



## INTERNATIONAL ASSOCIATION OF INSOLVENCY REGULATORS

### ANNUAL REPORT 2007

**Dr Luis Mejan. IFECOM Mexico and IAIR Chairman**

1. I am delighted to submit my first Report as Chairman on the operations and activities of the International Association of Insolvency Regulators (IAIR) for 2006. In doing so, I would like to pay tribute to my predecessor, Terry Gallagher, ITSA Australia, who stepped down after six years as Chairman in September 2007 at IAIR Bangkok 2007; and to acknowledge the very significant contribution he made to the continuing success of the IAIR in bringing together government regulators from around the world to discuss issues of importance to the development of insolvency systems which provide essential underpinning to economic frameworks, investment and trade and the effective working of markets

2. The report covers:

- Annual General Meeting and Conference 2007
- Membership and Executive Committee
- Achievement of Objectives
- Financial Position and Executive Support

### 3. Annual General Meeting and Conference 2007

3.1 The IAIR Annual General Meeting and Conference 2007 was held in Bangkok, Thailand, on 3-5 September 2007. A reception function was hosted by the Chairman, Terry Gallagher, on the evening of 2 September, allowing delegates to renew acquaintances with old colleagues and meet new people. The Conference was attended by 36 delegates from 21 member and observer organisations, together with the World Bank and the Organisation for Economic Co-operation and Development.

3.2 The Conference was opened with a keynote address delivered on behalf of Mr Charnchao Chaiyanukij, Deputy Permanent Secretary of Justice, Ministry of Justice, Thailand. The formal Annual General Meeting business covered the Record of the IAIR Mexico City 2006 Meeting and Conference which was approved; the Annual Report 2006 and the Financial Report 2006, which were noted and endorsed; the annual membership fee for 2008, which was approved at US\$1,000; and the continuation of the hosting and management of the IAIR's Website by Rainer Gross which was agreed.

3.3 Terry Gallagher, having given notice that he would not seek re-appointment as Chairman in view of his impending retirement from the Insolvency & Trustee Service Australia, the Meeting unanimously approved my appointment in his place, and I was very honoured to accept. At the same time, Peter Joyce indicated that he would propose to step down as Executive Director after IAIR St Petersburg 2008, thus ending fourteen years' association with the IAIR as its first Chairman 1995-2001 and as its Executive Director since then. The Meeting approved the appointment of Terry Gallagher to replace him.

3.4 The Conference, as usual, covered a wide range of issues – the work of Uncitral and the World Bank; Developments in Insolvency Law and Practice in Asia; Employee Rights & Wage Guarantee Funds; Company Rescue Procedures; Practitioner Remuneration; IAIR Workshops; Reports on Projects commissioned at IAIR Mexico City 2006 and Proposals for Future Studies; and Country Reports. Alongside what was a demanding programme, our



hosts, the Legal Execution Department, Ministry of Justice, provided three hugely enjoyed and very sociable events in the evenings – and to them, our considerable thanks.

#### **4. Membership and Executive Committee**

**4.1** Membership at 31 December 2007 comprised 25 government departments, agencies and public authorities:

- Australian Securities & Investments Commission;
- Insolvency & Trustee Service Australia;
- Financial Services Commission, British Virgin Islands;
- Office of the Superintendent of Bankruptcy, Canada;
- Ministry of Commerce, People’s Republic of China;
- Ministry of Justice, Czech Republic;
- Bankruptcy Ombudsman’s Office, Finland;
- Official Receiver, Hong Kong;
- Ministry of Company Affairs, India;
- Office of the Director of Corporate Enforcement, Ireland;
- Viscount’s Department, Jersey;
- State Insolvency Administration Agency, Latvia;
- Department of Insolvency, Malaysia;
- Instituto Federal de Especialistas de Concursos Mercantiles, Mexico;
- Insolvency & Trustee Service, New Zealand;
- National Institute for the Defense of Competition & Protection of Intellectual Property, Peru;
- Ministry of Economic Development of the Russian Federation;
- Bankruptcy Supervision Agency, Serbia;
- Insolvency & Public Trustee’s Office, Singapore
- Masters of the High Court, South Africa;
- Legal Execution Department, Ministry of Justice, Thailand;
- Insolvency Service, England & Wales;
- Insolvency Service, Northern Ireland;
- Accountant in Bankruptcy, Scotland; and
- Administrative Office of the United States Court (Bankruptcy).

