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Transnational asset recovery and commercial risk: challenges of information, enforcement, and economic efficiency.

Cross-border asset recovery and commercial risk: challenges of information, enforcement and economic efficiency

Recovery of cross-border assets and commercial risks: information challenges, law enforcement and economic efficiency

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SUMMARY

This article analyzes transnational asset recovery as a problem situated at the intersection of commercial risk, asset information, creditor rights, and coordination between jurisdictions. It begins with the observation that the internationalization of business relationships can geographically separate creditors, debtors, documents, processes, and assets, increasing information and enforcement costs when default occurs. The research is qualitative, exploratory, and bibliographic, examining literature on commercial credit and debt enforcement, the World Bank Group's Principles for Effective Insolvency and Creditor/Debtor Regimes, the UNCITRAL Model Law on Cross-Border Insolvency, and the Toolkit and Background Notes on Asset Tracing and Recovery in Insolvency Proceedings, adopted by UNCITRAL in 2025. The study distinguishes between asset tracing, legal recognition, preservation measures, and economic recovery, avoiding treating the mere location of an asset as equivalent to the possibility of execution. This paper proposes a five-step analytical flow, from defaulted credit to the decision on recovery or economic revaluation, conditioned by jurisdiction, cost, time, creditor priority, and ownership. It concludes that the efficiency of transnational recovery depends less on a single technique and more on the coordination between reliable information, compatible legal mechanisms, and proportionate economic valuation.

Keywords: cross-border asset recovery; asset tracing; cross-border insolvency; enforcement; commercial risk; creditors' rights.

ABSTRACT

This article analyzes cross-border asset recovery as a problem at the intersection of commercial risk, asset information, creditors' rights and coordination among jurisdictions. International business relationships may geographically separate creditors, debtors, documents, proceedings and assets, increasing information and enforcement costs after default. The study adopts a qualitative, exploratory and bibliographic approach, drawing on literature on trade credit and debt enforcement, the World Bank Group Principles for Effective Insolvency and Creditor/Debtor Regimes, the UNCITRAL Model Law on Cross-Border Insolvency and the UNCITRAL Toolkit and Background Notes on Asset Tracing and Recovery in Insolvency Proceedings adopted in 2025. It distinguishes asset tracing, legal recognition, preservation measures and economic recovery, avoiding the assumption that locating an asset is equivalent to being able to enforce against it. A five-stage analytical flow is proposed, from defaulted credit to recovery or economic reassessment, conditioned by jurisdiction, cost, time, creditor priority and ownership. The article concludes that cross-border recovery efficiency depends less on a single technique than on coordination among reliable information, compatible legal mechanisms and proportionate economic assessment.

Keywords: cross-border asset recovery; asset tracing; cross-border insolvency; enforcement; commercial risk; creditors' rights.

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1 INTRODUCTION

The expansion of international trade and investment allows companies to hire,
They finance and maintain assets in different countries. The same dispersion that favors business
It can increase the complexity of recovery when an obligation is not paid, especially
when relevant assets and procedures are distributed among different jurisdictions
(UNCITRAL, 1997; UNCITRAL, 2025). Creditor, debtor, contract, process and assets
They may be subject to different regulations, making information and coordination difficult.
legal elements that are central to economic decision-making.

The problem is not new, but it has gained institutional weight. The UNCITRAL Model Law on
Cross-Border Insolvency, adopted in 1997, was designed to help states deal with
Insolvencies in which the debtor has assets in more than one country or foreign creditors.
The model does not seek to fully standardize substantive insolvency law. Its focus is...
in access, recognition, assistance measures and cooperation between jurisdictions
(UNCITRAL, 1997).

In 2025, UNCITRAL adopted the Toolkit and Background Notes on Asset Tracing and
Recovery in Insolvency Proceedings. The document addresses practical difficulties of
Asset tracking and recovery, including in cross-border and digital environments. Among others.
their objectives are protection, preservation and maximization of the value of the assets subject to
insolvency proceedings, in addition to promoting the rule of law, governance, investment and trade.
(UNCITRAL, 2025).

These instruments deal primarily with insolvency, while a large part of
Commercial default occurs outside of a formal collective process. Even so, the
The problems they identify are relevant to the broader analysis of the recovery.
transnational: access to information, recognition, cooperation, asset location,
procedural differences and the need to preserve value. This article uses these sources with
This delimitation does not equate ordinary commercial debt collection with insolvency.

