



**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] 7 marks

### Question 2.1 [maximum 3 marks] 0 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 MLCBI operates as a form of soft law, meaning it serves as a -recommendation rather than a binding agreement / convention, allowing for selective adoption into domestic law. In contrast, the EIR is a binding EU regulation that each EU member state must be implemented in full. Once implemented, it becomes part of the domestic law of that EU Member State.

The MLCBI and other soft laws are generally easier to agree since they are advisory / a recommendation. However, a notable disadvantage is that such soft laws don't typically contain a requirement for reciprocity. On the other hand, treaties/conventions like as the MLCBI are more challenging to agree [do you mean EIR?] - evidenced by the EIR's four-decade long journey to fruition - but they usually provide for reciprocity among those that have implemented.

This answer is contradictory.

Besides, MLCBI is neither a treaty nor convention.... EIR is not either: it is EU secondary law.

### 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.

The court's primary consideration should be whether the relief is necessary to protect (1) the assets of the debtor or (2) 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 guarantees equal treatment for foreign creditors, affording them the same rights as creditors domiciled in the enacting State in respect of commencing and participating in local proceedings.

Furthermore, it also safeguards against discrimination in priority, making sure that claims of foreign creditors are not given lower priority than general unsecured 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 distinction between the types of relief accessible in foreign main versus foreign non-main proceedings revolves around their classification under the MLCBI, particularly as outlined in Articles 20 and 21.

When a foreign proceeding is determined to be a "main" proceeding, automatic mandatory relief is available for recognised foreign proceedings that qualify as foreign main proceedings.

Conversely, under Article 21, foreign proceedings which are determined to be "foreign non-main proceeding" are entitled only to discretionary relief as determined by the court. This discretion allows the court to impose conditions it deems necessary on the relief provided (as set out in Article 22(2)) and to modify or terminate the relief upon request by the foreign representative or an interested party (per Article 22(3)).

The granting of such discretionary relief requires the court to consider that the rights and interests of the debtor's creditors and other stakeholders are sufficiently protected.

**QUESTION 3 (essay-type questions) [15 marks in total] 8 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.

In this scenario, the debtor, with its center of main interest (COMI) in Germany and an establishment in Bermuda, would have had to initiate foreign proceedings in both Germany and Bermuda. Germany's proceedings are considered foreign main proceedings due to the COMI's location there, while Bermuda's proceedings are regarded as foreign non-main proceedings, reflecting that the debtor only has an establishment in that jurisdiction.

The recognition proceedings in the United States may seek to recognise the foreign proceedings from both Germany and Bermuda, treating them differently based on their classification as main or non-main. If the U.S. courts find that the proceedings in Germany and Bermuda meet the criteria for recognition under the MLCBI, such as qualifying as a "foreign proceeding" for the purposes of Article 2(a) and not violating public policy or any refusal grounds specified in Article 14 of the MLCBI, they are likely to be recognized accordingly in the U.S. as foreign main / foreign non-main proceedings respectively.



It's important to note that the adoption of the MLCBI into domestic law by Germany and Bermuda is irrelevant for the U.S. recognition process. The MLCBI generally does not require reciprocity for the recognition of foreign proceedings, although some jurisdictions, like Mexico and the British Virgin Islands, have included such a requirement in their local implementation of the MLCBI.

Answer should also include definitions and the procedural aspects to substantiate likely outcome eg. Art.17, 15, 6 etc. MLCBI

**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.

Several outcomes could unfold:

- There's a possibility that the joint provisional liquidators might be using the U.S. recognition proceedings for undisclosed purposes, i.e. intentional tortious interference of existing contractual rights. If there was merit to this argument, it could be viewed by U.S. courts as a misuse of the legal process, potentially leading to the rejection of the recognition application as an abuse of the legal system.
- While the MLCBI itself does not directly address abuse of process, it allows the domestic laws and procedural rules of the enacting State to determine what constitutes such abuse. Therefore, the determination of whether there has been an intentional misuse of the legal process would hinge on domestic U.S. law and procedural rules and the facts of the case.
- On the other hand, U.S. courts might determine that the recognition proceedings should be rejected on the basis of public policy. Article 6 of the MLCBI includes a "public policy exception" that acts as a protective measure for the domestic sovereignty of the enacting state. If the U.S. court determines that the protection of the interests of the U.S.-based vendors is an exceptional circumstance of fundamental importance in the US, it might invoke this exception. The decision would ultimately depend on the specific circumstances of the case and how the court interprets them.

Discussions should be centred on Art.10 MLCBI (ie. immunity)

**Question 3.3 [maximum 4 marks] 4 marks**

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?

The foreign representative should aim to prevent the termination of these U.S.-governed contracts or the repossession of assets by the counterparties on the basis of the ongoing debtor-in-possession proceedings in the UK.

Given that ipso facto clauses are not enforceable under the U.S. Bankruptcy Code, these contracts cannot be terminated nor the assets repossessed as a result of the UK insolvency proceedings, provided there are no other breaches of the contracts, due to the protections afforded by U.S. law.

