Economic Evaluation of International Commercial Law Reform project

Case Study

Economic Evaluation of the hypothetical legislative proposal for

Dispute Resolution for Cross-border Transactions of Micro, Small and Medium Enterprises (MSMEs) and Rural Communities[1]

This Case Study was prepared to test and support the implementation of the *Economic Evaluation of International Commercial Law Reform: Framework and Guide,* developed as part of the Economic Evaluation of International Commercial Law Reform (EE ICLR) Project under the Cape Town Convention Academic Project.

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Table of Contents

A. EXECUTIVE SUMMARY ... 3
1. Introduction to the law reform ... 3
2. Background to the Economic Evaluation ... 3
3. Scoring of the Factors ... 5
4. Calculation of ES ... 6
5. Ex-post quantification ... 6

B. BACKGROUND TO THE ECONOMIC EVALUATION (EE) ... 7
1. Timing aspects ... 7
2. Geographical context ... 7
3. Objectives of the evaluation ... 7
4. Evaluation actors ... 7

C. INTRODUCTION TO THE LAW REFORM ... 8
1. Baseline scenario ... 8
2. Objectives of law reform ... 8
3. Key assumptions ... 10

D. BENCHMARK ... 12
1. Benchmark ... 12
2. The constructed Benchmark ... 23
3. *Ex-post* economic studies ... 26

E. DATA AND CONCEPTUAL CAUSAL LINKS ... 40
1. Data ... 40
2. Conceptual causal links ... 41

F. ECONOMIC SCORE ... 43
1. Methodology ... 43
2. Factors ... 43
3. Level of certainty ... 57
4. Calculation of ES ... 60
5. *Ex-post* quantification ... 60

ANNEX. CONSULTED SOURCES ... 62

A. EXECUTIVE SUMMARY

1. Introduction to the law reform

• **The baseline scenario:** Dispute resolution mechanisms vary widely across jurisdictions, leading to inefficiencies for MSMEs and rural communities engaged in cross-border trade. In addition, rural communities and MSMEs often lack access to qualified legal professionals, affordable representation, and local dispute resolution facilities. Many procedures remain complex and financially burdensome for MSMEs. Even where disputes are resolved, enforcing outcomes across borders remains a significant hurdle.

• **Need and objectives:** In light of the pressing need to address disparities in access to justice for micro, small, and medium enterprises (MSMEs) and rural communities in remote areas, particularly concerning cross-border commercial dispute resolution, comprehensive law reform is imperative. While a variety of dispute resolution mechanisms exist, many procedures remain complex and financially burdensome for MSMEs. For example, cross-border litigation may be time-consuming and subject to multiple appeals, arbitration offers a final binding decision but is often expensive, and conciliation is more flexible, but its outcome is legally binding only if parties overcome their differences.

Therefore, a law reform for dispute resolution involving MSMEs should aim to develop a uniform approach that simplifies dispute resolution procedures for MSMEs and rural communities. This reform would foster economic growth and elevate living standards in more isolated areas.

• **The Benchmark:** The Ideal Benchmark draws from the United Nations (UN), the United Nations Commission on International Trade Law (UNCITRAL), Asia-Pacific Economic Cooperation (APEC), the World Intellectual Property Organization (WIPO), International Chamber of Commerce (ICC), and the European Union (EU).

2. Background to the Economic Evaluation

• **Actors:** Evaluation team consisting of UNIDROIT staff (lawyers) and an independent economist

• **Timing:** *Ex ante* (conceptual phase)

• **Objective(s):** The economic evaluation is intended to provide information about the possible impact of a law reform before establishing a Working Group and investing substantial resources into the project.

• **Scope:** International – the law reform is intended to be adopted by all States around the world, especially those with a high share of micro, small and medium enterprises and rural communities.

• **Key assumptions:** MSMEs and rural communities are assumed to face significant barriers in accessing effective dispute resolution due to high procedural costs, limited legal expertise, distance from administrative centres, language barriers, and uneven digital infrastructure. Traditional litigation and arbitration mechanisms are often designed for higher-value disputes and may therefore be unsuitable for the low-value, cross-border disputes commonly involving MSMEs. The proposed law reform is assumed to reduce these barriers by providing a simplified, affordable and technology-enabled Dispute Resolution Mechanism (DRM), including Online Dispute Resolution (ODR), mediation, and expedited arbitration. By reducing dispute-resolution costs, improving enforceability, and increasing legal predictability, the reform is expected to encourage MSMEs and rural economic actors

to participate more confidently in cross-border transactions. The assessment also assumes that the reform will need to operate across jurisdictions with different legal systems, institutional capacities and levels of digital readiness. These differences may affect implementation, uptake, and effective application, and are therefore reflected in Factor D and the level of certainty.

Framework

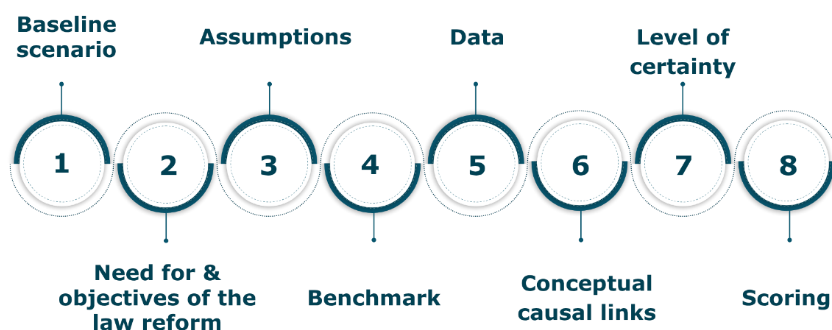
$$ES = [[A + B + C] \times D] / 3 - E$$

With level of certainty (%)

Where -

- **ES** is the Economic Score indicating the expected relative economic variation from a Benchmark [range: - 1 to 10].
- **A** is the net, direct gain of the new rules [range: 0 to 10].
- **B** is the net gain of the new rules as a network [range: 0 to 10].
- **C** is the net systemic (including developmental) impact of the new rules [range: 0 to 10].
- **D** is the extent that the new rules will be effectively applied by courts, authorities and private actors [range: 0 to 1].
- **E** is the expected total net cost of creating and transitioning to the new rules [range: 0 to 1].
- **Level of Certainty** is the qualitative assessment of confidence, or certainty, of the occurence of the impacts.

Evaluation Methodology and Workflow



3. Scoring of the Factors

Factor	Score (relative to Benchmark)	Main justification
A	8	The proposed law reform is expected to generate strong direct gains for MSMEs and rural communities by reducing dispute-resolution costs, legal advice and representation costs, travel and translation costs, procedural delays, enforcement uncertainty, and the risk of writing off unresolved claims.
B	10	The proposed law reform is expected to generate strong network gains by creating a more harmonised dispute-resolution framework across jurisdictions. These gains would arise from reduced legal search costs, standardised ODR/ADR procedures, easier drafting of dispute-resolution clauses, improved interaction with existing enforcement instruments, and greater predictability in the recognition and enforcement of outcomes as more states adopt or align with the same framework.
C	9	The proposed law reform is expected to generate substantial systemic gains by increasing MSME participation in cross-border trade, supporting formalisation, improving access to credit, encouraging investment in MSME-related sectors, strengthening supply-chain reliability, and increasing tax revenues through higher commercial activity.
D	0.9	Effective application is expected to be high because the proposed law reform would be designed around simplified procedures, ODR tools, and existing enforcement instruments. However, implementation risks remain in jurisdictions with weaker judicial capacity or limited digital infrastructure.
E	0.2	Transition costs are expected to be moderate but non-negligible, including negotiation and drafting costs, national implementation costs, training, ODR platform development, cybersecurity, translation tools, and ongoing maintenance.
Level of Certainty	Conjectural	The assessment is moderately reliable but remains subject to uncertainty because of the limited empirical evidence specifically addressing MSME-focused dispute-resolution reforms.

ES	7.9 (A – high economic impact)	

4. Calculation of ES

The Economic Score (ES) of the law reform is expected to be the following:

$$ES = (A + B + C) \times \frac{D}{3} - E = (8 + 10 + 9) \times \frac{0.9}{3} - 0.2 = 27 \times 0.3 - 0.2 = 8.1 - 0.2 = 7.9$$

5. Ex-post quantification

Ex-post quantification of the law reform can be demonstrated as the following:

For International Trade Flows:

	International Trade Flows	**ES**	***Ex-post* quantification**
Gil-Pareja et al. (2020)	7%	7.9	$\mathbf{7\% \times \frac{7.9}{10} = 5.53\%}$

For FDI in the lower quantiles (associated to SMEs):

	FDI in the lower quantiles (associated to SMEs)	**ES**	***Ex-post* quantification**
Myburgh and Paniagua (2016)	4%	7.9	$\mathbf{4\% \times \frac{7.9}{10} = 3.16\%}$

B. BACKGROUND TO THE ECONOMIC EVALUATION (EE)

1. Timing aspects

➢ **At what stage and phase is the EE taking place?**

1. The economic evaluation is conducted on an *ex-ante* basis, during the conceptual phase.

➢ **What is the time horizon, i.e., the length of the evaluation period?**

2. One of UNIDROIT'S Member States proposed that UNIDROIT initiate a legislative project to promote law reform on this specific topic. In response, UNIDROIT is conducting a feasibility study to assess the necessity and scope of the project. This economic evaluation is being conducted prior to the establishment of a Working Group.

➢ **What was the duration of the EE?**

3. The EE was conducted as a preliminary desk-based assessment during the conceptual phase of the proposed law reform. The precise duration of the EE should be inserted once confirmed by the Evaluation team.

2. Geographical context

➢ **What is the geographical context of the evaluation?**

4. The geographical context is international, as the reform is intended for use by different States around the world, especially those with a high share of micro, small and medium enterprises and rural communities. The law reform is relevant in both developed and developing economies, and aims to facilitate dispute resolution.

3. Objectives of the evaluation

➢ **What goals does the evaluation aim to achieve?**

5. The economic evaluation is intended to provide information about the possible impact of a law reform before a Working Group is established and substantial resources are invested into the project.

4. Evaluation actors

➢ **Who is carrying out the evaluation? What is the composition of the team(s)?**

6. UNIDROIT is carrying out the evaluation. The evaluation team consists of UNIDROIT staff (lawyers) and an independent economist.

C. INTRODUCTION TO THE LAW REFORM

1. Baseline scenario

➢ **What is the current market context and legal framework?**

7. Dispute resolution mechanisms vary widely across jurisdictions, leading to inefficiencies for MSMEs and rural communities engaged in cross-border trade. Many MSMEs operate in regions with fragmented legal frameworks where access to affordable dispute resolution is limited. Existing mechanisms, such as litigation and arbitration, are often designed for high-value disputes, making them complex and financially burdensome for small businesses. While international instruments such as the New York Convention and the Singapore Convention facilitate arbitration and mediation enforcement, their practice remains inconsistent for MSMEs and disputes in rural communities across jurisdictions, since rural communities and MSMEs often lack access to qualified legal professionals, affordable representation, and local dispute resolution facilities. Even where disputes are resolved, enforcing outcomes across borders remains a significant hurdle, discouraging many MSMEs from engaging in international trade.

