



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] 7 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] 10 marks

Question 2.1 [maximum 3 marks] 3 marks

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 EIR is an EU Regulation, which applies exclusively to EU Member States and which, following adoption in whole, directly becomes part of the domestic law of each EU Member State. It is a binding legislative act for EU Member and its purpose is to establish a framework within which insolvency proceedings taking place in any EU Member State could be recognised and enforced. A key advantage is that adoption into domestic law is compulsory, it provides certainty of outcome of recognition and enforcement across member states. A draw back is they are difficult to agree (the EIR took over 40 years to establish). It can also not be sufficiently flexible to take into account differing approaches in national insolvency.

Conversely, the Model Law does not attempt to substantively unify the insolvency law of States that adopt it. It is 'soft law' and therefore only a recommendation, not a convention. It focuses on procedural rules only limited to access, recognition, relief and co-ordination and is suitable for adoption, in whole or in part, into the domestic legislation of a State. A key advantage is that it does not force new (foreign) substantive insolvency laws on States, and instead provides each State with a necessary procedural framework that brings with it a level of transparency and predictability to allow cross-border insolvency to be dealt with efficiently. It is flexible and takes into account differing approaches in national insolvency laws. A disadvantage is that it is entirely voluntary and can be only be adopted in part. It also does not contain a reciprocity requirement.

Question 2.2 [maximum 2 marks] 2 marks

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

Article 21(4) (discretionary post-recognition relief) provides that, in exercising its discretionary power to grant post-recognition relief, the court in the enacting State must be satisfied that:

- The relief is necessary to protect the assets of the debtor; or
- The relief is necessary to protect the interest of creditors.

Question 2.3 [2 marks] 2 marks

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

Article 13 of the MLCBI gives foreign creditors the same rights as creditors domiciled in the enacting State without affecting the ranking of claims in the enacting State. Paragraph 2 of Article 13 further clarifies that a foreign creditor shall not be given a lower priority than that of general unsecured claims solely because the holder of such claim is a foreign creditor.

The article includes some alternative language for States that refuse to recognise foreign tax and social security claims, allowing them to continue to ‘discriminate’ against such claims.

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?

The key distinction is that post-relief automatic mandatory relief is granted where a foreign main proceeding is recognised (that is, where the COMI of the debtor is in the jurisdiction where the foreign proceeding was opened). Under Article 20, the recognition of a foreign main proceeding has the following three automatic effects: (a) a stay of the commencement or continuation of individual actions or proceedings concerning the debtors assets, rights, obligations or liabilities, (b) a stay of execution against the debtor’s assets, and (c) a suspension of the right to transfer, encumber or dispose of any debtor assets.

If a foreign non-main proceeding is recognised under Article 21 (that is, where the debtor only has an establishment in the foreign State where the foreign proceedings were opened), there is no automatic relief, but only discretionary post-recognition relief that is granted by the court. In such circumstances, the court must be satisfied that the relief relates to assets that, under the law of the state, should be administered in the foreign non-main proceeding, or concerns information required in that proceeding.

QUESTION 3 (essay-type questions) [15 marks in total] 6 marks

Question 3.1 [maximum 4 marks] 3 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.

A foreign main proceeding will have been commenced in Germany (given the debtor has its COMI in Germany) and concurrent foreign non-main proceedings will have been commenced in Bermuda (where the debtor has an establishment).

The US recognition proceedings may seek to recognise both the German proceedings (as foreign main proceedings) and the Bermuda proceedings (as foreign non-main proceedings). If the US court determines that both proceedings comply with chapter 15 requirements (which adopt the MLCBI), including that they qualify as foreign proceeding or foreign main proceedings respectively, and they do not fall foul of the public policy exception, they are likely to be recognised and treated accordingly.

The foreign proceedings must be filed in Germany first, and any relief granted thereafter to a representative of a foreign non-main proceeding must be consistent with the foreign main proceeding.

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

Question 3.2 [maximum 3 marks] 1 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.

If the US-based vendors are able to successfully argue that the joint PLs have sought recognition in the US for an alternative inappropriate motive, being tortious interference of contract rights, the US court could deem the application as a deliberate abuse of process. On these grounds, the US court could reject the application for recognition.

The MLCBI leaves it to domestic law and procedural rules of the enacting State to determine what constitutes abuse of process, so it will be for the US court to determine whether it should reject the application based on its domestic law and procedural rules.

The US courts may also consider that recognition in such circumstances on ground of the public policy exception under Article 6 of the MLCBI. This could be relied upon if the US Court considers that protecting the contractual rights of the US-based vendors should be considered an exceptional circumstance concerning matters of fundamental important in the US.

Mark is given for reference to Art.6. The main issue needs discussion per 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, explain what steps, if any, should the foreign representative take to protect the assets and why?

It would depend on the drafting of the ipso facto clauses and which proceedings they cover. If there is a risk that counterparties to those contract seek to take action, then the foreign representative could seek interim relief under Article 21 MLCBI.

