



SUMMATIVE (FORMAL) ASSESSMENT: MODULE 2A
THE UNCITRAL MODEL LAWS RELATING TO INSOLVENCY

This is the **summative (formal) assessment** for **Module 2A** of this course and is compulsory for all candidates who selected this module as one of their compulsory modules from **Module 2**. Please read instruction 6.1 on the next page very carefully.

If you selected this module as **one of your elective modules**, please read instruction 6.2 on the next page very carefully.

The mark awarded for this assessment will determine your final mark for Module 2A. 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: **[student ID.assessment2A]**. An example would be something along the following lines: 202223-336.assessment2A. **Please also include the filename as a footer to each page of the assessment** (this has been pre-populated for you, merely replace the words “studentID” with the student number allocated to you). Do not include your name or any other identifying words in your file name. **Assessments that do not comply with this instruction will be returned to candidates unmarked.**
5. Before you will be allowed to upload / submit your assessment via the portal on the Foundation Certificate web pages, you will be required to confirm / certify that you are the person who completed the assessment and that the work submitted is your own, original work. Please see the part of the Course Handbook that deals with plagiarism and dishonesty in the submission of assessments. **Please note that copying and pasting from the Guidance Text into your answer is prohibited and constitutes plagiarism. You must write the answers to the questions in your own words.**
- 6.1 If you selected Module 2A as one of your **compulsory modules** (see the e-mail that was sent to you when your place on the course was confirmed), the final time and date for the submission of this assessment is **23:00 (11 pm) GMT on 1 March 2024**. The assessment submission portal will close at 23:00 (11 pm) GMT on 1 March 2024. No submissions can be made after the portal has closed and no further uploading of documents will be allowed, no matter the circumstances.
- 6.2 If you selected Module 2A as one of your **elective modules** (see the e-mail that was sent to you when your place on the course was confirmed), you have a **choice** as to when you may submit this assessment. You may either submit the assessment by **23:00 (11 pm) GMT on 1 March 2024** or by **23:00 (11 pm) BST (GMT +1) on 31 July 2024**. If you elect to submit by 1 March 2024, you **may not** submit the assessment again by 31 July 2024 (for example, in order to achieve a higher mark).

ANSWER ALL THE QUESTIONS

Please note that all references to the “MLCBI” or “Model Law” in this assessment are references to the Model Law on Cross-Border Insolvency.

QUESTION 1 (multiple-choice questions) [10 marks in total] 8 marks

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

Which one of the following international organisations' mandate is to further the progressive harmonization of the law of international trade?

- (a) World Trade Organization.
- (b) The United Nations Commission on International Trade Law.**
- (c) The United Nations Conference on Trade and Development.

Question 1.2

Which trend(s) and process(es) served as a proximate cause for the development MLCBI?

- (i) Rise of corporations.
- (ii) Internationalisation.
- (iii) Globalization.
- (iv) Universalism.
- (v) Territorialism.
- (vi) Technological advances.

Choose the correct answer:

- (a) Options (i), (ii), (iii), (iv) and (vi).**
- (b) Options (i), (ii), (iii) and (iv).
- (c) Options (ii), (iii), (iv) and (vi).
- (d) All of the above.

Question 1.3

Which of the following statements incorrectly describe the MLCBI?

- (i) It is legislation that imposes a mandatory reciprocity on the participating members.
- (ii) It is a legislative text that serves as a recommendation for incorporation in national laws.
- (iii) It is intended to substantively unify the insolvency laws of the foreign nations.
- (iv) It is a treaty that is binding on the participating members.

Choose the correct answer:

- (a) Options (ii), (iii) and (iv).
- (b) Options (i), (ii) and (iv).
- (c) Options (i), (iii) and (iv).**
- (d) All of the above are incorrect.

Question 1.4

Which of the below options reflect the objectives of the MLCBI?

- (i) To provide greater legal certainty for trade and investment.
- (ii) To provide protection and maximization of value of the debtor's assets.
- (iii) To provide a fair and efficient administration of cross-border insolvencies that protects all creditors and the debtors.
- (iv) To facilitate the rescue of financial troubled businesses.
- (v) To ensure substantive unification of insolvency laws of member-states.

