befasst sich ein interessanter Beitrag mit den Folgen des Brexit auf das Zivil-, Handels- und grenzuberschreitende Familienrecht. Auch der Markt fur Rechtsstreitigkeiten (litigation market) wird thematisiert. Bislang ist London ein Zentrum fur internationale Schieds-, Handels-, Insolvenz- und auch Scheidungsverfahren. Wird

das so bleiben? Umfassend informieren mehrere Beitrage aktuell zum grenzuberschreitenden Insolvenzrecht, einschliesslich der insolvenzrechtlichen Gesetzesentwurfe der Nicht-EU-Staaten Schweiz und Norwegen. Lesenswert sind auch die diversen Informationen zu den Entwicklungen im Gewohnheitsrecht in einzelnen Staaten, die Sie zusammengefasst in dieser Form nur im Yearbook XVII finden. Hinweis: Der Band erscheint in englischer Sprache. "

Derived from the renowned multi-volume International Encyclopaedia of Laws, this book provides ready access to the law applied to cases involving cross border issues in Poland. It offers every lawyer dealing with questions of conflict of laws much-needed access to these conflict rules, presented clearly and concisely by a local expert. Beginning with a general introduction, the monograph goes on to discuss the choice of law technique, sources of private international law, and the relevant connection with other laws. Then follows clear description and analysis of the rules of choice of law on natural and legal persons, contractual and non-contractual obligations, movable and immovable property, intangible property rights, company law, family law (marriage, cohabitation, registered partnerships, matrimonial property, maintenance, child law), and succession law (including testamentary dispositions). The presentation concludes with an overview of relevant civil procedure, examining lex fori and issues of national and international jurisdiction, acceptability and enforcement of foreign judgements, and international arbitration. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable resource for lawyers handling cases in Poland. Academics and researchers, as well as judges, notaries public, marriage registrars, youth welfare officers, teachers, students, and local and public authorities will welcome this very useful guide, and will appreciate its value in the study of private international law from a comparative perspective.

This interdisciplinary examination of corporate insolvency law assesses recent reforms and anticipates new legislation.

This set deals with the problems generated by those cases of insolvency (either of an individual or of a company) where the presence of contacts with more than one system of law brings into operation the principles and methods of private international law (also known as conflict of laws). Part I of the main work is mainly devoted to an examination of the body of rules and practice that has evolved in England during the course of the past two-and-a-half centuries, and surveys the current state of the law derived from a blend of statutory and case authorities. Contrasting approaches under a selection of foreign systems -- principally Australia, Canada, France and the USA -- are examined by way of comparison. There are up-to-date accounts of the circumstances under which insolvency proceedings can be opened in respect of debtors which are not primarily based in England, and of the grounds on which English courts will recognize foreign insolvency proceedings and give assistance to the foreign representative of the debtor's estate. Part II of the main work explores the progress towards the creation of international arrangements to co-ordinate and rationalize the conduct of insolvency proceedings which have cross-border features, particularly where the debtor is capable of being subjected to concurrent proceedings in two or more jurisdictions. Central to the developments described in detail in this Part are the EC Regulation on Insolvency Proceedings and the UNCITRAL Model Law on Cross-Border Insolvency. This set includes the supplement to the second edition, which covers key developments in case law and legislation in the subject up to October 2006, and is an essential purchase for all who have already bought the main work. It includes the full text of the Cross-Border Insolvency Regulations 2006, along with commentary on the regulations. The supplement also includes the text of Council Regulation 694/2006, amending EC Regulation 1346/2000 on insolvency proceedings, and references to key developments in case law, including Eurofood IFSC Ltd, Daisytek ISA, and Cambridge Gas Transport Corp v Official Committee of Unsecured Creditors of Navigator Holdings plc. The commentary on case developments links back to the relevant paragraph in

the main work. New to this Edition: · New supplement updating the second edition with commentary on recent developments, to October 2006 · Major recasting of chapter 6 (formerly dealing with the (by then) dormant EC Convention on Insolvency Proceedings) now giving an account of the EC Regulation on Insolvency Proceedings, in force since 31 May 02 · Adjustments throughout the book to explain the impact of the Regulation on other aspects of law and practice · Full account is taken of statutory and case law developments since 1998 · There is a new chapter assessing other international developments since 1998 including the ALI Transnational Insolvency Project; the World Bank Principles and Guidelines; and the UNCITRAL Legislative Guide on Insolvency Law (completed 2004)

