



Cross-Border Insolvency: Implications of the Hanjin Shipping Bankruptcy

Seoul, Korea

Tuesday, April 24, 2018

Presented by:

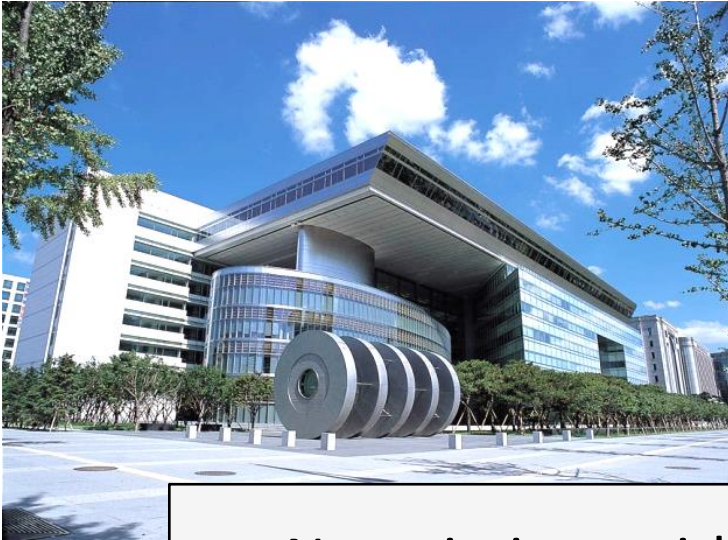
Mark Bloom, Greenberg Traurig, P.A., Miami. Moderator

Chief Judge Cecelia G. Morris, United States Bankruptcy Court, Southern District of New York

Chief Presiding Judge June Young Chung, Seoul Bankruptcy Court

Sy Nae Kim, Yulchon, Seoul

Background on Hanjin Situation



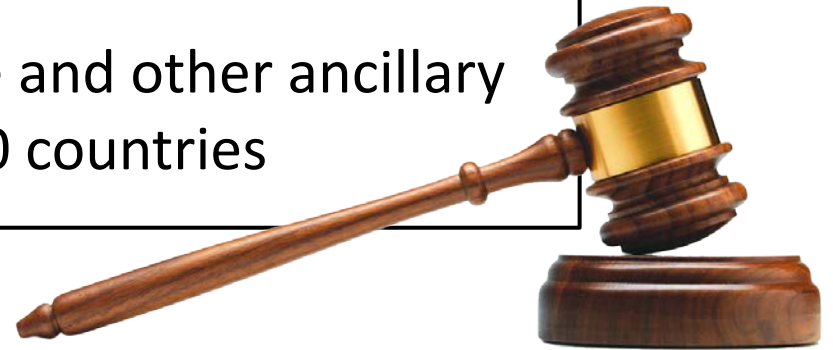
- ❖ Negotiations with existing and potential lenders and Korea Development Bank
- ❖ Commencement of receivership/rehabilitation proceeding in Korea

Korean Rehabilitation Scheme as Updated by the Revised DRBA

- ❖ Overview of Korean rehabilitation scheme
- ❖ Updated by revised DRBA
- ❖ Similarities and differences to U.S. Chapter 11
 - Scope of stay and lien enforcement rights of secured creditors
 - Ability to obtain financing for operations in course of rehabilitation proceeding v. Chapter 11
 - Financial reporting and “transparency”

Hanjin Rehabilitation Proceeding

- ❖ Initial proceedings before Korean court
- ❖ Efforts to obtain funding from various sources
- ❖ Filing of U.S. Chapter 15 case and other ancillary proceedings in as many as 40 countries



Overview of UNCITRAL Model Law

- ❖ Codified as Chapter 15 of U.S. Bankruptcy Code
- ❖ Objectives and basic procedures
 - Recognition and relief
 - Foreign main v. foreign non-main proceeding
 - COMI
- ❖ Availability of Chapter 7 or 11 in event greater relief than available in Chapter 15 is needed

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Objectives and Perspectives in Korea and U.S. Proceedings

- ❖ Different case objectives
- ❖ Different parties in interest
 - Financial interests of creditors in Korea
 - Strategic interests of contract parties and maritime creditors in U.S.
 - Different objectives
- ❖ Issues faced in each proceeding
 - “Seasonal urgency” in U.S.
 - Transparency and availability of financial and other information

Perspective of U.S. Maritime Lawyer

- ❖ Right of maritime lienholders to relief notwithstanding commencement of Chapter 15 case
- ❖ Scope and effect of stay
- ❖ Exercise of remedies
 - Arrest of ships
 - Detention of ships in port to preserve maritime lien rights

