

VOLUME V. INTERNATIONAL INSOLVENCY

Article 622 (Scope of Application)

1. The provisions of this Volume V shall apply to the cases as provided for in each of the following subparagraphs:
 - (1) Where the administrator or the representative admitted by the foreign court or any other equivalent government agency (hereinafter referred to as the “Foreign Representative”) in the procedures for workout, bankruptcy or personal workout and other similar procedures (including the provisional procedures; hereinafter referred to as the “Foreign Insolvency Proceedings”) of the court of foreign country, at which the business place, office or habitual residence of the debtor is located, requests the Korean court to approve or to provide the support in connection with the Foreign Insolvency Proceedings.
 - (2) Where the Foreign Representative files a petition for the procedures for workout, bankruptcy or personal workout (hereinafter referred to as the “Korean Insolvency Procedures”) or participates in the Korean Insolvency Procedures in progress.
 - (3) Where the administrator, the bankruptcy trustee, the debtor or other person approved by the court participates in the procedures of the foreign court, requests the foreign court to approve or to provide the support, or otherwise acts in the foreign country, in connection with the Korean Insolvency Procedures.
 - (4) Where the Korean Insolvency Procedures and the Foreign Insolvency Proceedings are simultaneously conducted against the same debtor at the Korean court and the foreign court, and any cooperation is required for the related procedures.
2. Any matters not specified in this Volume shall be decided in accordance with the provisions of other Volumes.

Article 623 (Jurisdiction)

Any case regarding the approval and the support of the Foreign Insolvency Proceedings shall fall under the exclusive jurisdiction of a collegiate division of the Seoul District Court. However, where it is deemed necessary to effectively conduct the procedures or to protect the rights of the interested parties, concurrently with or after the approval of the Foreign Insolvency Proceedings, the Seoul District Court may remove *ex officio*, or at the application of the interested parties, a case to another court as provided for in Article 3.

Article 624 (Application for Approval of the Foreign Insolvency Proceedings)

1. The Foreign Representative may apply to the court for the approval of the Foreign Insolvency Proceedings by submitting the application thereof together with the following documents. In such case, the court may order the applicant to submit the Korean translations of such documents.
 - (1) Statements regarding the legal ground and summary of the general matters of the Foreign Insolvency Proceedings;
 - (2) Documents evidencing the commencement of the Foreign Insolvency Proceedings;
 - (3) Documents evidencing the qualification and powers of the Foreign Representative;
 - (4) Statements regarding the material contents of the Foreign Insolvency Proceedings, the approval of which is requested by the applicant (including the statements regarding the creditor, the debtor and the interested party); and
 - (5) Statements regarding all of the other Foreign Insolvency Proceedings against the debtor, which the Foreign Representative is aware of.
2. If the content of any of subparagraphs of paragraph (1) is changed after the application for approval of the Foreign Insolvency Proceedings, the applicant shall

immediately file to the court the documents containing the changed matters.

3. Immediately upon the receipt of the application pursuant to paragraph (1), the court shall give the public notice thereof.
4. Articles 37 and 39 shall apply *mutatis mutandis* with respect to the application pursuant to paragraph (1).

Article 625 (Decision of Approval of the Foreign Insolvency Proceedings)

1. If the court receives the application for approval of the Foreign Insolvency Proceedings pursuant to Article 624, the court shall decide to approve such application within one month therefrom, except in a case falling into any of the following subparagraphs:
 - (1) If the applicant fails to make the advanced payment of the expenses as set forth by the court;
 - (2) If the applicant fails to submit the documents as provided for in each of subparagraphs of paragraph (1) of Article 624, or it is not sufficient to admit the truthfulness of the constitution or contents of such documents; or
 - (3) If the approval of the Foreign Insolvency Proceedings is in violation of the good social order or public policy of Korea.
2. If the court decides to approve the application for approval of the Foreign Insolvency Proceedings pursuant to paragraph (1), the court shall give the public notice thereof and deliver the written decision to the applicant.
3. If the court decides to reject the application for approval of the Foreign Insolvency Proceedings pursuant to Article 624, the applicant may immediately file the appeal thereof.

Article 626 (Effect of Approval of the Foreign Insolvency Proceedings)

1. The approval of the Foreign Insolvency Proceedings pursuant to Article 624 shall

be effective against the third party when such decision is made. However, it shall not affect the commencement of any lawsuit or procedures that is necessary for the preservation of claims against the debtor.

2. The decision of approval of the Foreign Insolvency Proceedings pursuant to Article 625 shall not affect the commencement or proceeding of the procedures under this Act.

Article 627 (Application for Commencement of the Korean Insolvency Procedures, etc. by the Foreign Representative)

If the Foreign Insolvency Proceedings are approved, the Foreign Representative may apply for the commencement of the Korean Insolvency Procedures or participate in the Korean Insolvency Procedures in progress.

Article 628 (Provisional Relief)

1. The court may order *ex officio*, or at the application of the Foreign Representative, a provisional relief in order to protect the property of the debtor or the rights of the creditor pursuant to subparagraphs 1 and 2 of paragraph (1) of Article 629 for the period from the date of application for approval of the Foreign Insolvency Proceedings pursuant to Article 624 to the date of decision of such approval.
2. The order of provisional relief pursuant to paragraph (1) above shall be ineffective when the application for approval is dismissed or rejected.

