



**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 12<sup>th</sup> 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 9 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.

Insolvency law systems across the world can, at a very broad level, be categorised as English law systems (including, evidently, England) or civil law systems. In England, insolvency law is (predominantly) rooted in the Insolvency Act 1986 (which also applies in Wales), which deals with consider (personal) and corporate bankruptcy in one comprehensive act. Australia is an example of a country whose insolvency law is rooted in English law. Conversely, other countries operate a civil law system, including much of continental Europe, including – for example – the Netherlands. Dutch insolvency law, as a civil system, was (prior to the introduction of Schuldsanering, which allowed for debtors to have a 'fresh start'), as was typical of many West-European countries, considered to be pro-creditor (with no discharge being permitted unless creditors agreed).

**This answer also required a discussion of the common law aspect of English law.**

**2**

**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.

Universalism is a principle that aims to seek the solution to problems associated with cross-border insolvency. At its core is the belief that there should only be one insolvency proceeding which covers all of the debtor's assets and debts globally and that – once those proceedings are opened – no other proceeding ought to be possible in any other jurisdiction, or forms of execution against the debtor's assets. **There is scope to consider COMI in relation to universalism**

Territorialism is a principle that runs in opposition to universalism, and advocates for insolvency proceedings being commenced in every jurisdiction where the debtor holds assets but – importantly - proposes those proceedings being territorially limited and restricted to the debtor's property within that jurisdiction. This can lead to a plurality of insolvency proceedings.

Modified universalism is an approach whereby a "main proceeding" is opened in the jurisdiction where the debtor's main centre of interests has been determined, which is then supported by secondary or ancillary proceedings in other jurisdictions. The courts dealing with the various sets of proceedings are then supposed to cooperate with each other.

**2.5**

**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.

Latin American states have executed various multi-lateral agreements designed to manage international insolvency issues. These include:

- (i) The Montevideo Treaties (1889 and 1940); and
- (ii) Havana Convention on Private International Law (1928).

The 1889 Montevideo Treaty covers personal and corporate insolvency, and allocates bankruptcy jurisdiction based on the debtor's commercial domicile. Where a debtor has a commercial domicile in one treaty state, even if the debtor trades in more than one treaty state or has branches in another state, the Treaty provides for one set of proceedings in the commercial domicile. If the debtor has two or more economically autonomous businesses in different treaty states, concurrent proceedings are possible.

The Havana Convention is more supportive than the Montevideo Treaties of an approach that permits a single proceeding being commenced with universal effect throughout the region if the debtor / insolvent company has only one civil or commercial domicile. However, there may be concurrent proceedings in Havana Convention states that contain commercial establishments operating entirely separately economically (Article 415). Where there are concurrent proceedings, the Havana Convention does not provide procedures for cooperation or coordination of those proceedings.

Different countries have ratified the Montevideo Treaties and the Havana Convention.

4

Marks awarded 8.5 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.

It is correct to state that "bankruptcy" and "insolvency" are used interchangeably. However, this is not always helpful, as the different terms can have different meanings (and can also mean different things in different countries, for example in Australia "insolvency" is often used to refer to the insolvency of a corporation, whereas "bankruptcy" is used to refer to the insolvency of an individual / natural person). Whilst the terms are used synonymously in many systems<sup>1</sup>, one workable definition of the differences between the two is that "insolvency" can mean the state of the financial affairs of the debtor (noting the differing interpretations of that state in differing legal systems, including, for example, balance sheet insolvency, or cash flow insolvency), whilst "bankruptcy" refers to the formal state of being put into formal bankruptcy proceedings.