This book is the leading reference on Indonesian private international law in English. The chapters systematically cover the whole of Indonesian private international law including commercial matters, family law, succession, cross-border insolvency, intellectual property, competition (antitrust), and environmental disputes. The chapters do not merely cover the traditional conflict of law areas of jurisdiction, applicable law (choice of law), and enforcement. The chapters also look into conflict of law questions arising in arbitration and assess Indonesian involvement in the harmonisation of private international law globally and regionally within ASEAN. Similarly to the other volumes in the Studies in Private International Law - Asia series, this book presents the Indonesian conflict of laws through a combination of common and civil law analytical techniques and perspectives, providing readers worldwide with a more profound and comprehensive understanding of the subject.

From 2005 on the Yearbook of Private International Law is published by S.ELP in cooperation with the Swiss Institute of Comparative Law. This English-language annual publication provides analysis and information on private international law developments world-wide. The Editors commission articles of enduring importance concerning the most significant trends in the field. The Yearbook also devotes attention to the important work and research carried out in the context of the Hague Conference, The Hague Academy, UNCITRAL and UNIDROIT. The authority of the editors and the lasting nature of the works included make the Yearbook an integral addition to the libraries of international law scholars and practitioners.

The assignment of contractual rights is of immense importance for the world of business and finance. Never before have assignments taken place on such a large scale as is the case in the contemporary securitisation market. Many receivables-based financial transactions, such as securitisations, are cross-border transactions. It is therefore often crucial to determine which law governs the proprietary aspects of assignment. The European Commission has, in its "proposal for a regulation on the law applicable to contractual obligations," formulated a new conflict rule referring the enforceability of an assignment against third parties to the law of the assignor's residence. This book demonstrates how the solution which has been adopted by the Commission is inadequate for receivables-based cross-border transactions. The authors argue that a cross-border assignment should, instead, be governed by the law chosen by the assignor and the assignee and, in the absence of a choice, by the law applicable to the assigned claim. The most important policy behind the Commission's conflict rule, i.e. that the assignor's creditors should be able to look to the assignor's law for registration requirements, can be realized in subtler ways, in particular by means of a special conflict rule for public filing systems. The Annexes contain the full texts of the Commission's Proposal, the UN Convention on the Assignment of Receivables, and Chapter 11 of the Principles of European Contract Law (Assignment of Claims).

Written with the assistance of a team of lecturers at the Shanghai University of Political Science and Law, this book is the leading reference on Chinese private international law in English. The chapters systematically cover the whole of Chinese private international law, not just questions likely to arise in commercial matters, but also in family, succession, cross-border insolvency, intellectual property, competition (antitrust), and environmental disputes. The

chapters do not merely cover the traditional conflict of law areas of jurisdiction, applicable law (choice of law), and enforcement. They also look into conflict of law questions arising in arbitration and assess China's involvement in the harmonisation of private international law globally and regionally within the Belt and Road Initiative. Similarly to the Japanese and Indonesian volumes in the Series, this book presents Chinese conflict of laws through a combination of common and civil law analytical techniques and perspectives, providing readers worldwide with a more profound and comprehensive understanding of Chinese private international law.