Even prior to a decision on the recognition application, the US Bankruptcy Court would be entitled to grant urgently needed interim relief upon application for recognition of the UK foreign proceeding. Whether this would be granted, would depend on whether the US court deemed it a recognition issue or rather a policy decision and whether, recognising the relief would go beyond the relief that would be granted in a domestic insolvency. Such considerations were made in the Pan Ocean case, where an English Court ruled against granting relief to protect the exercise of ipso facto clauses.

However, this would only be necessary where the ipso facto clauses are enforceable, which does not appear to be the case here.

Careful, interim relief is regulated under art 19 MLCBI, and post-recognition relief for FNMP is provided for under 21 MLCBI. This answer requires discussion upon Art. 19 for full marks.

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?

It is possible that the petition for recognition was denied on the basis that the Country A proceedings cannot be deemed foreign main proceedings. The foreign representative should have conducted a more thorough analysis to determine the debtors COMI at the outset. This is typically done at the outset, as part of contingency planning.

Although the location of a registered office location raises a presumption that the COMI will be in the country where the debtor has its registered offices, this is rebuttable and the Court will consider other factors such as (among others) location of books and records, where employees are, audited accounts, location of assets and the governing law of key debt documents.

On these facts, given the debtor has 'not much more' in Country A, the foreign representative should have file for recognition of a foreign non-main proceeding. Further, there could be an argument here that COMI is in fact in Country B, where the debtor has certain assets (and possibly operations).

Following denial of recognition, the foreign representative could either:

(1) resubmit the application requesting that the proceedings be recognised as foreign main proceedings. It could rely on the fact that there is an establishment in Country A, and this would permit it to sell assets in Country B.

(2) submit parallel insolvency proceedings in Country B. This will give it more protections to sell the assets but can be more timely and costly.

This answer should target the weak COMI. If there is uncertainty with regard to the location of the COMI, the representative should have submitted the application for recognition as FMP and *alternatively as FNMP*. Furthermore, it requires discussion with reference to Art. 16 MLCBI, as well as procedures (eg. Art 15, 17, 6 ...)

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.

To ensure a successful restructuring and in particular, protect against any risks of challenges to the restructuring in the US, GH should seek to apply for recognition under chapter 15, which adopts the MCLBI. Absent recognition, the Scheme / Sanction Order will not be enforceable against the NY law governed notes.

GH will need to consider whether to apply for recognition of foreign main proceedings or foreign non main proceeding. This will be determined based on whether GH’s COMI is in Cayman or whether it only has an establishment in Cayman.

The appropriate date to determine COMI is the date of commencement of foreign proceeding (i.e. filing of the Cayman Scheme).

There is a strong argument that, based on UNCITRAL guidance, that GH’s COMI is in Cayman on the basis that:

- it’s the location where the central administration of the debtor takes place (noting its long-standing lawyers are based there),
- it is where it keeps books and records,
- it has filed a Certificate of Registration by Way of Continuation in the Cayman Islands to re-domesticate as a Cayman Islands (also important to note this was done about a decade before the Scheme); and

- it can be readily ascertainable by creditors of GH via notices to the SEC and as set out in its Notes' prospectus. Further proof of this was provided when one of the largest noteholders stated that their expectations were that any restructuring would take place in Cayman and that this was reflected in the RSA signed by a majority of Noteholders.

There could also be an argument that GH only has an establishment in Cayman on the basis that:

- GH's operations and employees are US based,
- GH is regulated by a US regulator, the SEC
- the Notes are NY law governed, and
- GH's shares are listed on the NASDAQ.

The Bankruptcy Court may also look to any potential shifts in COMI between the foreign proceeding and the chapter 15 recognition to ensure GH wouldn't have manipulated COMI in bad faith.

Based on the facts, and following further due diligence, the advice would be to apply for recognition of foreign main proceedings.

What papers need to be submitted

The client will need to submit the Sanction Order and any other evidence as set out in Article 15 Model Law.

What relief should be requested on day one of the filing

In light of the brewing class action in the US, interim relief should be requested upon the application for chapter 15 recognition. If indeed the Bankruptcy Court deems the proceedings are foreign main proceeds, then it will afford GH automatic relief.

If recognition is granted as a foreign main proceeding, GH will also benefit from automatic post-recognition relief, which may also include staying the commencement of the US class action.

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. For full marks, further application to the facts of the case would be needed. The answer should contain to the minimum:

The answer should contain to the minimum:

- 1. Definitions eg (COMI, establishment, foreign main proceedings etc) with respective articles**
- 2. A discussion on the rebuttable presumption of the COMI per Article 16(3) MLCBI**
- 3. The necessary papers to be submitted to the US Court per Article 15 MLCBI**
- 4. Conclusive remarks with reference to Articles 19 through 22 MLCBI and 6 MLCBI.**

*** End of Assessment ***

Marks awarded: 28 out of 50