**4.2** We were delighted to welcome four new members during 2007 - the Czech Republic, Latvia, Peru and the Russian Federation who had all attended Conferences as observers.

**4.3** Government officials from non-member organisations are invited to attend Conferences and Workshops, providing an opportunity for them to see at first hand, and contribute to, the IAIR’s activities: it also provides members with a wider perspective of developments in other jurisdictions. Currently observer status has been extended to twenty eight jurisdictions; and the IAIR has contacts in a further thirty or so countries.

**4.4** A new Executive Committee was appointed for a two years period at IAIR Mexico City 2006 - Insolvency & Trustee Service Australia; Office of the Superintendent of Bankruptcy, Canada; Department of Insolvency, Malaysia; Instituto Federal de Especialistas de Concursos Mercantiles, Mexico; Insolvency & Trustee Service, New Zealand; Masters of the High Court, South Africa; Legal Execution Department, Ministry of Justice, Thailand; and The Insolvency Service, United Kingdom - England and Wales.

**4.5** The Insolvency & Trustee Service Australia provides the Secretariat services and operates and manages the IAIR bank account.



The IAIR is a world-wide organisation of government departments, ministries, agencies and public authorities with responsibility for insolvency policy and legislation, regulation and practice and administration: [www.insolvencyreg.org](http://www.insolvencyreg.org)

## 5. Achievement of Objectives

### 5.1 The objectives of IAIR are:

- To promote liaison, cooperation and discussion amongst government insolvency regulators; and
- To be recognised as an international body with the knowledge and credibility to promote fair, effective and efficient systems for the administration of insolvencies.

### 5.2 The IAIR has been active in pursuing these objectives through a range of strategies and initiatives:

*Conferences*

*Workshops*

*Website*

*Project Work*

*Work with Multinational Bodies*

*Bilateral Contact and Cooperation*

### 5.3 Annual Conferences

The IAIR's Conferences, held in conjunction with the Annual General Meetings, are the principal forums through which liaison, cooperation and discussion are promoted. As noted above at para 3.4, the IAIR Bangkok 2007 Conference covered a wide range of issues of relevance to members and others attending. The Record of the Meeting and Conference will be available for indorsement at IAIR St Petersburg 2008 where again the Agenda is driven by topics which are occupying regulators, including the insolvency of financial and insurance institutions, information sharing and public access and the mutual recognition of sanctions against individual bankrupts and directors of failed companies. And following the practice of giving some emphasis to the development of insolvency systems in the region of the host country, we shall be looking specifically at the Russian Federation and the Commonwealth of Independent States.

### 5.4 Workshops

The IAIR has adopted a practice since 2004 of conducting Workshops to widen its reach, particularly in regions where it is not well represented. Workshops are usually scheduled to coincide with Insol or other international conferences; and are directed at governments which are not currently members but whose participation, and membership, should be of value to them and would be of considerable interest to the IAIR. Workshops take the form of a one day discussion, with some members attending to share their experience with the IAIR and non-members being invited to speak about developments in their jurisdiction. Workshops have been held in Prague (2004), Bucharest (2006), Cape Town (2007) and Belgrade (2007). A Report on the Workshops and the future approach to them was discussed at IAIR Bangkok 2007, and will feature again at IAIR St Petersburg 2008.

### 5.5 Website

The IAIR website [www.insolvencyreg.org](http://www.insolvencyreg.org) contains information about it and how to join; current and recent activities; projects and publications; member profiles; links to member websites and other international bodies; and a members' only section. There are some 25,000 visits annually which attest to its usefulness and effectiveness, particularly as a strategy in achieving the IAIR's second objective: the publication there of its studies undoubtedly adds value to its content. The opportunity exists for more use to be made of the site, and it remains a challenge to keep information updated.



## **5.6 Project Work**

The IAIR undertakes project work on topics of interest - usually limited to two a year in keeping with the capacity of the Association to handle them, and specifically the time available to the members who agree to lead and coordinate the work and those involved in providing material in relation to their own jurisdictions. Studies have been completed on Recognition and Reciprocity of Foreign Proceedings and Foreign Insolvency Administrators; No Asset Insolvencies; Phoenix Companies; E-Filing; Student Loans; and Overview of Insolvency. IAIR St Petersburg should see the approval of final reports on Revenue & User Fees, Consumer Debtors and Employee Rights & Wage Guarantee Funds; consideration of first draft reports on Information Sharing & Public Access and Mutual Recognition of Sanctions; and discussion of topics for projects for 2008-09

## **5.7 Work with Multinational Bodies**

The IAIR has over a number of years worked with the World Bank in the development of principles and guidelines for establishing and implementing standards for, and the regulation of, insolvency practitioners. Discussions are ongoing as to how it might continue to support the work of the Bank.