Choose the correct answer:

- (a) Options (i), (ii), (iii) and (iv).**
- (b) Options (ii), (iii) and (v).
- (c) Options (ii), (iv) and (v).
- (d) None of the above.

Question 1.5

Which two of the below hypotheticals demonstrate a more likely precursor to a "cross-border insolvency"?

- (i) An insolvency proceeding is commenced in jurisdiction A, but a significant asset is located outside of jurisdiction A.
- (ii) An insolvency proceeding is commenced in jurisdiction A and immediately transferred to a foreign jurisdiction B.
- (iii) An insolvency proceeding is commenced in jurisdiction A, in which a group of affiliated debtors has its COMI as well as all assets and liabilities.
- (iv) An insolvency proceeding is commenced in jurisdiction A, but certain liabilities are governed by laws of a foreign jurisdiction B.
- (v) An insolvency proceeding is commenced in jurisdiction A, but all *de minimis* assets are located in foreign jurisdictions.

Choose the correct answer:

- (a) Options (i) and (ii).
- (b) Options (ii) and (iii).
- (c) Options (iii) and (v).
- (d) Options (i) and (v).**

Question 1.6

A restructuring proceeding is commenced in jurisdiction A by a corporation with COMI in jurisdiction A and an overleveraged balance sheet. The court in jurisdiction A, overseeing the restructuring, entered a final and non-appealable order, approving the compromise and restructuring of the debt. The entered order, by its express terms, has a universal effect. Based on these facts alone, what is the **effect** of such order's terms in jurisdiction B if jurisdictions A and B do **not** have a bilateral agreement?

- (a) Binding within jurisdiction B.
- (b) Binding within jurisdiction B, but certain actions need to be taken.
- (c) No effect within jurisdiction B.**
- (d) Likely no effect within jurisdiction B.
- (e) Not enough facts provided to arrive at a conclusion.

Question 1.7

Which of the following statements set out the reasons for the development of the Model Law?

- (i) The increased risk of fraud by concealing assets in foreign jurisdictions.
- (ii) The difficulty of agreeing multilateral treaties dealing with insolvency law.

- (iii) To eradicate the use of comity.
- (iv) The practical problems caused by the disharmony among national laws governing cross-border insolvencies, despite the success of protocols in practice.

Choose the correct answer:

- (a) Options (i), (ii) and (iii).
- (b) Options (i), (ii) and (iv).
- (c) Options (ii), (iii) and (iv).
- (d) All of the above.

Question 1.8

Which of the statements below are incorrect regarding COMI under the MLCBI?

- (i) COMI is a well-defined term in the MLCBI.
- (ii) COMI stands for comity.
- (iii) The debtor's registered office is irrelevant for purposes of determining COMI.
- (iv) COMI is being tested as of the date of the petition for recognition.

Choose the correct answer:

- (a) Options (i), (ii) and (iii).
- (b) Options (ii), (iii) and (iv).
- (c) All of the above.
- (d) None of the above.

Question 1.9

In the event of the following concurrent proceedings, indicate the order of the proceedings in terms of their hierarchy / primacy:

- (i) Foreign main proceeding.
- (ii) Foreign non-main proceeding.
- (iii) Plenary domestic insolvency proceeding.

Choose the correct answer:

- (a) Options (ii), (i) and then (iii).
- (b) Options (i), (ii) and then (iii).

(c) Options (iii), (i) and then (ii).

(d) Options (iii), (ii) and then (i).

Question 1.10

Which of the statements below are correct under the MLCBI?

- (a) The foreign representative always has the powers to bring avoidance actions.
- (b) The hotchpot rule prioritises local creditors.
- (c) The recognition of a foreign main proceeding is an absolute proof that the debtor is insolvent.

(d) None of the above are correct.

QUESTION 2 (direct questions) [10 marks in total] 6 marks

Question 2.1 [maximum 3 marks] 1 mark

What is the key distinction between the application of the MLCBI and the European Union (EU) Regulation on insolvency proceedings? Also describe one key benefit and disadvantage of each approach.