➢ **What problem is the law reform seeking to solve? How could the existing situation develop in the absence of the proposed law reform?**

8. The proposed law reform represents a paradigm shift in the approach to MSME dispute resolution, particularly for rural communities engaged in cross-border commercial transactions. By addressing the unique needs of these enterprises and leveraging innovative legal and technological solutions, the reform has the potential to significantly enhance access to justice, foster economic growth, and promote the integration of remote areas into the global economy.

➢ **What is the size and scale of the problem and what actors are affected (stakeholder mapping)?**

9. Dispute resolution inefficiencies disproportionately affect MSMEs and rural businesses, which constitute the majority of enterprises in developing economies and contribute significantly to employment and GDP. The problem extends to trade partners, financial institutions, and legal professionals who interact with MSMEs in commercial transactions. Stakeholders affected by the current inefficiencies include MSMEs and rural communities lacking effective dispute resolution access, governments struggling to create inclusive legal frameworks, and arbitration centres adapting to new dispute resolution trends. The issue is particularly pressing in regions with high numbers of MSMEs engaged in international trade but lacking streamlined legal procedures.

2. Objectives of law reform

➢ **What is the expected outcome, including the nature and geographical scope of the instrument?**

10. The expected outcomes of the proposed law reform are the following:

- Facilitate dispute resolution for MSMEs and rural communities;

- Establish affordable and accessible Dispute Resolution Mechanism (DRM) for MSMEs and rural communities, particularly in remote areas;[6]
- Adjustment of DRM to the needs of MSMEs in remote areas by possibly providing focal points for expedited and cost-effective dispute resolution, specifically tailored to the needs of MSMEs engaged in cross-border commercial transactions – such focal points could be staffed by trained mediators and arbitrators well-versed in both local customs and international commercial practices;
- Implement a multi-tiered DRM with a focus on ORD and a possible one-stop shop model;[7]
- Provide mediation mechanisms tailored to MSMEs and rural communities;[8]
- Simplify and facilitate arbitration;
- Ensure automatic recognition of ODR awards related to MSMEs and rural communities and cooperation agreements with foreign courts for the execution of such awards.
- Enhance accessibility. The reform could integrate Online Dispute Resolution (ODR) platforms with virtual mediation and arbitration sessions, electronic filing and case management, automated translation services for cross-border disputes;

11. The instrument would have an international geographical scope and would be particularly relevant for jurisdictions with a high share of MSMEs, rural communities, and cross-border, low-value commercial transactions.

➢ **What is the expected implementation (e.g., number of ratifications, degree of adoption, etc.)?**

12. The reform is expected to be implemented through adoption, enactment or alignment by States, depending on the final nature of the instrument. Implementation may also require cooperation with ODR providers, arbitration and mediation institutions, courts, MSME associations, and public authorities. Initial implementation may be expected in jurisdictions with strong policy interest in MSME development, digital trade, and access to justice, with wider adoption depending on diplomatic support, institutional capacity and perceived economic benefits.

➢ **What are the possible alternative legislative options considered, and what is the foreseen nature of the instrument (soft law or hard law)?**

13. Possible legislative options include a non-binding soft-law instrument or a treaty-based hard-law instrument. A soft-law instrument would be easier to adopt and less costly to implement, but may provide weaker enforceability. A treaty-based instrument would provide stronger legal certainty and enforceability, but would involve higher negotiation, ratification and implementation costs.

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[6] APEC Launches Collaborative Framework on Online Dispute Resolution to Help Small Businesses, available here.

[7] eBRAM offers a one-stop shop for ODR, providing secured online communications, filing of submissions, mediations and hearings via eBRAM's video-conferencing platform, and translations via AI translation, see: eBRAM, APEC Online Dispute Resolution Service, available at: https://www.ebram.org/apec_odr.html

[8] The UNCITRAL Mediation Rules may provide a basis. UNCITRAL Mediation Rules 2021, available here.

3. Key assumptions

- **What are the main assumptions for this evaluation?**

14. The main assumptions in this EE are the following:

- MSMEs and rural communities, particularly in remote areas, face difficulties in navigating and understanding the dispute settlement procedure. Not all firms have equal opportunities to obtain legal expertise, decide on the different resolution mechanisms, or even enter complex dispute resolution procedures.
- The high costs of legal procedure and representation, as well as distance from administrative centres, impede those economic actors from entering into cross-border transactions, which prevents writing off losses from transactions due to unresolved disputes.
- Traditional dispute resolution mechanisms are not adequately accessed by MSMEs, especially those based in remote areas, distant from judicial centres.
- Existing dispute resolution mechanisms are not always appropriate and effective for small-value disputes, which are common for MSMEs. MSMEs are often involved in small-value disputes that would benefit from lower dispute costs, while the traditional mechanisms have higher costs as they are mostly designed for high-value disputes.
- Challenges: (a) definition: the lack of a clear definition of "MSMEs" and "rural or remote areas" can lead to inconsistencies as different dispute resolution mechanisms may apply to similar entities due to the difference in treatment under national law; (b) procedural challenges: establishing alternative procedures that are both culturally appropriate and legally binding can be difficult, especially in areas with strong traditional dispute resolution practices; (c) equity concerns: there is a risk of inadvertently discriminating against rural residents or other economic actors operating in rural areas if dispute resolution mechanisms are not carefully designed and implemented; (d) technological infrastructure: potential limitations in internet connectivity and digital literacy in remote regions to participating in ODR; (e) gathering support from countries to ensure widespread adoption of the new DRM approaches to increase MSMEs' involvement in commercial transactions.
- Ensuring consistency with existing national and international legal frameworks, particularly in the context of cross-border enforcement.
- Geographical scope: MSMEs in rural areas of regions and countries such as APEC,[9] the United Kingdom, Europe, Central Asia, Latin America, Central America, and Africa, where MSMES as well as the residents of rural communities are highly dependent on intermediaries from administrative centres.
- Economic growth: Efficient dispute settlement can diminish business operation losses, increase the collection of taxes on profits, and facilitate MSMEs to maintain cash flow for smooth and sustainable business operations.
- Harmonisation benefits: Developing a common definition of MSMEs and facilitation of dispute prevention and resolution for these types of economic actors would facilitate cross-border trade and cooperation. Harmonised rules with common dispute resolution mechanisms for MSMEs of a similar type across jurisdictions will reduce transaction costs and legal risks (e.g., due to language and terminology differences), making cross-border transactions cheaper and more attractive.

[9] *Supra note* 1.

- The main benefits of the law reform may include: (a) direct participation of MSMEs from remote and rural areas in commercial transactions, (b) decrease of transaction costs with simplified access to justice, and (c) prevention of forced writing off of losses due to inability to resolve disputes.[10] Jurisdictions will reduce transaction costs and legal risks (e.g., due to language and terminology differences), making cross-border transactions cheaper and more attractive.
- Technological transformation of DRM is the enhanced accessibility to technology through Online Dispute Resolution (ODR) platforms. This technological integration not only democratises access to justice but also aligns dispute-resolution processes with the digital transformation of global commerce. Such measures could collectively contribute to the creation of a more robust and supportive legal ecosystem for MSMEs, facilitating their growth and sustainability in an increasingly interconnected global economy, covering rural areas.

➢ **What are the law-related assumptions?**

15. The law-related assumptions in this EE are the following:

- Legal fragmentation: Dispute resolution mechanisms vary widely across jurisdictions, which leads to inefficiencies for MSMEs and rural communities engaged in cross-border trade. There is a lack of harmonised legal frameworks tailored to the needs of MSMEs.
- Access to justice barriers: In addition to rural communities and MSMEs often lacking access to qualified legal professionals and local dispute resolution facilities, many procedures remain complex and financially burdensome for MSMEs. This limits their ability to enforce their contractual rights and resolve disputes effectively.
- Enforcement challenges: Even where disputes are resolved, enforcing outcomes across borders remains a significant hurdle. Existing enforcement mechanisms, such as the New York Convention, may not be consistently applied or accessible to MSMEs due to procedural complexities and high costs.
- Legislative options: ADR or ODR. The adoption of ODR may lead to fast, simplified dispute resolution. Developed and developing countries may benefit from common criteria for determining eligibility and setting up value thresholds for fast-track disputes/ODR rather than relying on fixed monetary thresholds that may not reflect the differing economic conditions of MSMEs and rural communities across countries.

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[10] 58% of APEC MSMEs report a lack of dispute resolution mechanisms. As such, many MSMEs are forced to write off their losses, and are unable to resolve their disputes. See: Alexander N. (ed.) & Leu A. (2022, June 16). APEC's ODR collaborative framework. *Kluwer Arbitration Mediation Blog*, available at: https://mediationblog.kluwerarbitration.com/2022/06/16/apecs-odr-collaborative-framework/

D. BENCHMARK

1. Benchmark

➢ **Does a Benchmark exist or need to be constructed?**

16. There are multiple existing Benchmarks. However, the existing Benchmarks are inadequate, because none of them fully aligns with the reform objectives. Therefore, there is a need to construct a unique, ideal Benchmark by integrating elements from various sources to better align with the reform under evaluation.

➢ **What is/are the relevant Benchmark(s)?**

17. There are nine existing Benchmarks:

- APEC Collaborative Framework for Online Dispute Resolution of Cross-Border Business-to-Business Disputes (APEC);
- UNCITRAL Technical Notes on Online Dispute Resolution (2017);
- WIPO Expedited Arbitration Rules (2021);
- Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958, "the New York Convention");
- UN Convention on International Settlement Agreements Resulting from Mediation (2018, "the Singapore Convention on Mediation");
- UNCITRAL Model Law on International Commercial Mediation (2018, amending the 2002 Model Law on International Commercial Conciliation);
- 2021 ICC Arbitration Rules;
- Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) - Brussels I Regulation;
- Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters - EU Mediation Directive.

Benchmark 1: APEC Collaborative Framework for Online Dispute Resolution of Cross-Border Business-to-Business Disputes (APEC, 2019)

18. The Asia-Pacific Economic Cooperation (APEC) Collaborative Framework for Online Dispute Resolution of Cross-Border Business-to-Business Disputes was endorsed, by the Second Economic Committee Meeting.[11] This Framework focuses on establishing an APEC-sponsored initiative to use online dispute resolution (ODR) to help MSMEs resolve B2B cross-border, low-value disputes. It is designed to be inexpensive for MSMEs and to promote B2B cross-border confidence by providing quick electronic resolution and enforcement of disputes across borders, with different languages and jurisdictions.

