IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2025] SGHC 67

Originating Application No 90 of 2025

In the matter of Part 11 of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of Section 252 and Part 11 of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of the Third Schedule of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of Xiangshui Hengsheng Stainless Steel Casting Co., Ltd.

King & Wood Mallesons

… *Applicant*

Originating Application No 91 of 2025

In the matter of Part 11 of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of Section 252 and Part 11 of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of the Third Schedule of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of Jiangsu Delong Nickel Industry Co., Ltd

King & Wood Mallesons

… *Applicant*

Originating Application No 92 of 2025

In the matter of Part 11 of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of Section 252 and Part 11 of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of the Third Schedule of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of Yan Cheng City Hong Chuang Trading Co., Ltd

King & Wood Mallesons

… *Applicant*

GROUNDS OF DECISION

[Insolvency Law — Cross-border insolvency — Recognition of foreign insolvency proceedings]

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Aidan Xu @ Aedit Abdullah J:

1 These applications, HC/OA 90/2025, HC/OA 91/2025 and HC/OA 92/2025 (the "applications") were among the first few applications for recognition and reliefs in respect of insolvency proceedings commenced under Chinese insolvency law. These grounds are issued to assist practitioners in the area.

2 The applications were made by King & Wood Mallesons (the "applicant"), the reorganisation administrator of three related Chinese-incorporated companies undergoing a consolidated reorganisation in the People's Republic of China ("PRC"). The applicant sought recognition and reliefs under the UNCITRAL Model Law on Cross-Border Insolvency (the "Model Law"), as adopted in Singapore by way of s 252 and the Third Schedule of the Insolvency, Restructuring and Dissolution Act 2018 (2020 Rev Ed) (the "IRDA").

3 Having considered the arguments and the evidence before me, I concluded that the requirements in respect of granting recognition and reliefs under the Model Law were satisfied. Accordingly, I granted the orders sought in the applications.

Background in relation to the Delong Companies and the Chinese reorganisation proceedings

4 The three related Chinese companies which were the subject of the applications are Jiangsu Delong Nickel Industry Co Ltd ("JDNI"), Xiangshui Hengsheng Stainless Steel Casting Co Ltd ("XHSS") and Yan Cheng City Hong Chuang Trading Co Ltd ("YCHC") (collectively, the "Delong Companies").[1] The Delong Companies belonged to the Delong Group, a stainless steel enterprise with companies located in various regions of the Jiangsu province of the People's Republic of China ("PRC").[2] The Delong Companies operated similar business activities. JDNI, incorporated on 2 August 2010, focused on the production and sale of nickel alloy products.[3] XHSS, incorporated on 13 June 2011, focused on stainless steel casting and the sale of stainless steel products.[4] YCHC, incorporated on 3 July 2019, focused on the sale of nickel alloy products and stainless steel products.[5]

XHSS' and JDNI's reorganisation proceedings

5 On 24 July 2024, a creditor of XHSS applied to the PRC People's Court of Xiangshui County, Jiangsu Province (the "PRC Court") for XHSS to be

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1 Applicant's Written Submissions dated 7 March 2025 ("AWS") at para 1.

2 AWS at para 5.

3 AWS at para 6.

4 AWS at para 7.

5 AWS at para 8.

placed in reorganisation (the "XHSS reorganisation application").[6] Separately, a creditor of JDNI applied to the PRC Court for JDNI to be placed in reorganisation (the "JDNI reorganisation application").[7] XHSS' and JDNI's creditors and shareholders were notified and given seven days to indicate their position on the respective applications. However, they neither responded nor participated in the proceedings relating to the respective applications.[8] On 1 August 2024, the PRC Court granted the XHSS reorganisation application and JDNI reorganisation application and made similar orders in relation to each application. The PRC Court ordered that: (a) XHSS / JDNI be placed in reorganisation; (b) the applicant be appointed as XHSS' / JDNI's reorganisation administrator; and (c) one Mr Zhang Jingping ("Mr Zhang") be appointed as the person-in-charge of XHSS' / JDNI's reorganisation administrator, *ie*, the applicant (collectively, the "XHSS reorganisation orders" and the "JDNI reorganisation orders").[9] Under PRC law, there was no avenue of appeal against these orders made by the PRC Court.[10]

The consolidation of reorganisation proceedings

6 On 19 August 2024, the applicant applied to the PRC Court (in its capacity as the reorganisation administrator of JDNI) for a consolidation of JDNI with 27 other related companies (including XHSS and YCHC) so that the Delong Group could be reorganised (the "Consolidation Application"). In the same application, the applicant also applied for the reorganisation proceedings in relation to each entity in the Delong Group to be consolidated. The

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6 AWS at para 9.