The application of the MLCBI is not mandatory in the same way as the EU Regulation (“the Regulation”). The Regulation is adopted by each Member State and must be followed as if it were the Member State’s domestic law. The advantage of this is that it is easier to predict the outcome in any one scenario because of the unambiguous intention and wording of the Regulation and the way it is implemented into domestic law. A disadvantage of this is that the Regulation may be incompatible with current domestic law and create a situation where an outcome is uncertain due to the strict implementation of the Regulation. [that seems contradictory - if it is strict in its implementation, how could there be uncertainty? Plus, above - underlined - you mention that it is easier to predict outcome which means legal certainty]

The Model law on the other hand, is only a recommendation, not a convention [EIR is not a convention either?]. The State has some flexibility in how it chooses to adopt the Model Law, and whether it adopts all of it, or just part. An advantage of this is that it means a State can be more flexible with how it implements the recommendation to achieve an outcome compatible with State law. A disadvantage is that due to the fact that it is only a recommendation, it is hard to predict the outcome due to the flexibility offered to the adopting State.

Contradictory and incorrect statements.

Question 2.2 [maximum 2 marks] 0 mark

Explain what the court should primarily consider using its discretionary power to grant post-recognition relief under Article 21 of the MLCBI.

Under paragraph 4 of Article 21, the court should be satisfied that the relief is applied to assets which should be administered in the non-main proceedings, or concerns information required in that proceedings and will not have an impact on the administration of a difference insolvency proceeding.

The court primarily considers the creditors' interests

Question 2.3 [2 marks] 2 marks

Explain the protections granted to creditors in a foreign proceeding under Article 13 of the MLCBI.

A foreign creditor has the same rights as creditors domiciled in the enacting State, and the fact that the creditor is foreign will not mean that he will be given a lower priority than that of general unsecured claims solely because the holder of such claim is a foreign creditor¹. This protection ensures promotes the principle of anti-discrimination.

Question 2.4 [maximum 3 marks] 3 marks

What is a key distinction with respect to the relief available in foreign main versus foreign non-main proceedings?

In main proceedings, the consequences of recognition have automatic relief with three effects: (1) a stay of all proceedings made in relation to the debtor's assets, rights, obligations or liabilities (2) a stay of execution against debtor's assets and (3) a suspension of the rights to transfer, encumber or disposes of assets of the debtor.²

In non-main proceedings there is no automatic relief, but only discretionary post-recognition relief granted by the Court. The Court must be satisfied that the relief relates to assets that should be administered in the foreign non-main proceeding, or concerns information required in that proceeding.³

QUESTION 3 (essay-type questions) [15 marks in total] 4 marks

Question 3.1 [maximum 4 marks] 2 marks

A debtor has its COMI in Germany and an establishment in Bermuda, and both foreign main and foreign non-main proceedings as well as the recognition proceedings in the US have been opened. In this scenario, explain where the foreign proceedings must have been filed, and the likely result.

The foreign main proceeding must have been filed in Germany since that is where the debtor's centre of main interest is situated. The effect of this has three automatic outcomes: (1) a stay of the commencement of or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities; (2) a stay of execution against the debtor's assets; and (3) a suspension of the rights to transfer, encumber or otherwise dispose of any assets of the debtor.⁴

¹ Page 22 of WG 16 FCIL Guidance Text Mod 2A UNCITRAL Model Laws 202324 (FINAL)

²Page 32 of WG 16 FCIL Guidance Text Mod 2A UNCITRAL Model Laws 202324 (FINAL)

³ Page 24 of WG 16 FCIL Guidance Text Mod 2A UNCITRAL Model Laws 202324 (FINAL)

⁴ Page 32 of WG 16 FCIL Guidance Text Mod 2A UNCITRAL Model Laws 202324 (FINAL)

The foreign non-main proceeding must have been opened in Bermuda, since this definition requires only that the debtor has an establishment in the jurisdiction. The definition of “establishment” is provided in the Model Law as, “any place of operations where the debtor carries out a non-transitory economic activity with human means and good and services”⁵.