A key difference between individual bankruptcy (of natural persons) and corporate insolvency (of companies) is that individuals are not "dissolved" after bankruptcy in the same way as a company is dissolved once its affairs have been wound up. In addition, the objectives of insolvency for individuals versus insolvency for corporations can be different<sup>2</sup>; for individuals, a key goal is to protect the debtor from harassment by his creditors (and, particularly in pro-debtor jurisdictions, to enable debts to be discharged and a fresh start be made). For corporations, a key goal is to preserve the business and, in case of any abusive conduct by directors/officers of the insolvent company, to impose personal liability on such responsible persons. Furthermore, it is only in relation to individual bankruptcy that

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<sup>1</sup> I Fletcher, *The Law of Insolvency*, London (Sweet & Maxwell, 5<sup>th</sup> Ed, 2017) Chapter 1

<sup>2</sup> Sealy and Hooley in M A Clarke et al *Commercial Law* (Oxford University Press, 2017), Chapter 28



the notion of exempt or excluded assets will apply (allowing the insolvent individual to keep some of the assets required to maintain themselves / their dependents)<sup>3</sup>.

**Elaboration was needed for example with respect to essential characteristics.**

5.5

### **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.

Challenges to cross-border insolvency arise in various different ways, largely resulting from the differences between domestic insolvency laws. This can be seen, at the most fundamental level, in the various meanings of the term "insolvency"; this is normally well-defined in jurisdiction's domestic contexts, but can vary when viewed from a cross-border perspective. Additionally, the standard of domestic insolvency laws in countries can be low, with many laws being outdated or otherwise unsuited to modern day trade and investment issues.

Omar<sup>4</sup> states that *"apart from 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 state, 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"*. This results in a lack of any uniform approach, on a global basis, to deal with cross-border insolvency.

In addition to issues arising from a conflict of laws, are issues resulting from a difference in perspective/approach, with some jurisdictions advocating for a "pro-creditor" system, with others favouring a "pro-debtor" angle. Compounding this difficulty are priorities with the domestic context; for example the primacy of labour rights in France.

Additionally, recognition difficulties can arise where there is a foreign judgment on the same issue, which present res judicata problems, and the enforcement / effect of a foreign judgment in a domestic context.

**It would be beneficial for you to also consider the matters raised Westbrook**

2

### **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" and "soft" are terms used to classify different multilateral approaches adopted by states to seek to regulate international insolvencies. States can choose to amend domestic legislation, and therefore introduce "hard law" to bind debtors / creditors and/or otherwise govern insolvency proceedings, enforceable in the given state's courts. Hard law can include, by way of example, public international treaties and conventions such as the European Insolvency Regulation (EIR) 2000. Alternatively or additionally, states can seek to influence the regulation of insolvency proceedings via "soft law" approaches, such as international instruments including (for example) the UNCITRAL Model Law on Cross-Border Insolvency. However, there are lines of argument that the division between

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<sup>3</sup> I Fletcher, *The Law of Insolvency*, London (Sweet & Maxwell, 5<sup>th</sup> Ed, 2017) Chapter 1

<sup>4</sup> PJ Omar *'The Landscape of International Insolvency'* (2022), IIR 173

"hard" and "soft" law in the international insolvency context is blurrier<sup>5</sup> than simply "*treaties are hard and binding and non-treaty instruments are soft and non-binding*"<sup>6</sup>.

**Elaboration is required, for example with respect to success**

2

**Marks awarded 9.5 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.

Under section 246 of the Insolvency Act 1986, the English courts are required to exercise cooperation between courts in relation to insolvency. Such cooperation would extend to the English courts recognising liquidation proceedings in the US, giving effect to those foreign proceedings and recognising the authority of the foreign liquidator in order to gain control over local assets. Where the English court is acting under these aid and assistance provisions in the Insolvency Act 1986, it may apply either English law or foreign (US) law (see section 426(5)). This statutory requirement for cooperation has also been emphasised in English case law, including McGrath v Riddell [2008] UKHL 21. **S426 does not assist as the US is not designated**

As part of its cross-border rules, England and Wales also adopted the UNCITRAL Model Law on Cross Border Insolvency in 2006, and are therefore subject to the recognition / cooperation provisions therein.