[11] APEC. (2019). *APEC Collaborative Framework for Online Dispute Resolution of Cross-Border Business-to-Business Disputes: Endorsed. 2019/SOM3/EC/022*. Second Economic Committee Meeting, 26-27 August 2019, available here.

19. The APEC-sponsored Online Dispute Resolution (ODR) initiative is a pivotal step toward empowering micro, small, and medium enterprises (MSMEs) to resolve cross-border disputes in business-to-business (B2B) transactions efficiently and affordably. Recognising the barriers that MSMEs face in traditional dispute resolution – such as high costs, procedural complexity, and geographical constraints – this initiative seeks to offer a streamlined and accessible platform. By focusing exclusively on B2B disputes and excluding consumer transactions, the initiative ensures targeted solutions that align with the specific needs of businesses engaged in international commerce.

20. The ODR framework follows a structured multi-stage process designed to ensure timely and fair resolution of disputes. The process begins with a notice of dispute and allows the responding party seven days to provide their reply. If the issue remains unresolved, the negotiation stage commences, lasting up to ten days, during which parties can directly engage in settlement discussions. Should negotiations fail, the dispute moves to mediation, providing another ten-day window for resolution through a neutral third party. If mediation does not result in agreement, arbitration is initiated, for a final decision within ten days. Following arbitration, parties have the right to request corrections to the award within five days, and the neutral party has an additional two days to finalise the corrections, ensuring accuracy and transparency in the process.

21. Cost considerations are a fundamental element of this initiative, ensuring that the ODR process is financially accessible to MSMEs. The costs include (1) fees for the neutral party, which are determined by the ODR provider; (2) reasonable costs for expert advice or assistance required during arbitration; (3) legal and other costs incurred by the parties; and (4) any administrative fees imposed by the ODR provider. The overall costs are intended to be affordable and proportionate to the value of the dispute, preventing financial strain on smaller businesses. Generally, the losing party bears the arbitration costs; however, the ODR provider or arbitrator retains the discretion to allocate costs equitably, considering the specifics of the case.

22. This initiative reflects APEC's commitment to fostering a supportive, efficient, and inclusive environment for cross-border business transactions among MSMEs. By leveraging digital platforms for dispute resolution, APEC aims to reduce the legal and financial barriers that often deter smaller enterprises from engaging in international trade. The initiative not only enhances accessibility but also promotes confidence in cross-border commerce by ensuring that disputes are resolved swiftly, fairly, and transparently. Through this effort, APEC is setting a Benchmark for integrating technology into dispute resolution processes, aligning with the broader goals of digital transformation and economic inclusivity.

Benchmark 2: UNCITRAL Technical Notes on Online Dispute Resolution (2017)

23. The Technical Notes were prepared because of the sharp increase of online cross-border transactions and the parallel need for a mechanism for resolving disputes arising from such transactions. The General Assembly of the United Nations recommends that all states and other stakeholders use these Technical Notes in designing and implementing online dispute resolution systems for cross-border commercial transactions.

24. ODR may assist in resolving disputes arising out of cross-border e-commerce transactions where traditional judicial mechanisms may not offer adequate solutions.

25. The main principles of ODR, explained in the Technical Notes, are the following:

- Transparency: It is desirable to disclose any relationship between the ODR administrator and a specific vendor, so that users of the service are informed of

potential conflicts of interest. The ODR administrator may publish anonymised data or statistics on outcomes in ODR processes in order to enable parties to assess its overall record, consistent with applicable principles of confidentiality. All relevant information should be available on the ODR administrator’s website in a user-friendly and accessible manner.

- Independence: It is desirable for the ODR administrator to adopt a code of ethics for its neutrals to provide guidance on conflicts of interest and other rules of conduct.
- Expertise: Comprehensive policies governing selection and training of neutrals may be required. Internal oversight/quality assurance processes may help.
- Consent: The process should be based on the explicit and informed consent of the parties.

26. ODR has three stages: (1) negotiation, (2) facilitated settlement, (3) final stage.

27. Technology tools available in ODR can offer a great deal of flexibility regarding the language used for the proceeding.

28. There should be only one neutral per dispute appointed at any time for reasons of cost efficiency, and this only when a neutral is required for to enhance efficiency and reduce costs in the dispute resolution process.

29. Streamlined appointments and challenge procedures can provide a simple, time-effective and cost-effective alternative.

Benchmark 3: WIPO Expedited Arbitration Rules (2021)

30. The WIPO Expedited Arbitration Rules provide a form of arbitration in intellectual property law with a shortened time frame and reduced costs.[12]

31. The differences between the default WIPO Arbitration Procedure and the WIPO Expedited Arbitration Procedure are the following:

- Request for arbitration: In the WIPO arbitration procedure, it is optional for the request for arbitration to be accompanied by the statement of claim, allowing the claimant flexibility in when to submit the full details of the dispute. In the expedited WIPO arbitration procedure, the request for arbitration must be accompanied by the statement of claim, requiring the claimant to present the full details of the dispute at the outset.
- Answer the request: Under the normal procedure, the respondent has 30 days from receipt of the request for arbitration to submit their answer, allowing more time for preparation. In the expedited procedure, this timeframe is shortened to 20 days, emphasising efficiency and a faster response timeline.
- Arbitral Tribunal: The WIPO Arbitration Procedure allows for the tribunal to consist of either one or three arbitrators, offering flexibility based on the complexity and preferences of the parties. The expedited procedure mandates a sole arbitrator, reducing the time and costs associated with tribunal deliberations.
- Statement of claim: In the normal procedure, the statement of claim must be submitted within 30 days following the notification of the establishment of the tribunal, providing a clear timeline after the tribunal is formed. In the expedited procedure, the

[12] WIPO Expedited Arbitration Rules 2021, available here.

statement of claim is submitted with the request for arbitration, significantly accelerating the process.

- Statement of defence (including counterclaim): Under the normal procedure, the statement of defence, which may include a counterclaim, is due within 30 days after the establishment of the tribunal or after the statement of claim (whichever is later), allowing the respondent time to react. In the expedited procedure, the statement of defence is provided alongside the answer to the request for arbitration, ensuring an immediate and concise response.
- Reply to counterclaim (if any): In the normal procedure, a reply to a counterclaim, if applicable, must be submitted within 30 days after the receipt of the statement of defence, providing sufficient time for preparation. In the expedited procedure, this timeframe is reduced to 20 days, maintaining the expedited nature of the process.
- Hearings: Under the normal procedure, the date, time, and place of hearings are set by the tribunal at its discretion, allowing for scheduling flexibility. In the expedited procedure, the hearings are set to occur within 30 days after the receipt of the answer to the request for arbitration, ensuring a swift progression of the case.
- Closure of proceedings: In the normal procedure, proceedings are expected to close within nine months of the statement of defence or the establishment of the tribunal (whichever is later), accommodating the complexity of standard arbitration cases. In the expedited procedure, the proceedings are closed within three months of the statement of defence or tribunal establishment, significantly shortening the timeframe.
- Final award: In the normal procedure, the final award is issued within three months of the closure of proceedings, providing time for thorough deliberation. In the expedited procedure, the final award is issued within one month of the closure of proceedings, emphasising efficiency and timely resolution.
- Costs: Under the normal procedure, arbitration costs are fixed by the centre in consultation with the parties and the tribunal, accommodating varying case complexities and amounts in dispute. In the expedited procedure, costs are predetermined for disputes with an amount in controversy up to 10 million USD, ensuring predictability and cost efficiency for smaller claims.

Benchmark 4: Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958, "the New York Convention")

32. The Convention establishes a uniform framework for facilitating the recognition and enforcement of foreign arbitral awards. The Convention was designed to promote international commercial arbitration as a reliable mechanism for resolving cross-border disputes by ensuring that arbitral awards are capable of effective enforcement across jurisdictions.

33. A core pillar of the Convention is the obligation imposed on Contracting States to give effect to arbitration agreements. Under Article II, courts of Contracting States must recognise written arbitration agreements and, when seized of a dispute covered by such an agreement, refer the parties to arbitration unless the agreement is null and void, inoperative, or incapable of being performed. This provision strengthens party autonomy and reduces the risk of parallel court proceedings that could undermine the efficiency of arbitration.

34. The Convention further requires Contracting States to recognise arbitral awards as binding and to enforce them in accordance with their domestic procedural rules (Article III). Enforcement may be refused only on the basis of a limited and exhaustively listed set of grounds, primarily related to procedural fairness, the validity and scope of the arbitration agreement, or fundamental public policy considerations (Article V). This restrictive approach

to refusal is intended to minimise judicial interference and promote predictability in cross-border enforcement.

35. One of the key economic significances of the New York Convention lies in its role in reducing enforcement uncertainty, which is a major component of transaction costs in international trade. By ensuring that arbitral awards can be enforced across borders under broadly harmonised standards, the Convention facilitates cross-border contracting and investment, particularly in contexts where domestic judicial systems may be perceived as slow, unpredictable, or biased. With more than 170 Contracting States, the New York Convention is widely regarded as the most successful treaty in the field of private international law. Its near-universal adoption makes it a foundational benchmark for international dispute resolution systems. In practice, it operates as a global enforcement backbone for arbitration-based dispute resolution mechanisms, including those designed for commercial actors engaged in cross-border transactions.

36. While the New York Convention provides a high level of certainty at the enforcement stage of dispute resolution, it does not address issues of procedural simplification, cost allocation, or accessibility. Effective reliance on the Convention may require legal expertise, familiarity with arbitration procedures, and interaction with national courts, which can involve non-negligible educational and administrative costs. These aspects are relevant when assessing the New York Convention as a Benchmark in relation to reforms aimed specifically at lowering barriers to dispute resolution for MSMEs and rural economic actors.

Benchmark 5: UN Convention on International Settlement Agreements Resulting from Mediation (2018, "the Singapore Convention on Mediation")

37. The Singapore Convention on Mediation establishes a uniform international framework for the enforcement of international settlement agreements resulting from mediation, with the objective of promoting mediation as an effective method for resolving cross-border commercial disputes.

38. The Convention applies to written settlement agreements resulting from mediation that resolve international commercial disputes, subject to specific exclusions, including consumer, family, inheritance, and employment matters (Article 1). Its scope is carefully defined to ensure that it complements, rather than replaces, existing mechanisms for the enforcement of judgments and arbitral awards. Settlement agreements that are already enforceable as court judgments or arbitral awards fall outside the Convention's application.

39. A central feature of the Convention is the creation of a direct enforcement mechanism for mediated settlement agreements. Under Article 3, each Party to the Convention is required to enforce such settlement agreements in accordance with its procedural rules and under the conditions laid down in the Convention. A party may seek relief directly from a competent authority in a Contracting State without the need to initiate separate proceedings for breach of contract, thereby reducing procedural steps and enforcement uncertainty.