In respect of the recognition application the court is entitled to grant interim relief if it satisfied that the interests of the debtor’s creditors and other interested parties are adequately protected. Interim relief may be granted at the request of the foreign representative and can include : (1) a stay of execution against the debtor’s assets; (2) entrusting the administration or realisation of debtor assets to the foreign representative; and any of the post-recognition relief provided for in Article 21 of the Model Law including (1) suspending the right to transfer, encumber or dispose of assets (2) providing the examination of witnesses and taking evidence in respect of debtor assets, affairs, rights obligations or liabilities and (3) granting any relief that is available to a liquidator under the laws of the enacting state.

Requires references to definitional and procedural provisions of MLCBI eg. Art. 2, 15, 17, 6..

Question 3.2 [maximum 3 marks] 0 mark

Joint provisional liquidators commenced a recognition proceeding in the US and immediately were sued and served with discovery in connection with their alleged tortious interference with contract rights of the US-based vendors of the foreign debtor. Explain the likely outcome.

It will be for the enacting state and its domestic law to determine what constitutes an abuse of process. The Model Law remains silent on the subject of abuse of process and also does not prevent an enacting state from responding to an abuse of process. A foreign representative, in this case the provisional liquidators have an obligation to provide full and frank disclosure to the court in the enacting state. If the allegations which have been made are proven to be true, then the court could consider this to be an abuse of process based on domestic law which could affect the recognition application.

The enacting state could also enforce the public policy exemption under Article 6, which is the ultimate safeguard to its sovereignty, but should only be used in exceptional circumstances. Breach of the full and frank disclosure obligation of a foreign representative has towards the court, as is alleged in our scenario, to which a recognition application under the Model Law is made, may amount to an abuse of process and as such justify a denial of the requested recognition based on the public policy exception.⁶

Requires discussion based on Art.10 MLCBI

Question 3.3 [maximum 4 marks] 1 mark

A foreign representative who administers assets in a debtor-in-possession-like restructuring proceeding in the UK commences a recognition proceeding in the US, setting the recognition hearing 35 days after the petition date due to the availability of the court. There is no litigation pending or threatened against the foreign debtor, but US-governed leases and intellectual property licenses have *ipso facto* clauses (that is, bankruptcy-triggered terminations) that are not enforceable under the US Bankruptcy Code. Based on these facts,

⁵ Page 17 of WG 16 FCIL Guidance Text Mod 2A UNCITRAL Model Laws 202324 (FINAL)

⁶ Page 19-20 of WG 16 FCIL Guidance Text Mod 2A UNCITRAL Model Laws 202324 (FINAL)

explain what steps, if any, should the foreign representative take to protect the assets and why?

Based on these facts, the foreign representative should apply to the court to seek provisional relief urgently to protect the assets of the debtor or the interests of the creditors for the period between the filing of the petition and the hearing of the recognition proceeding. The interim relief provided by the court can be (1) a stay of execution against the debtor's assets or (2) entrusting the administration or realisation of all or part of the debtor's assets located in the enacting state to the foreign representative or another person designated by the court, in order to protect and preserve the value of assets.

Requires discussion based upon Art. 19 MLCBI and its definitions, as well as references to the provisions of Art 20 and/or 21 MLCBI as applicable.

Question 3.4 [maximum 4 marks] 1 mark

A foreign representative, who administers the assets of an insolvent debtor in an insolvency proceeding pending in Country A (where the foreign debtor has its registered office and not much more), commenced a proceeding in Country B to recognise the foreign proceeding as the foreign main proceeding in order to sell certain assets within the territorial jurisdiction of Country B, but unfortunately the insolvency court considering the petition for recognition denied the recognition of the foreign proceeding as a foreign main proceeding. Explain what may or should the foreign representative do next? What should the foreign representative have done at the outset?

The foreign representative should file an application for recognition of the foreign proceeding as a foreign non-main proceeding.

At the outset, the foreign representative should have considered where the COMI of the debtor was and taken into consideration the fact that the debtor only has a registered office in country A and so suggests that he should have filed for recognition of the proceeding as a foreign non-main proceeding as opposed to a foreign main proceeding.

