INSOL INTERNATIONAL

FOUNDATION CERTIFICATE

IN INTERNATIONAL INSOLVENCY LAW

SUMMATIVE (FORMAL) ASSESSMENT: MODULE 1

(INTRODUCTION TO INTERNATIONAL INSOLVENCY LAW)

This is the **summative (or formal) assessment for Module 1** of this course and is compulsory for all registered candidates on the Foundation Certificate. The mark awarded for this assessment will determine your final mark for Module 1. In order to pass this module you need to obtain a mark of 50% or more for this assessment.

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.assessment1summative]**. An example would be something along the following lines: 202223-363.assessment1summative. **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 ID 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 November 2023**. The assessment submission portal will close at **23:00 (11 pm) GMT on 15 November 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 **11 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

The meaning of the word "bankruptcy" has a historical root pertaining to the "rupture" of a banking system. Select from the following the **best response** to this statement.

(a) This statement is untrue because the word bankruptcy does not have any historical roots and is a modern phrase.

(b) This statement is untrue since the word "bankruptcy" is believed to derive from non-English origins and has a historical root from destroying a vendor's place of business.

(c) This statement is true, although the word "bankruptcy" is not an English phrase.

(d) The statement is true and the phrase "bankruptcy" is believed to have been first adopted in England in the 12th century.

Question 1.2

Which of the following **best describes** an "executory contract" and its enforceability?

(a) An executory contract is a contract entered into by a debtor and another party, or other parties, prior to the occurrence of bankruptcy / insolvency which remains incomplete as to its performance as at the time of bankruptcy / insolvency. An insolvency representative might not proceed with an executory contract if it is onerous or unprofitable. There may be special legal rules which govern specific types of executory contracts.

(b) An executory contract is a type of contract entered into by the executive officers of a debtor company. It will normally be completed by the insolvency representative in accordance with its terms, although there may be special legal rules which govern specific types of executory contracts.

(c) An executory contract is a contract entered into by a debtor and another party, or other parties, prior to the occurrence of bankruptcy / insolvency which becomes complete upon the event of bankruptcy / insolvency of the debtor. An insolvency representative may disregard any type of executory contract.

(d) An executory contract is a contract entered into by a debtor and another party, or other parties, prior to the occurrence of bankruptcy / insolvency which may generally be disclaimed by an

insolvency representative upon the occurrence of bankruptcy / insolvency unless it is an employment contract.

Question 1.3

A German court has issued a judgment in a German insolvency which has a connection with England. The foreign insolvency office holder seeks recognition and enforcement in an English court of the insolvency order made in the German insolvency proceedings.

Which of the following statements, concerning the request for recognition and enforcement in England, is **true**?

(a) The English Court hearing the request for recognition and enforcement may apply the EU Recast Insolvency Regulation (2015).

(b) It is a relevant factor for the English Court hearing the matter to consider whether Germany has adopted the UNCITRAL Model Law on Cross-border Insolvency 1997, or not.

(c) The English Court will be able to consider the request based on its 2006 Insolvency Regulations (the adopted UNCITRAL Model Law on Cross-Border Insolvency) and / or common law principles.

(d) The German order will be automatically recognised in England due to a cross-border insolvency treaty between England and Germany.

Question 1.4

Unlike (former) continental insolvency rules, the English insolvency laws provided for a rather liberal discharge of debt provision since 1507. Select the **most accurate** response to this:

(a) This statement is correct since the English insolvency system was viewed as a pro-creditor system since its early development.

(b) This statement is correct since the English insolvency system, unlike continental systems, never provided for imprisonment for debt of insolvents and preferred to treat debtors in a humane way.

(c) This statement is incorrect since a statutory discharge of debt was only introduced in 1705 in England.

(d) This statement is incorrect since most of the continental insolvency rules provided for a liberal discharge of debt even before English law considered the introduction of such a dispensation.

