CTCAP | Cape Town Convention Academic Project

Project Leads:

UNIDROIT

UNIVERSITY OF CAMBRIDGE Faculty of Law

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Economic Evaluation of International Commercial Law Reform

10TH WORKSHOP, 17 September 2024

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UNIDROIT

Overview

- **Summary of intersessional work**
- **Main changes to the Framework & the Preliminary Draft Guide**
- **Case Studies**
- **Future work**

- 9° Workshop in February 2024
- 2 Intersessional Meetings
- Towards finalisation

Project Development & Interessional work

Main issues discussed:

The stages of the law reform process & the focus of the Guide (ex ante vs ex post)

The relationship and distinctive features of the Factors, impact on transactions costs

Methodology / Terminology (e.g., transaction costs)

Main changes to the Framework

& the Preliminary Draft Guide

A) Title: Guide to the Framework for the Economic **Evaluation** of International Commercial Law Reform

B) Terminology:

- Economic gains (or **outcomes?**) *(economic benefits)*
- Economic Scoring *(economic impact)*
- Framework *(formula)*
- Factors & components *(variables)*
- Degree of certainty *(degree* of *confidence)*

C) Structure:

- Executive Summary
- Introduction: Background
- Framework: Uses
- Factors: Introduction
- Contexts of use: ex ante (ex post in Annex 2)
- Evaluation Actors
- Workflow
- Annex 1: Frictions & TC
- Annex 2: ex post & relationship with ex ante
- Annex 3: Third-party impacts

D) Substantive changes

Framework & Benchmark

Ex-ante focus: changes in the content throughout the Guide (e,g. contexts of use, Baseline scenario, Assumptions), Annex 2

Clearer purpose & scope of the Guide

Relationship between Factors, economic frictions and TC

Competition & Distributional effects: in the Introduction & under Factors A-C

Third-party impacts

D) Substantive changes

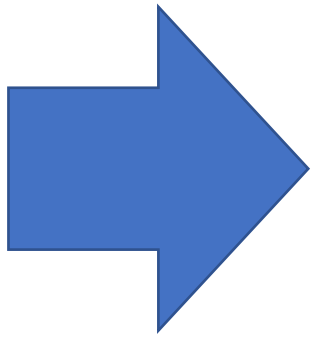
Factors: further developed & linked to economic frictions & transaction costs

- ✓ A: important to identify all key stakeholders (otherwise, low score)
- ✓ B: clarifying difference with A to avoid double counting (box: expansion in the size of the market, even by virtue of harmonization, falls under A)
- ✓ C: broader economic consequences
- ✓ D: broader to include any reason why the rules are not implemented or applied
- ✓ E: hard law and soft law considerations (e.g., hard law reforms entail higher costs)

Case Studies

Legislative Guide on Bank Liquidation

Digital Assets & Private Law Principles



- Testing how the Framework/Guide apply
- Receiving Feedback
- Improving the Guide
- Finalising

Future work

1) Framework (quantification & scoring system)

2) Relationship between Introduction, Factors and economic frictions/TC

3) Benchmark and ex-post analysis (further guidance?)

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Thank you for your attention!
Any Questions?

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