40. The Convention adopts a restrictive and exhaustively listed set of grounds on which enforcement may be refused (Article 5). These grounds are primarily concerned with issues of party capacity, validity, and clarity of the settlement agreement, mediator conduct, arbitrability, and public policy. This approach mirrors the enforcement philosophy of the New York Convention by limiting judicial discretion and enhancing predictability at the enforcement stage.

41. The economic importance of the Singapore Convention on Mediation lies in its potential to strengthen mediation as a credible and enforceable alternative to arbitration and litigation

in cross-border commerce. By enhancing the enforceability of mediated settlements, the Convention reduces the risk that a successfully negotiated outcome will later unravel, thereby lowering expected dispute resolution costs and encouraging earlier and less adversarial settlement of disputes.

42. For MSMEs and rural communities, the Convention addresses a critical gap in international dispute resolution by improving legal certainty surrounding mediated outcomes. Mediation is often perceived as faster, less costly, and more relationship-preserving than adjudicative mechanisms. However, effective use of the Convention may still require awareness of its evidentiary requirements, familiarity with mediation standards, and engagement with domestic authorities. These aspects may give rise to educational, institutional, and administrative costs, which are relevant when assessing the Convention as a Benchmark in relation to dispute resolution reforms aimed at enhancing accessibility and cost-efficiency for MSMEs, including those operating in rural or resource-constrained environments.

Benchmark 6: UNCITRAL Model Law on International Commercial Mediation (2018, amending the 2002 Model Law on International Commercial Conciliation)

43. The UNCITRAL Model Law on International Commercial Mediation, as adopted in 2018, provides a comprehensive legislative framework governing the use of mediation in international commercial disputes. It builds upon and modernises the 2002 Model Law on International Commercial Conciliation by reflecting the increased use of mediation in cross-border commercial practice and by aligning domestic legal frameworks with contemporary dispute resolution needs.

44. The Model Law establishes core principles applicable to mediation, including party autonomy, confidentiality, procedural flexibility, and the non-binding nature of the mediator's role. It provides legal certainty regarding the conduct of mediation proceedings while preserving the consensual and informal character of the process. These features are intended to encourage the use of mediation by commercial parties as a viable alternative to adjudicative dispute resolution mechanisms.

45. A key feature of the Model Law is its treatment of settlement agreements resulting from mediation. The 2018 amendments introduce provisions designed to facilitate the recognition and enforcement of such settlement agreements, ensuring consistency with the United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention). In this respect, the Model Law operates as a domestic legislative complement to the Convention, offering states a harmonised framework for implementation.

46. The Model Law also addresses the interaction between mediation and judicial or arbitral proceedings. It permits courts or arbitral tribunals to invite parties to consider mediation and allows mediators, with the consent of the parties, to suspend limitation or prescription periods during the mediation process. This mechanism reduces the risk that parties will forgo mediation out of concern for losing procedural rights, thereby lowering strategic and legal uncertainty associated with attempting consensual settlement.

47. While the UNCITRAL Model Law on International Commercial Mediation does not establish a dedicated online dispute resolution (ODR) system, it is expressly designed to be compatible with electronic mediation processes. The Model Law defines mediation broadly and functionally, without prescribing the physical form or mode of interaction between the parties and the mediator, thereby allowing mediation to be conducted fully or partially through electronic means.

48. The Model Law expressly recognises that settlement agreements may be concluded in electronic form. A settlement agreement is considered "in writing" if its content is recorded in any form, including electronic communications, provided that the information is accessible for subsequent reference. This approach aligns with digital trade instruments and ensures that electronically concluded mediation outcomes are legally valid and enforceable.

49. The Model Law's emphasis on party autonomy, procedural flexibility, and confidentiality is particularly conducive to ODR-based mediation. Parties are free to design mediation procedures suited to online platforms, including remote participation and multilingual interfaces. These features are especially relevant for cross-border disputes involving geographically dispersed parties or MSMEs operating in rural or remote areas.

50. From an economic perspective, the Model Law contributes to the reduction of transaction costs by promoting early and amicable resolution of disputes and by reducing reliance on more formal and resource-intensive adjudicative processes. Legal harmonisation across jurisdictions further reduces information and compliance costs for parties engaged in cross-border commerce.

51. While the Model Law provides a predictable and flexible legal environment for mediation-based dispute resolution, effective implementation for MSMEs and rural communities requires professional capacity-building, including the training of mediators and legal practitioners. These implementation-related educational and institutional costs are relevant when assessing the Model Law as a component of the constructed Benchmark under Factor E, particularly in jurisdictions with limited mediation infrastructure or experience.

52. Additionally, the Model Law implicitly supports the scalability of mediation through digital means. However, effective deployment of mediation via ODR platforms requires complementary investments in digital infrastructure, platform maintenance, cybersecurity, and user training. These ongoing technical and educational costs are not addressed directly by the Model Law but are relevant for assessing net transition costs under Factor E, particularly where mediation systems are deployed at scale or targeted toward MSMEs and rural communities.

Benchmark 7: 2021 ICC Arbitration Rules

53. The 2021 ICC Arbitration Rules provide a comprehensive institutional framework for the resolution of international commercial disputes through arbitration. As one of the most widely used sets of arbitration rules globally, the ICC Arbitration Rules are designed to ensure procedural efficiency, enforceability of awards, and legal certainty in cross-border disputes.

54. A significant feature of the 2021 Rules is the inclusion and refinement of the Expedited Procedure (Article 30 and Appendix VI). This procedure applies by default to disputes below a specified monetary threshold, unless the parties opt out, and is designed to streamline proceedings by limiting procedural steps, reducing timeframes, and lowering institutional and arbitrator fees. Key characteristics include the appointment of a sole arbitrator, abbreviated procedural schedules, and the possibility of settling the dispute on the basis of documents alone.

55. The Expedited Procedure introduces a reduced scale of fees and is intended to make ICC arbitration more accessible for disputes of lower value or complexity. While still operating within a globally well-known and institutional arbitration framework, the expedited mechanism reflects an effort to address concerns regarding the time and cost of traditional arbitration proceedings.

56. The 2021 amendments also reflect the growing integration of digital tools and technology in arbitral proceedings. The Rules explicitly allow the transmission of the Request for Arbitration and the Answer by electronic means of communication (Articles 4 and 5). This formal recognition of electronic filings enhances procedural efficiency and reduces administrative burdens associated with paper-based submissions.

57. In relation to hearings, Article 26(1) empowers arbitral tribunals, after consulting the parties, to decide that hearings may be conducted remotely by videoconference, telephone, or other appropriate means of communication. This provision enhances procedural flexibility and accommodates situations where in-person hearings may be impractical or disproportionately costly, particularly in cross-border disputes involving geographically dispersed parties.

58. From an economic perspective, the ICC Arbitration Rules provide a procedural design adapted to incorporate technology and efficiency-enhancing mechanisms. These adaptations may reduce certain categories of transaction costs, such as travel expenses and procedural delays. However, ICC arbitration remains comparatively resource-intensive, and effective participation typically requires legal representation and familiarity with institutional arbitration practices.

59. In this regard, the ICC Arbitration Rules provide a high level of procedural reliability and enforceability. At the same time, the costs associated with institutional fees, arbitrator remuneration, and legal advice may remain significant. In addition, reliance on digital procedures may entail educational and technical adaptation costs for parties unfamiliar with institutional arbitration platforms. These aspects are relevant when assessing the ICC Arbitration Rules as a Benchmark under Factor E, particularly in comparison with dispute resolution mechanisms specifically designed to minimise cost and complexity for MSMEs.

Benchmark 8: Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) - Brussels I bis Regulation

60. The Brussels I bis Regulation establishes a uniform legal framework governing jurisdiction and the recognition and enforcement of judgments in civil and commercial matters within the European Union. The Regulation applies directly in all EU Member States and aims to enhance the predictability, efficiency, and effectiveness of cross-border judicial dispute resolution.

61. The Regulation sets out harmonised rules on international jurisdiction, determining which Member State courts are competent to hear a dispute. These rules are designed to reduce parallel proceedings and jurisdictional conflicts, thereby lowering procedural uncertainty for parties engaged in cross-border economic activity. Arbitration is expressly excluded from its scope (Article 1(2)(d)). A central innovation of the Brussels I bis Regulation is the simplification of the recognition and enforcement of judgments. The Regulation abolishes the requirement for a declaration of enforceability (exequatur), allowing judgments given in one Member State to be enforced in another Member State without intermediate procedural steps. This reform significantly reduces time and administrative costs associated with cross-border enforcement.

62. The Regulation also considers the use of digital tools. While largely technology-neutral, it supports procedural efficiency and modern court practices, including the use of electronic documents and communications under national procedural laws. According to the Article 25(2), any communication by electronic means which provides durable records of the jurisdiction agreement shall be equivalent to "writing". On the other hand, other details regarding the practical use of electronic communication, document transmission, and digital case

management systems are not regulated under the Brussels I bis Regulation. It does not regulate the conduct of proceedings or the use of technology in courts, leaving those matters to national law.

63. In terms of economics, the abolition of exequatur and the streamlining of enforcement procedures contribute to lower transaction costs and increased legal certainty in intra-EU trade. Empirical assessments conducted by EU institutions indicate that these reforms have reduced delays and compliance costs for the parties of litigation, while also alleviating administrative burdens on national courts.

64. For MSMEs and rural communities, the Brussels I bis Regulation provides a high level of predictability and enforceability for judicial outcomes within the EU. While it does not directly address affordability or procedural simplification at the litigation stage, its enforcement model serves as an important Benchmark demonstrating how legal harmonisation and procedural streamlining at the enforcement phase can yield measurable cost reductions. The implementation and operation of the Regulation have nevertheless required investments in judicial training, administrative coordination, and information systems, which are relevant when assessing educational and maintenance costs under Factor E.

Benchmark 9: Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters - EU Mediation Directive

65. The EU Mediation Directive aims to promote the use of mediation in cross-border civil and commercial disputes within the European Union. It establishes a basic legal framework by ensuring the enforceability of mediated settlement agreements.

66. The Directive applies to mediation in cross-border civil and commercial matters, while explicitly excluding certain areas such as family and employment law. It is designed to complement, rather than replace, judicial proceedings by ensuring a balanced relationship between mediation and court-based dispute resolution (Article 1). Mediation under the Directive is defined as a structured but voluntary process in which parties attempt to reach an amicable settlement with the assistance of a mediator (Article 3).

67. A central element of the Directive is the requirement that Member States ensure the enforceability of written agreements resulting from mediation (Article 6). Parties must be able to request that the content of a mediated settlement agreement be made enforceable through a court or other competent authority, unless the content of the agreement is contrary to national law or inherently unenforceable. This provision enhances legal certainty and addresses concerns that mediation outcomes may lack binding force.