7 AWS at para 12.

8 AWS at paras 10 and 13.

9 AWS at paras 11 and 14.

10 AWS at para 15.

Consolidation Application was sought because: (a) JDNI was the ultimate holding company of the Delong Group and had exercised control over the affairs and management of the Delong Group entities; (b) the operations, financials and personnel of the Delong Group entities were highly intertwined; and (c) it would be more expedient for the Delong Group entities to be reorganised as a combined entity.[11]

7 The creditors and shareholders of the Delong Group were notified and given the opportunity to indicate their position on the Consolidation Application to the PRC Court. Objections from eight creditors and shareholders were received and considered by the PRC Court.[12] On 30 October 2024, the PRC Court granted the Consolidation Application and ordered that: (a) JDNI's reorganisation administrator, *ie*, the applicant, be appointed as the administrator of the consolidated reorganisation; and (b) Mr Zhang be appointed as the person-in-charge of the consolidated reorganisation administrator, *ie*, the applicant (collectively, the "Consolidation Orders").[13] The PRC Court had found that there was a high degree of confusion in legal personality among the 28 companies (in terms of corporate governance, business operations and financial management, as there was, for instance, a large number of continuous coordinated withdrawals, gratuitous fund transfers, or internal transactions between the 28 companies), and that the cost of distinguishing the properties of the 28 companies would be too high. Further, substantial consolidation and reorganisation would not harm the creditors' interests of fair settlement creditors – it would allow all creditors to be fairly compensated in the same procedure, improve the efficiency of reorganisation, substantially protect the

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11 AWS at para 16.

12 AWS at para 17.

13 AWS at para 18.

creditors' rights to fair compensation, and increase the possibility of successful reorganisation.[14]

8 Again, there was no avenue of appeal against the Consolidation Orders. However, the creditors and shareholders of the Delong Group were entitled to apply to the PRC Court to reconsider the Consolidation Application within 15 days after their receipt of the Consolidation Orders. No such application was made.[15]

Background in relation to the applications

9 The Delong Group (encompassing the Delong Companies) was undergoing the consolidated reorganisation at the time of the applications, during which the applicant uncovered information and potential issues about the Delong Companies' affairs in Singapore which motivated the applications.

10 I discuss them in turn. Firstly, in relation to XHSS, the applicant discovered that XHSS had transferred its 100% shareholding in Alchemist Metal Industry Pte Ltd ("AMI SG"), a Singapore-incorporated company, to Gunbuster Nickel Industry Pte Ltd ("GNI SG"), also a Singapore-incorporated company, for a nominal consideration of $1, on or around 15 May 2024 (before the commencement of XHSS' reorganisation). For context, AMI SG was a 99% shareholder of PT Gunbuster Nickel Industry ("PT GNI"), an Indonesia-incorporated company. PT GNI was granted a syndicated loan of around USD 1 billion by a group of banks in Indonesia on or around 26 May 2023. Since around 30 August 2024, the applicant had been involved in discussions between

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14 1st affidavit of Xu Chun dated 17 February 2025 ("1st affidavit of Xu Chun") at pp 99–101.

15 AWS at para 19.

PT GNI and these banks with respect to a proposed restructuring of the syndicated loan. Since 20 January 2025, XHSS was able to regain its 100% shareholding in AMI SG through a transfer of one Dai Li's (a 60% shareholder of JDNI) entire shareholding in GNI SG to XHSS.[16]