**Further elaboration is warranted, including with respect to common law**

2.5

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<sup>5</sup> 'A Fresh View on the Hard/Soft Law Divide: Implications for International Insolvency of Enterprise Groups', I Mevorach (University of Nottingham), Michigan Journal of International Law

<sup>6</sup> 'The Future of Cross Border Insolvency: Overcoming Biases and Closing Gaps', I Mevorach (Oxford University Press) 2018)

#### 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 a cross-border insolvency matter between Italy and Germany, the relevant legal source is the European Insolvency Regulation ("EIR") 2000, as amended by Regulation (EU) 2015/848 of the European Parliament and the Council of 20 May 2015 on Insolvency Proceedings (Recast) ("EIR Recast"). **Why? Elaboration and reasoning is warranted**

Under the EIR, primary jurisdictional competence for cross-border insolvency would be allocated to the Court of the 'centre of main interest' for the debtor. This is defined in the EIR Recast (Article 3(1)) as "*the place where the debtor conducts the administration of its interests on a regular basis and which is ascertainable by third parties*". Given the wording of the question, it is assumed that the COMI would be Italy. Whether or not it could/would be considered Germany would be a fact-specific analysis, that would therefore require the views of third parties to inform the query. It is noted that Italy's management were "directed" from Germany, but this is unlikely to be ascertainable by third parties, who would be unaware of internal company machinations, and the COMI would remain Italy, and the Italian courts would therefore have primary jurisdiction. It would be possible for subsidiary proceedings to be commenced in other member states (for example, for the purposes of this question, England and/or Germany), given Norton Cars' "*establishments*" in those member states (as "*any place of operations ... where the debtor carries out non-transitory economic activity with human means and assets*" (EIR Recast). These subsidiary proceedings can either be 'independent proceedings' opened prior to the COMI-driven main proceedings in Italy, or 'secondary proceedings' opened subsequent to bankruptcy adjudication(s) in the Italy (as the COMI Member State).

3

#### 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 is only binding on participating member states (and therefore does not include India, South Africa or Australia).

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.)

As both Netherlands and Italy are European Union member states, the EU (Recast) Insolvency Regulation would apply. Under Recital 68, the basis, validity and extent of rights *in rem* should therefore normally be determined according to the *lex situs* (i.e. the Netherlands) and not to be affected by the opening of Italian insolvency proceedings. The proprietor of those security rights should be able to continue to assert any rights to segregation of those assets, or separate settlement of the collateral security. Equally, under Recital 68, where "*assets are subject to rights in rem under the lex situs in one Member State [here, the Netherlands] but the main insolvency proceedings are being carried out in another Member State [here, Italy] the insolvency practitioner in the main insolvency proceedings should be able to request the opening of secondary insolvency proceedings in the jurisdiction where the rights in rem arise if the debtor has an establishment there [which it does, as Norton has an external branch in the Netherlands]*". Equally "*if secondary insolvency proceedings are not opened, any surplus on the sale of an asset covered by rights in rem should be paid to the insolvency practitioner in the main insolvency proceedings*".

**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.)

Australia has similar statutory provisions to section 426 of the UK Insolvency Act 1986 , which permit cooperation between Australia and foreign courts (here, Italian courts) in "*external administration*" matters, including liquidation proceedings. The relevant provisions are found in sections 580-581 of the Australian Corporations Act 2001. Whilst the Italian courts would have jurisdiction over the insolvency proceedings, under section 581 of the Corporations Act 2001, the Australian Courts are required to "*act in aid of and be auxiliary to*", the Italian Courts when establishing the real rights of security over Australian assets in an Italian insolvency.

In addition, Australia has adopted the UNCITRAL Model Law on Cross-Border Insolvency, through the cross-border insolvency act 2008, and is therefore subject to the cooperation requirements of the Model Law.

**Take care to answer the sub-question in full**

**1**

**Marks awarded 10.5 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.**