68. The Directive also contains safeguards intended to encourage recourse to mediation without prejudicing parties' procedural rights. In particular, Member States are required to ensure that limitation and prescription periods are suspended or otherwise protected during mediation, so that parties are not prevented from initiating judicial proceedings or arbitration if mediation fails (Article 8). In addition, minimum standards on confidentiality are established to protect the integrity of the mediation process (Article 7).

69. The EU Mediation Directive reflects the assumption that mediation can deliver significant cost and time savings compared to litigation, especially in cross-border disputes. The Directive's emphasis on enforceability, confidentiality, and procedural safeguards is intended to reduce uncertainty and encourage early settlement, thereby lowering overall dispute resolution costs for parties and administrative burdens for courts.

70. The Directive is expressly technology-neutral and does not prevent the use of modern communication technologies in mediation processes (Recital 9). This allows mediation to be conducted through online or hybrid formats under national law, supporting procedural flexibility and potential cost reductions associated with remote participation. At the same time, the Directive leaves the organisation and conduct of mediation largely to Member States and market-based solutions.

71. The Directive provides an enabling framework that supports mediation as a cost-effective dispute resolution mechanism within the EU. However, especially for the MSMEs and rural communities, effective implementation has required Member States to invest in mediator training, quality assurance mechanisms, public information initiatives, and institutional coordination (Articles 4 and 9). These educational and maintenance costs are relevant when assessing the Directive as a Benchmark under Factor E, particularly in evaluating the net cost implications of mediation-based dispute resolution reforms.

- **Is this the appropriate context? Does it reflect the ideally economically beneficial law in the reform's area of law?**

72. The Benchmarks reflect an economically beneficial approach to dispute resolution for MSMEs by promoting efficiency, accessibility, and cost reduction. They align with the reform's area of law by addressing cross-border dispute resolution challenges and supporting economic participation for MSMEs and rural communities. However, individually none of them could propose a law which fully deals with all the dimensions of the law reform.

- **Does the Benchmark align with the reform's objectives and policy goals? Does the Benchmark correspond to one or more aspects of the law reform?**

73. Each Benchmark partially aligns with the reform's objectives by emphasising simplified dispute resolution mechanisms, lower transaction costs, and improved legal certainty for MSMEs. Each of them incorporates key principles such as ODR, harmonisation, and enforceability, making it a relevant reference for the law reform.

- **Does the Benchmark correspond to one or more aspects of the law reform?**

74. Each Benchmark covers several aspects of the law reform, including technology-driven dispute resolution, expedited arbitration, and enforceability across jurisdictions. Together, they could serve as a useful guide for designing a system that meets the specific needs of MSMEs in cross-border trade. However, it is not possible for each individual Benchmark to correspond to multiple aspects of the law reform.

- **Does the Benchmark have a similar binding nature and enforceability to the proposed law reform?**

75. The binding nature and enforceability of each Benchmark varies:

- Benchmark 1 (APEC) allows Asian-Pacific participants from APEC partners and ODR providers located in APEC economies to opt into this regional framework. However, Benchmark 1 does not create legally binding obligations for a participant economy.
- Benchmark 2 (UNCITRAL Technical Notes on ODR) holds greater international recognition as it was adopted by the United Nations General Assembly. On the other hand, Benchmark 2 is not legally binding on States, as it serves only as a set of recommendations.

- Benchmark 3 (WIPO Expedited Arbitration Rules) also has strong international recognition. However, Benchmark 3 applies only where the parties have concluded an arbitration clause showing the will of being bound by the WIPO Arbitration Rules. Additionally, the scope of the rules is limited to intellectual property disputes.
- Benchmark 4 (New York Convention) is a binding international treaty and provides one of the strongest enforceability models among the Benchmarks with 172 Contracting States. Its enforceability is high and it operates directly through the domestic judicial systems of Contracting States. Benchmark 4 requires Contracting States to recognise arbitration agreements and to recognise and enforce foreign and non-domestic arbitral awards. It is subject only to limited grounds for refusal.
- Benchmark 5 (Singapore Convention on Mediation) also has a treaty-based binding nature for States that have ratified or acceded to it. As of May 2026, 60 Contracting States have signed the Convention.[13] Where applicable, it creates a legally binding obligation to enforce international settlement agreements resulting from mediation through domestic authorities. However, its scope is limited to qualifying international commercial settlement agreements.
- Benchmark 6 (UNCITRAL Model Law on International Commercial Mediation) is an internationally recognised instrument but does not have a binding nature, as it is a model legislative instrument. States may enact Benchmark 6 into domestic law, and therefore its enforceability depends on domestic implementation. Where enacted, its provisions become binding under national law; where not adopted, it has no direct enforceability. It therefore functions as a soft-law instrument rather than a hard-law instrument.
- Benchmark 7 (2021 ICC Arbitration Rules) is one of the most prominent arbitration rule sets in the practice. However, like Benchmark 3, Benchmark 7 does not bind states and does not have treaty status. It applies only where parties have expressly agreed to submit their dispute to ICC arbitration in an arbitration clause in the contract or in a separate arbitration contract. Once incorporated by agreement, the Rules are contractually binding on the parties, and resulting arbitral awards may become enforceable through the New York Convention. It is designed for international commercial disputes.
- Benchmark 8 (Brussels I bis Regulation) is binding and directly enforceable within EU Member States. As an EU regulation, it applies automatically in all Member States (with limited exceptions) and establishes enforceable rules on jurisdiction and the recognition and enforcement of judgments. While arbitration is expressly excluded from its scope, its enforcement regime for judicial decisions is legally binding and highly effective within the EU legal order. Therefore, Benchmark 8 has a (regional) binding nature.
- Benchmark 9 (EU Mediation Directive) has a binding nature with respect to its objectives, requiring transposition into national law by EU Member States. Enforceability of Benchmark 9 is therefore indirect, operating through national implementing measures. While it does not itself create directly enforceable mediation outcomes at EU level, it obliges Member States to ensure enforceability of mediated settlement agreements and to establish minimum procedural safeguards for mediation

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[13] United Nations Treaty Collection, *United Nations Convention on International Settlement Agreements Resulting from Mediation*. Retrieved on 7 May 2026, available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXII-4&chapter=22&clang=_en

76. Taken together, these instruments do not constitute a single operative regime with the same binding nature and enforceability as the proposed law reform. Rather, they serve as building blocks for a constructed Benchmark representing a best-in-class, economically efficient dispute resolution framework for MSMEs.

2. The constructed Benchmark

- **What are the relevant Benchmarks to form part of the constructed Benchmark?**

77. There are nine existing Benchmarks:

- APEC Collaborative Framework for Online Dispute Resolution of Cross-Border Business-to-Business Disputes (APEC);
- UNCITRAL Technical Notes on Online Dispute Resolution (2017);
- WIPO Expedited Arbitration Rules (2021);
- Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958, "the New York Convention");
- UN Convention on International Settlement Agreements Resulting from Mediation (2018, "the Singapore Convention on Mediation");
- UNCITRAL Model Law on International Commercial Mediation (2018, amending the 2002 Model Law on International Commercial Conciliation);
- 2021 ICC Arbitration Rules;
- Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) - Brussels I Regulation;
- Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters - EU Mediation Directive.

- **What aspects do the existing Benchmarks cover?**

78. The existing Benchmarks cover key aspects of the proposed law reform, including simplified and expedited mediation and arbitration procedures (WIPO Expedited Arbitration Rules and 2021 ICC Arbitration Rules), the use of technology for dispute resolution (APEC ODR Framework and UNCITRAL Technical Notes on ODR), enforceability across jurisdictions of arbitral awards and mediated settlement agreements (New York Convention, Singapore Convention on Mediation, and UNCITRAL Model Law on International Commercial Mediation) as well as regional recognition, enforcement and mediation-support mechanisms (Brussels I Regulation and EU Mediation Directive). These instruments provide guidance on streamlining dispute resolution procedures, reducing costs, and enhancing accessibility for MSMEs. However, while they align with many reform objectives, the Benchmarks vary in binding nature, scope, modes of implementation, and applicability, requiring further adaptation to ensure coherent and effective application for broader implementation and a more diverse international context.

- **What are the main features of the constructed Benchmark?**

79. A constructed Benchmark should have several main features, including (i) simplified mediation and arbitration stages, (ii) use of technology, and (iii) enforceability.

(i) Simplified mediation and arbitration stage

80. The constructed Benchmark should incorporate a mechanism for expedited procedures, similar to those outlined in the 2021 ICC Arbitration Rules and WIPO Expedited Arbitration Rules to streamline the simplified mediation and arbitration stages, while remaining compatible with cross-border enforcement frameworks such as the New York Convention.

81. Expedited procedure rules offer numerous advantages that enhance the efficiency and accessibility of dispute resolution mechanisms. These rules provide a straightforward and effortlessly understandable process, which significantly reduces the need for extensive legal services during the proceedings. This simplicity not only makes the process more user-friendly but also decreases the financial burden on the parties involved.

82. A hallmark of expedited procedures is their time-effectiveness. By adhering to streamlined processes and shorter timelines, these mechanisms enable disputes to be resolved promptly, minimising disruption to the businesses or individuals involved.

83. Moreover, expedited rules are cost-effective, reducing the overall financial strain by optimising the process and resources used. For instance, assigning a single arbitrator or neutral to oversee small claims can be particularly beneficial for minimising costs, especially for cases involving lower monetary values.

84. In parallel with expedited arbitration, mediation constitutes a core component of the constructed Benchmark. Existing mediation-related Benchmarks provide complementary guidance at both international and regional levels, including the Singapore Convention on Mediation, the UNCITRAL Model Law on International Commercial Mediation, and the EU Mediation Directive. Together, these instruments address key aspects of mediation-based dispute resolution, such as procedural flexibility, suspension of limitation periods, confidentiality, and the enforceability of mediated settlement agreements.

85. Moreover, the UNCITRAL Model Law on International Commercial Mediation, the Singapore Convention on Mediation, and the EU Mediation Directive support the integration of mediation into flexible, technology-enabled and low-cost dispute resolution systems. These Benchmarks collectively demonstrate how mediation can be structured as an accessible, efficient, and enforceable mechanism, particularly suited to the needs of MSMEs and economic actors in rural communities.

86. In addition to procedural efficiency, affordability should be a cornerstone of the constructed Benchmark. By setting reasonable fees tailored to the financial capabilities of SMEs and rural communities, the mechanism can become accessible to a broader range of parties. Ensuring affordability will empower underrepresented and economically constrained parties to pursue resolution without disproportionate financial hardship.