Question 1.5

Private international law may involve “hard law” treaties and conventions which become enforceable as part of a State’s domestic law. Choose the correct statement:

(a) The statement is untrue since treaties and conventions are “soft law”, not “hard law”.

(b) This statement is true because States become signatories and therefore bind themselves and affect their domestic law accordingly.

(c) This statement is true and is why there has been great success with treaties and conventions.

(d) This statement is untrue because treaties and conventions are public international law, not private international law.

Question 1.6

What principles did Chamberlain consider essential to good bankruptcy law? Select from the following the **best response** to this question:

(a) The supervision of creditors, the rights of creditors to control debtor's assets with minimal interference, and the investigation of debtor's conduct and circumstances which led to insolvency.

(b) Upholding the rights of creditors to assets, investigating and reporting on debtor conduct which led to insolvency, and holding trustees to high standards of care.

(c) The need for there to be independent examination of debtor's conduct and circumstances leading to insolvency, the need for trustees to maintain independence and avoid conflicts of interest, the right for creditors to control debtor assets with least possible interference.

(d) The need for independent examination of debtor's conduct and circumstances leading to insolvency, the appropriateness of creditors having control of debtor assets with least possible interference, the need for trustees to be subject to supervision and audit.

Question 1.7

England, Australia and the United States of America (USA) each have their own respective single unified piece of insolvency legislation that applies to both personal and corporate insolvency. Select from the following the **best response** to this statement:

(a) This statement is true since England has the unified 1986 Insolvency Act, Australia has the Insolvency Act of 2001, and the USA has the 1978 Bankruptcy Code. Each of these Acts cover personal and corporate insolvency.

(b) This statement is untrue since in England the Insolvency Act 1986 deals only with personal insolvency.

(c) This statement is untrue because the USA has separate Acts dealing with corporate liquidation and rescue.

(d) The statement is untrue because Australia has separate Acts dealing with corporate insolvency and personal bankruptcy.

Question 1.8

African nations all incorporate aspects of English insolvency law. Select from the following the **best response** to this statement:

(a) This statement is untrue since some African nations have English law tradition, but others are based on civil law tradition or a mixture of different legal traditions.

(b) This statement is untrue because African nations all have a civil law tradition.

(c) This statement is true because, while some may incorporate other legal traditions, every African nation is largely based upon English law due to colonial history.

(d) This statement is true because African States each chose to adopt English insolvency laws in modern times.

Question 1.9

To date, the most successful soft law approach to international insolvency law issues has been the Model Law on Cross-border Insolvency. Select from the following the **best response** to this statement:

(a) This statement is untrue because not all States have adopted the Model Law on Cross-border Insolvency.

(b) This statement is true because the Model Law on Cross-border Insolvency has been adopted by numerous States and is gaining momentum as an influential response to international insolvency law issues.

(c) This statement is untrue because of the requirement for reciprocity in relation to the Model Law on Cross-border Insolvency.

(d) This statement is true because the Model Law on Cross-border Insolvency creates regulations which binds each State and has been the most influential response to international insolvency law issues.

Question 1.10

Opponents of universalism often argue that universalism is difficult to achieve because of the effects of globalisation. Select from the following the **best response** to this statement:

(a) This statement is untrue because modified universalism enables a "main proceeding" to be opened in the State where the centre of main interests has been determined, while being supported by secondary or ancillary proceedings in another State.

(b) This statement is untrue because universalism corresponds well to globalisation and opponents of universalism are more concerned with the impacts of universalism upon domestic markets.

(c) This statement is true because globalisation makes the principle of universalism redundant.

(d) This statement is true because modified universalism enables a "main proceeding" to be opened in the State where the centre of main interests has been determined, while being supported by secondary or ancillary proceedings in another State.

Marks awarded 7 out of 10

QUESTION 2 (direct questions) [10 marks]

Question 2.1 [maximum 3 marks]

Briefly discuss and compare countries whose insolvency law systems have historical roots in civil law with countries whose insolvency law systems have historical roots in English law.

