



## FORMATIVE ASSESSMENT: MODULE 1

### INTRODUCTION TO INTERNATIONAL INSOLVENCY LAW

This is a **formative assessment** relating to **Module 1** and is designed to provide candidates on the Foundation Certificate course with some direction and guidance as to the form and content of assessments on the course as a whole. The submission of this assessment is **not compulsory** and the mark awarded will not count towards the final mark for Module 1 or the course as a whole. However, students are encouraged to submit this assessment as part of their orientation for the submission of the formal (summative) assessments for all the modules on the course.

The Marking Guide for this assessment will be made available on the web pages for Module 1 as well as the Course Administration page for this course after the submission date of 15 October 2022.

## INSTRUCTIONS FOR COMPLETION AND SUBMISSION OF ASSESSMENT

Please read the following instructions very carefully before submitting / uploading your assessment on the Foundation Certificate web pages.

1. You must use this document for the answering of the assessment for this module. The answers to each question must be completed using this document with the answers populated under each question.
2. All assessments must be submitted electronically in MS Word format, using a standard A4 size page and a 11-point Arial font. This document has been set up with these parameters - **please do not change the document settings in any way. DO NOT** submit your assessment in PDF format as it will be returned to you unmarked.
3. No limit has been set for the length of your answers to the questions. However, please be guided by the mark allocation for each question. More often than not, one fact / statement will earn one mark (unless it is obvious from the question that this is not the case).
4. You must save this document using the following format: **[studentID.assessment1formative]**. An example would be something along the following lines: 202223-336.assessment1formative. **Please also include the filename as a footer to each page of the assessment** (this has been pre-populated for you, merely replace the words "studentID" with the student number allocated to you). Do not include your name or any other identifying words in your file name. **Assessments that do not comply with this instruction will be returned to candidates unmarked.**
5. Before you will be allowed to upload / submit your assessment via the portal on the Foundation Certificate web pages, you will be required to confirm / certify that you are the person who completed the assessment and that the work submitted is your own, original work. Please see the part of the Course Handbook that deals with plagiarism and dishonesty in the submission of assessments. **Please note that copying and pasting from the Guidance Text into your answer is prohibited and constitutes plagiarism. You must write the answers to the questions in your own words.**
6. The final submission date for this assessment is **15 October 2022**. The assessment submission portal will close at **23:00 (11 pm) BST (GMT +1) on 15 October 2022**. No submissions can be made after the portal has closed and no further uploading of documents will be allowed, no matter the circumstances.
7. Prior to being populated with your answers, this assessment consists of **10 pages**.

## **ANSWER ALL THE QUESTIONS**

### **QUESTION 1 (multiple-choice questions) [10 marks in total]**

Questions 1.1. – 1.10. are multiple-choice questions designed to assess your ability to think critically about the subject. Please read each question carefully before reading the answer options. Be aware that some questions may seem to have more than one right answer, but you are to look for the one that makes the most sense and is the most correct. When you have a clear idea of the question, find your answer and **mark your selection on the answer sheet by highlighting the relevant paragraph in yellow**. Select only **ONE** answer. Candidates who select more than one answer will receive no mark for that specific question.

#### **Question 1.1**

It should be relatively easy to develop a single system to deal with cross-border insolvency since all jurisdictions have more or less the same local insolvency law rules.

- (a) This statement is true since all countries have implemented the UNCITRAL Model Law on Cross-Border Insolvency.
- (b) This statement is untrue since there are huge differences in both the approach and insolvency legislation of various jurisdictions.**
- (c) This statement is true since all systems have at least the same general insolvency concepts.
- (d) The statement is true since the historical roots of all insolvency systems are the same.

#### **Question 1.2**

The Statute of Ann, 1705 was a very important piece of legislation for the development of English insolvency law.

- (a) This statement is true since this Act introduced imprisonment of debt.
- (b) This statement is untrue because it dealt with the distributions of the proceeds derived from the proceeds of selling the assets of the estate.
- (c) This statement is true since it introduced the notion of discharge.**
- (d) This statement is true since it introduced fraudulent conveyances into English law.

### Question 1.3

The purpose of the UNCITRAL Legislative Guide (2004) has direct application in all the member States of the UN.