11 Next, as for JDNI, JDNI had mortgaged its shares in Sino Virtue International Development Pte Ltd, a Singapore-incorporated company (the "Sino Virtue shares"), to CFHI Financial Leasing Co Ltd ("CFHI") to secure outstanding amounts under sale and leaseback agreements between: (a) JDNI and Liyang Longyue Metal Products Co Ltd (a subsidiary of JDNI) ("Liyang Longyue") as joint lessees; and (b) CFHI as the lessor. While Liyang Longyue had been making payment of the monthly rentals under the agreements and had not defaulted in payment, on or around 30 July 2024 (shortly before the commencement of JDNI's reorganisation), CFHI enforced the mortgage granted by JDNI over the Sino Virtue shares and transferred them to itself.[17]

12 Finally, in relation to YCHC, YCHC had receivables of around RMB 5 billion due and owing from PT GNI (the "PT GNI Receivables"). On or around 29 May 2023, YCHC assigned the PT GNI receivables to AMI SG, and it was unclear whether AMI SG had provided consideration.[18]

13 The applicant sought recognition of:[19]

(a) the reorganisation proceedings (concerning XHSS and JDNI separately, as well as the consolidated reorganisation); and

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16 AWS at paras 6 and 20–24.

17 AWS at paras 25–26.

18 AWS at para 27.

19 AWS at para 1.

(b) the XHSS Reorganisation Orders, JDNI Reorganisation Orders and Consolidation Orders (the reorganisation proceedings and these orders shall collectively be referred to as the "PRC Reorganisation Proceedings").

14 The applicant also sought recognition of its appointment as the reorganisation administrator of the Delong Companies for the following purposes: (a) ascertaining and taking control of the Delong Group's assets in Singapore to aid the PRC Reorganisation Proceedings; (b) ascertaining the Delong Group's assets in Singapore and the value of such assets by investigating and reviewing the books and records of AMI and GNI SG; (c) examining the directors and officers of AMI and GNI SG and other persons with relevant information and knowledge of the affairs and business of the Delong Group in Singapore; and (d) facilitating the ongoing discussions with the syndicate banks in relation to the restructuring of the syndicated loan granted to PT GNI.[20]

The Chinese Insolvency Regime

15 Expert evidence was provided through the affidavit of one Mr Jing Zhong ("Mr Jing"). Mr Jing's affidavit was helpful in explaining the Chinese insolvency regime.

16 Reorganisation proceedings in the PRC are governed by: (a) the Enterprise Bankruptcy Law of the PRC (adopted at the 23rd Meeting of the Standing Committee of the Tenth National People's Congress on 27 August 2006) (the "PRC Bankruptcy Law"); (b) the Company Law of the People's Republic of China (Revised in 2023) (the "PRC Company Law"); and (c) the

[20] AWS at para 28.

Notice of the Supreme People's Court on the Promulgation of the Minutes of the National Court Work Meeting on Bankruptcy Trials (promulgated on 4 March 2018 by the Supreme People's Court) (the "Notice").[21]

17 There are three key stages of a reorganisation proceeding, as set out in the PRC Bankruptcy Law:[22]

(a) In the first stage, a debtor or creditor may directly apply to the People's Court for the debtor to be reorganised. This may be done by select creditors after the People's Court accepts an application for bankruptcy but before it declares the debtor bankrupt. The period of reorganisation begins from the court ruling of reorganisation and ends when the procedure for reorganisation is terminated (Arts 70 and 72 of the PRC Bankruptcy Law).

(b) In the second stage, a debtor or an administrator shall, within six months from the date of the People's Court ruling that the debtor shall undergo reorganisation, submit a draft plan for the reorganisation to the People's Court and the creditors' meeting (Art 79 of the PRC Bankruptcy Law). The administrator shall be designated by the People's Court, and the administrator may be a liquidation team (comprised of persons of the departments / authorities concerned or a law firm), a certified public accountant firm, a bankruptcy liquidation firm or any other public intermediary agency (Arts 22 and 24 of the PRC Bankruptcy Law).

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21 1st affidavit of Jing Zhong dated 24 January 2025 ("1st affidavit of Jing Zhong") at para 7.

22 1st affidavit of Jing Zhong at paras 8–9 and 26–27.