The Dutch insolvency system is an example of a civil law system, which is based of several key ordinances, such as the ordinance off Amsterdam of 1772 which applies to part of the Netherlands, the Failisementsewt of 1897, later amended to give the Dutch system a fresh bankruptcy law, being Schuldsaneringswet.

England could be seen as one of the founding fathers of the modern insolvency law system, its main legislation being The Insolvency Act of 1986, this has since come under several revisions (Insolvency Act 200 and Enterprise Act 2002). This is continuously amended through common law and the corresponding court verdicts.

Civil law systems, like the Dutch insolvency system, often rely on comprehensive legislation encompassing various aspects of insolvency, such as the treatment of creditors, distribution of assets, and rehabilitation procedures. Thereby these are often more fixed, with comprehensive statues governing the aspects of insolvency.

English insolvency law, particularly the Insolvency Act 1986, is a consolidated statute that provides a framework for insolvency proceedings. It focuses on the rights and obligations of debtors, creditors, and administrators, whilst also being flexible enough to rely on judicial decisions and principles set through case law.

A better approach to answering this question would involve listing countries that are historically English based and countries that are historically civil law based and discussing their differences, especially with respect to the adoption of common law in English based countries cf codification in civil jurisdictions.

1.5

Question 2.2 [maximum 3 marks]

Briefly explain the difference(s) between the principle of universalism, the principle of modified universalism, and the principle of territorialism.

Universality/universalism and territoriality/territorialism are two fundamental concepts in cross-border insolvency that describe different approaches that can be taken when dealing with insolvency cases that span multiple jurisdictions/legislations.

Universality is a concept that commonly deals with presenting an insolvency case on a single basis, thereby emphasizing an approach of unity/centralization for insolvency. When taking his approach, all debtor's assets (regardless of location) are taken in a wholistic view as a single estate and thereby dealt with both domestically and internationally as one unified estate. In practise this is achieved via a single insolvency proceeding (typically initiated in the debtor's home/main jurisdiction), this is commonly referred to as the "centre of main interests" (“COMI”) and is set via “main proceedings” which have a worldwide effect. The main purpose of this is to ensure the efficient administration of the debtor's assets and the equitable distribution of proceeds to creditors, with all parties from the varying jurisdictions generally being treated equally.

Territoriality is in essence the opposite of this, whereby the separation of the assets and thereby their treatment is emphasized, thereby the insolvency proceedings only apply to the State where the insolvency proceedings were actually lodged. This can lead to a plurality or multiplicity of insolvency proceedings, with the often called "local" insolvency proceedings causing the application of the home

jurisdictions own insolvency laws and procedures. This often results in different outcomes for creditors depending on their jurisdiction and the local approach

A concept of "modified universalism" has also been coined/actioned in practise to try and reach a middle ground for both of these approaches, allowing for coordination and recognition of foreign insolvency proceedings while still respecting the autonomy of individual jurisdictions. **There is scope to elaborate here.**

2

Question 2.3 [maximum 4 marks]

Briefly indicate initiatives undertaken to assist with the resolution of international insolvency issues in Latin America and discuss the differences between those initiatives.

South American countries largely operate under civil law, and it is said to have one of the most unified systems in the world. This has recently been developed further with all South American countries signing up to the union of South America Nations agreements which aims to establish a supra-national law (such as that seen in the European Union).

East Asia is now also taking steps to implement insolvency law reforms in countries post the 1998 financial crisis, such as Thailand which took the time to fully reform their bankruptcy laws.

Singapore has also developed further legislation as it becomes a key global economy, passing in October 2018 (coming into force on 30 July 2020) a new Insolvency, Restructuring and Dissolution Act to consolidate their corporate law.

At the same time several Latin American countries, including Mexico, Colombia, and Argentina, have also now adopted the UNCITRAL Model Law on Cross-Border Insolvency, providing for the recognition of foreign insolvency proceedings and cooperation between domestic and foreign courts.