87. Reducing the complexity and institutionalisation of the dispute resolution process is another crucial aspect of making the mechanism more cost-efficient. Streamlined procedures eliminate unnecessary administrative layers, which often escalate costs. Simplifying the framework not only ensures a faster resolution but also fosters trust among parties by demonstrating a commitment to fair and accessible justice.

88. By incorporating these features, the constructed Benchmark can serve as a model for an equitable, efficient, and accessible dispute resolution mechanism, tailored to meet the diverse needs of its users while maintaining the highest standards of justice.

(ii) Use of technology

89. The level of technological integration in dispute settlement mechanisms plays a pivotal role in determining the economic impact of such systems. Effective use of technology not only enhances accessibility but also significantly reduces costs, making it an essential feature of the constructed Benchmark.

Benefits of using technology

90. The adoption of technology eliminates the need for physical meetings, a particularly vital benefit for MSMEs and rural communities that often lack the financial resources to bear travel and accommodation costs associated with cross-border disputes. Virtual hearings and online dispute resolution platforms ensure that parties can participate from their respective locations, reducing both logistical challenges and expenses.

91. Another key advantage of technological solutions is the reduction of documentation costs. Digital platforms facilitate electronic submissions, secure storage, and streamlined management of case-related information, eliminating the need for voluminous paperwork.

92. Moreover, simultaneous translation technologies can address language barriers that frequently hinder MSMEs and rural stakeholders in cross-border disputes. These tools allow multilingual support during proceedings, enabling effective communication and fostering equitable participation for parties from diverse linguistic backgrounds.

93. Advanced technologies, including AI-based solutions, offer additional benefits by enabling the handling of multiple cases simultaneously. Many disputes, particularly those involving similar contractual frameworks or recurring patterns, can be resolved efficiently using AI to identify parallels and suggest resolutions. This capability reduces both the time and effort required for case management while maintaining consistency in outcomes.

Costs of using technology

94. However, the incorporation of technology comes with its own costs. Establishing the necessary technological infrastructure can require significant installation costs. Furthermore, training arbitrators, mediators, and parties on the effective use of digital tools is essential, adding to the overall expense.

95. Despite these challenges, the long-term savings and increased efficiency gained through technological integration underscore its value for creating a robust and economically viable dispute resolution mechanism.

(iii) Enforceability

96. The enforceability of decisions rendered by a dispute resolution mechanism is a critical determinant of its effectiveness and economic impact. A streamlined and cost-effective enforcement process ensures that parties receive timely and meaningful resolutions, enhancing confidence in the mechanism.

97. By establishing connections with existing international enforcement instruments, such as the New York Convention of 1958, the constructed Benchmark can significantly reduce enforceability costs. The New York Convention provides a widely recognised framework for the

recognition and enforcement of arbitral awards, with 172 Contracting States as of 2026.[14] Aligning with such established instruments ensures that the awards rendered under the Benchmark are enforceable across borders, reducing uncertainties and legal hurdles for parties.

98. Additionally, leveraging regional trade agreements to facilitate enforcement can further enhance efficiency. These agreements often include provisions for the mutual recognition of judgments and awards, expediting the enforcement process and reducing associated costs. For MSMEs and rural communities, which typically lack the resources to navigate complex enforcement procedures, such connections are crucial to ensuring that justice is accessible and economically sustainable.

99. By incorporating enforceability measures into the constructed Benchmark, linked to international and regional frameworks, the mechanism not only ensures the legitimacy of its resolutions but also strengthens its role as a reliable and effective tool for resolving disputes in a globalised economy.

3. ***Ex-post* economic studies**

100. Ahi et al. (2023), Ang and Tjiptono (2023), and Rabinovich-Einy and Katsh (2017) provide background literature on the commercial and access-to-justice problems that justify the proposed law reform. These studies identify the barriers that MSMEs face in cross-border e-commerce and international transactions, as well as the access-to-justice challenges created by the spread of digital technology.

101. Cortés & de la Rosa (2013), Spillane et al. (2016), Fiodorova (2017), and Singh (2023) focus more directly on dispute resolution mechanisms suitable for MSMEs, low-value disputes, and cross-border commercial transactions. These studies examine ODR, ADR, mediation, and other cost-effective procedures that may reduce the time, cost, and complexity of dispute resolution.

102. Olabisi (2017), Alford et al. (2022), Gil-Pareja et al. (2020), Myburgh and Paniagua (2016), and Berkowitz et al. (2006) provide evidence on the broader economic and legal effects of enforceable cross-border dispute resolution mechanisms. These studies examine the relationship between arbitration, enforcement, trade flows, foreign direct investment, and international commercial certainty.

103. Rooney (2019) and Kim (2025) address more recent developments in mediation, mixed-mode dispute resolution, and digital dispute resolution markets, particularly in the Asia-Pacific context. These studies connect mediation, ODR, and cross-border enforceability to the needs of MSMEs and e-commerce disputes.

104. The European Commission (2025) and the European Parliament (2011) provide institutional evidence on the economic effects of simplified enforcement and mediation within the European Union. These reports show how procedural simplification, recognition and enforcement mechanisms, and mediation may reduce costs, shorten dispute resolution timelines, and ease the workload of courts.

105. Table 1 summarises these studies in greater detail and indicates how their findings may inform the *ex-ante* assessment of the proposed law reform.

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[14] New York Arbitration Convention. (n.d.). *Contracting states*. Retrieved on May 7, 2026, available at: https://www.newyorkconvention.org/contracting-states/contracting-states

Table 1: Summary of *ex-post* studies

Source	Focus	Summary of Arguments
Ahi et al. (2023)	This paper analyses the importance of designing policies for enhancing the adoption of e-commerce by SMEs to promote their participation in e-commerce.	**Benefits of adoption of e-commerce in a cross-border space:** - Possibility to enter international markets without costly investments in physical facilities abroad - Rapid response to demand conditions - More cost-effective personalisation of offerings to customers worldwide - Helps SMEs by removing the traditional geographic distance barriers and dramatically lowering information acquisition costs **Challenges of engaging in cross-border e-commerce for SMEs:** - Not all firms have equal opportunities to engage in e-commerce. Both in developed and less-developed economies, SMEs have been less able to leverage these advantages. SMEs lag behind larger firms in adopting e-commerce. In 2019, e-commerce accounted for 24% of economic turnover in large firms in OECD member countries, while merely 9% of small firms engaged in e-commerce. - It is difficult for SMEs to obtain needed legal expertise to deal with regulatory uncertainty, which hampers their relationship with larger service providers and online platforms. - SMEs often lack sufficient resources to navigate and handle differences in customs, duty regimes, and taxation, as well as to gain expertise on relevant legal issues - Dealing with the logistics of customer delivery and return is usually more challenging and costly for SMEs than larger firms. - In terms of simple connectivity indicators, SMEs are less likely to have a website or an email to communicate with business partners and consumers. **Solutions:**

		- The European Commission proposed that governments are advised to introduce new rules aimed at increasing transparency and fairness, thus helping SMEs to deal with regulatory uncertainty in a predictable and trusted environment.[15] - At a global level, there is a slowly increasing number of e-commerce initiatives to support SMEs' e-commerce adoption, e.g.: WTO, WEF and the Electronic World Trade Platform jointly launched the Enabling E-commerce Initiative, which led to a global discussion on how SMEs can leverage e-commerce. - International harmonisation is important in terms of policies related to consumer protection, data protection, mitigation of e-business risks, availability and quality of digital and physical infrastructure, and support services that foster and enable consumer and business participation.
Ang & Tjiptono, (2023)	This study identifies the barriers that SMEs face.	**Internal barriers of SMEs in cross-border transactions:** - Lack of access to international market knowledge (procedures and regulations, overseas collaborators, contact potential customers) - Lack of skilled personnel who possess "know-how" of export operations and cross-cultural understanding - Lack of access to financing for market expansion - Product adaptation challenges in foreign markets - Price competitiveness - Supply-chain issues such as logistics and high delivery costs - The inability to locate reliable foreign collaborators and distributors **External barriers of SMEs in cross-border transactions:**

[15] European Commission. (2018, April 26). *Online platforms: Commission sets new standards for transparency and fairness*, available here.

		- Foreign regulations: product and service standards in target countries, lack of knowledge and familiarity with foreign laws - Complexity of export/import procedures - Challenges in resolving cross-border dispute resolution and legal support - Compliance with overseas regulation - Tariff barriers - Unfavourable home and host government policies, political instability - High costs and risks of doing business overseas relating to customs administration - Inspections, inadequate government assistance, and concerns over collecting payments overseas
Rabinovich-Einy & Katsh (2017)	The paper analyses the new challenges to access to justice accompanied by the increase of digital technology. It shows the growing need for ODR as online interaction has become the dominant means for communicating and transacting with close and distant individuals and entities alike.	**Problem of ADR:** Despite its expanded use, Alternative Dispute Resolution (ADR) is criticised on its degree of actually enhanced access to justice. Private processes could prove harmful for weaker parties *vis-à-vis* their more powerful, wealthy, and experienced counterparts. **Advantage of ODR:** Online Dispute Resolution (ODR): - Would be appropriate for small value disputes - Decreases the cost of face-to-face interactions during the dispute resolution process - Can automatically record all dispute data - Can rely on the artificial intelligence and enhance efficiency through automation, which facilitates handling great numbers of small-scale conflicts - Is cheaper than courts and institutional ADR, which is important for disputants from lower socio-economic backgrounds
Cortés & de la Rosa, (2013)	This article examines UNCITRAL's draft Rules for Online Dispute Resolution (ODR) and argues that in low-value e-commerce cross-border transactions, the most effective	**Problems for SMEs:** - The approach arguing that consumers' national law should be followed when resolving consumer disputes, in order to protect them from the traders'

	consumer protection policy cannot be based on national laws and domestic courts, but on effective and monitored ODR processes with swift out-of-court enforceable decisions.	choice of laws and forum shopping, increases costs for SMEs - As a result, many SMEs in the EU are simply not willing to offer their products cross-border as they have to apply the mandatory rules of all 27 EU Member States, with laws sometimes conflicting. - The default channel for resolving disputes is unable to deal with a high volume of low-value disputes arising from SMEs' cross-border online transactions - Traditional arbitration may not be an adequate method for resolving low-value cross-border consumer disputes because it may allow market abuses to go undetected, and may not guarantee the application of mandatory consumer protection rules. - This also creates an enforceability problem for the awards of the cross-border dispute resolution mechanism. - Arbitration procedures may have complexity and high costs. - It is hard to choose a language for proceedings because of the dispute's cross-border nature. **Solutions:** - There is a need for a common approach in consumer protection laws. If international uniform rules, such as *lex mercatoria* and the UNIDROIT Principles, can be used as the basis for decisions, it may create the opportunity to resolve the cross-border dispute on the basis of the same principles regardless of where the parties are located. - An ODR mechanism for low-value cross-border disputes should be developed. UNCITRAL and the EU are currently trying to promote the use of ODR in those kinds of disputes. - ODR can be used in cross-border disputes between consumers and SMEs. - ODR can help build trust between consumers and SMEs in cross-border transactions. - Greater user confidence in reliable sellers will transform e-commerce into

