



# **CROSS-BORDER INSOLVENCIES AND ENFORCEMENT OF MORTGAGES**

**Haco van der Houven van Oordt**  
Advocaat

**3 May 2012**

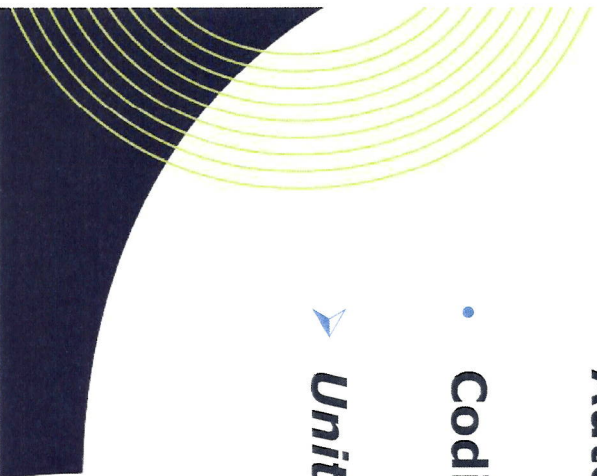
## Betcorp (2009)

- **Claim against Betcorp in Nevada**
- **Betcorp applied for winding up in Australia**
- **Betcorp asked for a stay in Nevada**
- **Stay granted by Nevada Bankruptcy Court**
  - **Immunity successfully created**



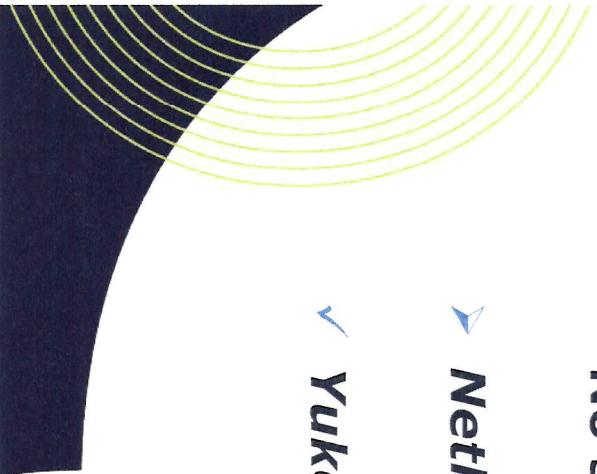
## Universal approach

- **Insolvency has extra-territorial effect**
- **Automatic recognition of the insolvency**
- **Automatic stay of all proceedings**
- **Codified in the UNCITAL Model law**
- ***United States of America***