This book provides an authoritative account of the evolution and application of private international law principles in India in civil commercial and family matters. Through a structured evaluation of the legislative and judicial decisions, the authors examine the private international law in the Republic and whether it conforms to international standards and best practices as adopted in major jurisdictions such as the European Union, the United Kingdom, the United States, India's BRICS partners - Brazil, Russia, China and South Africa and other common law systems such as Australia, Canada, New Zealand, and Nepal. Divided into 13 chapters, the book provides a contextualised understanding of legal transformation on key aspects of the Indian conflict-of-law rules on jurisdiction, applicable law and the recognition and enforcement of foreign judgments or arbitral awards. Particularly fascinating in this regard is the discussion and focus on both traditional and contemporary areas of private international law, including marriage, divorce, contractual concerns, the fourth industrial revolution, product liability, e-commerce, intellectual property, child custody, surrogacy and the complicated interface of 'Sharia' in the conflict-of-law framework. The book deliberates the nuanced perspective of endorsing the Hague Conference on Private International Law instruments favouring enhanced uniformity and predictability in matters of choice of court, applicable law and the recognition and enforcement of foreign judgments. The book's international and comparative focus makes it eminently resourceful for legislators, the judges of Indian courts and other interested parties such as lawyers and litigants when they are confronted with cross-border disputes that involve an examination of India's private international law. The book also provides a comprehensive understanding of Indian private international law, which will be useful for academics and researchers looking for an in-depth discussion on the subject.

Main description: Current Volume VIII (2006) of the Yearbook of Private International Law is arguably one of the most comprehensive collections of essays in English-language of our time: It presents the reader with a broad overview on the status and trends of private international law from the United States to India, from France to Tunisia, from England to China, from Latvia to Qatar, from Sweden to Japan. All main areas of law are addressed: among others, marriage, including same-sex marriage, adoption and protection of children, euthanasia and living wills, inheritance, contracts, torts, insolvency. Each of the four traditional steps of the 0conflict process0 is taken into account: adjudicatory jurisdiction, international cooperation and procedure, applicable law and its various incidents, recognition of foreign judgments. Practitioners will especially benefit from several contributions on international arbitration. Benefecial for: scholars, lawyers, judges, notaries, lawyers in law departments of international enterprises, legal libraries, working in the field of Private International Law.

Shareholders ? Agreements have a growing influence on the general understanding of corporate law since they bind not only the shareholders but also affect the constitution of the corporation and can have a severe impact on capital markets. Therefore, Shareholders ? Agreements are more and more subject to regulation in corporate, capital market and also insolvency law on the national, the European and the international level. This handbook provides a general examination of conceptual questions of Shareholders ? Agreements and provides an analysis of the regulation of Shareholders ? Agreements in European and international law and of the national law of more than 20 jurisdictions. Readers will get a

general understanding of the theoretical and practical problems involved with Shareholders ? Agreements and detailed information on the regulation of Shareholders ? Agreements in several jurisdictions and the applicable law in the case of transnational corporations and cross-border transactions.

A comprehensive and in-depth analysis of how courts in the countries of Commonwealth Africa decide claims under private international law.

Also available as an e-book Private international law (PIL) problems have existed for centuries when people from various territories and religious and social groups engaged in mutual contacts. Some of the core issues of this discipline have been critically reviewed during the so-called conflicts revolution which took place during the twentieth century in the American academic literature and court practice. However it seems that not much discussion on methodologies of PIL has developed since then. This book, inspired by the Law and Economics approach, introduces the concept of efficiency into PIL, aiming to show new dimensions of traditionally important issues. First, this author challenges the traditional understanding that uniform law is always more desirable than PIL, and raises questions on the rationale and possibility of the unification of PIL. Second, territoriality has been understood to exclude PIL. This book clarifies why such understanding does not hold in the twenty-first century especially in the field of intellectual property, and argues that a one-sizefits-all model would not be appropriate in the context of cross-border insolvency.

The thesis of this book is that cross-border insolvency rules of all kinds aim to pursue and enforce basic standards. Furthermore, several principles can be identified, distinguished and sorted into three groups: conflict of laws principles, procedural principles and substantive principles. Using the principle-oriented approach, the book will have a significant impact for both deciding cases and shaping cross-border insolvency law. It offers both legislators and courts new substantive and methodological support in making decisions, for example where the treatment of secured creditors, support for foreign insolvency practitioners or even harmonisation of cross-border insolvency laws is at stake --Back cover.