The IAIR is also looking to work with the Organisation for Economic Co-operation and Development in its work in relation to the Regional Network on Asian Insolvency Reform.

## **5.7 Bilateral Contact and Cooperation**

The IAIR provides a valuable forum for establishing of one-to-one contacts and relationships, enabling members and non-members to obtain information or assistance from other members whether in the form of advice on particular aspects of another's system, assistance in the conduct of a particular administration, obtaining copies of documents or visits to discuss legislation or other developments. There are many examples of this occurring each year, which reflects well on the spirit of support and co-operation within the IAIR and the benefits derived from it. We should however consider ways of better recording and following through contacts between members and non-members.

## **6. Financial Position and Executive Support**

**6.1** The Financial Report for the year ended 31 December 2007 shows that the IAIR is in a healthy position. While it had an operating deficit for the year of US\$1,759 (2006 – surplus US\$1,463), it has accumulated surpluses of US\$39,870 (2006 – US\$41,630) - that is, almost two years' membership contributions.

**6.2** On that basis, I shall be recommending to IAIR St Petersburg that the membership contribution should remain at US\$1,000.

**6.3** Peter Joyce's current appointment as Executive Director is for a two-year period to the conclusion of the IAIR Annual General Meeting and Conference 2008; and as noted above at para 3.3, he will not be continuing in that role. IAIR Bangkok 2007 approved the appointment of Terry Gallagher as his replacement on his (Terry's) retirement from ITSA in July 2008.

**6.4** The company, WebSupport by Rainer, is contracted to undertake the maintenance and support of the website until 31 December 2009.

**6.4** The IAIR does not have any other contracts or commitments.



## 7. Conclusion

**7.1** First, let me say – let me repeat – that it is a great honour to have been appointed Chairman of the IAIR. I accepted it with some trepidation following in the footsteps of Peter and Terry; and I am very grateful for the support, advice and guidance that they have continued to provide to me and the IAIR in their Executive Director and Secretariat roles. I am also very grateful for the support I have received from all the members, and greatly appreciate and readily recognise the time and commitment they have given to the IAIR, its Conferences and Workshops and its Projects which are hallmarks of the quality of the IAIR's work.

**7.2** The last year has been touched by sadness to hear first that Desmond Flynn of the UK Insolvency Service would not be able to attend IAIR Bangkok 2007 because of inoperable cancer; and then to learn of his death a day after his 59<sup>th</sup> birthday in March 2008 – some five years after the untimely death of that other IAIR stalwart, Lynn Saunders of the New Zealand Insolvency & Trustee Service. At the suggestion of several members, we shall be bringing forward a Paper at IAIR St Petersburg 2008 with a proposal of how the IAIR might mark their passing in some more permanent way.

**7.3** I must acknowledge the outstanding contribution that Peter Joyce has made to our Association. Peter, simply, has been the heart and soul of the IAIR. He was instrumental in its establishment, wrote its Rules and Bye-Laws, was its first Chairman and its first Executive Director. Peter has extensive knowledge, many and varied contacts, sound judgement and high standards of personal integrity. He has combined these with enthusiasm, energy and good humour to lead IAIR to where it is today. I have to add that not only IAIR as a body has profited from Peter's contribution but also many of the regulatory agencies that are part of IAIR have received light, orientation and motivation from him. Peter, you will be greatly missed but your legacy will remain.

**7.4** It is also fitting that the contribution of Peter's wife Marian be recognised. Marian has assisted with the organisation of many annual conferences and related social functions and her positive and friendly manner has contributed greatly to the spirit of friendship and enjoyment that is so much part of the IAIR. To Peter and Marian I say on behalf of the IAIR, thank you

**7.5** And finally, I should note that Peter's departure means that there will now be only three remaining from the Regulators Forum held in Melbourne, Australia, in 1993 under the aegis of ITSA Australia from which the idea of the IAIR came; and who were also at the inaugural Meeting and Conference held in Hong Kong in 1995 – Neville Harris, New Zealand; Frank Szczebak, United States of America; and Michael Wilkins, Jersey. I shall very much look forward to seeing them with Peter in St Petersburg, together with the many friends from previous Conferences; and warmly welcoming a number of new delegates.

**Luis Mejan**  
IAIR Chairman  
IFECOM Mexico  
June 2008

