Membership & structure

- **60 State members elected for 6 year terms, representing 5 regional groupings**
  
  Africa (14): currently Algeria, Benin, Botswana, Cameroon, Egypt, Gabon, Kenya, Mauritius, Morocco, Namibia, Nigeria, Senegal, South Africa, Uganda
  
  Asia Pacific (14), Latin America-Caribbean (10), Eastern Europe (8), WEÖG (14)

- **Structure**
  
  - **Commission**: Members, observer States and invited non- and inter-governmental organizations
  
  - **Working groups**: currently 6, including insolvency; membership is the same as the Commission, but delegations more focused around subject-matter expertise; hold one week sessions twice per year
  
  - **Secretariat**: located in Vienna, Austria
Legislative Guide

Financial crises of 1990s led to recognition of role of insolvency law in preserving viable businesses and employment; promoting availability of finance; facilitating effective redistribution and recycling of assets; assisting recovery from economic and financial crisis.

Assessment of insolvency regimes pointed to the need for modernization and adoption of best practice.

Negotiation involved 87 States, 14 inter-governmental organizations and 13 non-governmental organizations.

A key reference tool for law reform:
- Chile, Colombia, China, France, Georgia, Germany, India, Indonesia, Macedonia, Montenegro, Netherlands, ROK, Serbia, South Africa, Spain
- Part of the methodology for the FSB Reports on Observance of Standards and Codes (ROSC)
- Key resource in the World Bank Group Investment Climate Insolvency Technical Assistance Program
- Referenced in work by FSB, IMF, BCBS, EU on bank and financial institution resolution (especially part three)
Legislative Guide

Identifies core issues to be addressed in an insolvency law & offers a range of solutions, with advantages and disadvantages discussed

Recommendations not intended to be directly enacted – outline issues and indicate how they might be addressed

Varying degrees of specificity of recommendations reflect degrees of consensus and/or relevance or importance of other policy and procedural considerations

Limited to debtors engaged in economic activity – consumers, specially regulated entities (e.g. banks) & enterprise groups not specifically addressed
Model Law on Cross-Border Insolvency

Negotiation involved 72 States, 7 inter-governmental organizations and 10 non-governmental organizations

Provides a framework for cooperation and coordination of insolvency proceedings across borders

Legislation enacted by:

Model Law on Cross-Border Insolvency

Reasons to adopt

• Establishes simple straightforward requirements for recognition of foreign proceedings
• Focuses on quick and predictable outcomes
• Reduces scope for disputes
• Recognizes need for speed - provision for interim relief
• Similarity of laws (e.g. OHADA, EU) facilitates proof of law, especially in cross-border cases
• International jurisprudence provides resource for interpretation and application
• Establishes framework for cooperation and coordination
• Multinational Judicial Colloquium fosters cooperation
• *The Judicial Perspective* provides information for judges on issues associated with applications under the ML
Model Law on Cross-Border Insolvency

Concerns and apprehensions
• Imports insolvency law of the foreign country
• Protection of local creditors and participation of local creditors in foreign proceedings not ensured
• Foreign insolvency practitioners will be allowed to administer local proceedings
• Recognition of foreign court decisions and orders on insolvency detracts from sovereignty and independence
• Cannot be adopted without reciprocity
• Practical issues make implementation difficult – mechanics of how to cooperate, judicial experience