(c) In the third stage, the People's Court shall, within 30 days from the date on which it receives a draft plan for the reorganisation, convene a creditors' meeting for a vote on the plan, during which the debtor or administrator shall explain the plan and answer queries from the creditors (Art 84 of the PRC Bankruptcy Law). The creditors are grouped and when more than half of the creditors representing at least two-thirds of the total amount of claims in each group present at the meeting agree to the plan, the plan will be adopted. The debtor or administrator shall, within ten days from the adoption of the plan, apply to the People's Court for approval of the plan (Art 86 of the PRC Bankruptcy Law). If the People's Court deems that the application complies with the PRC Bankruptcy Law, it shall, within 30 days from the date on which it receives the application, decide to grant approval or terminate the procedure for reorganisation.

(i) If the PRC Court approves it, the debtor shall be in charge of the implementation of the plan under the administrator's supervision. The administrator is required to submit a report to the People's Court at the expiration of the reorganisation period. In addition, the administrator would be supervised by the creditors' meeting and the creditors' committee. The People's Court may impose a fine on the administrator if he fails to perform his duties.

(ii) Where a debtor cannot or fails to implement a reorganisation plan, the PRC Court shall, upon the administrator or interested party's request, terminate the implementation of the plan and declare the debtor bankrupt.

18 The administrator is subject to further duties, such as: (a) taking over the debtor's property, books and documents; (b) investigating its financial position and preparing a report on such position; (c) deciding: (i) matters on the debtor's internal management; (ii) its day-to-day expenses and other necessary expenditures; and (iii) whether to continue or suspend the debtor's business before the first creditors' meeting is held; (d) managing and disposing of the debtor's property; (e) participating in legal action on behalf of the debtor; (f) proposing to hold creditors' meetings; and (g) performing other duties deemed by the People's Court.[23]

19 As for the consolidation proceeding, a decision by the court to consolidate separate entities and reorganisation proceedings is underpinned by the following considerations. First, the starting point is that the People's Court should respect the separate legal entities, but a substantive consolidation of affiliate companies may be adopted for bankruptcy or reorganisation in exceptional circumstances where their affairs or property are highly mixed / intertwined and the cost for distinguishing the properties of each affiliate company is too high, severely jeopardising the creditors' interests of fair repayment (Art 32 of the Notice).[24] Second, the People's Court must promptly notify relevant interested parties and arrange for hearings after receiving a motion for consolidation.[25] Third, the People's Court may have regard to: (a) the mixing of the affiliate companies' assets and the duration of such mixing; (b) the relationship between the companies, benefits to the creditors if repayment is consolidated; (c) the enhancement of the possibility of enterprise reorganisation; and (d) whether the consolidation of reorganisation would

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23 1st affidavit of Jing Zhong at para 10.

24 1st affidavit of Jing Zhong at para 12.

25 1st affidavit of Jing Zhong at para 13.

allow: (i) claims and debts to be fairly settled; (ii) the lawful rights and interests of creditors and debtors to be safeguarded; and (iii) the order of the socialist market economy to be maintained (see Art 23 of the PRC Company Law). Fourth, the People's Court shall decide, within 30 days of receiving the motion, whether to adopt the consolidation (Art 33 of the Notice).[26] Fifth, upon approval of the reorganisation, each entity's rights and debts shall be extinguished and its properties shall be treated as a unified bankruptcy estate or property. Additionally, all creditors of each entity shall be fairly compensated in the same procedure according to the statutory order (Art 36 of the Notice).[27]

Application for recognition of a foreign proceeding

20 Art 15 of the Model Law states that a foreign representative may apply for the recognition of the foreign proceeding in which the foreign representative has been appointed, subject to the fulfilment of the procedural requirement that the application is accompanied by the requisite documentation (Arts 15(2)–15(4) of the Model Law). The following issues thus needed to be considered:

(a) whether the PRC Reorganisation Proceedings constituted a "foreign proceeding";

(b) whether Mr Zhang was a "foreign representative", and whether he was appointed under the PRC Reorganisation Proceedings; and

(c) whether the procedural requirements under Art 15 of the Model Law were satisfied.

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[26] 1st affidavit of Jing Zhong at paras 13−14.

[27] 1st affidavit of Jing Zhong at para 15.

Whether the PRC Reorganisation Proceedings constituted a "foreign proceeding"

21 A "foreign proceeding" is defined in Art 2(*h*) as follows:

> 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign State, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the property and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganisation or liquidation[.]

