INSOL INTERNATIONAL

FOUNDATION CERTIFICATE

IN INTERNATIONAL INSOLVENCY LAW

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 2023.

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).***

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6. ***The final submission date for this assessment is*** 15 October 2023**.** ***The assessment submission portal will close at*** 23:00 (11 pm) BST (GMT +1) on 15 October 2023**.** ***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: 7 out of 10

QUESTION 2 (direct questions) [10 marks]

Question 2.1 [maximum 2 marks]

Explain what the term "international insolvency law" means.

International insolvency law refers to the set of legal rules and principles that apply when insolvency cases of individuals or companies have connections or assets in multiple countries or jurisdictions, meaning that insolvency laws transcend a single jurisdiction and that international aspects of the case must be considered to ensure fair and coordinated outcomes.

2

Question 2.2 [maximum 5 marks]

Differentiate between the concepts of universality and territoriality in cross-border insolvency.

In the context of border insolvency there are two theories that hold different perspectives:

1. *The concept of universality or universalism refers to an insolvency proceeding that covers all the assets and liabilities of the debtor across the globe. Simply put once this type of proceeding is initiated no other insolvency proceedings can be. It typically takes place in the jurisdiction where the debtors main interests lie. The objective, behind universality is to consolidate all the debtors' assets into one insolvency process treat all creditors equally ensure participation in the proceedings and streamline jurisdiction for cost effectiveness.*
2. *On the other hand, territoriality stands opposed to universalism by allowing insolvency proceedings to be opened in every state or jurisdiction where the debtor possesses assets or liabilities. These proceedings are limited to those assets located within each respective state. Consequently, several simultaneous insolvency proceedings may occur for a debtor in locations. Territoriality prioritizes safeguarding interests and creditors rights and often confines an official's authority, within national borders.*

To summarize universalism strives for a procedure while territoriality permits multiple procedures across various jurisdictions based on asset location.

These theories also involve recognition and effect (as well as jurisdiction) 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.

3.5

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 United Arab Emirates (UAE): ***has recently implemented changes, to its insolvency laws aiming to modernize and enhance accessibility for businesses. These reforms were introduced through Federal Decree Law No. 9 of 2016. Federal Law No. 20 of 2016 which brought in provisions for insolvency proceedings. Additionally, the UAE introduced a bankruptcy law in 2019 known as Federal Law No. 9 of 2019 providing a framework to effectively address insolvency cases, including those involving entities operating within the UAE.***
2. Saudi Arabia: ***made advancements in its insolvency laws in 2018 with the implementation of the Saudi Bankruptcy Law. This new legislation has established an efficient process for managing insolvency cases. Encouraging companies to explore restructuring alternatives before resorting to liquidation aligns with practices, in handling insolvency matters. By prioritizing creditors rights protection and providing opportunities for companies to continue their operations Saudi Arabia aims to foster a business environment and stimulate economic growth.***

3. Bahrain: ***has taken steps to address the challenges associated with insolvency by adopting the Model Law, on Cross Border Insolvency in 2018. This law, developed by the United Nations Commission on International Trade Law (UNCITRAL) establishes a framework for managing cases of insolvency that span countries. Bahrains adoption of this Model Law demonstrates its commitment to facilitating the resolution of insolvency matters and aligning its system with global standards. By doing it promotes predictability and efficiency in border insolvency proceedings involving businesses operating in Bahrain ultimately creating a more favourable environment, for foreign investors.***

3

Marks awarded 8.5 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.

The goals of insolvency differ greatly between individuals and corporations due to their characteristics, purposes, and considerations for stakeholders.