Outcomes in Korea and U.S. Proceedings

❖ Korea

- Rehabilitation to liquidation
- Administration and payment of all claims;

❖ United States

- Provisional relief to facilitate delivery of goods and release of ships to sea
- Recognition of Korean proceeding

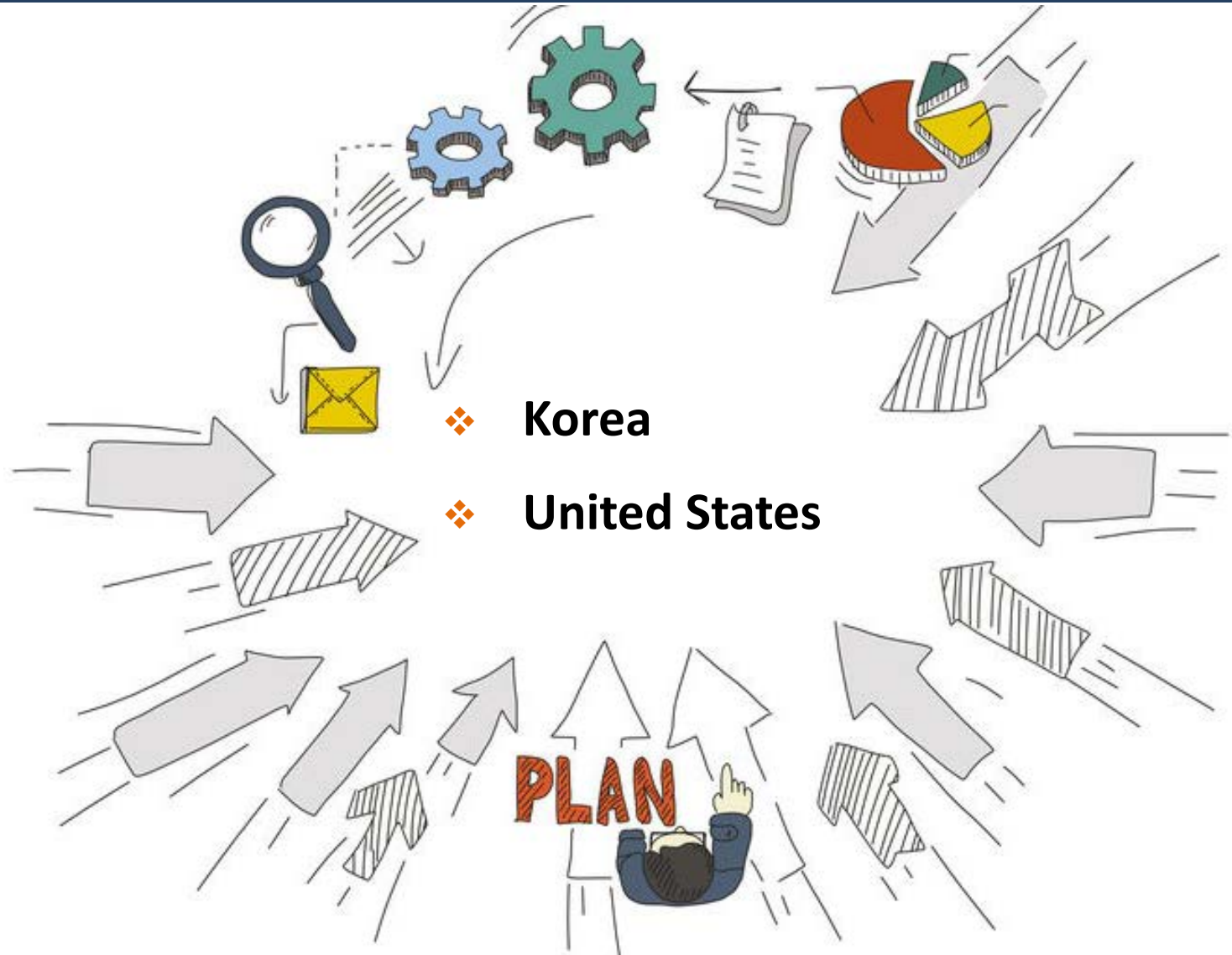
❖ Overall benefit of Korean and ancillary proceedings to facilitate delivery of goods in transit worldwide

Communication and Use of Court-to-Court Protocols

- ❖ Use and availability
- ❖ Potential benefits in case like Hanjin
- ❖ Judicial Insolvency Guidelines



Lessons Learned from Hanjin Experience



Questions From Audience