22 Thus, the five requirements for a proceeding to qualify as a "foreign proceeding" under the Model Law, which were set out in the Court of Appeal decision of *Ascentra Holdings, Inc (in official liquidation) and others v SPGK Pte Ltd* [2023] 2 SLR 421 ("*Ascentra Holdings*") (at [29]), are that:

(a) the proceeding must be collective in nature;

(b) the proceeding must be a judicial or administrative proceeding in a foreign State;

(c) the proceeding must be conducted under a law relating to insolvency or adjustment of debt;

(d) the property and affairs of the debtor company must be subject to control or supervision by a foreign court in that proceeding; and

(e) that proceeding must be for the purpose of reorganisation or liquidation.

Whether the PRC Reorganisation Proceedings were collective

23 Turning to the first requirement of a collective proceeding, the following propositions in *Ascentra Holdings* were relevant:

(a) a collective proceeding concerns all creditors of the debtor generally, and is not instigated at the request and for the benefit of a single secured creditor (*Ascentra Holdings* at [104(a)], citing *United Securities Sdn Bhd (in receivership and liquidation) and another v United Overseas Bank Ltd* [2021] 2 SLR 950 ("*United Securities*") at [55]–[62]);

(b) a key consideration is whether substantially all of the debtor's assets and liabilities are dealt with in the proceeding (*Ascentra Holdings* at [104(b)], citing *United Securities* at [55]–[62]); and

(c) a collective proceeding considers the rights and obligations of all creditors (at [105], citing *Re Betcorp Ltd (in liquidation)* 400 BR 266 (Nevada US Bankruptcy Court, 2009) at 281).

24 The applicant submitted that the PRC Reorganisation Proceedings constituted a collective proceeding as they were commenced under the PRC Bankruptcy Law, which provided a framework for insolvent business entities to propose a reorganisation plan and for creditors to participate in the formulation, approval and implementation of the reorganisation plan.[28]

25 To my mind, these would not be sufficient to satisfy the requirement as these were mere restatements of the PRC Bankruptcy Law and did not address the nature of the PRC Reorganisation Proceedings, *viz*, whether they were collective. Nevertheless, on a consideration of the objectives and workings of the PRC Reorganisation Proceedings, I was satisfied that they constituted a collective proceeding. A meeting of all creditors of the Delong Group would have to be called, under PRC law, so that they could vote on the draft plan for

[28] AWS at para 42(a).

reorganisation and have their queries answered by the applicant (see [17(c)] above). Further, the statutory voting threshold would have to be met for each category of creditors, including the preferential creditors and the common unsecured creditors, before the plan could be approved by the PRC Court. Additionally, under a consolidated proceeding, the benefit to the creditors in having consolidated repayment and their interest in fair repayment would be expressly considered, and the creditors of each entity would still be fairly compensated according to the statutory order (see [19] above). In fact, the PRC Court was of the view that consolidation would ensure the fair settlement of the interests of all creditors (see [7] above), and the Consolidation Orders expressly stated that the application complied with the basic principles of fair liquidation of the creditors' rights and debts under the PRC Bankruptcy Law.[29]

26 Moreover, all the assets and liabilities of the Delong Companies would be in a consolidated reorganisation where the rights and debts of each entity would be extinguished and the properties owned by each entity would be treated as a unified estate.[30] Accordingly, the PRC Reorganisation Proceedings concerned all the creditors generally, considered their rights and obligations, and dealt with substantially all of the Delong Companies' assets and liabilities.

Whether the PRC Reorganisation Proceedings constituted a judicial or administrative proceeding in a foreign State

27 As I had found in Re *Compuage Infocom Ltd* [2025] SGHC 49 ("*Compuage*"), the concept of a "judicial / administrative proceeding" is closely related to that of a "foreign court" (at [21]–[22]). Under Art 2(*e*) of the Model Law, a "foreign court" refers to a judicial or other authority competent to control

[29] 1st affidavit of Xu Chun at p 101.

