

**The New Mexican Insolvency
Law and the Federal Institute of
Insolvency Specialists (IFECON):
Stories from the Trenches.**

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New York, June 2006

International Insolvency Institute

Introduction. The Mexican Insolvency Law.

- **Ley de Concursos Mercantiles**
- **Enacted and in operation since May 13th, 2000.**
- **Modern tendencies in insolvency**
- **Replaced the former obsolete statute**

Insolvency proceeding

- **Commenced either by the debtor himself or by a creditor**
- **Illiquidity test**
- **Only for merchants either corporations or individuals**

Insolvency proceeding cont.

- **“Conciliation”**
- **Reorganization of the business**
- **180 days, extensions up to, and no more than, one year in total**

Insolvency proceeding cont.

- **Bankruptcy**
- **If an agreement is not reached**
- **Proceeding might start going directly to bankruptcy if the debtor so requests.**

Instituto Federal de Especialistas de Concursos Mercantiles

- **Insolvency regulatory agency**
- **Part of the Judiciary Power**
- **To provide the insolvency professionals needed for the proceedings.**
- **To promote “the new insolvency culture”.**

UNCITRAL's Model Law

- **Cross border insolvencies**
- **Title XII of Mexican law**
- **Text very close to:**
 - **UNCITRAL'S**
 - **US Chapter 15**

Experiences on Cross Border cases.

- **5 Cases**
- **With USA only**
- **Still in progress. (one exception)**
- **Several of the actors involved are present in this room today.**

Xacur case

- **Three bankrupted individuals in Houston, Tex.**
- **First case of application of Title XII**
- **The judge granted recognition. Collection of the bankrupt individuals' assets has begun.**
- **Other bankruptcy proceedings**
 - **corporations where the Xacur brothers were shareholders.**
 - **Under the old bankruptcy law.**
- **Heavy litigation**

The Durango case

- A paper mill, filed for *concurso mercantil*
- The restructuring process was completed under Mexican law, and currently the company is performing well.
- § 304 of the US Code: creditors were enjoined from petitioning Durango's restructuring in the United States.

The Covarra case

- **Corporate group in the textile industry**
- **Unable to reach an agreement bankruptcy was declared**
- **One creditor, owner of a patent whose use had been granted to Covarra, filed several suits in US Courts**
- **In a § 304 proceeding an injunction was issued enjoining Covarra creditors from commencing or continuing any suit against Covarra and recognizing exclusive jurisdiction of the Mexican court**

The IFS case

- A financial corporation bankrupted in USA filed in Mexico for recognition of a foreign proceeding and international cooperation.
- Second case of application of the Title XII
- Mexican judge disregarded provisions about direct communications, and ordered that creditors and debtor should be served through the formal regime (rogatory letters).

The Satmex case

- **Satmex is a Mexican company operating communications through satellites under the granted authority of Mexican government.**
- **Satmex filed for *concurso* voluntarily.**
- **Creditors filed for a Chapter 11 (converted into a §304) case, allowing the Mexican proceeding to be the main one.**
- **To complete the agreement reached is necessary to implement also a prepackaged chapter 11**

What we have now

- 1.- We have a useful tool**
- 2.- Dealing with the differences of legal systems.**
- 3.- Recognition of jurisdictions**
- 4.- Combination of two systems**

Thank you !

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