Art.16 MLCBI is the main reference for "rebuttable COMI presumption". References to Art.17, 21, 6 are also required

QUESTION 4 (fact-based application-type question) [15 marks in total] 5 marks

Assume you received a file for a new client of the firm. The file contains the facts described below. Based on these facts, analyse key filing strategy to ensure a successful restructuring - specifically, whether to apply for recognition of main or nonmain proceeding or both (in light of COMI / establishment analysis), what papers need to be submitted, and what relief should be requested on day one of the filing.

The client is a Cayman Islands incorporated and registered entity. It is a financial service holding company for a number of direct and indirect subsidiaries that operate in the commercial automobile insurance sector in the United States. Globe Holdings was initially formed as a Canadian company in 2009, under the laws of Ontario, Canada. A year later, following certain reverse merger transactions, it filed a Certificate of Registration by Way of Continuation in the Cayman Islands to re-domesticate as a Cayman Islands company and changed its name to Globe Financial Holdings Inc. When it re-incorporated in the Cayman Islands in 2010 (from Canada), Globe Holdings provided various notices of its re-

incorporation, including in the public filings with the Securities and Exchange Commission (SEC). Around that time, Globe Holdings retained its Cayman Islands counsel Cedar and Woods, which has regularly represented Globe Holdings for over a decade. Globe Holdings has a bank account (opened just a few days ago) in the Cayman Islands from which it pays certain of its operating expenses. Globe Holdings often holds its board meetings virtually, and not physically in the Cayman Islands, and, having obtained support for a bond restructuring, all its regular and special board meetings have been organized by its local Cayman counsel virtually. The client also maintains its books and records in the Cayman Islands. Its public filings with the SEC as well as the prospectus provided in connection with the issuance of the Notes disclosed that Globe Holdings is a Cayman Islands company and explained the related indemnification and tax consequences resulting from Globe Holdings' place of reformation.

Globe Holdings has no business operations of its own. The business is carried out through its non-insurance company non-debtor subsidiaries that are all incorporated under the US laws and operating in the US. All employees are in the US. The headquarters are also in the US.

In April 2017, Globe Holdings offered and issued USD 25,000,000 in aggregate nominal principal amount of 6.625% senior unsecured notes due in 2023 (referenced above as the Notes) governed by New York law.

In 2019, Globe Holdings recorded on its consolidated balance sheet a significant increase in liabilities. As a result, Globe Holdings worked with external professional advisors to undertake a formal strategic evaluation of its subsidiaries' businesses. In September 2020, Globe Holdings announced that it was informed its shares would be suspended from the NASDAQ Stock Market due to delinquencies in filing its 10-K. Thereafter, on November 6, 2020, its shares were delisted from the NASDAQ stock market.

An independent third party is actively marketing the sale of the corporate headquarters located in New York including the land, building, building improvements and contents including furniture and fixtures.

Despite these efforts to ease the financial stress, the culmination of incremental challenges consequently resulted in Globe Holdings being both cash flow and balance sheet insolvent.

Globe Holdings retained Cedar and Woods, its long-standing Cayman Islands counsel, to advise on restructuring alternatives. Upon consultations with Cayman counsel and its other professionals, Globe Holdings ultimately determined that the most value accretive path for the Noteholders was to commence a scheme under Cayman Islands law, followed by a chapter 15 recognition proceeding in the United States, most notably to extend the maturity of the Notes and obtain the flexibility to pay the quarterly interest "in kind".

Globe Holdings expeditiously secured the support of the majority of the Noteholders of its decision to delay interest payments and restructure the Notes through a formal proceeding. Thereafter, on August 31, 2021, about 57% of the Noteholders acceded to the Restructuring Support Agreement (RSA) governed by the New York law. The RSA memorialized the agreed-upon terms of the Note Restructuring. When Globe Holdings approached its largest Noteholders regarding the contemplated restructuring, their expectations were that any such restructuring would take place in the Cayman Islands, which is reflected in the RSA.

On July 4, 2023, the client, in accordance with the terms of the RSA, applied to the Cayman Court for permission to convene a single scheme meeting on the basis that the Noteholders, as the only Scheme Creditors, should constitute a single class of creditors for the purpose of voting on the Scheme.