Economic literature reinforces the importance of enforcement institutions. Djankov et al.
(2008) compared debt enforcement procedures in 88 countries and found large
variation in time, cost, and outcome, with an association between enforcement efficiency and
Development of the debt market. The finding suggests that the value of a credit right
It also depends on the institutional environment in which its implementation will be sought.

The aim of this article is to construct an integrated understanding of transnational asset recovery.

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distinguishing five stages: credit characterization, obtaining intelligence about the debtor, location and qualification of assets, definition of applicable legal mechanisms and valuation. Economic recovery. The proposal is conceptual and does not replace local legal advice. nor does it assume that the instruments of a jurisdiction are automatically available in other.

2 METHODOLOGY

The research is qualitative, exploratory, and bibliographic. The methodological strategy combines Academic literature on finance and enforcement with normative and institutional sources. international. This combination is necessary because transnational recovery involves simultaneously economic risk, informational asymmetry, and legal mechanisms whose Availability depends on each jurisdiction.

The academic review uses Petersen and Rajan (1997) for the informational function of credit. commercial; Djankov et al. (2008) for international differences in enforcement efficiency; Bureau, Duquerroy and Vinas (2024) for commercial credit purposes regarding liquidity and default; and Lieberman et al. (2025) for the informational content of B2B payment punctuality.

The sources were selected based on their relevance to the problem and bibliographic traceability. At the institutional level, the Principles for Effective Insolvency and Creditor/Debtor Regimes, of the World Bank Group (2021), the UNCITRAL Model Law on Cross-Border Insolvency (1997), a Judicial Perspective updated in 2022 and the Toolkit and Background Notes on Asset Tracing and Recovery in Insolvency Proceedings (2025). The analysis It focuses on the principles of access, recognition, cooperation, preservation of value and asset tracing.

The article does not compare positive law between specific countries. This choice avoids... extrapolate procedural rules from one jurisdiction to another and maintain focus on the problems. common structural elements. Whenever enforcement is mentioned, the expression generically designates the legal mechanisms for realizing rights, the specific form of which depends on legislation. competent.

The analytical flow presented is a deductive synthesis of the sources. It is not described as a standard. It is an official document from UNCITRAL or the World Bank and does not have its own statistical validation. The function is to separate steps that often appear overlapping in practice, especially the difference between finding information about an asset and having the basis and procedure to...

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to reach it.

One limitation is that transnational recovery can also involve...
arbitration, recognition of judgments, guarantees, fraud, tax regimes, sanctions, trust
Structures, beneficial ownership, and data protection rules. These topics are mentioned.
only when necessary for the overall structure, since a complete dogmatic analysis of each
The institute would exceed the scope of the study.

3. TRADE RISK, CREDIT AND CROSS-BORDER DIMENSION

Trade credit is a form of financing incorporated into the relationship itself.
supply. Petersen and Rajan (1997) demonstrated that suppliers can finance
Buyers benefit precisely because they have advantages in terms of information and relationships.
In international operations, this logic remains, but the legal and informational distance may...
increase the cost of verifying the buyer's condition and reacting to default (PETERSEN;
RAJAN, 1997; DJANKOV et al., 2008).

The risk is not limited to the initial probability of non-payment. After default, the risk arises.
Recovery: the possibility that the credit exists, but the assets are outside the scope of the recovery process.
creditor's jurisdiction, subject to unknown priorities or embedded in a structure whose
Ownership is not immediately transparent. This distinction is important because policies of
Credit granting and recovery strategies respond to different moments in the cycle.
although both depend on information about risk and ability to pay (LIEBERMAN
et al., 2025).

Bureau, Duquerroy and Vinas (2024) show that trade credit can amplify shocks of
Liquidity between companies. The result highlights the interdependence of payment chains.
When a buyer is late, the effect can reach suppliers who depend on that buyer.
receivables to honor their own obligations. In an international environment, the time required
To obtain information and coordinate measures, it can intensify the economic importance of this.
lag.

Punctuality in payments also produces signals. Lieberman et al. (2025) found
What changes in B2B payment behavior carry relevant information for
future returns of companies. Although the study is about asset pricing and not recovery.
In legal proceedings, he reinforces the usefulness of examining payment data as part of an assessment.
broader risk.

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The cross-border problem becomes more complex when information and authority are...
fragmented across jurisdictions (UNCITRAL, 1997; UNCITRAL, 2025). A record may be
in one country, the controlling company in another, and the asset in a third. Even when the
Information is public; differences in language, identifiers, record quality, and access may arise.
Increase costs. When information requires legal action, dependence on procedures
The area becomes even bigger.