Several Latin American countries have also taken the same initiative to try and established cross-border insolvency protocols to enhance cooperation and communication between their respective courts in international insolvency cases. For example, Brazil and the United States have a bilateral protocol that streamlines the exchange of information and coordination in cross-border insolvency matters.

When considering the variance to these initiatives, it must be considered that Latin America is a diverse region, with many varying systems of law so while some countries have adopted the UNCITRAL Model Law, others have been required to enter into regional. These initiatives reflect different levels of integration and cooperation within the region and may have differing provisions and procedures.

This answer required consideration of the Montevideo Treaties (1889) and (1940) and the Havana Convention on Private International Law (1928) (Bustamante Code)

1.5

Marks awarded 5 out of 10

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

Question 3.1 [maximum 7 marks]

It is said that the terms “bankruptcy” and “insolvency” may be used interchangeably. Discuss whether or not you agree with this statement, and why or why not. In your answer take care to include a

discussion regarding: (i) what meaning may be ascribed to “bankruptcy” and “insolvency”, (ii) the essential characteristics of “bankruptcy” and “insolvency” and (iii) any differences that may arise when a “bankruptcy” / “insolvency” involves a corporation rather than an individual.

“Bankruptcy” / “Insolvency” are often used rather interchangeably, with certain systems causing them to mean different things, eg Australia uses Insolvency for corporations and Bankruptcy often refers to the insolvency of an individual natural person. Although they do carry the same meaning in many systems, Insolvency in itself may be defined as where liabilities of a debtor exceed the asserts (eg BS insolvent), and or where the debtor cannot settle their debts as they fall due (eg cash flow insolvent). One other key aspect is who the proceedings are against, insolvencies are lodged for entities (the corporation) which is distinct from its owners, whilst also holding fiduciary from the directors to conduct the business of the company in the best interest of the shareholders, these features either the rescue of the company (eg through a Scheme of Arrangement) of the winding down of its operations via a liquidation, bankruptcy involve legal proceedings against an individual, where they are unable to repay their debts and seeks protection from creditors, via a formal declaration of insolvency, subsequently followed by the intervention of the court authorizing an administer to distribute the remaining assets to creditors, unlike that of insolvency where the creditors have specific rights and mechanisms to protect their interest.

Wood lists the following possible essential features of insolvency or bankruptcy law that are said to be universal principals:

“Actions by the individual creditors against the bankrupt are frozen- thus individual pursuit is stayed

The assets are pooled which becomes available to pay creditors – replacing the piecemeal seizor of assets by individual creditors

Creditors are paid pari passu, that is, on a proportionate basis put of the available assets based on their claim” Noting that many states hold rights for priority/secured creditors making it more of an ideology.

Although similar with varying areas of overlap, there is still pertinent differences from insolvency to bankruptcy, such as one is for individuals, the other corporations, the notion of exempt assets in the former.

7

Question 3.2 [maximum 5 marks]

Discuss some of the challenges which arise in cross-border insolvency that make it difficult to develop a single global cross-border insolvency dispensation.

There are varying issues to be considered when considering the difficulties of conducting international insolvencies and the cross-border dealing of debtors, creditors and assets of the company/individual. Elements.

Definitions - Friman mentions the problems arising due to the non-existence of common insolvency language, whereby domestically the term “Insolvency” is commonly defined and typically mean a situation where the combined assets don’t meet that of the combined liabilities of a company/individual, timing can also effect this whereby a party could be illiquid but solvent thereby causing doubt of its ability to service its debt rather than settle. The global lack of set definitions for insolvency proceedings and also, they types of appointments varying from jurisdiction to jurisdiction.

