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Contents

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INTRODUCTION

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Cases relating to the UNCITRAL Model Law on Cross-Border Insolvency

Case 762: MLCBI 2 (a), (d), 15, 17, 21 (1)(a)-(e), 29 (a)
USA: U.S. Bankruptcy Court Western District of Washington at Seattle
No. 05-30432
In re: Ian Gregory Thow[1]
10 November 2005
Original in English
Abstract prepared by the Secretariat

[**keywords**: *foreign proceeding; foreign representative; centre of main interests (COMI); cooperation; recognition*]

The debtor, a citizen of the United States of America ("the United States"), was an investment advisor doing business in Canada. In early July 2005, he faced multiple court and administrative proceedings initiated by the Canadian Securities Commission, which issued orders to freeze his assets. In addition, investigators filed several lawsuits against the debtor in Canada, asserting approximately 28 million Canadian dollars in claims against him. At the end of July 2005, the debtor filed for insolvency proceedings in Canada ("foreign proceeding") and the Canadian court appointed an insolvency representative shortly afterwards ("foreign representative"). At the end of August, the debtor submitted a plan of reorganization under Canadian insolvency law. At the beginning of September 2005, the debtor filed for insolvency proceedings under Chapter 7 of the United States Bankruptcy Code[2] and relocated one day later to the United States.

In early November 2005, the foreign representative applied to the United States court for recognition of the foreign proceeding as a foreign main proceeding under the law enacting the MLCBI into United States law[3] and for orders to stay all actions and deadlines in the case, to turnover of property of the debtor located in the United States, and to direct the debtor to cooperate with the foreign representative. The foreign representative argued that the foreign proceeding was a foreign proceeding pursuant to 11 U.S.C § 101 (23) [corresponds with Art. 2 (a) MLCBI], because its purpose was to liquidate the debtor's estate, adjust its debts by composition, extension, or discharge, or effect the reorganization, under the auspices of the Canadian court and that it was a foreign representative pursuant to 11 U.S.C. § 101 (24) [Art. 2 (d) MLCBI], thus satisfying 11 U.S.C. § 1515 [Art. 15 MLCBI]. The foreign representative noted that all of the debtor's secured creditors, most of the unsecured creditors and the debtor's real estate were located in Canada.

The court recognized the foreign proceeding as a foreign main proceeding pursuant to 11 U.S.C. §§ 1515 and 1517 [Arts. 15 and 17 MLCBI] as the first recognition under Chapter 15, noting that it was a foreign proceeding pursuant to 11 U.S.C § 101 (23) [Art. 2 (a) MLCBI] and the foreign representative a foreign representative pursuant to 11 U.S.C § 101 (24) [Art. 2 (d) MLCBI]. The court recognized the centre of the debtor's main interests as located in Canada, because virtually all of the debtor's assets and creditors were located in Canada. The court

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[1] This order has not been published in the United States official reports and thus may not possess precedential effect.
[2] The insolvency law of the United States.
[3] Chapter 15 of the United States Bankruptcy Code, "Chapter 15".

ordered pursuant to 11 U.S.C. § 1521 (a)(1)-(5) [Art. 21 (1)(a)-(e) MLCBI] that (a) the continuation or commencement of individual actions concerning the debtor's assets and execution against the debtor's assets were stayed, except for the pending United States insolvency proceedings; (b) the right to transfer or encumber or otherwise dispose of the debtor's assets in the United States was suspended; (c) the debtor should make himself and pertinent records available for inspection and examination by the foreign representative; (d) the debtor's assets in the United States that would be property of the debtor's estate under the United States insolvency law should be administered by the foreign representative; and (e) the debtor should cooperate with the foreign representative with respect to his rights and duties under the order. The court reserved its decision on choice of law issues relating to the assets comprising the debtor's estate.

Case 763: MLCBI 21 (1)(a)
USA: U.S. District Court for the Eastern District of New York
No. CV2003-1383(SJF)(MDG)
U.S. v. J.A. Jones Const. Group, LLC
29 November 2005
Original in English
Published in English:
333 B.R. 637, 45 Bankr. Ct. Dec. 203
Prepared by Susan Block-Lieb

[**keywords**: *cooperation, foreign proceeding; foreign representative; procedural issues; recognition; purpose-MLCBI; recognition-formalities; relief-automatic; relief-injunctive; relief-upon request*]

The debtor was sued in the United States for delays with respect to a certain construction project. As the debtor was in insolvency proceedings ("foreign proceeding") in Canada, the insolvency representative ("foreign representative") sent the United States judge a letter informing that a foreign proceeding had been commenced and seeking a stay of the action against the debtor in accordance with Canadian insolvency law.