		a more competitive market and create economic benefits for the participants. - It is possible to use automatic translation software that allows the parties to use their own language.
Spillane, et al. (2016)	The article focuses on identifying cost-effective and efficient ADR practices tailored for SMEs in the Irish construction industry during the economic recession.	**The importance of ADR for SMEs:** - The construction industry is inherently prone to disputes due to its complex and adversarial nature. These disputes often lead to delays, increased costs, and strained relationships. Traditional dispute resolution methods like litigation and arbitration are costly and time-consuming, making them less suitable for SMEs during a recession. - Adoption of best practice procedures in construction dispute resolution may provide a financial competitive advantage to SMEs in minimising the adverse effect of disputes. - SMEs are moving from litigation and arbitration towards other ADR mechanisms, such as mediation, conciliation and adjudication, because of (1) cost-effectiveness, (2) time-efficiency, and (3) non-adversarial approaches (which help to maintain good relationships between parties after the dispute is resolved). **To overcome the challenges:** - It is important for legal professionals to provide guidance in a more supportive way, while avoiding over-reliance on legal formalities, which can reduce the efficiency of the ADR. If they become more dominant, the process becomes formal and adversarial rather than peaceful. - Early agreement on ADR methods is important. - Hybrid methods such as combining mediation and arbitration may provide more collaborative and decisive elements for resolution. - Giving the parties control of the process may provide greater flexibility.
Fiodorova (2017)	This paper presents mediation as an alternative to the judicial	**Concerns of SMEs:**

	process of SMEs' cross-border disputes.	- In the traditional court system, at least one of the parties in a cross-border transnational matter will stand before a foreign court that will apply its national civil procedure and, in some cases, its own substantive law, and use its national language. - There is a need to travel to the foreign country for the proceedings, to retain a lawyer who has experience in litigation of the jurisdiction of the relevant court and who has the knowledge of both the client's and court's language (if not, translator costs will arise). - The average duration of a civil or commercial matter within the EU is between 566 and 700 days. - Litigation cost is very high (average cost is 9,179 EUR). **Result of the concerns:** - These concerns create uncertainty among SMEs about the possible consequences of breaching a cross-border contract, which may impact their decision to enter the international market (50% of SMEs reported this outcome). **Solution: Mediation –** Bearing in mind the peculiarities of SMEs and their current growing position in the international marketplace, cross-border mediation could serve as a suitable alternative for cross-border judicial procedure in the resolution of civil and commercial disputes. - Mediation process is less costly: average cost is 3,371 EUR - It consumes less time: average period of mediation within the EU is 43 to 90 days E.g., in Italy a successfully mediated dispute can save 860 days and over 7,000 EUR. **The main question:** Is it possible to provide cost-effective and quick extrajudicial resolution of disputes in civil and commercial matters through processes tailored to the needs of the parties?

		Answer: Regarding EU law: Significant steps have been taken towards the regulation and promotion of cross-border mediation among EU Member States. Nevertheless, Member States retain broad discretion in regulating certain aspects, which may lead to inconsistencies or legal uncertainty, particularly at the stage of enforcing settlement agreements.. Greater clarity at the EU level would improve these aspects, making cross-border mediation more coherent across the EU and more advantageous for SMEs in pursuit of their business activities.
Singh (2023)	This paper focuses on Online Dispute Resolution (ODR). It aims to provide a comprehensive analysis of ODR in the context of cross-border disputes, addressing its evolution, application, and impact.	ODR is beneficial for SMEs who may not have the resources to engage in traditional dispute resolution methods. Its advantages: - **Accessibility:** Parties can engage in the resolution process from anywhere in the world, eliminating the need for travel and reducing costs. - **Cost-effective:** The use of technology enables parties to engage in the resolution process in real time, reducing the cost and eliminating the need for physical meetings. ODR platforms also offer features such as document sharing and video conferencing, enabling parties to exchange information and evidence quickly and efficiently. Its disadvantages/limitations: - **Issue of trust and credibility:** Parties may be hesitant to engage in the resolution process, particularly if they are unfamiliar with the ODR platform or the neutral third party. The lack of physical interaction may lead to a perception of distance and lack of personal connection, further exacerbating trust issues. - **Lack of a clear legal framework:** This issue may make it difficult to enforce ODR decisions in different jurisdictions.

Gil-Pareja et al. (2020)	The study evaluates the effects of mediation, conciliation and arbitration on trade.	Arbitration has a moderate positive effect on exports, which increases with the contractual quality of the exporter, and becomes more pronounced as markets become more remote. The effects of conciliation are similarly positive, but only for similar trading partners with high levels of income. Results also suggest that both domestic trade law reform and international treaties have a positive effect on trade, with a stronger effect of the latter.
Myburgh and Paniagua (2016)	The study evaluates the effects of arbitration on Foreign Direct Investment (FDI) and trade.	The results of this analysis suggest that access to arbitration leads to an increase in FDI flows. This increase largely occurs through a change in the volume of investment, with a much smaller effect on the number of investment projects. The effect of arbitration is greater for countries with weaker institutions and for larger projects.
Berkowitz et al. (2006)	The study investigates the effect of trade law reform on international trade flows by product complexity.	The New York Convention has had a positive and significant effect on bilateral trade with an increase of 116% in exports. The authors argued that ratifying the New York Convention can act as a substitute for deficient domestic institutions, and report that the effect of arbitration on trade is stronger in countries with weak legal systems and also for complex products.
Rooney (2019)	The study examines how arbitration and mediation can be transformed from rivalrous to cooperative or convergent modes of international commercial dispute resolution in East Asia, and how international instruments (Singapore Convention on Mediation, UNCITRAL Model Law on International Commercial Mediation), UNCITRAL's ODR work and the APEC ODR Collaborative Framework can support mixed-mode and online mechanisms that are faster and more cost-effective for cross-border commercial and MSME disputes.	Problems identified - International arbitration, while neutral and enforceable under the New York Convention, faces challenges of increasing cost, procedural complexity, duration, cultural/legal bias, and limited accessibility for many cross-border commercial users. - Conventional arbitration and litigation are often not viable for high-volume, low-value disputes in e-commerce and MSME trade, creating a gap in effective cross-border dispute resolution. - The lack of a robust, globally accepted framework for enforcing mediated settlement agreements has historically limited the use of mediation in international and cross-border disputes.

		Mechanisms analysed - The Singapore Convention on Mediation and the UNCITRAL Model Law on International Commercial Mediation are presented as key instruments to close the enforcement gap for mediated settlements by obliging Contracting States to enforce international commercial settlement agreements resulting from mediation. - The article surveys mixed-mode procedures (Med–Arb, Arb–Med, Arb–Med–Arb, Med–Arb–Med) and debates over whether collaborative use of separate neutrals or role-switching neutrals better balances efficiency, party autonomy, and concerns about confidentiality and impartiality. - It links these developments to UNCITRAL's Technical Notes on ODR and to the APEC Collaborative Framework and Model Procedural Rules for ODR of cross-border B2B disputes involving MSMEs, describing a pilot framework in which accredited ODR providers offer low-cost online procedures for such disputes. - The paper also reviews concrete technology-enabled initiatives (e.g., Hangzhou Internet Court, Chinese ODR platforms, HKIAC and CIETAC online systems, private ODR platforms) as examples of how innovative technology (AI, blockchain, smart contracts, online platforms) is already reshaping dispute resolution practice. Economic / functional implications (qualitative) - Drawing on institutional statistics and survey evidence, the study argues that submitting disputes to mediation conducted by skilled neutrals significantly increases the likelihood of amicable settlement, leading to quicker and cheaper resolution compared to stand-alone arbitration or litigation. By improving enforceability of mediated settlements (Singapore Convention and Model Law) and lowering transaction and

		procedure costs via ODR and mixed-mode processes, these frameworks are expected to make cross-border dispute resolution more accessible to MSMEs and better aligned with user preferences for collaborative, efficient mechanisms. - At the same time, the paper flags new design and governance challenges that must be addressed to ensure fair and trustworthy operation of these systems.
Kim (2025)	The study evaluates the growth, digital transformation, and effectiveness of private mediation and online dispute resolution markets at the global and regional level, with particular attention to Asia-Pacific and the role of enforceability under the Singapore Convention in international commercial mediation.	The study analyses market data showing sustained global growth in alternative dispute resolution services, identifying the Asia-Pacific region as the fastest-growing mediation market, driven by increased commercial activity, institutional development, and acceptance of mediation in cross-border commercial disputes. It examines the Singapore Convention on Mediation, finding that the introduction of an international enforcement framework for mediated settlement agreements has increased confidence in mediation as a viable mechanism for resolving international commercial disputes. The paper analyses the expansion of online dispute resolution and hybrid mediation models, demonstrating that digital platforms, accelerated by the COVID-19 pandemic, have reduced the time and cost of dispute resolution while maintaining settlement effectiveness comparable to in-person mediation. Drawing on institutional reports and comparative market evidence, the study finds that competition and digitalisation in mediation markets have improved service quality, increased accessibility, and strengthened mediation’s role within the broader international commercial dispute resolution landscape.

Olabisi (2017)	The study analyses patterns of accession to the New York Convention, showing that enforcement of international arbitral awards is a central factor influencing states' decisions to ratify the Convention.	Using cross-country empirical data, the paper demonstrates that accession decisions exhibit regional network effects, with states more likely to accede when their Regional Trade Agreement partners are already Contracting States. The analysis links the Convention's enforcement mechanism to increased credibility of international arbitration outcomes, which in turn supports cross-border contractual relations and international trade across jurisdictions. The study provides *ex-post* empirical evidence that international legal commitments to arbitral enforcement function as trade-facilitating institutions by reducing uncertainty surrounding dispute resolution in international commerce.
European Parliament (2011)	The study empirically evaluates the cost and time savings generated by mediation compared to court litigation in civil and commercial disputes within the European Union, with specific reference to the implementation and effectiveness of the EU Mediation Directive.	The study measures the economic and temporal costs of relying solely on court litigation ("one-step approach") and compares them with a two-step approach of mediation followed by litigation only where mediation fails. Using survey data from legal experts across 26 EU Member States and World Bank "Doing Business" indicators, the analysis shows that mediation substantially reduces dispute resolution time and costs relative to litigation. The report identifies break-even points demonstrating that mediation remains cost- and time-effective even at low success rates (EU-wide break-even points of approximately 19% for time savings and 24% for cost savings). The findings support the conclusion that systematic implementation of mediation under the EU Mediation Directive can alleviate judicial workloads, reduce public and private litigation costs, and improve the efficiency of civil and commercial dispute resolution across Member States.