- (a) This statement is true because UNCITRAL's model legislative guidelines apply automatically to all member States.
- (b) This statement is true because all member States supported its automatic implementation in their respective jurisdictions.
- (c) This statement is untrue because the Legislative Guide serves merely as soft law and contains best practice to be considered when countries revise their own insolvency legislation.
- (d) This statement is untrue since the Legislative Guide is only available for use by developing countries when reforming their own insolvency laws.

### Question 1.4

Modern rescue proceedings have replaced liquidation as an insolvency procedure in most systems.

- (a) This statement is true since business rescue is important for socio-economic reasons.
- (b) This statement is true because liquidation is viewed as a medieval and outdated process.
- (c) This statement is untrue since there is still a need for both liquidation and rescue procedures in insolvency systems.
- (d) This statement is untrue since some systems have no formal rescue procedure.

### Question 1.5

The principles and requirements for avoidable dispositions and executory contracts are the same in all jurisdictions - hence these do not pose problems in a cross-border insolvency matter.

- (a) The statement is untrue, the requirements and principles do differ and pose problems in a cross-border case.
- (b) This statement is untrue because the insolvency laws of the State where the original insolvency order is issued will apply to all the other States involved in the matter.

- (c) This statement is untrue since avoidable dispositions and executory contracts do not pose any problems in a cross-border case.
- (d) The statement is untrue since avoidable dispositions and executory contracts may be disregarded in a cross-border case.

### Question 1.6

The domestic corporate insolvency statute of a country makes no mention of the possibility of a foreign element in a liquidation commenced locally. The country has ratified a regional treaty on insolvency proceedings that contain provisions on concurrent insolvency proceedings over the same debtor in a neighbouring treaty state.

In a local liquidation commenced under the domestic corporate insolvency statute, to what law can the local court refer in order to resolve an international law issue that has arisen because of concurrent insolvency proceedings in the neighbouring state?

- (a) Public International Law.
- (b) UNCITRAL Legislative Guide on Insolvency Law.
- (c) World Bank Principles for Effective Insolvency and Creditor Rights Systems.
- (d) Private International Law.

### Question 1.7

Which one of the following documents mandates co-operation or communication between courts in concurrent insolvency proceedings on the same debtor, which are being conducted in different nation states?

- (a) ALI / III Global Guidelines Applicable to Court-to-Court Communication in Cross-Border Cases (2012).
- (b) EU Cross-Border Insolvency Court-to-Court Communications Guidelines (2014).
- (c) UNCITRAL Model Law on Cross-border Insolvency (1997).
- (d) JIN Guidelines for Communication and Cooperation between Courts in Cross-Border Insolvency Matters (2016).

### Question 1.8

Latin and Middle America states have ratified various multilateral conventions and treaties that address international insolvency issues. While they promote unity of proceedings in the treaty states where a debtor has a single commercial domicile, they acknowledge the possibility of concurrent proceedings.

Which of the following conventions and treaties does **not** provide for judicial co-operation where there are surplus funds remaining in a proceeding in one treaty state and there are concurrent insolvency proceedings over the same debtor in another treaty state?

- (a) Montevideo Treaty on International Commercial Law (1889).
- (b) Montevideo Treaty on International Commercial Terrestrial Law (1940).
- (c) Montevideo Treaty on International Procedural Law (1940).
- (d) Havana Convention on Private International Law (1928).

### Question 1.9

The Council Regulation on Insolvency Proceedings (European Insolvency Regulation) (2000), which applies in all European Union member states except Denmark, was reviewed after a decade's operation. An amended European Insolvency Regulation (EIR) Recast (2015) was adopted in 2015 and took effect in June 2017.

Which of the following aspects of international insolvency is **not** addressed in the EIR Recast?

- (a) Proceedings to restructure a debtor that is facing the likelihood of insolvency.
- (b) Definition of "centre of the debtor's main interests".
- (c) A centralised insolvency register of insolvency proceedings opened in member states.
- (d) Co-operation and co-ordination provisions applicable to corporate groups.

### Question 1.10

An unsecured Creditor is owed monies by the Debtor for services it supplied locally. It has issued proceedings to recover the debt in the local Court. The Debtor has moved its registration and head office to the local country from its original place of incorporation in a foreign country. The Creditor is incorporated and has its head office in that foreign country.

The contract to supply, which was created by exchange of emails sent between the head offices, denominates the debt in the currency of the foreign country. The Debtor is being wound-up in the foreign country and the foreign liquidator seeks recognition and a stay in the local Court proceedings. What aspect is an international insolvency issue?