The court held that the letter did not constitute an application for recognition of a foreign proceeding as required under the law enacting the MLCBI into United States law.[4] While recognition of a foreign proceeding would have stayed the continuation of the suit pending against the debtor in the United States, see 11 U.S.C. § 1521 (a)(1) [Art. 21 (1)(a) MLCBI], the court held that in the absence of recognition under Chapter 15, it had no authority to consider the foreign representative's request for a stay. Given that the purpose of Chapter 15 was to encourage cooperation between United States and foreign courts, to provide for the fair and efficient administration of cross-border insolvencies and for United States courts to accord foreign proceedings comity, the court stayed the suit for 60 days to permit an application for recognition to be filed within that time under Chapter 15.

[4] Supra note 4.

Case 764: MLCBI 2 (b), [6], 15 (2)(a), (3), (4), 17 (1)(b), (2)(b)
USA: U.S. Bankruptcy Court Central District of California Los Angeles Division
No. 07-11482 (SMB)
In re TriGem Computer, Inc.[5]
7 December 2005
Original in English

[**Keywords**: *centre of main interests (COMI); foreign main proceeding; public policy*]

After experiencing financial difficulties, the debtor, a large corporation making computers, became the subject of insolvency proceedings under the law of the Republic of Korea in June 2005 ("foreign proceeding"). The insolvency representative ("foreign representative") appointed in the foreign proceeding applied for an order recognizing the foreign proceeding as foreign main proceeding under the law enacting the MLCBI into United States law,[6] and for the automatic stay to enjoin litigation, as the debtor had creditors in the United States and litigation was pending against it.

The foreign representative argued that for the purposes of 11 U.S.C. § 1517 (a)(1) [Art. 17 (1)(a) MLCBI] the foreign proceeding was a foreign main proceeding within the meaning of 11 U.S.C. 1502 (4) [Art. 2 (b) MCLBI], since it was a judicial corporate reorganization proceeding that was pending in the Republic of Korea, the country where the debtor had its centre of main interests. The foreign representative noted that the debtor's head office, branch offices as well as business, research and training centres were located in the Republic of Korea. Further, the foreign representative stated that the requirements of 11 U.S.C. § 1515 [Art. 15 MLCBI] were fulfilled:

(a) The application was accompanied by a certified copy of the decision, which affirmed the existence of the Korean insolvency proceedings and the appointment of the foreign representative pursuant to 11 U.S.C. § 1515 (b)(1) [Art. 15 (2)(a) MLCBI];

(b) A translation of the decision into English pursuant to 11 U.S.C. § 1515 (d) [Art. 15 (4) MLCBI];

(c) A statement identifying all foreign proceedings with respect to the debtor known to the foreign representative pursuant to 11 U.S.C. § 1515 (c) [Art. 15 (3) MLCBI];

No objection was filed to the foreign representative's application.

The court noted that the application fully satisfied 11 U.S.C. § 1515 [Art. 15 MLCBI], was not manifestly contrary to the public policy of the United States [pursuant to 11 U.S.C. § 1506 corresponding with Art. 6 MLCBI], was a foreign main proceeding within the meaning of 11 U.S.C. § 1502[4] [Art. 2[b] MLCBI] and that the foreign representative was a "person" for the purposes of 11 U.S.C. § 1517 (a)(2) [Art. 17 (1)(b) MLCBI]. Consequently, the court recognized the foreign proceeding as foreign main proceeding pursuant to 11 U.S.C. § 1517 (b)(2)

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[5] This order has not been published in the United States official reports and thus may not possess precedential effect.

[6] Supra note 4.

[Art. 17 (2)(b) MLCBI] and ordered that the commencement or continuation of any and all judicial, administrative, or other action or proceeding, including the issuance or employment of process, against the debtor in the United States was automatically stayed.