Therefore, international recovery should not be conceived as a simple geographical extension.
Regarding a domestic debt collection, it's a coordination operation. The creditor needs to identify...
Which facts are known, which need to be confirmed, and which jurisdiction has a connection?
with the asset and which professionals or authorities have the competence to adopt the measures
applicable.

4. ASSET TRACING: LOCATING IS NOT RECOVERING

The UNCITRAL 2025 Toolkit addresses asset tracing and recovery as a related topic.
Identification, preservation, and recovery of assets in insolvency. The document originated from...
recognition that adequate tools may not exist in all States and that
Access to existing mechanisms, especially for foreigners, can be inefficient.
It also acknowledges the difficulties of the digital environment, in which assets can be moved.
Transactions can be fast and may involve complex identification details.
For analytical purposes, asset tracing can be understood as the process of locating and identifying...
and to link assets to the debtor or to the relevant assets. This activity may involve...
public records, business documents, information obtained in legal proceedings, sources
Commercial and legal mechanisms are permitted. The exact set of tools varies depending on...
The jurisdiction and the nature of the procedure.
The main precaution is not to confuse association with ownership. The presence of a name in
a society, the use of a particular good, or the economic relationship with a non-structure
proof, in isolation, that the asset belongs to the debtor or can be seized. The quality of
Evidence is crucial because asset-related measures affect the rights of third parties and require a basis.
appropriate legal system.

The second precaution involves preservation. In certain cases, the usefulness of information diminishes if...
the asset could be transferred, dissipated, or lose value before legitimate action is taken.
adopted. UNCITRAL (2025) devotes attention to instruments designed to make the

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Faster tracking and recovery in insolvency cases, precisely because delays can...
to compromise the available asset base.

The third precaution is jurisdictional. An asset located abroad is subject to local rules.
Regarding property, guarantees, registration, precautionary measures, enforcement, and priorities. An order.
A solution obtained in one country does not necessarily produce the same effect in another without the mechanisms.
applicable recognition or cooperation. Recovery therefore requires a connection between
intelligence and procedure.

These precautions show why the product of an asset investigation should not be...
just a list. A useful analysis needs to indicate the source, apparent ownership, jurisdiction,
The nature of the asset, liquidity, known restrictions, and degree of confirmation. This qualification
It transforms raw information into a basis for decision-making and is consistent with UNCITRAL's emphasis.
in the identification, preservation and recovery of assets in insolvency proceedings
(UNCITRAL, 2025).

5. Cooperation, Recognition and Enforcement

A Model Law on Cross-Border Insolvency organizes its architecture into four elements.
central: access, recognition, relief, and cooperation. The first allows representatives and
Foreign creditors can access courts in states that have adopted the model; the second creates
procedures for recognizing qualified foreign processes; the third allows measures
assistance; and the fourth encourages coordination between courts and representatives (UNCITRAL,
1997).

This design does not eliminate differences between national legislations. UNCITRAL itself
It emphasizes that the model favors cooperation and coordination without attempting to unify substantive law.
of insolvency. The practical consequence is that cross-border predictability depends
simultaneously of common structures and the domestic legislation that implements them.

The current situation demonstrates expansion, but not universality (UNCITRAL, 2026). According to
Official status maintained by UNCITRAL, 63 States, in 66 jurisdictions, had used the
Model Law in the reform of its cross-border insolvency systems. The data shows
Relevant dissemination, but it also shows that coverage is not global and that implementation
It can vary according to national legal and political traditions (UNCITRAL, 2026).

Brazil appears in the UNCITRAL status with adoption in 2020. This is relevant for relations.
business ventures involving Brazil and other jurisdictions that have also adopted the model,

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but this does not authorize the conclusion that all cross-border trade credit is subject to the rules of Insolvency. Application depends on the existence of a procedure and the requirements set out in... relevant legislation.

Outside of insolvency, other mechanisms may be necessary, including recognition of decisions, enforcement of guarantees, local measures, and contractual or judicial cooperation. The principle The analytical perspective remains: a strategy should not assume that the remedy available in the forum of The origin will automatically accompany the asset to another jurisdiction.

The results of Djankov et al. (2008) reinforce the economic dimension of this diversity. The time, cost, and method of realizing the assets varied significantly between the systems. analyzed. Thus, the selection of a transnational strategy must consider not only the strength not the abstract nature of the law, but the concrete functioning of the relevant enforcement environment.