Therefore, it may not be necessary for the foreign representative to seek interim relief under Article 21 to block the exercise of these clauses, as there is no indication of imminent or ongoing litigation against the debtor that would necessitate such a stay.

This situation contrasts with other case law on ipso facto clauses, such as the Pan Ocean case. In Pan Ocean, the governing law (UK law) did not restrict the use of ipso facto clauses, leading the foreign representative from Korea to seek interim relief under Article 21(1)(a) and (g) to attempt to prevent a Brazilian counterparty from invoking these clauses.

The English Court concluded that Article 21(1)(g) does not allow the recognising court to offer relief beyond what it would in a domestic insolvency case. It emphasized that deciding on the enforceability of ipso facto clauses in insolvency is a matter of policy, and there is no compelling reason for a court to override the policy decisions of the jurisdiction in which the insolvency proceedings are taking place with those of the UK.

**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?

Insolvency professionals / foreign representatives typically engage in comprehensive contingency planning before the onset of formal insolvency proceedings. The rationale behind why the insolvency was filed in Country A, where the debtor only had its registered office and not much more, rather than in Country B, where its assets and possibly more substantial operations were located, is not readily apparent. Ideally, the foreign representative would have raised this question from the beginning. A more strategic approach might have been to file for insolvency in Country B to seek local jurisdictional relief for the assets, and then, if necessary, pursue recognition in Country A.

The rejection of the recognition application may have stemmed from the proceedings in Country A being considered foreign non-main proceedings due to the debtor's limited presence there. Initially, the foreign representative should aim to have the proceedings recognized as non-main. The assumption that the debtor's COMI is at its registered office can be challenged, and it seems this holistic evaluation led to the application's denial.

Following the denial, the foreign representative has several options:

1. Reapply for recognition in Country B, this time requesting that the Country A proceedings as are recognised as foreign non-main proceedings. If successful, this could allow for the sale of assets in Country B under Article 21 relief.
2. Submit insolvency proceedings directly in Country B. Although likely to be more expensive, this would grant the foreign representative the ability to exercise all rights under Country B's insolvency laws, typically including the disposition of the debtor's assets.

These steps reflect a strategic approach to navigating the complexities of cross-border insolvency, ensuring assets are managed effectively in accordance with the legal frameworks of involved jurisdictions.

Discussion on (weak) COMI as well as the rebuttable COMI assumption with reference to Art.16 was key. Also discussion on procedural provisions eg. Art.17, 15, 21, as well as 6 (public policy) is necessary to receive full marks.

**QUESTION 4 (fact-based application-type question) [15 marks in total] 3 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 successfully navigate its restructuring, Globe Holdings must apply to the U.S. courts to obtain recognition of the Sanction Order through Chapter 15 recognition proceedings. Without this recognition, the Sanction Order lacks enforceability in the U.S., particularly regarding the amendments to the maturity extensions and PIK interest on U.S. law-governed

notes. Globe Holdings, as the issuer of these notes and the party under the Sanction Order, is the entity required to file for this recognition, excluding its U.S. subsidiaries from the process.

The decision on whether to seek recognition for foreign main or non-main proceedings depends on whether the restructuring under the Cayman scheme occurred in the jurisdiction where Globe Holdings' COMI is located or merely an establishment. The COMI's determination is influenced by factors such as the debtor's central administration location and its recognizability to creditors, as outlined in the UNCITRAL Guide to Enactment.

Indications of Globe Holdings' COMI being in the Cayman Islands include its re-incorporation there in 2010, notifications to the SEC, consultations with Cayman legal advisors, a Cayman-based bank account for operational expenses, maintenance of records in Cayman, SEC declarations of its Cayman company status, and the execution of its reorganization in Cayman. On the contrary, aspects suggesting a U.S. COMI include SEC regulation, New York law governance over its \$25m notes, NASDAQ listings, the primary assets being U.S. subsidiaries, and looming U.S. class action litigation.

Considering these elements, Globe Holdings is advised to apply for the recognition of foreign main proceedings. The application should be accompanied by the necessary documentation, including the Sanction Order, as required by Article 15 of the VLC, with ongoing updates about the foreign proceedings as mandated by Article 18 of the M-GU.

Approval of the application for foreign main proceedings will grant Globe Holdings crucial protections, notably an automatic stay on actions against the debtor's assets within the U.S. This stay will shield Globe Holdings from the impending class action litigation in the U.S., aiding in the restructuring process.

Needs (1) definitions per Art.2 MLCBI as they apply in this situation; (2) discussions over the alternatives (what if?) regarding presumptions/rebuttal concerning COMI per Art.16 and their application to the case; (3) listing of necessary procedures/documents per Art 15, 17....; finally, (4) a conclusion based upon Art.19, 20, 21... - also taken into account Art.22, 6... MLCBI.

**\* End of Assessment \***

**Marks awarded: 25 out of 50**