Case 765: MLCBI 6, 21 (1)(a)
USA: U.S. District Court for the Southern District of New York
Nos. 04 MD 1598 (JSR), 06 Civ. 538(JSR), 06 Civ. 539(JSR)
In re Ephedra Products Liability Litigation (Muscletech Research and Development, Inc., et al.)
11 August 2006
Original in English
Published in English:
349 B.R. 333, 56 Collier Bankr. Cas.2d 734
Prepared by Susan Block-Lieb

[**keywords**: *creditors-protection; public policy; relief-upon request*]

The Canadian insolvency representative ("foreign representative") filed with the United States court, in which a multi-district product liability litigation was pending against the same debtor, an application for recognition of the Canadian insolvency proceeding ("foreign proceeding") as a foreign main proceeding, alleging that the debtor's centre of main interests lay in Canada. After the foreign proceeding had been recognized as a foreign main proceeding by the court, the Canadian court entered an order approving a claims resolution procedure for streamlined assessment and valuation of all product liability claims against the debtor. The foreign representative then applied in the United States court for an order recognizing and enforcing the order that had been entered in the foreign proceeding and that approved the claims resolution procedure pursuant to 11 U.S.C. § 1521 [corresponds with Art. 21 MLCBI]. Objections were raised on the grounds that the claims resolution procedure was manifestly contrary to the public policy of the United States, per 11 U.S.C. § 1506 [Art. 6 MLCBI], in that it would deprive the creditors of due process and trial by jury.

The court agreed that recognition and enforcement of the claims resolution process fell within the purview of 11 U.S.C. § 1521 (a)(1) [Art. 21 (1)(a) MLCBI]. While 11 U.S.C. § 1506 [Art. 6 MLCBI] provided that a court should refuse such recognition if the action would be manifestly contrary to the public policy of the United States, the court preliminarily agreed that the claims resolution procedure, which provided for mandatory mediation and, if the mediation resulted in a plan approved by specified majorities of creditors, for the estimation and liquidation of the remaining claims, might conceivably have been read as permitting the claims officer to refuse to receive evidence and to liquidate claims without granting interested parties an opportunity to be heard. The claims resolution procedure was amended to clarify that such an opportunity would be required and, based on that amendment, the court later concluded that due process would be satisfied with that claim resolution process.

As for the contention that the denial of jury trial rights was manifestly contrary to the public policy of the United States, the court thought that the objectors had waived that objection when they filed their claims in the foreign proceeding. It

declined to consider the issue of waiver, however, instead holding that neither 11 U.S.C. § 1506 nor any other law prevented a United States court from recognizing and enforcing a foreign insolvency procedure for liquidating claims simply because the procedure alone did not include a right to jury. In reaching that conclusion, the court looked both to the UNCITRAL Guide to Enactment of the MLCBI and to United States case law on the enforcement of foreign judgments, both of which stressed that exceptional circumstances must justify a finding that recognition would be "manifestly contrary" to national public policy considerations.

Case 766: MLCBI 2 (a), (d), 6, 8, 22
USA: U.S. Bankruptcy Court for the Central District of California
Nos. 06-22652-C-15, 06-22655-C-15, and 06-22657-C-15
In re Tri-Continental Exchange Ltd.
11 September 2006
Original in English
Published in English:
349 B.R. 627, 47 Bankr. Ct. Dec. 31
Abstract prepared by Susan Block-Lieb

[**keywords**: *centre of main interests (COMI); creditors-protection; foreign main proceeding; foreign representative; interpretation-international origin; presumption-centre of main interests (COMI); public policy; purpose-MLCBI*]

The debtors were insurance companies registered under the laws of St. Vincent and the Grenadines ("SVG") and subject to insolvency proceedings ("foreign proceedings") in the Eastern Caribbean Supreme Court, High Court of Justice, under the SVG Companies Act. The debtors' only offices were located in St. Vincent, with approximately 20 employees. Although the debtors sold approximately 5,800 insurance policies to holders in the United States and Canada, all business was conducted through the debtors' registered offices in Kingstown, SVG. Premium payments were mailed to addresses in the United States but bundles of mail from these "drop boxes" were forwarded to the debtors' offices in SVG, where they were endorsed for deposit and sent to bank accounts maintained by the debtors in the United States.

The insolvency representatives ("foreign representatives") sought recognition under the law enacting the MLCBI into United States law,[7] in the United States court of the foreign proceeding as a foreign main proceeding. A creditor of the debtors, which held a judgment against the debtors under United States law, contended that the debtors' centre of main interests should be viewed as the United States on the grounds that most of the debtors' creditors were located there. In addition, the objecting creditor sought a ruling from the court that the debtors' funds located in the United States would not be used to pay such items as professional fees or expenses without further approval of the court pursuant to United States law.