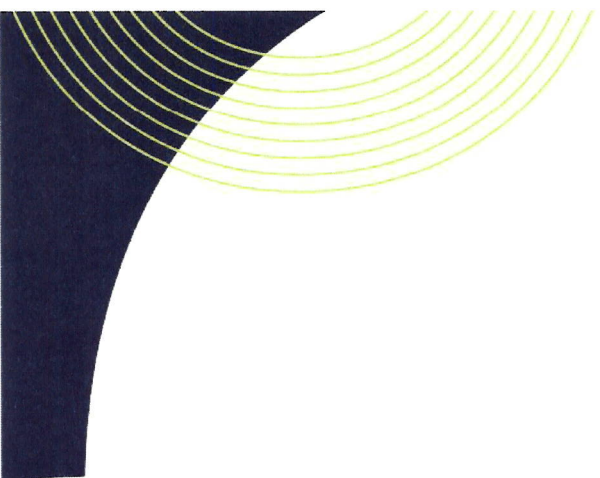
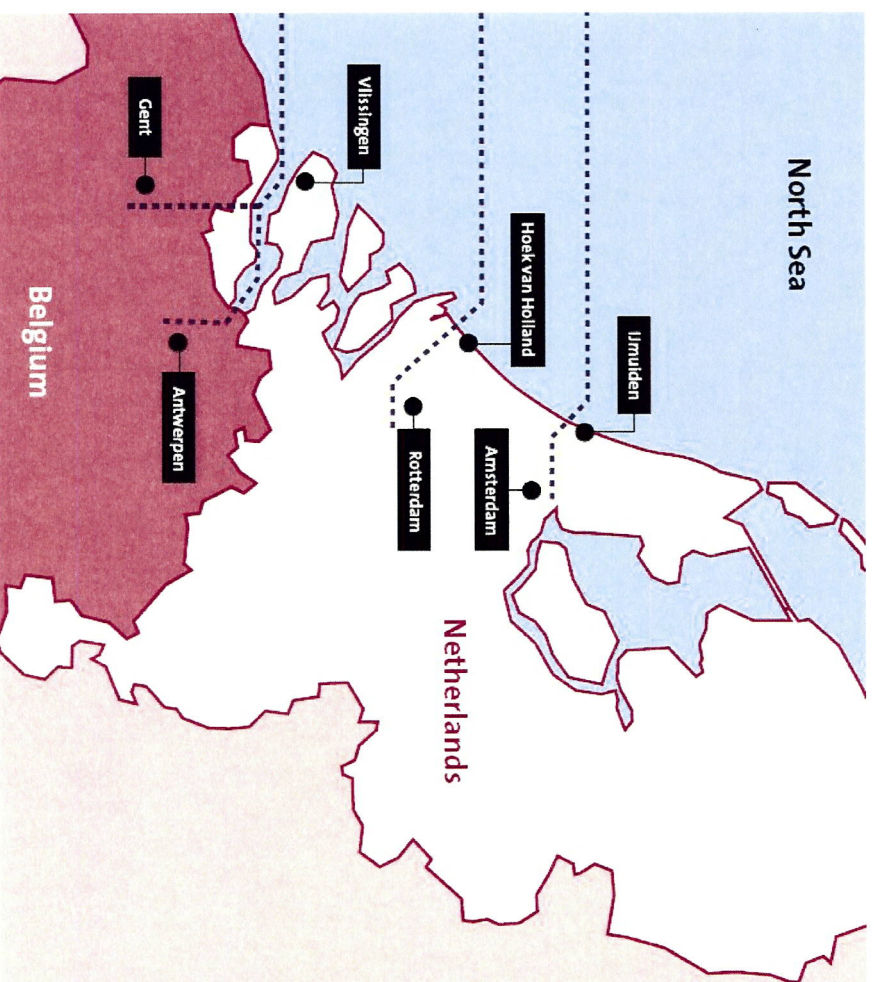
## Territorial Approach

- No extra-territorial effect
- No recognition
- No stay
- *Netherlands*
- ✓ *Yukos Oil Company*





# ARA Region



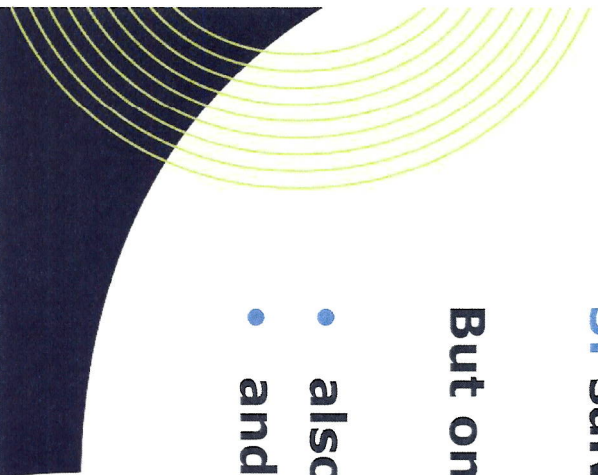
## Priorities in the Netherlands

Priority above mortgage is given to

1. preservation costs
2. crew claims (max one year)
3. salvage and general average

But only if such claim ranks

- also above mortgage *ex lex registrationis*
- and if it also enjoys priority *ex lex causae*





# **CROSS-BORDER INSOLVENCIES AND ENFORCEMENT OF MORTGAGES**

**Haco van der Houven van Oordt**  
Advocaat

**3 May 2012**