(a) The local Court's jurisdiction over the Debtor.

(b) The standing of the foreign Creditor to sue for its debt in the local Court.

(c) The foreign liquidator's standing to request a stay of the local proceedings.

(d) The fact that the debt owed to the Creditor is in a foreign currency.

**Marks awarded 8 out of 10**

## QUESTION 2 (direct questions) [10 marks]

### Question 2.1 [maximum 2 marks]

Explain what the term "international insolvency law" means.

Wessels defines international insolvency law as: "[i] commonly described in international literature as a body of rules concerning certain insolvency proceedings or measures, which cannot be fully enforced, because the applicable law cannot be executed immediately and exclusively without consideration being given to the international aspect of a given case."<sup>1</sup>

International or Cross Border Insolvency regulates how debtors who are financially distressed be treated where such debtors have creditors or assets in more than one country. International or Cross Border Insolvency is concerned more with companies that become insolvent and operate in more than one country.<sup>2</sup>

**There is scope to elaborate further in your own words**

**1.5**

### Question 2.2 [maximum 5 marks]

Differentiate between the concepts of universality and territoriality in cross-border insolvency.<sup>3</sup>

Universality	Territoriality	
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<sup>1</sup> Guidance Text Mod 1 Introduction to International Insolvency Law, Chapter 5, page 34, Wessels

<sup>2</sup> Guidance Text Mod 1 Introduction to International Insolvency Law, Chapter 5

<sup>3</sup> Guidance Text Mod 1 Introduction to International Insolvency Law, Chapter 5, 5.2.2

<p>1. In this approach Cross Border Insolvency are administered pursuant to a single global regime in insolvency and all debtors' assets are distributed by the only insolvency practitioner, no matter where the assets or creditors are located.</p>	<p>1. In approach each country exercises its own domestic insolvency laws in respect to all the debtor's property and all creditors that are located within its jurisdiction.</p>
<p>2. Ideally only one form should have jurisdiction and the chosen state could be the centre of the debtor's interest.</p>	<p>2. Proceedings may commence in every jurisdiction(multiple) where the debtor holds assets, but there should be territorially limited and restricted to the property within the state where the proceedings are opened.</p>
<p>3. Premised on all assets being included in the proceedings, and all creditors worldwide can participate with all claims being treated as equal.</p>	<p>3. National Interest should be protected before consideration being given to creditors abroad.</p>

**There is scope to elaborate with respect to recognition and effect in that for example, with universalism, recognition and effect requires that other States recognise that one set insolvency proceedings (that all agreed is the appropriate jurisdiction) and recognise it as having extraterritorial effect in their States.**

**4**

**Question 2.3 [maximum 3 marks]**

Describe **three** recent examples of developments in the Middle East region to reform domestic insolvency laws or to address international insolvency Issues.

- 1) The financial restructuring committee (FRC) formed a consultative council for the purpose:-
  - i) To study the development of the financial reorganisation service



- ii) consultations with experts in the field of financial re-organisation of defaulting companies.<sup>4</sup> **what impact did this have on reforming domestic insolvency laws or addressing international insolvency Issues in the Middle East?**

5

- 2) In February 2018 Saudi Arabia approved a new bankruptcy law and it has been predicted by analysts that this should help attract foreign investment, boost credit growth and allow the SME Sector to grow due to these processes of unwinding insolvent companies become easier.<sup>6</sup>
- 3) The Dubai International Finance Centre (DIFC), the leading international financial hub in the Middle East, Africa and South Asia region announced on 30 May 2019 the New DIFC Insolvency Law, Law No. 1 of 2019, was enacted. The enacted law compliments the DIFC's commitment to international best practice, with the insolvency law aiming to balance the needs of all stakeholders in relation to bankruptcy and distressed related situations in the DIFC and assisting the facilitation of a more efficient and effect bankruptcy restructuring regime.<sup>7</sup>

**2.5**

**Marks awarded 8 out of 10**

### **QUESTION 3 (essay-type questions) [15 marks in total]**

#### **Question 3.1 [maximum 5 marks]**

Write a brief note on the differences regarding the objectives of insolvency for individuals and corporations.

