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Insolvency Law

Proposal for a definition of “centre of main interests” (articles 2 (b) and 16 (3) of the UNCITRAL Model Law on Cross-Border Insolvency) by the delegations of Mexico, Spain and the Union Internationale des Avocats (UIA)

1. The centre of main interests is the place where the debtor conducts his main [economic] activities on a regular basis and is therefore ascertainable by third parties [having a sufficient link with the State where the proceedings have been opened].
2. In the absence of proof to the contrary, the debtor’s registered office, or habitual residence in the case of an individual, is presumed to be the centre of the debtor’s main interests.
3. The court may rebut this presumption where it is clear from all the circumstances that the centre of main interests of the debtor is located in another country [or has closer links to another country].
4. These circumstances to be considered by the court may be namely:
 - The location of a debtor’s management or those who actually managed the debtor or of the operational management of the debtor
 - The location of the debtor’s main assets and/or creditors
 - The location from which purchasing policy, staff, accounts payable are managed or cash management system was run
 - [...]