On July 26, 2023 the Cayman Court entered a convening order (the Convening Order) on the papers, among other things, authorizing the client to convene a single Scheme Meeting for the purpose of considering and, through a majority vote, approving, with or without modification, the Scheme. The Scheme Meeting was held in the Cayman Islands at the offices of Cedar and Woods. Given the Covid-19 pandemic, Scheme Creditors were also afforded the convenience of observing the Scheme Meeting via Zoom and in person via a satellite location in New York. Following the Scheme Meeting, the chairman of the Scheme Meeting (presiding over the meeting in person) reported to the Cayman Court that the Scheme was overwhelmingly supported by the Noteholders, with 91.83% in number and 99.34% in value voting in favor of the Scheme. The Sanction Hearing was held, and an order sanctioning the Scheme (the Sanction Order), which was filed with the Cayman Islands Registrar of Companies the same day.

During all of this time, a class action litigation was in the US was brewing but has been filed yet.

The definition of foreign main proceeding uses the term “center of main interest” (“COMI”). Two key factors for determining are (1) the location where the central administration of the debtor takes place and (2) the place readily ascertainable as such by creditors of the debtor. We are told that the client is a Cayman Islands incorporated and registered entity. Other facts from the scenario which indicate that the COMI is in the Cayman Islands is the location of the debtor’s books and records. We are also told that the client opened a bank account in the Cayman Islands from which it pays certain of its operating expenses, though we are also told that this was only carried out a few days ago. That said, COMI is determined on the date that of the commencement of the foreign proceedings though if the move is close to the date of commencement (as in this case), the evidence for this will be harder to establish.

There is also evidence provided for in the facts that the COMI is in the US. We are told Globe Holdings, the Cayman incorporation has no business operations of its own and that the business is carried out through its non-insurance company non-debtor subsidiaries that are all incorporated under the US laws and operating in the US. We are also told that all employees are in the US and that the headquarters are also in the US which indicate that the COMI is more likely to be in the US. We have to also assume that the client’s primary bank account had been in the US prior to it being moved to the Cayman Islands “*a few days ago*”. All these factors would assist a court in determining that the COMI is in the US and not the Cayman Islands.

Upon the analysis above, it would be prudent to file for recognition of foreign main insolvency proceedings in New York as soon as possible. This is because there are more facts provided which indicate that the COMI is in the US as opposed to the Cayman Islands. This can be done by a foreign representative making an application to the court accompanied by a certified copy of the decision commencing the foreign proceedings and appointing the representative or a certificate from the foreign court affirming the existence of the foreign proceeding or any other evidence the court deems acceptable of the existence of the foreign proceeding and appointment of the foreign representative.

Upon recognition of a foreign main proceeding, three automatic things happen: (1) staying the commencement or continuation of individual proceedings concerning the debtor’s assets, rights, obligations or liabilities (2) staying execution against the debtor’s assets to the extent it has not been stayed (3) suspending the right to transfer, encumber or otherwise dispose of assets of the debtor

Upon the analysis above, it would be prudent to file for recognition of foreign non-main insolvency proceedings in the Cayman Islands as soon as possible. The foreign representative should also apply for relief necessary to protect the debtor's assets or the interests of the creditors including (1) staying the commencement or continuation of individual proceedings concerning the debtor's assets, rights, obligations or liabilities (2) staying execution against the debtor's assets to the extent it has not been stayed (3) suspending the right to transfer, encumber or otherwise dispose of assets of the debtor (4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets.

We are told that the threat of litigation is looming and the carrying out of the above procedures will ensure that that can no longer happen, and that the client is protected while the restructuring takes place.

As this question is a fact-based application-type question, it requires the MLCBI provisions to be applied to the facts of the case and substantiated with references and a discussion. The answer should contain as a minimum: definitions of terms used, with respective references to MLCBI provisions and/or appropriate sources; reference to MLCBI Article 16(3) in discussing the rebuttable presumption of the COMI and alternative courses of action; necessary papers to be submitted to the US Court per Article 15 MLCBI; conclusive remarks with reference to Articles 19 through 22 MLCBI and 6 MLCBI

*** End of Assessment ***

Marks awarded: 23 out of 50