The court held that the SVG insolvency proceeding was a foreign proceeding within the meaning of 11 U.S.C. § 101 (23) [Art. 2 (a) MLCBI] of the United States Bankruptcy Code and that the foreign representatives of the debtors were foreign representatives per 11 U.S.C. § 101 (24) [Art. 2 (d) MLCBI]. The court further held

[7] Supra note 4.

that the debtors would have been ineligible under United States law to file insolvency proceedings. The court noted, however, that foreign insurance companies were eligible for Chapter 15 relief.

In response to the contention that the case should be recognized as a foreign non-main proceeding rather than a foreign main proceeding, the court held that the foreign insolvency proceeding was a foreign main proceeding. In concluding that the debtors' centre of main interests was located in SVG, the court noted that 11 U.S.C. § 1508 [Art. 8 MLCBI] required it to consider similar statutes adopted by foreign jurisdictions, which, in the case of interpreting the phrase "centre of main interests", included both the European Council Regulation (EC) No. 1346/2000 of 29 May 2000 on insolvency proceedings ("EU Regulation") and statutes enacted in foreign jurisdictions to implement the MLCBI. It viewed as persuasive language in the EU Regulation's pre-ambular paragraphs noting that a COMI should be the place where the debtor conducted the administration of its interests on a regular basis and was therefore ascertainable by third parties. On this basis, the court found that, while in the absence of *evidence* to the contrary, the debtor's registered office, or habitual residence in the case of an individual, was presumed to be the centre of the debtor's main interests, a COMI generally equated with the concept of a "principal place of business" under United States law. It noted, in this regard, that Chapter 15 differed in a small way from the language of the MLCBI and of the EU Regulation in that the latter referred to "*proof* to the contrary," [11 U.S.C. § 1516 (c)] whereas Chapter 15 would require "*evidence* to the contrary" [11 U.S.C. § 1516 (3)], explaining that the United States Congress explicitly chose this language in order to make clear that the burden of proof of "centre of main interests" was on the foreign representative who applied for recognition. Here, the court viewed the foreign representatives as having met this burden of proof.

With respect to the use of funds held in bank accounts located in the United States, the court found that it was unnecessary to place additional restrictions on disbursements since the foreign representatives had not requested to be, and were not being, entrusted to distribute assets. The court further noted that the provisions of Chapter 15 provided adequate protection for creditors and explicitly mentioned the public policy exception under 11 U.S.C. § 1506 [Art. 6 MLCBI], which should be narrowly construed, as well as 11 U.S.C. § 1522 [Art. 22 MLCBI]. The court added that to impose further restrictions on the foreign representatives would frustrate the purpose of Chapter 15 of maximizing the value of the cross-border estate that was available for distribution.

Case 767: MLCBI 2[(a), (b)], 7, 16 (3), 17 (2)(a), (b), 20, 21
USA: U.S. Bankruptcy Court for the Southern District of New York
No. 07-11482 (SMB)
In re Schefenacker PLC[8]
14 June 2007
Original in English
Abstract prepared by the Secretariat

[**Keywords**: *additional assistance; centre of main interests (COMI); foreign main proceeding; foreign non-main proceeding; presumption-centre of main interests (COMI)*]

The debtor was a supplier to the international automobile industry. A company voluntary arrangement (the "CVA") was approved for the debtor in May 2007 in the United Kingdom of Great Britain and Northern Ireland (the "United Kingdom"). Shortly afterwards, the joint insolvency representatives ("foreign representatives") appointed under the CVA sought recognition in the United States under the law enacting the MLCBI into United States law.[9] In particular, the foreign representatives sought recognition of the proceeding relating to the CVA ("foreign proceeding") as a foreign main proceeding, giving effect to and enforcing the CVA in the United States by way of an injunction and the granting of other appropriate relief pursuant to 11 U.S.C. §§ 1507, 1517, 1520 and 1521 [Arts. 7, 17, 20 and 21 MLCBI]. In their application, the foreign representatives explained that the foreign proceeding was a statutory procedure under the English Insolvency Act, which enabled the company to agree with its creditors on an arrangement to satisfy its debts, subject to review by the English court.