In insolvency for individuals the main objectives are centred around providing them with a start and financial relief. The primary aim is to release individuals from the burden of debt. It seeks to give them a slate, from unmanageable financial obligations. Also, the asset protection is necessary. Depending on the jurisdiction individuals may be allowed to keep assets like their main residence, vehicle, and personal belongings. This ensures they can maintain a standard of living. Also, for individuals there is a sense of financial rehabilitation, personal insolvency is not about relieving debt but also focuses on helping individuals regain their stability and reintegrate into the financial mainstream. For the creditors, the process strives for their treatment while acknowledging that full payment may not always be possible. It aims to strike a balance between providing relief for individuals and satisfying creditors' claims much as feasible. Prevention of harassment is also relevant

On the hand corporate insolvency primarily focuses on preserving business interests ensuring continuity and meeting the needs of stakeholders. One of the objectives, in insolvency is to sustain operations if feasible. This involves taking steps to reorganize the company renegotiate debts and ensure business operations. However, the main objective is to safeguard the interests of creditors. Corporate insolvency proceedings are designed to ensure that creditors are treated fairly and that their claims are met, whether through debt repayment or asset liquidation.

Corporate insolvency also aims to maximize the value of the company's assets. This may involve selling assets restructuring the business or attracting investors all with the aim of achieving the possible outcome, for creditors and stakeholders. It considers the

interests of stakeholders such as employees, shareholders, trade creditors and lenders. Striking a balance between these competing claims is crucial, for reaching a resolution. Lastly, it often requires developing a plan to rehabilitate the company and ensure its long-term viability. This could involve restructuring debts securing financing or finding partners to guarantee the company's future sustainability.

In conclusion although individual and corporate insolvency both address difficulties their goals and priorities differ significantly. Individual insolvency primarily focuses on relieving debt burdens protecting assets and individual rehabilitation. On the other hand, when it comes to corporate insolvency the main goal is to safeguard the rights of creditors maintain the business operations and strike a balance, among different parties involved in order to achieve the most favourable result. These distinct objectives highlight the difficulties and factors that individuals and companies encounter while dealing with the realm of insolvency.

It is also relevant to consider imposition of personal liability on the responsible persons.

4

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.

Cross-border insolvency cases pose challenges due to differences in national insolvency laws, procedures, and regulations. These differences in systems can complicate the resolution of insolvency matters and create significant difficulties for all parties involved.

Several notable differences in these systems can pose challenges, such as:

1. Different legal frameworks: ***Different countries have different frameworks for insolvency, including definitions, procedures, and creditor priorities. The absence of an insolvency law can lead to conflict and confusion in determining which law applies to a particular case.***
2. Priority Rules: ***Each jurisdiction may establish its own set of rules dictating the order in which creditors are paid. These differences can lead to disputes over the hierarchy of creditors. Impacting on the distribution of assets.***
3. Procedural Variations: ***The procedural aspects of insolvency, such as filing requirements, time limits and the appointment of insolvency practitioners, can vary significantly from one jurisdiction to another. Such differences often lead to inefficiencies and delays in cross-border cases.***
4. The treatment of secured creditors may vary from jurisdiction to jurisdiction***: Some jurisdictions prioritize the rights of secured creditors, while others offer protection to unsecured creditors. This difference can affect the recovery of assets and the willingness of creditors to participate in cross-border insolvency proceedings.***

5. Cooperation: ***It can be quite difficult to obtain recognition of insolvency proceedings. There are cases where certain jurisdictions are reluctant to recognize insolvency orders, leading to jurisdictional disputes and conflicts. Cooperation between courts and insolvency practitioners in different jurisdictions is often essential. It can also be quite difficult.***
6. Enforcement Challenges: ***Enforcing judgments or orders from one jurisdiction in another may be a process due to differences in legal mechanisms for enforcement.***
7. Parallel Proceedings: ***In some situations, parallel insolvency proceedings may be commenced in different jurisdictions, each with its own objectives and outcomes. Coordinating these proceedings efficiently and ensuring fairness can be challenging.***

In conclusion, dealing with insolvency law in a cross-border context is quite challenging due to the significant differences in the various systems. These differences include frameworks, priority rules, procedures, treatment of creditors, recognition and cooperation issues, cultural factors, and enforcement challenges. It is critical for all parties involved. Debtors, creditors, and insolvency practitioners. To be aware of these challenges to effectively navigate the complexities of cross-border insolvency. International efforts such as the UNCITRAL Model Law on Cross Border Insolvency attempt to provide a framework to address some of these difficulties. However, achieving harmonization and cooperation between systems around cross-border insolvency remains an ongoing challenge.