6. ECONOMIC EFFICIENCY AND RECOVERY DECISION

An international recovery plan may be legally feasible but economically unsuitable. Fees in multiple jurisdictions, translations, expert opinions, obtaining documents, Recognition of decisions and processing time are costs that need to be compared to plausibly recoverable value. The rationale of the strategy depends on the net result. not just formal success.

The World Bank Group (2021) associates efficient and transparent creditor regimes and insolvency undermines investor confidence, restructuring, and the reallocation of productive resources. Efficiency, in this sense, does not automatically mean favoring the creditor. The principles of The World Bank treats creditor, debtor, and insolvency systems as part of... infrastructure stability, restructuring and resource allocation (WORLD BANK GROUP, 2021). It means creating predictable processes that allow for the evaluation of rights, the preservation of value, and Distribute risks according to known rules.

For the individual creditor, economic analysis can be organized by scenarios. One scenario A conservative scenario considers partial recovery and a long timeframe; an intermediate scenario uses the following... Confirmed assets and likely costs; a favorable scenario considers higher realization. patrimonial. The purpose is not to produce artificial certainty, but to make visible the premises that They support the decision.

The priority of other creditors is a decisive variable. A valuable asset may offer low... Recovery to an unsecured creditor if it is fully encumbered or if there are outstanding debts.

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Preferred assets. Therefore, gross asset valuation is insufficient. What matters is the share...
of potentially available value after legally superior positions and costs
of accomplishment.

Time also alters the value. Receiving a certain amount after years of dispute is not...
economically equivalent to receiving it in the present. Beyond the time value of money, there is...
Opportunity cost, uncertainty, and provisioning needs. A serious assessment should
Incorporate this dimension even when a formal financial model is not used.
Finally, the decision not to proceed on a particular route may be a technical result.
rational. Reassessing a strategy in the face of insufficient assets or disproportionate costs is not
It means denying the existence of law. It means recognizing that enforcement is an activity.
Subject to economic constraints.

7. ANALYTICAL FLOW FOR TRANSNATIONAL RECOVERY

The first step is to characterize the credit. The origin of the obligation must be identified,
documentation, due dates, guarantees, jurisdiction or arbitration clauses, legislation
potentially applicable and the existence of previous decisions. This basis determines which
What paths can be considered, and what additional information will be needed?
The second step is to build intelligence about the debtor. Corporate structure, history of
payments, business relationships, relevant changes and presence in different jurisdictions
They help in formulating hypotheses about asset location. The purpose is not to presume.
irregularity, but to map the economic reality surrounding the obligation.
The third step is to locate and qualify assets. Each piece of information must be associated with a source.
Date, jurisdiction, apparent ownership, and any possible restrictions. Confirmed assets need to be...
Differentiated evidence and economic ties cannot be treated automatically.
as property.
The fourth step is connecting the asset to the available legal mechanisms. This is where...
competence, recognition, cooperation, preservation measures, priorities and need
of locally qualified professionals. In cross-border insolvency, instruments
Inspired by Model Law, these approaches may be relevant; in individual billing, other regimes may be available.
to govern the performance.
The fifth step is to calculate the economic rationale of the strategy. (Value plausibly)
recoverable assets, costs, timeframe, procedural risks, and negotiation alternatives should be considered.

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compared. The result may justify further progress, in-depth investigation, agreement or revaluation.

The process is iterative. New information can alter legal understanding and a judicial decision. It can reveal new asset data. Therefore, transnational recovery should be viewed as a process of continuous updating, and not as a rigid and irreversible sequence.

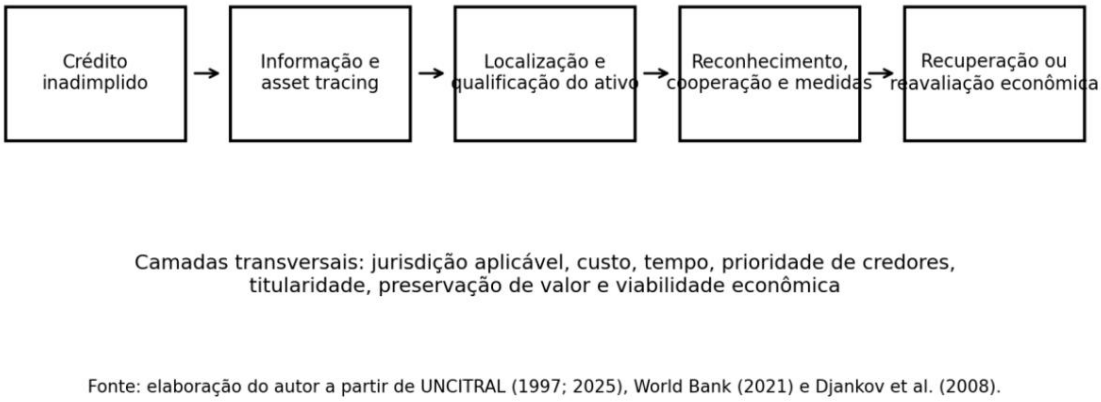

Figure 1. Conceptual flow for the analysis of transnational asset recovery.