A group of German bondholders opposed the application on the grounds, among others, that the foreign proceeding should, if recognized at all, be limited to recognition as a non-main proceeding, because England was not the debtor's centre of main interests ("COMI"). They argued that since the vast majority of debtor's bondholders resided in Germany and the debtor had the largest number of employees and facilities in Germany, Germany was the debtor's centre of main interests.

In response, the foreign representatives pointed out that the bondholders had not challenged the CVA within the specified challenge period of 28 days after approval of the CVA by the requisite majorities of the debtor's creditors and members and the objecting bondholders held less than 15 per cent in value of the outstanding bonds. With respect to the determination of COMI, the foreign representatives referred to the decision in *Re SPHinX, 351 B.R. 103, 117*, noting that the United States Bankruptcy Code did not specify the evidence required to rebut the presumption of 11 U.S.C. § 1516 (c) [Art. 16 (3) MLCBI] and that various factors, singly or combined, such as the location of the debtor's headquarters and the location of those who actually manage the debtor (which, conceivably could be the headquarters of a holding company), could be relevant to such a determination. The foreign representatives further referred to the European Council (EC) Regulation No. 1346/2000 on insolvency proceedings which stated that the COMI should

[8] This order has not been published in the United States official reports and thus may not possess precedential effect.
[9] Supra note 4.

correspond to the place where the debtor conducted the administration of its interests on a regular basis and was therefore ascertainable by third parties. The foreign representative observed that the objecting bondholders only focused on the corporate history of the operating subsidiaries of the debtor and did not consider that the debtor was a duly organized holding company incorporated in England and Wales, with its operations centred in the United Kingdom. The foreign representatives further noted that the debtor maintained its only office in England and that the debtor's only functions were to hold equity interests in its subsidiaries and to restructure its financial indebtedness. Therefore, the foreign representatives concluded that there were insufficient facts to rebut the presumption of the debtor's registered office as COMI. The foreign representatives also noted that the debtor's subsidiaries operated around the world in nine locations, only one of which was in Germany. The foreign representatives further commented that the bondholders or creditors generally would not be ascertainable to a third party, and thus their presence in Germany would not affect the COMI analysis pursuant to the decision of the European Court of Justice in *Bondi v. Bank of America, N.A., (In re Eurofood IFSC Ltd.)*,[10] as the debtor had to be viewed separately from its subsidiaries when determining its COMI.

The court recognized the foreign proceeding as either a foreign main proceeding or a foreign non-main proceeding pursuant to 11. U.S.C. §§ 1517 (b)(1) and (2) [Art. 17 (2)(a) and (b) MLCBI] and as defined in 11 U.S.C. § 1502[(4)(5)] [Art. 2[(b), (c)] MLCBI], noting that a distinction was not required to grant the relief requested. Subsequently, the objecting bondholder group appealed the court's order, claiming, inter alia, that the court abused its discretion in granting an injunction under Chapter 15 without making a determination as to whether the foreign proceeding was a main or non-main proceeding. However, there was no decision reached upon appeal, as the objecting bondholders withdrew their appeal shortly after filing.

Case 768: MLCBI 2 (b), 8, 16 (3)
USA: U.S. District Court for the Southern District of New York
No. 06-11760 (RDD), 06 Civ. 13215 (RWS)
In re SPhinX, Ltd.
3 July 2007
Original in English
Published in English:
371 B.R. 103
Abstract prepared by Susan Block-Lieb

[**keywords**: *centre of main interests (COMI); creditors-protection; foreign main proceeding; interpretation-international origin; presumption-centre of main interests (COMI)*]

The debtors were hedge funds registered and incorporated under the laws of the Cayman Islands. They had an investment relationship with a broker of commodities and futures contracts that had commenced an insolvency proceeding in the United States, which involved the debtors in an avoidance action. Agreement was reached to settle that action, but before the settlement agreement could be approved, an

[10] Case 341/04, 2006 E.C.R. I-813 (E.C.J. May 2, 2006).

insolvency proceeding ("foreign proceedings") was commenced in the Cayman Islands against the debtors.