[30] 1st affidavit of Xu Chun at p 100.

or supervise a foreign proceeding. The PRC Court fell within this definition. First, it was clearly a judicial authority. Second, it was competent to control or supervise the reorganisation (assuming for the moment that the reorganisation was a "foreign proceeding"). The PRC Court had jurisdiction over the substantial consolidation and reorganisation of the 28 companies.[31] The PRC Court exercised its adjudicative powers under the PRC Bankruptcy Law to appoint an administrator, and possessed other adjudicative powers such as to convene a creditors' meeting and decide whether to approve or terminate the plan for reorganisation (see [17] above). Having found that the PRC Court was a foreign court under Art 2(*e*) of the Model Law, it would follow that the PRC Reorganisation Proceedings, which were commenced and supervised by a judicial body, *ie*, the PRC Court, constituted a judicial proceeding in a foreign State.

Whether the other requirements for a foreign proceeding were satisfied

28 I was also satisfied that the PRC Reorganisation Proceedings were conducted under a law relating to insolvency or adjustment of debt, *ie*, the PRC Bankruptcy Law.

29 Moreover, the property and affairs of the Delong Companies were subject to the control or supervision by the PRC Court. I accepted the applicant's submissions that the PRC Court was able to decide and intervene at each stage of the proceedings – the commencement of the proceedings, the appointment and supervision of the reorganisation administrator and the decision to approve or terminate the reorganisation plan, *etc*, and that the affairs of the Delong Companies were strictly subject to the control or supervision by

[31] 1st affidavit of Xu Chun at p 101.

the PRC Court collectively.[32] In my view, the property and affairs of the Delong Companies were subject to the control or supervision by the PRC Court in two ways: first, by the PRC Court directly having the power to approve the resolution plan under which the property and affairs of the Delong Companies would be managed (see [17(c)] above); and second, by the indirect means of the PRC Court supervising the administrator, who is subject to duties (see [18] above) and punishing the administrator for breaches of duties in relation to the handling of the companies' assets and affairs (see [17(c)(i)] above) (see *Compuage* at [25], citing *United Securities* at [67]).

30 Finally, the PRC Reorganisation Proceedings sought to reorganise XHSS, JDNI and YCHC, and, more importantly, the Delong Group as a unified entity. Accordingly, the PRC Reorganisation Proceedings constituted a "foreign proceeding".

Whether the applicant was a "foreign representative" appointed under the foreign proceeding

31 Under Art 2(*i*) of the Model Law, a "foreign representative" is a person or body authorised in a foreign proceeding to administer the reorganisation or the liquidation of the debtor's property or affairs or to act as a representative of the foreign proceeding. Having found that a corporate entity could fall within the definition of a "foreign representative" in *Re Genesis Asia Pacific Pte Ltd (in its capacity as a foreign representative for Genesis Asia Pte Ltd) and another and other matters* ("*Genesis Asia Pacific*") [2024] 4 SLR 570 (at [8]–[15]), I accepted the applicant's submission that it qualified as a "foreign representative" notwithstanding that it was not a natural person. Indeed, the

[32] AWS at para 42(b).

applicant had been authorised to administer the reorganisation pursuant to the Consolidation Court Orders.

32 However, I rehashed the same concern that I had in *Genesis Asia Pacific* that accountability for actions was best laid at the feet of specific individuals as corporate entities were not readily held accountable (*Genesis Asia Pacific* at [16]). In response, the applicant clarified and I noted that Mr Zhang was the natural person in charge of the reorganisation administrator / the applicant.

Whether the procedural requirements in Art 15 of the Model Law were satisfied

33 Finally, the procedural requirements in Art 15 of the Model Law were satisfied. The application was accompanied by certified copies of the PRC Court Orders (Art 15(2)(*a*) of the Model Law)[33] and a statement (in the affidavit of Mr Zhang) confirming that there were no foreign proceedings or proceedings under Singapore insolvency law in respect of the Delong Companies (Art 15(3) of the Model Law).[34] The documents had also been translated to English, satisfying the requirement in Art 15(4) of the Model Law.[35]

Recognition under Art 17 of the Model Law

34 A "foreign main proceeding" under Art 17(2)(*a*) is a foreign proceeding which takes place in a State where the debtor has its Centre of Main Interests ("COMI") (see also Art 2(*f*) of the Model Law). As I had found that the PRC Reorganisation Proceedings qualified as a "foreign proceeding", I turned to

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33 Exhibited in 1st affidavit of Zhang Jingping dated 24 January 2025 ("1st affidavit of Zhang Jingping") at tabs 5, 6 and 7.