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

4.5

Question 3.3 [maximum 5 marks]

What multilateral steps have been taken in the 21st 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.

The 21st century has seen efforts to promote international convergence of national insolvency laws. These initiatives aim to address the complexities of cross-border insolvency cases and provide a predictable framework for resolving international insolvency issues. In this essay, we will examine some of these efforts and their potential impact on the resolution of international insolvency matters, while highlighting why they are important.

First, the UNCITRAL Model Law on Cross Border Insolvency (1997), which although technically introduced in the 20th century, has played a pivotal role in harmonizing international insolvency practices in the 21st century. This Model Law has provided a blueprint for over 50 countries that have enacted legislation that facilitates cross-border insolvency proceedings.

While adoption of the MLCBI may harmonise various domestic insolvency laws in so far as they address international insolvency issues, the question addresses more

broadly the harmonisation of domestic insolvency laws in general. See the 'model' answer on this sub-question.

We also have the UNCITRAL Legislative Guide on Insolvency Law (2005), a guide that serves as a resource for countries seeking to revise their own insolvency laws. It encourages the implementation of efficient insolvency procedures, while aligning principles with internationally recognized best practices.

The European Insolvency Regulation (EIR) is a set of rules that applies to cross-border insolvency cases involving European Union (EU) member states. It aims to create a harmonized framework for handling cases by establishing guidelines on jurisdiction, applicable law, and recognition of insolvency proceedings. This framework enhances cooperation between EU countries.

Similar efforts to promote cooperation and convergence of insolvency laws have also been undertaken in countries. Initiatives such as the Asia Pacific Regional Cooperation Group and the ASEAN Insolvency Practitioners Association seek to facilitate cooperation in this area within the region.

These multilateral steps towards the harmonization of insolvency laws can have a significant impact on international insolvency matters. They provide a predictable legal structure for the administration of cross-border insolvencies, enabling parties to navigate such proceedings with greater clarity and efficiency.

In my opinion, through the adoption of principles and procedures, these initiatives promote cooperation among courts, insolvency practitioners and stakeholders. They promote the recognition of insolvency proceedings and parallel proceedings. They also discourage forum shopping - where debtors or creditors try to find jurisdictions that favour their interests in opening insolvency proceedings - thereby promoting fairness among creditors and ensuring the distribution of assets according to established priorities.

Moreover, by simplifying the process of handling insolvency cases, harmonization initiatives contribute to the recovery and distribution of assets to the benefit of both creditors and debtors. However, it is crucial to recognize that achieving harmonization is an endeavour and its impact may vary depending on national acceptance and implementation. Moreover, the success of these efforts depends on the willingness of countries to implement and enforce the laws.

In conclusion, the collective actions taken in this century to promote the harmonization of insolvency laws indicate significant progress in addressing international insolvency issues. While these efforts provide an effective framework for cross-border scenarios, their full impact depends on widespread adoption, effective implementation, and continued cooperation among nations. Despite the obstacles encountered along the

way, these initiatives represent an approach to improving insolvency resolution processes while promoting fairness, predictability, and efficiency in a globalized financial landscape.

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

4

Marks awarded 12.5 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.

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.

