Unidroit Foundation Foundation 10/2024
EE ECLR 19th Workshop
Rome, 17 September 2024

Report on the 19th Meeting of the Economic Evaluation of International Commercial Law Reform Project

1. The tenth session for the project on Economic Evaluation of International Commercial Law Reform (EE ICLR Project) took place in Rome and online on 17 September 2024. For the agenda and the list of participants, please see Annex 1 and Annex 2.

Item 1: Opening of the Session

2. The Directors of the Cape Town Convention Academic Project, Professor Louise Gullifer (Cambridge University), Professor Jeffrey Wool (President of the Unidroit Foundation and Secretary-General of the Aviation Working Group) and Professor Ignacio Tirado (Unidroit Secretary-General), opened the session and welcomed all the participants.

3. The Directors expressed their appreciation for Professor Jordi Paniagua's contribution to the project.

Item 2: Project Summary and Introduction to the revised Framework and Draft Guide

4. The Unidroit Secretariat (Mr Theodoro Kostoulas) gave a presentation (see Annex 3) on the project, as well as on the updated Draft Guide to the Framework for the Economic Evaluation of International Commercial Law Reform, and two Case Studies, as prepared by the Secretariat in collaboration with Professor Jordi Paniagua, the consultant (economist) who was hired in 2024 for this project.

5. The Secretariat presented the intersessional work undertaken between the ninth and tenth Workshops and introduced the changes that had been made to the Framework and the Preliminary Draft Guide to the Framework, many of which had been discussed or approved during the two intersessional meetings in June and July 2024. A notable change regarded the title of the project where "Assessment" had been replaced by "Evaluation" to better reflect the purpose of the Guide. Other general aspects presented included the shifted focus of the Guide on ex-ante evaluations, the explanation of transaction costs and economic frictions in the Introduction ("Background section") and their impact on their Factors vs ex post), as well as terminological changes, (e.g., adopting the term "economic gains" instead of "economic benefits", "Factors" instead of "Variables", "degree of certainty" instead of "degree of confidence", and "economic frictions"). Other main changes included the introduction of the "Benchmark" to support economic evaluations, expanding Factors 3 and 8, improving the Framework to allow for quantification and other "steps", and introducing three Annexes (Annex 1 on Economic Frictions & Transaction costs, Annex 2 on ex-post evaluation and its relationship with ex-ante, and Annex 3 on Third-party impacts).

6. The Secretariat also presented two Case Studies which were developed in collaboration with Professor Paniagua (see Annex 3 and Annex 4). Case Study 1 regarded the Unidroit Legislative Guide on Bank Liquidation, which was at the consultation phase, while Case Study 2 on the Unidroit Digital Assets & Private Law Principles which had been