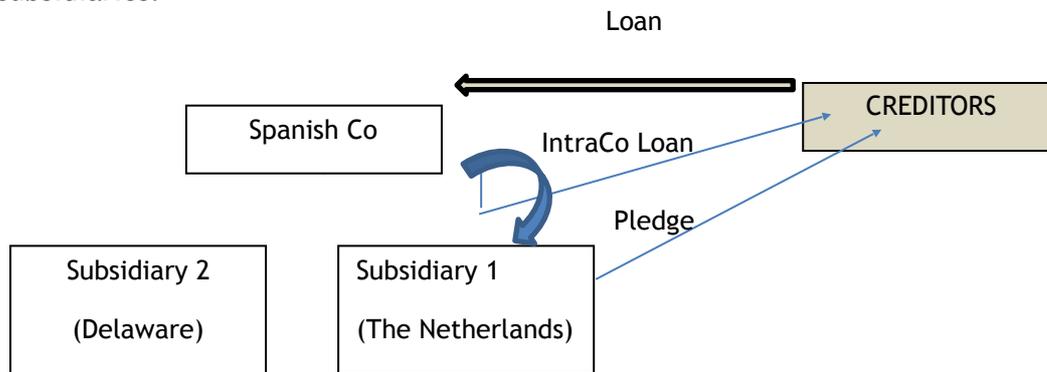


GROUPS AND CROSS BORDER ASPECTS

I. The Spanish Co SA Case

1. Spanish Co SA (“Spanish Co”) is a company incorporated in Spain whose Centre of Main Interests (“COMI”) is also in Spain. Its business is structured around three activities: engineering and construction; concession-type infrastructures (including the operation of electric energy generation plants and transmission lines); and industrial production.

2. Spanish Co has assets (e.g. bank accounts, immovable property, patents, intercompany receivables) and several subsidiaries located in Spain, in other Member States of the European Union (e.g. The Netherlands,) and third countries (e.g. EEUU). The financial debt is mainly -but not only - located at the level of the holding company, but (i) many subsidiaries are guarantors of such debt, and (ii) some obligations are secured by pledges over the participations or shares in those subsidiaries. There are intra-company loans between the holding company and its subsidiaries.



3. Due to the financial difficulties suffered by the group, in January 2016, Spanish Co obtained a court **moratorium** in Spain in order to be able to conduct negotiations with its creditors with the necessary guarantees. This provision gives the debtor a “breathing space” period: it envisages the possibility of a stay of individual enforcement actions, including security rights, and the adjournment of insolvency proceedings for a period of four months.

4. In April 2016, Spanish SA submitted a **restructuring agreement** in Spain containing *i.e.* an amendment of the terms and conditions of its financial obligations and a partial conversion of the debt to capital. The agreement was adopted by a qualified majority of creditors. This agreement obtained judicial approval in May 2016, and its effects were extended to dissenting creditors.

II. Issues

5. After describing the situation - and pointing out the importance of the cross-border dimension since, in our example, Spanish Co SA has a very significant portion of its assets outside Spain and the guarantors will need to be dealt with in proceedings outside of Spain -, the panel will focus on three aspects:

- The cross-border effects of the Spanish moratorium,
- The cross-border effects of the Spanish restructuring plan, and
- The coordination among insolvency proceedings (group aspects)