For an individual the difference regarding objectives of insolvency are :-

- to protect the debtor from harassment by his creditors;
- to enable the debtor to make a fresh start when the debtor may be less blameworthy for his state of affairs;
- to reduce indebtedness by making contributions from present and future income to the estate while at estate while at simultaneously taking his personal circumstances into account.<sup>8</sup>

For a corporation the differences regarding objectives of insolvency are:-

- Try to save the business or viable parts, where it may be possible, it may not be the company;

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<sup>4</sup> <https://www.thenational.ae/business/economy/saudi-arabia-approves-landmark-bankruptcy-law-1.707236>

<sup>6</sup> <https://www.difc.ae/newsroom/news/dubai-international-financial-centre-enacts-new-insolvency-law/>.

<sup>7</sup> <https://www.difc.ae/newsroom/news/difc-announced-proposed-new-insolvency-law-regime-public-consultation/>.

<sup>8</sup> Guidance Text Mod 1 Introduction to International Insolvency Law, page 18 In MA Clarke *et al* Commercial Law (Oxford University Press, 2017), chap 28

- If there were any abuse by Directors or Officers, personal liability on the responsible person can be imposed.<sup>9</sup>

**This answer displays a satisfactory understanding of the issues. To improve your responses, ensure they are commensurate with the mark allocation – while Q 3.1 asks for a brief note, it is for 5 marks.**

**3.5**

### **Question 3.2 [maximum 5 marks]**

Write a brief note on the difficulties that may be encountered when dealing with insolvency law in a cross-border context relating to pertinent differences in the relevant systems.

Due to the growth in the international trade and investment the corporate entities have increased incidence having businesses, assets, debtors and creditors in more than one country. The disadvantage of this global marketplace is that it brings a corresponding risk of cross border insolvency with business failure.

Cross Border insolvency proceedings can be inefficient in that it can be prolonged and expensive due to the following<sup>10</sup>:

- Rules in different languages in different countries; The difficulties faced in finding a common insolvency language.
- Different legal systems not necessarily uniform and consistent;
- Insolvency proceedings are governed by many jurisdictions; decisions on which jurisdictions may proceedings be implemented.
- Various conflict of law issues arises, recognition of courts decisions and regulations of foreign jurisdictions; may have an impact on the position of the creditor and may be more complex.
- Enforcement, what international effects that may be accorded to proceedings conducted at the applicable forum.

**Further detail would be beneficial. For example, consideration of Westbrook's 9 key issues.**

**4**

### **Question 3.3 [maximum 5 marks]**

What multilateral steps have been taken in the 21<sup>st</sup> century to promote harmonisation of domestic insolvency laws? In your opinion, how much impact are these likely to have in addressing international insolvency issues? Include reasons for your opinion.

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<sup>9</sup> Guidance Text Mod 1 Introduction to International Insolvency Law, page 19 In MA Clarke *et al* Commercial Law (Oxford University Press, 2017), chap 28

<sup>10</sup> Guidance Text Mod 1 Introduction to International Insolvency Law, page 41 & 42

UNCITRAL promulgated a *Legislative Guide on Insolvency Law* in 2004.<sup>11</sup>

The World Bank also produced guidelines on regulations of insolvency, *Principles for Effective Insolvency and Creditor/Debtor Regimes*. These principles have been revised in 2005, 2011, 2015, and in April 2021. The International Monetary Fund and the World Bank requires bankruptcy reforms sometimes in developing countries as a condition of loan support and these principles gains significance in that context. They refer countries to the Legislative Guide on Insolvency Law and the World Bank principles which promotes a convergence of the insolvency laws.

Legislative Guide on Insolvency Law and Principles for Effective Insolvency and Creditor/Debtor Regimes forms the international best practise standard for insolvency regimes.

There are various international instruments that have been developed to encourage closer co-operation and co-ordination of concurrent proceedings and promote recognition and enforcement, eg, European guidelines on Communication and cooperation (2007)

ALI - III Global Principles for cooperation in International Insolvency Cases and Global Guidelines Applicable to Court to Court Communication in Cross Border Cases (2012).

In my opinion there could be a significant impact on the international insolvency issues due to the fact that these guidelines addresses issues that arise in international insolvency law and with the adoption of the UNCITRAL Model Law on cross border Insolvency increasing by a number of states, this assists to achieve a more uniform recognition laws across these states.

