Navigating the Common Law Approach to Cross-Border Insolvency

Look Chan Ho (Freshfields Bruckhaus Deringer) has posted "**Navigating the Common Law Approach to Cross-Border Insolvency**" on SSRN. The abstract reads:

> *Just when legislations are being put in place around the world to cope with cross-border insolvency (such as the implementation of the UNCITRAL Model Law on Cross-Border Insolvency), the UK Privy Council in Cambridge Gas Transport Corporation v Official Committee of Unsecured Creditors of Navigator Holdings [2006] UKPC 26; [2006] 3 WLR 689 reminds us that the common law remains essential and is capable of development.*
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> *In summary, the Privy Council held that the Isle of Man court, having recognised a US Chapter 11 proceeding, had a broad discretion to assist in the implementation of that Chapter 11 plan, notwithstanding that this involved the transfer of shares in an Isle of Man company.*
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> *While the spirit of cooperation demonstrated by the Privy Council is commendable, its approach seems novel and may have significant implications for the management of cross-border insolvencies and for the general law. This commentary reviews the Privy Council's approach and contrasts it to an alternative approach adopted by the Canadian courts, in particular the decision of the Ontario Court of Appeal in Re Cavell Insurance Company (23 May 2006).*

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