Under the law enacting the MLCBI into United States law[11] the debtors' insolvency representatives ["foreign representatives"] sought recognition of the foreign proceedings as "foreign main proceedings" in the same United States court in which approval of the settlement agreement was pending. The court recognized the debtors' foreign proceedings as foreign non-main proceedings, but not as "foreign main proceedings." It based this finding, in part, on the fact that the debtors did not conduct a trade or business in the Cayman Islands and had no employees, no physical offices, and no assets other than the corporate books and records required by Cayman law to be present there. The court also found pragmatic considerations to support its conclusion that the debtors' centre of main interests ("COMI") lay outside the Cayman Islands – i.e., that the lack of assets in the Caymans meant that the insolvency representatives would have to rely on the assistance of other courts to make distributions to creditors. Finally, the court emphasized that improper purposes had motivated the commencement of the foreign proceedings and the application for recognition, namely seeking, through delay, to overturn the [SPhinX] settlement of the avoidance action without addressing the merits. The foreign representatives appealed the recognition decision.

On appeal, the court affirmed the lower court's decision. While it noted that the debtors' COMI might be presumed to be the Cayman Islands because they were incorporated there, see 11 U.S.C. §§ 1502 (4) and 1516 (c) [Arts. 2 (b) and 16 (3) MLCBI], the court concluded that the pertinent question was what was required to rebut the presumption that the COMI was the debtor's place of registration, pursuant to 11 U.S.C. § 1516 (c) [Art. 16 (3) MLCBI]. As Chapter 15 directed courts to take guidance from the application of similar statutes by foreign jurisdictions because of its international origin pursuant to 11 U.S.C. § 1508 [Art. 8 MLCBI], it viewed as persuasive an analysis of this issue reached by the European Court of Justice [ECJ]. In reading *Bondi v. Bank of America, N.A., (In re Eurofood IFSC Ltd.)*,[12] the court viewed the ECJ as requiring a debtor's COMI to be determinable from criteria that were objective and ascertainable by third parties, and permitting the presumption to be rebutted if such criteria established that the debtor company's registered office was nothing more than "a letterbox" company not carrying out any business in the location in which its registered office was situated. On the facts of the case, the court held that the presumption was sufficiently rebutted. It reached that conclusion based both on the debtors' lack of physical presence in the Cayman Islands and the improper purposes for commencing foreign proceedings in the Cayman Islands and seeking recognition under Chapter 15.

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[11] Supra note 4.

[12] Supra note 12.

Case 769: MLCBI 1 (2), 2 (a), (d), 15 (2)(a), (b), 15 (3), 16 (3)
United Kingdom: High Court of Justice, Chancery Division, Bristol District Registry No. 6-BS30434
Re European Insurance Agency AS[13]
8 August 2006
Original in English
Abstract prepared by Ian Fletcher, National Correspondent

[**Keywords**: *centre of main interests (COMI); foreign main proceeding; foreign representative; presumption-centre of main interests (COMI); scope*]

The debtor was an insurance company whose registered office was in Norway. Insolvency proceedings ("foreign proceeding") commenced with respect to the debtor in Norway in January 2006. The debtor did not have any places of business or carry out business in Great Britain, but had assets in England and Wales. In August 2006, the insolvency representative ("foreign representative") of the Norwegian proceeding applied to the English court for orders, inter alia, recognizing the foreign proceeding as a "foreign main proceeding". The foreign representative supported its application with the information requested in Art. 15 (2)(a) and (b) CBIR[14] [Art. 15 (2)(a) and (b) MLCBI], and declared, pursuant to Reg. 15 (3) CBIR [Art. 15 (3) MLCBI], that the foreign proceeding was the only insolvency proceeding against the debtor.

In its application, the foreign representative stated that the foreign proceeding was a foreign proceeding pursuant to Reg. 2 (i) CBIR [Art. 2 (a) MLCBI], which enacted the MLCBI, and did not fall under one of the exceptions as provided for in Reg. 1 (2) CBIR [Art. 1 (2) MLCBI]; that it was the foreign representative of the debtor pursuant to Reg. 2 (j) CBIR [Art. 2 (d) MLCBI]; and that the debtor's registered office in Norway constituted its centre of main interests [pursuant to Art. 16 (3) MLCBI].

The court ordered, inter alia, that the foreign proceeding was recognized as a foreign main proceeding in accordance with the MLCBI as set out in the CBIR [pursuant article 17 (2)(a) MLCBI].

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[13] Unreported court order.

[14] CBIR refers to the Cross-Border Insolvency Regulation 2006, which only applies in Great Britain; therefore, reference is not made to the United Kingdom of Great Britain and Northern Ireland.