**There is scope to consider political pressure, foreign investor pressure and/or loan conditions.**

**4.5**

**Marks awarded 12 out of 15**

**QUESTION 4 (fact-based application-type question) [15 marks in total]**

Nadir Pty Ltd (Nadir) is a company registered in Utopia. Originally it was incorporated in the neighbouring country of Erewhon before moving its registration and head office to Utopia one month ago. Apex Pty Ltd (Apex) is incorporated and has its head office in Erewhon. Apex and Nadir enter into a contract by exchange of emails between their head offices for Apex to supply goods to Nadir in Utopia. Nadir has failed to pay for the goods which have been delivered in accordance with the contract. Apex issues court proceedings against Nadir in Utopia for monies owing for the goods sold and delivered.

Meanwhile, Nadir also owes monies to creditors in Erewhon. One Erewhon creditor obtains a court winding-up order against Nadir in Erewhon and a liquidator is also appointed by that court.

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<sup>11</sup> UNCITRAL Legislative Guide on Insolvency Law

If you require additional information to answer the questions that follow, briefly state what information it is you require and why it is relevant.

**Question 4.1 [maximum 5 marks]**

Assume the UNCITRAL Model Law on Cross-border Insolvency has been adopted by Utopia without modification, except as required to domesticate it. For example, the Cross-border Insolvency Act of Utopia names its local laws relating to insolvency and its competent court under the Act. The Erewhon liquidator's investigations detect that Apex is suing Nadir in Utopia. The liquidator would like to stop Apex court action against Nadir in Utopia. Advise the Erewhon liquidator on the potential relevance of the Cross-border Insolvency Act of Utopia.

Consideration being given to the facts in the matter, the UNCITRAL Model Law on Cross Border Insolvency was adopted by Utopia without modification. This means that the local laws relating to insolvency is being applied.<sup>12</sup>

In absence of any domestic formal treaties, to address the problems arising from international insolvencies the UNCITRAL Practice Guide on Cross Border Insolvency Cooperation (2009) encourages insolvency practitioners to develop on a case-by-case basis, formulating strategies and techniques for resolving conflicts when the courts of different states attempt to apply different laws and try to enforce different requirements. Whilst these agreements are not adopted in all instances, even though proposed and some parties refused to participate but because Utopia has adopted the UNCITRAL Model Law on Cross Border Insolvency means that it can increasingly provide a framework for agreements to aid and co-operate and communicate.

Nadir had its company incorporated in Erewhon before moving to Utopia its registration and head office to Utopia one month ago. Due to Nadir moving its registration and head office to Utopia one month ago the COMI must be determined.<sup>13</sup>

Universalism is an approach that allows for more than one insolvency proceedings pending and or originating in different states to be dealt with under the provisions of one insolvency law. The law of the main proceedings will apply when the debtor has its centre of main interest (COMI). But since global consensus on this was never reached, a "modified universalism" has emerged. This approach can be adopted, where the "main proceeding" opened in the state where the centre of main interest has been determined and is supported by the secondary proceeding in another state. In these instances, the court dealing with the respective proceedings are supposed to co-operate with each other. This can further be incorporated with the Internationalist principle based on the circumstances

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<sup>12</sup> UNCITRAL Model Law on Cross-Border Insolvency (1997)

<sup>13</sup> The legislative Guide on Insolvency law, Part 2 , 2.12(a)

of each case and on co-ordination between the states where the debtor has property and or contractual interest.<sup>14</sup>

A secondary procedure may be opened if a state where assets of the debtor (not stated where Nadir's assets are, if any) are situated does not follow an approach of universality although a (main proceeding) is opened in the state where the centre of main interest of the debtor is.

Co-operative territorialism is another approach that could be considered as every state has jurisdiction, where assets are in more than one state, and courts can communicate and collaborate with each other.

Co-operation following a protocol could be another approach. An example the Maxwell Case where the Courts in the USA and the UK co-operated with each other by way of Court Orders recognising an agreement/protocol between the estate's representatives in the main states where the debtor had most of its interest.

**A reasonable understanding of the issues and the answer could be strengthened by more detail.**

**The MLCBI is significant for its provisions on recognition and relief in 4.1. (Its provisions on cooperation and coordination are secondarily important as the liquidator is primarily seeking advice about staying court proceedings in Utopia.) The question requires candidates to apply the relevant MLCBI articles to the facts provided.**

**3**

#### **Question 4.2 [maximum 2 marks]**

Would it make any difference to your answer in question 4.1 in the following two alternative scenarios to Apex suing for its debt?