Article 629 (Support for the Foreign Insolvency Proceedings)

1. Immediately upon, or after, the approval of the Foreign Insolvency Proceedings, the court may issue *ex officio*, or at the application of the interested party, any of the following orders in order to protect the property and business of the debtor or the interests of the creditor:
 - (1) Suspension of commencement or proceeding of any lawsuit or other procedures with respect to the property, business, rights, obligations and other responsibilities of the debtor;

- (2) Suspension of rights to transfer, encumber or dispose of the property of the debtor;
 - (3) Collection of evidences, such as the examination of witness with respect to the property, business, rights, obligations and other responsibilities of the debtor, and the delivery of such evidences;
 - (4) Granting of rights to realize and distribute the property of the debtor;
 - (5) Granting of rights to administrate the property of the debtor; and
 - (6) Other supports necessary to keep the property of the debtor or to protect the rights of the creditor.
2. The court shall confirm whether or not the interests of the interested parties, including the creditor and the debtor, are properly protected, when it makes the decision pursuant to paragraph (1).
 3. The court may impose any conditions to the decision pursuant to paragraph (1).
 4. The court may reject the application for support pursuant to paragraph (1) if it is deemed by the court that such application is in violation of the good social order and public policy of Korea.
 5. The decision pursuant to paragraph (1) shall be also effective against the third parties.
 6. When it is deemed necessary, the court may change or cancel *ex officio*, or at the application of the interested party, the decision pursuant to paragraph (1).
 7. The provisions of Part 1 of Chapter 2 of Volume III (Bankruptcy Trustee) shall apply *mutatis mutandis* to the case where the rights to realize and distribute the property of the debtor shall have been granted pursuant to paragraph (1) 4.

Article 630 (Administration of Property of Debtor, etc.)

1. The person, to whom the rights to administrate the property of the debtor was granted by the court pursuant to Article 629 (1) 5 (hereinafter referred to as the “International Insolvency Administrator”), shall administrate the property of the debtor with the due care of the prudent administrator.
2. The International Insolvency Administrator may, with the approval of the court, dispose of the property of the debtor when it is deemed necessary to keep the property and business of the debtor or to protect the rights of the creditor.
3. The provisions of Part 1 of Chapter 2 of Volume II (Administrator) and Part 1 of Chapter 2 of Volume III (Bankruptcy Trustee) shall apply *mutatis mutandis* with respect to the International Insolvency Administrator.

Article 631 (Plural Number of the Foreign Insolvency Proceedings)

1. If there are plural number of applications for plural number of the Foreign Insolvency Proceedings regardless of whether such are the principal processes or subordinate processes, the court shall consolidate and examine them.
2. If plural applications for plural number of the Foreign Insolvency Proceedings against the same debtor are approved, the court may decide the principal Foreign Insolvency Proceedings for the purpose of effective progress of procedures for approval and support, considering the location of the principal business place of the debtor, the level of protection measures of the creditor, etc.
3. The court may decide or change the support under Article 629 mainly based on the principal Foreign Insolvency Proceedings.
4. If it is deemed necessary, the court may change the principal Foreign Insolvency Proceedings under paragraph (2).

Article 632 (Right of Administrator, etc. to Act in the Foreign Country)

The administrator, the bankruptcy trustee, the debtor and other person approved by the court with respect to the Korean Insolvency Procedures have the right to act in the

foreign country for the Korean Insolvency Procedures to the extent permitted by the laws of the foreign country.

Article 633 (Cooperation)

1. In order to smoothly and fairly perform the Korean Insolvency Procedures, the Foreign Insolvency Proceedings or plural number of the Foreign Insolvency Proceedings in progress against the same or related debtor, the court shall cooperate with the foreign court and the Foreign Representative with respect to the following matters:
 - (1) Exchange of opinions;
 - (2) Administration and monitoring of the property and business of the debtor;
 - (3) Adjustment with respect to the progress of plural number of procedures; and
 - (4) Other necessary matters.
2. The court may directly exchange the information and opinions with the foreign court or the Foreign Representative for the cooperation under paragraph (1).
3. The administrator or the bankruptcy trustee of the Korean Insolvency Procedures may, under the supervision of the court, directly exchange the information and opinion with the foreign court or the Foreign Representative.
4. The administrator or the bankruptcy trustee of the Korean Insolvency Procedures may, with the approval of the court, agree on the adjustment of insolvency procedures with the foreign court or the Foreign Representative.

Article 634 (Decision of Distributable Amount)

If there are Korean Insolvency Procedures, Foreign Insolvency Proceedings or plural number of the Foreign Insolvency Proceedings against the same debtor, the court shall decide the amount distributable from the Korean Insolvency Procedures, given the amount distributed to the same creditor from the Foreign Insolvency Proceedings or the

amount paid to the creditor from the offshore property of the debtor.

Addendum

Article 1

This Act will come into force as of July 1, 2003.