Given that Utopia has adopted the UNCITRAL Model Law on Cross Border Insolvency without any changes except for the adjustments to adapt it to its system. If the investigation by the Erewhon liquidators reveals that Apex is suing Nadir in Utopia, then the Cross Border Insolvency Act of Utopia could potentially apply its framework for cooperation and coordination of insolvency proceedings involving companies that operate across borders. Specifically, allowing representatives such as the Erewhon liquidator to request recognition of insolvency proceedings in Utopia.

The MLCBI is significant for it 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.

The Erewhon liquidator could potentially use Utopia's cross-border insolvency law to seek recognition of the Erewhon insolvency proceedings in Utopia. If granted, this recognition could result in a stay or suspension of the Apex Court action against Nadir in Utopia, as the Utopian Court would recognize that Nadir's difficulties are more appropriately addressed through insolvency proceedings. The purpose of this recognition is to prevent simultaneous proceedings in jurisdictions and to facilitate an organized resolution of the debtor's financial affairs.

3.5

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.

(a) If Apex had initiated proceedings to dissolve Nadir in Utopia, but the case hasn't been heard yet, it would still be important for the liquidator in Erewhon to consider Utopia's cross-border insolvency law. This law allows for the recognition of insolvency proceedings even when they are in their infancy, with the goal of avoiding multiple and simultaneous cases.

(b) If Apex had obtained a court order to dissolve Nadir in Utopia before the dissolution order was issued in Erewhon, this could affect the relevance of Utopia's cross-border insolvency law. The Utopian court might give priority to the liquidation order. Not recognize the foreign insolvency proceedings from Erewhon. However, the liquidator in Erewhon may still explore the provisions of that law. Engage in discussions with the court to determine the extent to which foreign proceedings can be recognized or coordinated under these circumstances.

Refer to Article 29 on concurrent insolvency proceedings, under which the local proceedings in Utopia maintain pre-eminence over the foreign proceedings in Erewhon.

1

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?

If the company is incorporated in the United States of America, several international insolvency issues arise when a U.S.-incorporated company faces insolvency. These issues should be addressed both by statute and by international treaties. Here are four such issues and their legal frameworks:

1. ***Whether insolvency proceedings commenced in the United States should be recognized in countries where the company has assets and operations. In the U.S., Chapter 15 of the U.S. Bankruptcy Code incorporates the UNCITRAL Model Law on Cross-Border Insolvency, which allows foreign representatives to seek recognition of U.S. insolvency cases in other countries. This promotes cooperation among nations and facilitates the recognition of proceedings.***
2. ***Determine the rights and priorities of creditors from countries, including tax or revenue authorities. The U.S. Bankruptcy Code provides a framework for determining creditor priorities, including tax claims, while state laws may govern state tax claims. The UNCITRAL Model Law helps harmonize the treatment of creditors in cross-border cases.***
3. ***Establish an approach to the sale or disposition of cross-border assets. The U.S. Bankruptcy Code, Chapter 11 of the U.S. Bankruptcy Code, which deals with reorganizations, provides mechanisms for the sale of assets in different locations. The Uniform Commercial Code (UCC) governs security interests in assets and the sale of assets.***
4. ***Ensure cooperation with insolvency practitioners in countries where the company operates. Chapter 15 of the U.S. Bankruptcy Code facilitates communication and cooperation between U.S. and foreign representatives. It encourages the recognition of proceedings and the coordination of cases to promote international cooperation.***

These four international insolvency issues illustrate the complexities insolvency professionals face when dealing with cross-border corporate insolvencies in the United States. Legal frameworks such as the U.S. Bankruptcy Code, as well as principles of comity and international cooperation, play a role in addressing these challenges and facilitating the efficient resolution of cross-border insolvency cases. In addition, voluntary agreements and protocols established by organizations such as the American Law Institute (ALI) and professional associations also support coordination and cooperation in insolvency matters and contribute to solutions, even in complex cases.

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.

6.5

Marks awarded 11 out of 15

*** End of Assessment ***

TOTAL MARKS 39/50

A very good paper that generally addresses the questions asked and substantiates its answers.