

## SECTION H - WORK OUTS

- (a) (b) All of these elements are appropriate and relevant to Korea. As for the fifth element, however, there might be a difference of opinion.

For the creditors as a whole, the informal ‘work out’ may be better than resorting to the insolvency law. For the creditors with a security right, however, direct and immediate resort to the insolvency law may be better than a work out, because those creditors can exercise the security right and satisfy their credit in the procedures under the insolvency law before other creditors without a security right.

- (c) The sanction (the fourth element) would be viewed as the least persuasive in contemplating a ‘work out’. In Korea, a ‘work out’ is contemplated when a debtor and creditors do not want to resort to the procedures under the insolvency law. Therefore, when a ‘work out’ is proceeding, the procedures under the insolvency law are not usually taken into account. Creditors generally try not to apply for a formal bankruptcy or reorganization of the debtor. Of course, when the negotiation process breaks down, creditors will apply for dissolution pursuant to the insolvency law.

- (d) In Korea, the government plays an important role although the informal ‘work out’ is considered a private procedure between a debtor and its creditors. The Korean government prefers the informal ‘work out’ to the dissolution of a company pursuant to the insolvency law. It is partly because a ‘work out’ will preserve the debtor-company itself and jobs in spite of lay-offs accompanying a ‘work out’. Also, it is partly because the bankruptcy of the debtor-company will weaken the creditor-financiers, and then result in the decline of the country’s credibility.

Therefore, the Korean government made the Company Reorganization Agreement (Agreement), and when the financiers are carrying out a ‘work out’, they ought to follow the Agreement.