34 1st affidavit of Zhang Jingping at para 31(b) and Tab 8.

35 1st affidavit of Xu Chun at pp 30–115.

examine whether the Delong Companies' COMI was in PRC. If they were in the PRC, then the PRC Reorganisation Proceedings would qualify as a "foreign main proceeding" under Art 17(2)(*a*) of the Model Law.

Whether the Delong companies' COMI was in China

35 A debtor's COMI is determined as at the date of the recognition application (Re *Fullerton Capital Ltd (in liquidation)* [2025] SGCA 11 ("*Fullerton Capital (CA)*") at [95], citing Re *Zetta Jet Pte Ltd and others (Asia Aviation Holdings Pte Ltd, intervener)* [2019] 4 SLR 1343 ("*Zetta Jet (No 2)*") at [61] and *British Steamship Protection and Indemnity Association Ltd and another v Thresh, Charles and another* [2024] 2 SLR 317 at [37]). The starting point is Art 16(3) of the Model Law, which presumes the debtor's COMI to be where its registered office is (*Fullerton Capital (CA)* at [46]). However, this presumption can be displaced by factors which point to the COMI being at some other location (*Fullerton Capital (CA)* at [51], citing *Zetta Jet (No 2)* at [31]). COMI factors must be objectively ascertainable by third parties (*Fullerton Capital (CA)* at [71]). The court accords weight to a factor depending on how it might influence the creditors' decisions to extend credit to the company (*Zetta Jet (No 2)* at [78]). COMI factors should also demonstrate permanence, intended or otherwise, and prioritise actual operations over legal structures and corporate identities (*Zetta Jet (No 2)* at [79] and [82]). In this case, the key factors included: (a) the location of the Delong Companies': (i) control and management; (ii) clients; (iii) creditors; (iv) employees; and (v) operations; (b) the Delong Companies' third-party dealings; and (c) the governing law (*Zetta Jet (No 2)* at [85]).

36 As at the date of the applications, the registered office of each entity in the Delong Companies was in the PRC. Presumably, the COMI of the Delong Companies was in the PRC. The applicant submitted that other factors cemented the COMI of the Delong Companies being in the PRC: the Delong Companies' principal place of business and operations, substantial assets and creditors were in the PRC, and Chinese law applied to most of the Delong Companies' disputes as well as the preparation and audit of their accounts.[36] I agreed with the applicant's submissions and found that there was no proof to the contrary, *ie*, that the COMI of the Delong Companies was not in the PRC. Accordingly, I granted recognition of the PRC Reorganisation Proceedings as a "foreign main proceeding" under Art 17(2)(*a*) of the Model Law.

Reliefs under the Model Law

37 Finally, the applicant also sought reliefs under the Model Law in connection with the recognition of the PRC Reorganisation Proceedings as a foreign main proceeding. These were: (a) a moratorium under Art 20(1)(*a*) of the Model Law; (b) the recognition of the applicant as a "foreign representative" within the meaning of Art 2(*i*) of the Model Law; (c) an order allowing the applicant to examine witnesses, take evidence and the delivery of information concerning the Delong Companies' property, affairs, rights, obligations or liabilities in Singapore under Art 21(1)(*d*) of the Model Law; and (d) orders entrusting the applicant with the administration or realisation of all or any part of the Delong Companies' property in Singapore, subject to the court's approval for expatriation of such property out of Singapore under Art 21(1)(*e*) of the Model Law.[37]

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36 AWS at para 46.

37 AWS at para 2.

38 Having found that the PRC Reorganisation Proceedings constituted a "foreign main proceeding", the moratorium under Art 20(1)(*a*) would arise automatically to stay individual actions or proceedings against the Delong Companies' property, rights, obligations and liabilities. Further, I was also satisfied that the applicant was a "foreign representative" under Art 2(*i*) of the Model Law (see [31] above).

