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Academic Project

Project Leads:



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Economic Assessment of International Commercial Law Reform

9TH WORKSHOP, 15 February 2024

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Overview

- **Changes to the Framework & the Preliminary Draft Guide to the Framework**
- **Summary & key issues of the “Study”**
- **Future work**



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(revised) Framework

E I : A B C D E

with confidence level from _ [insert 1-5]

Variable Description

- A** is the net, direct impact of the new rules, rather than those applicable in the absence of reform, applied *ex ante* or *ex post*
- B** is the net, impact of the new rules as a network, that is, the existence of international rules, applied *ex ante* or *ex post*
- C** is the net, systemic, including developmental, impact of the new rules, rather than those applicable in the absence of reform, applied *ex ante* or *ex post*
- D** is the extent, measured from 0 to 1, that the new rules have been or will be effectively applied by courts and authorities
- E** is the expected (*ex ante*) or actual (*ex post*) net cost of creating and transitioning to the new rules. E does not increase over time

Where –

- **E I** is economic impact
- **Confidence level** is the percentage of probability, or certainty, of impacts occurrence

- **Framework in a table** instead of Formula
- Definition of ***Confidence level***
- Explanation of the ***net impact***
- Definition of ***Network*** under Variable B



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Framework (Variables)

❖ Variables A-C

- ✓ Linked to transaction costs & the effect of the ICLR on transaction costs

Variable B: ICLR reduces the cost of transactions, transactions become more profitable and result in an expansion in the size of the market.

Introduction: explanation of transaction costs and link with economic benefits.

❖ Variable D

- ✓ Variations in implementation can result in lower economic benefits
- ✓ The impact of the ICLR depends on whether there is a developed market.

For example, two countries may adopt identical banking laws and implement them similarly. If the first country has a developed bond market, while the second relies heavily on banking finance, the impact on the first country may be less pronounced.



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Additional Factors & Effects

Competition

➤ ***whether the ICLR would lead to increased or restricted competition in the structure of the relevant market.***

- considering impact of (imperfect) competition
- identifying the relevant market and its structure
- applying concepts like market power
- examining increase in market power (e.g., affecting prices?)
- exploring potential barriers to entry/exit of market players

➤ *e.g.*, The expansion of the market due to ICLR may diminish the monopolistic power of local interests.



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Additional Factors & Effects

Externalities

➤ ***Social & environmental effects, to the extent they have economic impacts***

➤ A deep understanding of the relevant sector is required

Results:

- a more comprehensive understanding of the broader implications of the ICLR
- fostering a more sustainable and responsible decision-making process.

Examples:

- Credit reforms may increase criminality through expansion of credit to an industry engaged in criminal activities
- MAC Protocol may reduce the environmental impacts of mining through better equipment



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Additional Factors & Effects

Distributive effect

➤ ***Winners & losers / resource reallocation***

- ICLR favouring efficient parties at the expense of inefficient ones
- productive parties may borrow more and expand, while unproductive ones may experience significant downsizing & exit the market.



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(1) Identify the baseline scenario or counterfactual

- ❖ **Economic theories** to support ex post assessments
(*DiD, structural estimation*)
- ❖ **Descriptive statistics** to identify the specifics of transaction costs (i.e. factors that impede profitable transactions)

(2) Present the key assumptions

- ❖ **Reasonable assumptions** to be made

(3) Map and collect data

- ❖ **Mapping the available data**: creating a comprehensive overview of existing data & identifying what additional evidence needs to be collected
- ❖ Identifying the sources, approaches and methods for further **data gathering**

Steps (based on the EC guidance)

(4) Evaluate causality

(5) Specify the level of confidence

- ❖ the **level of the validity of a finding**, based on the type, quantity, quality of evidence/input data, and on the timing of data collection



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Study of Bo Bian's article on "Globally Consistent Creditor Protection, Reallocation, and Productivity"

Impact of stronger creditor protection in the aviation sector (CTC – AP)



**Across-firm reallocation
of assets & credit**
Winners & losers



Aggregate country-level productivity



- a) Competition increases
- b) Consumers benefit

- a) Easier asset redeployment
- b) Entry of foreign financiers



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Main takeaways from Bo Bian's article as compared to the EA Guide and the Case Study on a possible Maritime Protocol:

1. The article **does not distinguish between factors** in a manner similar to the Variables of the EA Project; for instance, it does not specifically address Variables A, B or C.
2. It highlights aspects such as **productivity** (i.e., increased transactions), **competition, shifts in market dynamics due to the entry of new financiers under a harmonised framework, impact on consumers, and factors affecting the applicability of CTC.**
3. The article **does not make a clear distinction between direct and indirect impacts.**
4. The article **does not consider the transition costs of the reform** (as per Variable E).
5. The results of the analysis for each issue/factor, **are not aggregated** but are rather presented and discussed individually.
6. Similar data sources, both country-specific and general, are included in the Guide / Case Study on a possible Maritime Protocol.
7. The analysis indicates that the productivity gains can be attributed to significant changes in the law, rather than to the harmonisation of rules across different countries.e.g. shipping.



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Future work

❖ Indicative list of questions to consider for future work

- ✓ Do the current Variables sufficiently reflect the factors considered in EAs?
- ✓ Should some of them be merged? E.g., B & C?
- ✓ Should other factors be taken into account (*separately*)? E.g., competition, externalities, level of economic development, “substantial changes in the law”?
- ✓ Are there any particular concepts that require further guidance and explanation?
- ✓ What methodology should be adopted, especially for the confidence level, distributive effects, assumptions?



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Thank you for your attention!
Any Questions?

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The Framework

a comprehensive formula to assess the economic impact of ICLR

$$\underline{\mathbf{EI}} = \left[\left[\underline{\mathbf{A}} + \underline{\mathbf{B}} + \underline{\mathbf{C}} \right] \times \underline{\mathbf{D}} \right] - \underline{\mathbf{E}}$$

WITH CONFIDENCE LEVEL FROM __ [INSERT 1-5]

Where –

- **EI** is economic impact
- **A** is the net, direct impact of the new rules, rather than those applicable in the absence of reform, applied ex ante or ex post
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*The analytic framework: -

- does not address the question of how the relevant impacts will be distributed
- does not address the non-quantifiable impacts of retaining or changing existing rules
- would be applied and compared with other law reform options which seek the same objective



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