Omar states that "[a]part form the general situation in conflict of laws, differences in domestic norms have a particular impact on the position of creditors and the priorities they assert in insolvency. Where the debtor faces creditors pressing their claims in more than one jurisdiction, this will inevitably raise issues of conflict of laws. The conflict may itself be made more complex by the presence of qualifications, including the presence of security, set-off and netting arrangements, retention of title clauses and other means of protecting title available to creditors in national laws."

Westbrook, a strong proponent of universalism, has identified nine key issues in cross-border cases:

(1) Standing for (recognition of) the foreign representative;

(2) Moratorium on creditor actions;

(3) Creditor participation;

(4) Executory contracts;

(5) (5) Co-ordinated claims procedures;

(6) Priorities and preferences;

(7) Avoidance provision powers;

(8) Discharges; and

(9) Conflict

Other areas to consider would also be conflicts of laws, the recognition of these proceedings, cultural/language issues, cost/time delays due to added complexities and political and economic considerations.

5

Question 3.3 [maximum 3 marks]

Briefly discuss what is meant by "hard law" and what is meant by "soft law" in the context of international insolvency. In your answer you should also provide examples and discuss the varying success of "hard" and "soft" laws in providing solutions to the challenges of international insolvency.

Hard/Soft Law refer to different types of legal instruments used to address varying issues in certain circumstances.

Hard law is legally binding and enforceable through being codefined in legislation, these thereby carry consequences for non compliance, such as United Nations Commission on International Trade Law (UNCITRAL) Model Law on Cross-Border Insolvency and the European Union's Insolvency Regulation.

Soft laws refer to non binding principles and guidance's of best practises, however, these carry no obligations and in insolvency typically guide the user and recommend actuals / suggest model rules, such as the cross-border insolvency guidelines developed by UNCITRAL.

Hard laws being binding have the benefit of creating a legal basis for pursuit, providing a clear framework for cross border work and also the available actions/consequences, however, given these

laws need to be passed their implementation can face challenges, causing conflicts between jurisdictions trough varying legal traditions and varying uniformity.

It would be beneficial to provide examples of hard and soft laws and to discuss their success in greater detail

2

Marks awarded 14 out of 15

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

Norton Cars Inc is a registered company that manufactures sports cars. The company was initially incorporated in the USA and at the time operated from there. The company's main place of business as well as its headquarters were later moved to Nottingham (England), but the COMI then moved to Italy when the UK exited the European Union.

Norton Cars Inc maintains a presence and conducts business in the USA as well as various European countries, being countries which are both EU member states and non-member states.

Apart from the USA and various European states, Norton Cars Inc also distributes its cars to India, South Africa and Australia via branches of the company operating in these States.

A subsidiary of the company, Gladiator Manufacturing Ltd, manufactures and provides the engines for the sports cars in Germany.

Due to a worldwide recession, Norton Cars Inc is struggling financially due to little interest in the sports car market amongst consumers.

Question 4.1 [Maximum 4 marks]

For purposes of this part of the questions, assume Norton Cars Inc has filed for liquidation in terms of American law at the time when the headquarters were still in England.

Advise the American insolvent estate representative as to the applicable English cross-border source(s) that she may use to request recognition in terms of English Law in order to deal with the assets of Norton Cars Inc situated in England.

When considering US proceedings against a US company here in the UK, the following legislations will be applicable (this is non exhaustive):

Insolvency Act 1986 (as amended) - Section 426 of the Act allows for cooperation and assistance in cross-border insolvency matters, providing a basis for recognizing/assisting foreign insolvencies.
This section does not assist as the US is not designated
UNCITRAL Model Law on Cross-Border Insolvency - The Model Law provides a framework for the recognition and coordination of foreign insolvency proceedings and cooperation between jurisdictions. – Used for recognition in the UK courts

Common Law Principles: In addition to the statutory framework, English courts also rely on common law principles to recognize and assist foreign insolvency proceedings. The principles of comity and cooperation guide the recognition and enforcement of foreign insolvency orders and the coordination of proceedings between jurisdictions.