This book presents a comprehensive analysis of the regulation of cross-border insolvencies in Europe. Council Regulation 1346/2000 on Insolvency Proceedings forms the natural focal point of such a study. However, while this book explores in detail the background, legal basis as well as the substance of the Regulation, it also contains an examination of the Regulation from two wider perspectives: that of international cross-border insolvency regulation and Community law. The approach adopted by the Regulation to the problems raised by cross-border insolvency forms part of a paradigmatic shift at the global level. The 'struggle over jurisdiction' - the natural state of affairs under the old principles of 'universality & territoriality' - is increasingly being replaced by co-operation between the jurisdictions involved. The Regulation must be understood against the backdrop of these new cooperative approaches, including the UNCITRAL Model Law and ancillary proceedings. Doing so, this book argues that the co-operative framework of the Regulation is limited and may ultimately not suffice to realise the efficient and effective cross-border proceedings it is aiming for. Although the Regulation is an exponent of this global shift towards cooperation, the legal context in which it operates is nevertheless very different. Community law, as an autonomous legal order, has limited the private international law autonomy of Member States and generated a comitas Europaea. This book argues that Community law and its comitas

must be taken seriously. They are an important source of principles to guide courts in the interpretation and application of the Regulation and may reinforce and expand the co-operative mechanisms of the Regulation. Jona Israel obtained his LL.M. at the University of East Anglia, Norwich in 1994 and graduated at the University of Maastricht in 1995. From 1995 to 1998 he was researcher at the European University Institute in Florence, Italy. Since 1998 he has been lecturer at the University of Maastricht, teaching private international law, insolvency law and commercial law.

A unique reference work covering the whole of English private law, this book provides a lucid, concise, and authoritative overview of all important areas of private law. Each section is written by an acknowledged expert who provides a clear distillation and analysis of the subject.

This classic textbook provides a thorough overview of European private international law. It is essential reading for private international law students who need to study the European perspective in order to fully get to grips the subject. Opening with foundational questions, it clearly explains the subject's central tenets: the Brussels I, Rome I and Rome II Regulations (jurisdiction, applicable law for contracts and tort). Additional chapters explore the Succession Regulation, private international law and insolvency, freedom of establishment, and the impact of PIL on corporate social responsibility. The new edition includes a new chapter on the Hague instruments and an opening discussion on the impact of Brexit. Drawing on the author's rich experience, the new edition retains the book's hallmarks of insight and clarity of expression ensuring it maintains its position as the leading textbook in the field.

A fresh and insightful guide to post-financial crisis cross-border insolvency, this book interrogates the current regime and sets out a pattern to improve its future. In recent decades, and especially since the global financial crisis, a number of important initiatives have focused ondeveloping effective solutions for managing the insolvency of multinational enterprises and financial institutions. Irit Mevorach here takes stock of the varying success of previous policy, and identifies the gaps and biases that could be bridged by a new approach.The book first sets out the theoretical debates regarding cross-border insolvency and surveys the strengths and weaknesses of the prevailing method - modified universalism - synthesizing divergences into a rubric for both commercial entities and financial institutions. Adhering to these norms morerobustly, Mevorach argues, would enhance global welfare and produce the best outcomes for businesses and institutions.Drawing upon sources from international law as well as behavioural and economic theory, Mevorach considers how to translate modified universalism into binding international law and how to choose the right instrument for cross-border insolvency; the impact instrument design has on decisions andchoices, and how to encourage compliance. In particular, the book proposes tools and mechanisms that could potentially overcome, or at least take into account, behavioural biases in decision-making in order to create a system that works for businesses, and offers a blueprint for the future ofcross-border insolvency.