8 DISCUSSION

The literature and institutional instruments analyzed converge on one point: rights of Credit depends on informational and institutional infrastructure to produce results. Economic. The existence of contracts and decisions is necessary, but it may be insufficient when Assets, authority, and information are scattered.

The adoption of Model Law by dozens of jurisdictions represents progress in coordination. especially in insolvency. However, the very diversity of implementation makes it difficult to address The model as a universal solution. Professionals need to verify the legislation effectively. incorporated and the specific conditions for recognition and assistance.

The 2025 Toolkit expands the focus on asset tracing and recovery. Its importance lies in... to recognize that preserving value may require swift action and cooperation. At the same time Over time, the scope of insolvency demands methodological care: its solutions should not be automatically transferred to individual billing.

Transnational recovery also requires a clear separation of professional roles. Asset intelligence and risk analysis can be carried out within legal limits.

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applicable, but judicial measures, local legal advice, and confidential actions should be...
conducted by qualified professionals in the corresponding jurisdiction. This division protects the
creditor against legally invalid strategies.

From a business perspective, the main implication is incorporating recoverability into risk.
commercial from the outset. Preliminary counterparty analysis may consider not only
payment capacity, but also guarantee structure, jurisdiction and availability of
Enforcement mechanisms. Prevention does not eliminate default, but it can reduce the cost of
later phase.

The central limitation of the study is conceptual. There is no empirical basis of its own that would allow for estimation.
How much each step reduces costs or increases recovery. Future studies could compare cases.
transnational companies by asset type, number of jurisdictions, location time, cost of
Recognition and percentage actually recovered.

CONCLUSION

Transnational asset recovery is a coordination problem involving information, law, and the law.
and the economy. Defaulting on payments transforms a business relationship into a series of decisions.
in which locating the debtor and their assets is only the first challenge.

The literature on commercial credit shows that relationships between companies carry information and
They transmit liquidity shocks. When these relationships cross borders, fragmentation occurs.
Judicial proceedings add costs and uncertainty to the recovery phase.

The institutional experience accumulated by UNCITRAL demonstrates that cooperation and
Recognition is a central component of cross-border insolvencies. A Model Law
It provides an architecture based on access, recognition, assistance, and cooperation, without
eliminate the differences in domestic law.

The 2025 Toolkit adds a specific contribution by systematizing tools and
issues related to asset tracing and recovery in insolvency. The document reinforces the
importance of locating, preserving and maximizing value, even in the face of difficulties.
digital environment and cross-border access to research mechanisms.

However, locating an asset is not the same as recovering it. Ownership, priority, liquidity,
Guarantees, jurisdiction, and the possibility of enforcement determine whether the information found
It has economic utility for the creditor.

The proposed analytical flow separates five moments: credit characterization, intelligence on

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the debtor, asset location and qualification, connection with legal mechanisms and
economic evaluation. Separation helps prevent an informational discovery from being...
confused with legal outcome.

Economic rationality must guide the entire process. International strategies
They can consume substantial resources and be lengthy. The technical decision
The appropriate course of action might be to move forward, negotiate, seek preservation measures, or halt a course.
whose expected cost exceeds the plausible benefit.

Finally, effective transnational recovery depends on professional cooperation and respect for...
Regulatory boundaries. Consultants, researchers, lawyers, accountants and others.
Experts can contribute at different stages, but confidential legal acts require...
Observe local regulations and legislation. The quality of the coordination is part of the process itself.
strategy.

As a future agenda, empirical research should measure the determinants of recovery in
cases with multiple jurisdictions, distinguishing asset tracing time, registration quality,
Recognition of decisions, costs, and creditor priorities. Evidence of this type would allow
to move from a conceptual model to comparable efficiency parameters.

In short, transnational recovery should not be understood as simply debt collection.
Domestic service conducted remotely. It constitutes a problem of its own, of information and enforcement.
and resource allocation, the solution to which requires an integrated reading of credit, assets, and...
institutions and the expected economic value.

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