Under these laws/principles the US insolvency proceedings can seek recognition in the UK courts, and assistance in dealing with the UK assets and creditors should they also be seeking action.

3

Question 4.2 [Maximum 4 marks]

For purposes of this part question assume that Norton Cars Inc shifted its COMI to Italy when England exited the EU. At the same time, its main operations transpired in Germany, but its management was directed from Italy.

Advise as to the appropriate legal source(s) to be used in a cross-border insolvency matter between Italy and Germany, and also explain in which country the main proceeding should be opened in terms of applicable law.

In considering the main proceedings the location of the COMI prior to the insolvency filings, if this was Italy then the Italian courts would likely be best positioned to deal with this application, however, this can be argued in varying ways subject to the registered office (headquartered in the UK), where its principle assets are located (still manufactured in US, if not Germany?). Once it is established by the courts where the proceedings should be lodged this court will have primary jurisdiction on all verdicts which will later have a extraterritorial effects allowing for global recognition and enforcement (where applicable).

If lodged in Italy, and or Germany given their proximity (this will be likely directed by the courts), the main governing legislation will be the European Union Insolvency Regulation or the UNCITRAL Model Law on Cross-Border Insolvency, Insolvenzordnug (InsO) which is a unified piece of insolvency legislation in Germany, there is also work in Italy to prepare a guidance document on Bank Insolvency over the next five sessions of the UNIDROIT which may contain new principles for insolvency more generally in country and should therefore also be considered upon their release.

A different approach to answering this sub-question would be to identify that Italy and Germany are members of the EU and that the EIR Recast applies, then applying the recast and considering COMI, being Italy, thereby making Italy the location for main proceedings.

1.5

Question 4.3 [Maximum 1 mark]

Will an Indian, South African or Australian court be eligible to apply the EU (Recast) Insolvency Regulation when considering the recognition of an EU insolvency representative duly appointed in terms of the EU regulation?

No the EU (Recast) Insolvency Regulation ("EU (Recast)") applies within the European Union and has direct effect in EU member states, with its purpose being to establish a harmonized framework for recognition/coordination of insolvency proceedings in the EU. With this a Indian, South African and or Australian court cannot make an application under EU (Recast).

1

Question 4.4 [Maximum 6 marks]

For purposes of this part question assume that an insolvency procedure has been opened in terms of Italian law and an Italian insolvent estate representative has been appointed. The representative discovers assets of the insolvent company, Norton Cars Inc, in the Netherlands and Australia where the company is operating through external branches of the company respectively, but such assets are subject to real rights of security established in terms of Dutch and Australian law respectively.

(a) Which law will apply to the insolvency proceeding and with regard to the real rights of security situated in the Netherlands? (This question (a) is worth 3 marks out of the available 6 marks.)

With the real rights been held in the Netherlands, applicable law will be determined by the conflict laws of Ital being the jurisdiction of the insolvency proceedings, under Italian law, ala rights of security for immovable property is typically referred to as lex rei sitae, which means the law of the country where the property is located. With this Dutch bankruptcy law will be used to determine enforceability and validity, as set in Faillisementswet of 1897.

3

(b) Which law will apply with regards to an insolvency proceeding in Australia and the real rights of security situated in there? (This question (b) is worth 3 marks out of the available 6 marks.)

As above, real rights been held in Australia, applicable law will be determined by the conflict laws of Italy being the jurisdiction of the insolvency proceedings, under Italian law, all rights of security for immovable property is typically referred to as lex rei site as before and should be dealt with under Australian insolvency law.

However, Australia does have statutory provisions similar to section 426 Insolvency Act 1986 (UK), theirs permitting the corporation between Australia and foreign courts for external administration matters. Furthermore, both are party to UNCITRAL Model Law on cross border insolvencies, with this these governing principles can also be relied upon.

3

Marks awarded 11.5 out of 15

*** End of Assessment ***

TOTAL MARKS AWARDED 37.5/50

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