- (a) Apex had filed proceedings to wind-up Nadir, but the matter had not yet been heard.
- (b) Apex had obtained a court order to wind-up Nadir in Utopia prior to the Erewhon winding-up order.

[Type your answer here]

A) Yes , should the COMI be determined to be Utopia.

B) No

**Apply the MLCBI provisions on concurrent insolvency proceedings (see Article 29)**

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<sup>14</sup> Guidance Text Mod 1 Introduction to International Insolvency Law, 5.2.2

**Question 4.3 [maximum 8 marks]****NB: This question is not related to Questions 4.1 and 4.2**

A court has ordered the commencement of an insolvency proceeding against a corporate debtor in the State of its incorporation and head office. The company has operated business in a number of States and has assets (real property or interest in land, other tangible assets and intangible assets); creditors (including taxation / revenue authorities) and directors in several States.

Select a country for the company's incorporation and, based on the insolvency laws of the country you select and the brief facts provided, describe four key international insolvency issues facing the insolvency representative in this scenario. For each issue, what domestic laws or international instruments apply to assist the insolvency representative address these four issues?

[Type your answer here]

United States - North America

Difficulties that arise due to their being no global insolvency court and a global insolvency law system to deal with cross border insolvency law matters, there are various other difficulties to deal with.

Four Key international issues facing the insolvency representatives are<sup>15</sup>:

1. Access to courts

Jurisdiction is raised regarding whether a court will hear and determine a matter. Examination is required of the connection with the jurisdiction of the dispute or the parties.<sup>16</sup> Chapter 15 Title 11, The United States Code incorporates the UNCITRAL Model Law which was adopted in 2005. Any conflict that arises in connection with cross border insolvencies, this law provides the solutions to same, by allowing the Courts in the US to deal with matters relating to the cross-border insolvencies. These proceedings which are permitted under Chapter 15 is less expensive and more efficiently executed as alternate to initiating independent bankruptcy proceedings in the United States.

Further Chapter 15 avoids conflicts and creates mechanisms for cooperation between foreign courts and the US and the representatives regarding proceedings which involves the same debtor.

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<sup>15</sup> [https://uncitral.un.org/en/texts/insolvency/modellaw/cross-border\\_insolvency](https://uncitral.un.org/en/texts/insolvency/modellaw/cross-border_insolvency), Key Provisions

<sup>16</sup> Guidance Text Mod 1 Introduction to International Insolvency Law, 6.1.1, page 44

The American Law Institute (ALI) to assist with resolving of international issues between the North American Free Trade Agreement (NAFTA) countries of the United States, Canada and Mexico. The ALI project was an initiative to improve co-operation in international insolvencies across the NAFTA States. An international statement was prepared by a designated reporter, Professor Westbrook who formed advisory groups on the relevant country's insolvency law applicable to international cases. This was approved by the ALI Council and members in 2000. the domestic adoption of ALI - III Global Principals for co-operation in International Insolvency Cases and Global Guidelines Applicable to Court to Court Communication in Cross Border Cases (2012) assist to promote recognition and enforcement of cases. This principle focuses on insolvencies of corporations and the principles are structured around general, procedural and recommendations for legislations and international agreements.

## 2. Co-operation and co-ordination

Where there could be a conflict of law, this principle establishes that Court and Administrators should cooperate in a transnational bankruptcy proceeding were the goal of ensuring the value of the Debtor's worldwide assets are maximised. It also furthers the just administration of the proceedings.

## 3. Recognition and enforcement

In this instance the insolvency/bankruptcy of a debtor in a NAFTA country must be given recognition and the appropriate effect under the circumstances in each NAFTA country. The recognition should be granted efficiently and cost effectively with the least amount t of legal formalities. Where

## 4. Relief

One of the basic principles of the Model Law is that the relief that is considered necessary for the orderly and fair conduct of cross border insolvency which is available to assist foreign proceedings. The relief available includes interim relief at the discretion of the court between making of the application for recognition and the decision on that application, an automatic stay upon recognition of the main proceedings and relief at the discretion of the court for both main and concurrent applications following recognition.

**This is a satisfactory response. For an approach more closely applied to the facts, see the 'Model' Answer for four key international insolvency issues raised by the facts and facing the insolvency representative in this scenario.**

**5.5**

**Marks awarded 9 out of 15**

**\* End of Assessment \***

**A good paper that correctly identifies many of the issues raised and satisfactorily substantiates several answers.**

**TOTAL MARKS AWARDED 37/50**