39 As regards the grant of reliefs under Art 21(1)(*d*) of the Model Law, in *Re Fullterton Capital Ltd (in liquidation)* ("*Fullerton Capital (HC)*") [2024] SGHC 155, Kristy Tan JC considered statutory provisions from the IRDA and the then-Companies Act (Cap 50, 2006 Rev Ed), as well as case law from the UK and Singapore, and held that there were three requirements to be satisfied. This was in line with the prevailing approach taken by the courts as regards granting orders under Art 21(1)(*d*) of the Model Law read with s 244 of the IRDA. The three requirements were as follows (*Fullerton Capital (HC)* at [87]):

> (a) First, the documents / information must concern the debtor's property, affairs, rights, obligations or liabilities …
>
> (b) Second, the liquidator must show that there is some reasonable basis for his belief that the person concerned can assist him in obtaining relevant information and/or documents, and that the information / documents are reasonably (and not absolutely) required … I further considered whether the phrase in the Art 21(1) *chapeau* 'where necessary to protect the property of the debtor or the interests of the creditors' meant that a higher threshold than reasonableness had to be shown in respect of the basis for the liquidator's belief and the utility of the information / documents sought. I did not think so. Liquidators are duty-bound to try and obtain as full a picture as possible of the company's affairs; to maximise the return to those interested in the liquidation by increasing the company's assets or reducing its debts; and to identify potential claims to maximise recovery for creditors: *Re Lion City Holdings Pte Ltd* [2003] 3 SLR(R) 493 at [18]; *Petroships Investment Pte Ltd v Wealthplus Pte Ltd (in members' voluntary liquidation) (Koh Brothers Building & Civil Engineering Contractor (Pte) Ltd and*

> *another, interveners) and another matter* [2018] 3 SLR 687 at [138]; *Celestial* at [52(a)]. In my view, the taking of steps to facilitate any of these purposes would be 'necessary to protect the property of the debtor or the interests of the creditors'. The liquidator's pursuit of information / documents based on his reasonable belief that these could be obtained from the person concerned and were reasonably required to facilitate any of these purposes would, in turn, also be regarded as 'necessary to protect the property of the debtor or the interests of the creditors'.
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> (c) Third, on satisfaction of the above two requirements, the court had a discretion whether to make the order. In exercising its discretion, the court must have regard to all relevant circumstances and ensure that the interests of the affected person are adequately protected, which includes not making an order that is wholly unreasonable, unnecessary or oppressive to him; a balance must be struck between the relief sought and the interests of the affected person …

40 Applying these requirements to the facts, the information that the applicant sought to obtain concerned the Delong Companies' property, affairs, rights, obligations and liabilities. Such information pertained to the Delong Group's assets in Singapore (including the AMI SG Shares and PT GNI receivables) and the value of such assets. This information was: (a) contained in, amongst others, the books and records of AMI SG and GNI SG; and (b) held by the directors and officers of AMI SG and GNI SG and other relevant persons with relevant information and knowledge of the affairs and business of the Delong Group, which the applicant sought to examine.[38] I was also satisfied that the applicant had shown reasonable basis for its belief that the directors and officers of AMI SG and GNI SG could assist in obtaining such information, and that the information was reasonably required. The applicant identified specific transactions that warranted investigation, particularly given their timing in relation to the reorganisation proceedings (see [10]–[12] above). The information sought was reasonably required to obtain as full a picture as

[38] AWS at para 62.

possible of the Delong Companies' affairs and to identify potential claims to maximise recovery for creditors.

41 Lastly, having regard to all relevant circumstances and the interests of affected persons, I was satisfied that the timing of the transactions (which were identified and specified), the substantial values involved (USD 1 billion syndicated loan and RMB 5 million in receivables) warranted the orders under Art 21(1)(*d*) of the Model Law.

42 I also granted the reliefs sought under Art 21(1)(*e*) of the Model Law as the applicant clarified that no property would be expatriated without the leave of court. As I had held in *Compuage*, this preserved the interests of local creditors by giving them a last opportunity to raise any concerns before such assets were repatriated. Again, if it could be shown that local creditors would be treated fairly and given ample opportunity to participate in the insolvency proceedings abroad, there would rarely be any reason to refuse repatriation (*Compuage* at [36]).

Public policy exception in Art 6 of the Model Law

43 Finally, I was satisfied that the recognition and grant of relief would not contravene public policy and accordingly, Art 6 of the Model Law was satisfied.

Conclusion

44 In conclusion, I granted the applications in their entirety.

Aidan Xu
Judge of the High Court

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