As one of the most definitive texts on the market, European Private International Law provides an essential guide for both students and practitioners to the complex field of international litigation within the EU. The private international law of the Member States is increasingly regulated by European law, making private international law ever less 'national' and ever more EU based. Consequentially EU law in this area has penetrated

national law to a very high degree, making it an essential area of study and an area of increasing importance to practising lawyers. This book provides a thorough overview of core European private international law, including the Brussels I, Rome I and Rome II Regulations (jurisdiction, applicable law for contracts and tort), while additional chapters deal with the recently adopted Succession Regulation, private international law and insolvency, freedom of establishment, and the impact of PIL on corporate social responsibility. From the reviews of the first edition 'As a result of his broad knowledge on the subject and rich professional experience, Mr van Calster provides great insight into current issues within international law. The book is practical as both a student textbook and a general introduction for legal professionals'. Vladimir Cupryszak, Association for International Arbitration 'Excellent overview of European Private International Law issues, as well as a very helpful introduction to basic concepts of conflicts of laws and jurisdictions'. Professor Stavros Brekoulakis, Queen Mary University of London 'This is a most useful book. I recommend it to my students as a great way to come to terms with the EU elements of Private International Law'. Dr David Kenny, Trinity College Dublin 'This book is essential reading for law students in Europe and abroad. It provides a coherent overview of all main elements of European private international law; concepts, legal instruments and practice'. Professor Kim Talus, UEF Law School, Finland 'Well-written, clear and understandable. Excellent value for money'. Dr Jan Oster, King's College London, UK

In recent decades, the rise in cross-border law violations has harmed numerous victims around the globe. The damages are often dispersed and low-level. As a result, the private enforcement gap has deepened and collective redress represents an interesting procedural instrument that is able to provide effective access to justice. This book analyses thoroughly the dominant collective redress models adopted in the EU. Data from 13 Member States has been catalogued and categorised. The research mainly focuses on the consumer law field but frequent references to financial and data protection-related cases are made. The dominant collective redress models are then studied from a private international law perspective. In particular, the book highlights the current mismatch between collective redress on the one hand, and rules on international jurisdiction on the other. Additionally, it notes that barriers to cross-border litigation remain significant for victims and their representatives. The unprecedented empirical study included in this book confirms that statement. Observing that EU measures have not satisfactorily lowered those barriers, the author proposes the creation of a new head of jurisdiction for cases of international collective redress. This book will be of interest to private international law scholars, researchers, students, legal practitioners, judges and policy-makers. It is a reference point for those with an interest in cross-border collective redress in particular, and private international law in general.

This book comprises contributions relating to the Insolvency Regulation Recast,which recently entered into force. The authors analyse the changes introduced andgive their views on the improvements that are thereby achieved. In other words, theyassess to what extent the amendments have mitigated the

disadvantages of the previousInsolvency Regulation. Three of the chapters concentrate on the issues pertaining to jurisdiction, such asthe problem of forum shopping by re-locating the debtor's centre of main interests.Furthermore, the extent to which the parties have the freedom to contract withinthe framework of the Insolvency Regulation Recast is discussed. Also, the relevanceand consequences of recent developments in corporate law for the current crossborderinsolvency framework, as well as the jurisdictional issues concerning approvalrequirements are amongst the matters addressed. Aside from the jurisdictional matters,the question of the law applicable to so-called 'avoidance actions' is analysed and crossbordercooperation between national authorities in the field of insolvency is touchedupon. To conclude, this book covers a range of specific and intriguing topics broughtup by the Insolvency Regulations Recast. This third volume in the Short Studies in Private International Law Series is primarilyaimed at legal academics dealing with cross-border insolvency, but it will also proveuseful to insolvency judges and practitioners, as well as those specialised in financialand fiscal law. Finally, advanced students as well as those with a general interest ininsolvency law will also find it of added value./div Vesna Lazi? is Senior Researcher at the T.M.C. Asser Institute and Associate Professorof Private Law at Utrecht University in The Netherlands. Steven Stuij is an expert inprivate international law and PhD Candidate at the Erasmus School of Law, Rotterdam./div

As people, business, and information cross borders, so too do legal disputes. Globalisation means that courts need to apply principles of private international law with increasing frequency. Thus, as the Law Society of New South Wales recognised in its 2017 report The Future of Law and Innovation in the Profession, knowledge of private international law is increasingly important to legal practice. In particular, it is essential to the modern practice of commercial law. This book considers key issues at the intersection of commercial law and private international law. The authors include judges, academics and practising lawyers, from Australia, New Zealand, Singapore and the United Kingdom. They bring a common law perspective to contemporary problems concerning the key issues in private international law: jurisdiction, choice of law, and recognition and enforcement of foreign judgments. The book also addresses issues of evidence and procedure in cross-border litigation, and the impact of recent developments at the Hague Conference on Private International Law, including the Convention on Choice of Court Agreements on common law principles of private international law.

This book examines restitution in private international law and the choice of law questions facing international restitutionary claims.

After many years of negotiations among Member States, a uniform set of private international law rules has been established to determine the conduct of cross-border insolvency proceedings within the European Community. This is the European Insolvency Regulation of May 2000. Although each state still retains its

own insolvency law, the regulation greatly reduces the risk of opportunistic behaviour by providing certainty as to which European courts have jurisdiction to open insolvency proceedings and which state?s laws apply, in addition to ensuring the cross-border effectiveness within the EU of the decisions handed down by those courts. This in-depth commentary offers practitioners in international business transactions and litigation a definitive guide to the workings of the Insolvency Regulation. The authors?one of whom co-wrote the official explanatory report on the 1995 Convention on Insolvency Proceedings, a report that still plays a fundamental hermeneutic role?leave no stone unturned in their probing analysis, which explains in detail such elements as the following: relationship with other community legal instruments and international conventions; territorial scope; substantive scope; third-party rights in rem and reservation of title; set-off; contracts relating to immovable property; employment contracts and relationships; payment systems and financial markets; community patents and trademarks; publication and registration; lodgement of claims; and special considerations affecting credit institutions and insurance undertakings. Company lawyers handling insolvency cases and issues will find nothing comparable to this expert work. Its direct practical usefulness is immediately apparent. In addition, however, it stands out as a preeminent work on a critical and hard-won legal instrument (and by extension on the entire field of European insolvency law) and as such is an essential resource for jurists and legal academics.

The phenomenon of increased interconnectedness of the world's societies, generally referred to as `globalisation', is not only changing our everyday life, it also influences the legal framework we are living in. The challenges brought about by this process are especially great in fields of law which are by their very nature international such as Private International Law, the Law of Capital Markets, International Insolvency Law or the Law of the Internet. Can, for example, established conflict-of-law rules survive in a globalised world? What options exist for regulating capital markets in the era of globalisation? Are national laws on international insolvencies prepared for the increasing number of cross-border insolvency proceedings or does the UNCITRAL Model Law on Cross-Border Insolvency show the way? How can national or international legislators react to the new forms of torts and copyright infringements via the World Wide Web? These are some of the questions which eminent scholars from Japan and Germany try to answer in this volume. All essays are based on contributions to a symposium which took place in Fukuoka, Japan, on 28-29 March, 1999.

This book examines the effect of the adoption of the United Nations Committee on International Trade Law (UNCITRAL) Model Law on Cross-Border Insolvency in five common law jurisdictions, namely Australia, Canada, New Zealand, the United Kingdom, and the United States of America. It examines how each of those states has adopted, interpreted and applied the provisions of the Model

Law, and highlights the effects of inconsistencies by examining jurisprudence in each of these countries, specifically how the Model Law affects existing principles of recognition of insolvency proceedings. The book examines how the UNCITRAL Guide to enactment of the Model Law has affected the interpretation of each of its articles and, in turn, the courts' ability to interpret and hence give effect to the purposes of the Model Law. It also considers the ability of courts to refer to amendments made to the Guide after enactment of the Model Law in a state, thereby questioning whether the current inconsistencies in interpretation can be overcome by UNCITRAL amending the Guide.

International insolvency is a newly-established branch of the study of insolvency that owes much to the phenomenon of cross-border incorporations and the conduct of business in more than one jurisdiction. It is largely the offspring of globalization and involves looking at both law and economic rules. This book is a compendium of essays by eminent academics and practitioners in the field who trace the development of the subject, give an account of the influences of economics, legal history and private international law, and chart its relationship with finance and security issues as well as the importance of business rescue as a phenomenon. Furthermore, the essays examine how international instruments introduced in recent years function as well as how the subject itself is continually being innovated by being confronted by the challenges of other areas of law with which it becomes entangled.

Economic sanctions are instruments of foreign policy. However, they can also affect legal relations between private parties – principally in contract. In such cases, the court or arbitration tribunal seized must decide whether to give effect to the economic sanction in question. Private international law functions as a 'filter', transmitting economic sanctions that originate in public law to the realm of private law. The aim of this book is to examine how private international law rules can influence the enforcement of economic sanctions and their related foreign policy objectives. A coherent EU foreign policy position – in addition to promoting legal certainty and predictability – would presuppose a uniform approach not only concerning the economic sanctions of the EU, but also with regard to the restrictive measures imposed by third countries. However, if we examine in detail the application of economic sanctions by Member States' courts and arbitral tribunals, we find a somewhat different picture. This book argues that this can be explained in part by the divergence of private international law approaches in the Member States.

Derived from the renowned multi-volume International Encyclopaedia of Laws, this book provides ready access to the law applied to cases involving cross border issues in Japan. It offers every lawyer dealing with questions of conflict of laws much-needed access to these conflict rules, presented clearly and concisely by a local expert. Beginning with a general introduction, the monograph goes on to discuss the choice of law technique, sources of private international law, and the relevant connection with other laws. Then follows clear description and analysis of the rules of choice of law on natural and legal persons, contractual and non-contractual obligations, movable and immovable property, intangible property rights, company law, family law (marriage, cohabitation, registered partnerships, matrimonial property, maintenance, child law), and succession law (including testamentary dispositions). The presentation concludes with an overview of relevant civil procedure, examining lex fori and issues of national and international jurisdiction, acceptability and enforcement of foreign judgements, and international arbitration. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable resource for lawyers handling cases in Japan. Academics and researchers, as well as judges, notaries public, marriage registrars, youth welfare officers, teachers, students, and local and public authorities

will welcome this very useful guide, and will appreciate its value in the study of private international law from a comparative perspective.

This book presents problems that often arise in the context of international/cross-border insolvencies; analyzes and compares national legislations and jurisprudence; elucidates the solutions offered by international/regional instruments; and explores the differences in the implementation of these instruments by various countries and the consequences of these differences. It examines in detail a number of famous and less famous cases tried by national courts, in which it became readily apparent that insolvency law remains one of the bastions of national law. In addition, the book discusses the notion of transplanting foreign [international] insolvency rules and especially the influence that US insolvency law has exerted on other countries' insolvency [and international insolvency] law. Far from adopting an unrealistically optimistic stance, it soberly examines the complications of cross-border insolvencies, while also presenting potential solutions.

Within Europe the private international law rules have been harmonized to a very large extent by legislation adopted at EU level and case-law on the interpretation of this legislation. Recent developments include the entry into operation of revised versions of the Brussels I Regulation on civil jurisdiction and judgments and the Regulation on insolvency proceedings, as well as numerous decisions of the European Court and the English courts. The new edition of this authoritative work takes account of recent developments at both EU and UK levels.

This is the first volume in the new Oxford International and Comparative Insolvency Law Series. The series will provide a comparative analysis of all important aspects of insolvency proceedings and domestic insolvency laws in the main economically developed and emerging countries, starting with the opening of proceedings. This volume addresses the commencement of insolvency proceedings over business debtors and the conditions in which they may arise. It explains the types of proceedings available and the participants involved. The book also analyses the effect of such action on the various players, assets and liabilities concerned. The detail and uniform nature of the treatment of topics helps practitioners to understand specific features of a foreign legal system and effectively brief foreign counsel. For all readers, the book provides access, through analysis in the detailed commentary, to material that was previously only available in a foreign language. Most major legal families (including various mixed legal systems) are covered to reflect the needs of the international insolvency community and intergovernmental organizations. This is the only book that offers a thorough comparative analysis of existing domestic insolvency laws concerning the opening of insolvency proceedings in the main economically developed and emerging countries.