European Commission (2025)	The study assesses the practical operation of the Brussels I bis Regulation, with emphasis on the abolition of exequatur, jurisdiction rules, recognition and enforcement mechanisms, and their impact on efficiency, costs, and judicial cooperation in cross-border civil and commercial disputes.	The study finds that the abolition of exequatur has simplified cross-border enforcement by removing intermediate judicial authorisation procedures, leading to reduced enforcement-related costs and shorter enforcement timelines. Stakeholder consultations and national authority data indicate a reduction in the workload of national courts and enforcement authorities, as fewer proceedings are required at the enforcement stage. The evaluation shows that standardised certificates and streamlined procedures under the Regulation have increased predictability and legal certainty in cross-border civil and commercial disputes. The study identifies remaining practical challenges, including differences in national enforcement practices and limited awareness among some users, but assesses these as implementation issues rather than structural deficiencies of the Regulation.
Alford et al. (2022)	The study provides a large-scale empirical analysis of national court practice concerning the enforcement and setting aside of international commercial arbitration awards, with particular attention to how courts apply the grounds for refusal under the New York Convention.	Based on a dataset of 1,093 judicial decisions from 74 jurisdictions between 2010 and 2020, the study finds that national courts enforce international commercial arbitration awards in a clear majority of cases, indicating strong practical support for the New York Convention enforcement framework. The analysis shows that applications to set aside arbitral awards are successful in a relatively limited number of cases, confirming that annulment remains an exceptional remedy rather than a routine form of judicial intervention. The most frequently invoked grounds for refusal or annulment (such as public policy, invalid arbitration agreements, and procedural due process violations) are rarely upheld by courts, suggesting a generally narrow and restrained interpretation of Article V of the New York Convention. The study finds no systematic evidence of home-court bias in enforcement or vacatur decisions, and observes broad

		consistency across jurisdictions in the application of Convention standards, notwithstanding some variation in reasoning and doctrinal framing. Overall, the findings indicate that the New York Convention operates effectively in practice as a reliable enforcement mechanism for international arbitral awards, supporting predictability and legal certainty in cross-border commercial dispute resolution.

E. DATA AND CONCEPTUAL CAUSAL LINKS

1. Data

- **What data sources are used for the EE?**

106. The economic evaluation relies on a variety of data sources, such as:

- *Ex-post* economic studies on dispute resolution;
- Reports from international organisations such as OECD, World Bank, UNCITRAL, WIPO, APEC;
- National trade and investment statistics;
- Existing case law, court rulings, and enforcement data from national judicial systems and arbitration institutions related to dispute resolution systems;
- Academic research on arbitration, mediation, comparative legal analysis of similar reforms in different jurisdictions;
- Stakeholder surveys, structured interviews with MSMEs, legal practitioners, and arbitration centres.

- **What data should be collected (data mapping)?**

107. Key data includes dispute resolution trends, enforcement rates of cross-border disputes, participation of MSMEs and rural communities in cross-border trade, cost and time efficiency of different mechanisms, and types and monetary volumes of disputes where MSMEs and rural communities are parties.

- **What data is collected (data collection)?**

108. The collected data includes both legal and economic indicators:

- On the legal side, data covers the number and types of disputes faced by MSMEs and rural communities, the effectiveness and enforceability of different dispute resolution mechanisms, the use of ODR platforms in dispute resolution, and the legal frameworks governing cross-border dispute resolution and enforcement for low-monetary value disputes;
- On the economic side, the data includes cross-border trade participation rates of MSMEs and rural communities, cost and time associated with dispute resolution and enforcement across jurisdictions, legal fees, enforcement costs, and the overall impact of dispute resolution and enforcement systems on cross-border business and trade continuity.

- **Which qualitative and quantitative methods could be used for data collection?**

109. A combination of qualitative and quantitative methods is used to ensure a comprehensive assessment:

- Quantitative methods: Statistical analysis of MSME trade participation before and after law reform, correlation analysis between effectivity of cross-border dispute resolution systems and trade volumes, economic modelling to estimate cost savings, and surveys measuring time and expenses related to dispute resolution;

- Qualitative methods: Expert interviews with MSME representatives, dispute resolution practitioners, and arbitration centres to understand barriers to access to justice for MSMEs, case-law analysis to evaluate dispute resolution and enforcement trends, and comparative legal analysis to examine how different jurisdictions implement dispute resolution mechanisms.

➢ **Is there any data limitation? If yes, please explain how this limitation may affect the overall analysis.**

110. Yes, data limitations include a lack of studies specifically measuring the impact of dispute resolution reforms on MSMEs and rural communities. This may reduce the certainty of projected economic benefits and require reliance on approximations from broader legal and economic research.

➢ **How reliable are the data sources?**

111. The data sources, including official reports, academic studies, and institutional databases, are generally reliable. However, variations in data collection methodologies across jurisdictions may impact comparability.

➢ **Is the collected data complete, current and reliable?**

112. While most collected data is current and reliable, there are gaps in sector-specific MSME dispute resolution studies. Future research and standardised data collection methods would improve accuracy and comprehensiveness.

2. <u>Conceptual causal links</u>

➢ **Are there conceptual causal links between Factors?**

113. Yes, there are strong conceptual causal links between different factors.

➢ **Which types of conceptual causal links exist (direct or indirect)?**

114. Both direct and indirect causal links exist between different factors. Some of the direct and indirect conceptual causal links are listed below:

<u>Direct causal links</u>

- The increase in usage of ODR platforms (Factor B) directly increases efficiency in dispute resolution (Factor A) and reduces dispute resolution costs (Factor A) by enabling faster case processing, electronic case management, and remote participation. This may encourage greater engagement in international trade and cross-border trade (Factor C).
- Harmonisation of dispute resolution rules (Factor B) directly enhances legal predictability and implementation of law reform (Factor D) by ensuring consistency in procedural and enforcement mechanisms across jurisdictions. This reduces legal uncertainty for MSMEs, makes cross-border transactions less risky, fosters economic confidence, and encourages MSMEs and rural communities to engage more in cross-border trade (Factor C).

<u>Indirect causal links</u>

- International recognition and implementation of the reform (Factor B) indirectly attracts foreign direct investment (FDI) in MSME sectors (Factor A), strengthening financial markets (Factor C). A well-established and legally predictable dispute

resolution system increases investor confidence and leads to more capital inflows into MSME-driven industries (Factor C).

- Cost reductions in dispute resolution (Factor A) indirectly improve MSME financial sustainability (Factor C) and, therefore, leads to greater number of States which implement the law reform to increase their tax revenues (Factor B).

➢ **What is the level of intensity of conceptual causal links (weak or strong)?**

115. Most causal links are strong, particularly those related to legal accessibility, cost efficiency, and efficiency in dispute resolution. For example, the link between reducing dispute resolution costs and increased MSME trade participation is well-established in economic studies. However, some links (e.g., long-term effect on financial market stability) may be relatively weaker, since they depend on broader economic conditions.

F. ECONOMIC SCORE

1. Methodology

Framework

$$ES = [[A + B + C] \times D] / 3 - E$$

With level of certainty (%)

Where -

- **ES** is the Economic Score indicating the expected relative economic variation from a Benchmark [range: - 1 to 10].
- **A** is the net, direct gain of the new rules [range: 0 to 10].
- **B** is the net gain of the new rules as a network [range: 0 to 10].
- **C** is the net systemic (including developmental) impact of the new rules [range: 0 to 10].
- **D** is the extent that the new rules will be effectively applied by courts, authorities and private actors [range: 0 to 1].
- **E** is the expected total net cost of creating and transitioning to the new rules [range: 0 to 1].
- **Level of Certainty** is the qualitative assessment of confidence, or certainty, of the occurence of the impacts.

2. Factors

Factor	Score (relative to Benchmark)	Main justification
A	8	The proposed law reform is expected to generate strong direct gains for MSMEs and rural communities by reducing dispute-resolution costs, legal advice and representation costs, travel and translation costs, procedural delays, enforcement uncertainty, and the risk of writing off unresolved claims. It may also improve cash flow by allowing smaller economic actors to recover losses more quickly and participate more confidently in cross-border transactions.

B	10	The proposed law reform is expected to generate strong network gains by creating a more harmonised dispute-resolution framework across jurisdictions. These gains would arise from reduced legal search costs, standardised ODR/ADR procedures, easier drafting of dispute-resolution clauses, improved interaction with existing enforcement instruments, and greater predictability in the recognition and enforcement of outcomes as more States adopt or align with the same framework.
C	9	The proposed law reform is expected to generate substantial systemic gains by increasing MSME participation in cross-border trade, supporting formalisation, improving access to credit, encouraging investment in MSME-related sectors, strengthening supply-chain reliability, and increasing tax revenues through higher commercial activity. However, the systemic effects remain slightly below the Benchmark because they depend on broader conditions such as digital infrastructure, market access, and actual MSME uptake.
D	0.9	Effective application is expected to be high because the proposed law reform would be designed around simplified procedures, ODR tools, and existing enforcement instruments. However, the score remains below 1 because some jurisdictions, especially those with weaker judicial capacity or limited digital infrastructure, may face difficulties in implementing and enforcing the new rules consistently.
E	0.2	Transition costs are expected to be moderate but non-negligible. They include negotiation and drafting costs, national implementation costs, training for courts, mediators, arbitrators and MSMEs, awareness-raising activities, ODR platform development, cybersecurity, translation tools, and ongoing maintenance. These costs remain clearly outweighed by the expected reduction in dispute resolution and enforcement costs.
Level of Certainty	Conjectural	The lack of studies investigating the effect of the reform specifically for MSMEs decreases the level of certainty.
ES	7.9 (AA – high economic impact)	

Factor A (direct impact)

- **Under the baseline scenario, who is suffering from market failures or other inefficiencies?**

116. Under the baseline scenario, MSMEs and rural communities are the primary actors suffering from market failures and inefficiencies in cross-border dispute resolution. Dispute resolution mechanisms vary widely across jurisdictions, which leads to inefficiencies for MSMEs and rural communities engaged in cross-border trade. The lack of accessible, affordable, and efficient dispute resolution options creates significant barriers to justice and discourages small businesses from participating in international trade. In addition, rural communities and MSMEs often lack access to qualified legal professionals, affordable representation, and local dispute resolution facilities.

- **Which actors would be directly affected by the introduction of the reform?**

117. From an initial stakeholder mapping, the following actors would be expected to be directly affected by the reform:

- MSMEs and rural communities: These are the primary beneficiaries, particularly those engaged in cross-border transactions – they will experience a more accessible and cost-effective dispute resolution mechanism;
- Legal and arbitration professionals: Simplified processes and lower fees may impact their demand and revenue streams;
- Technology providers: Suppliers of ODR platforms, AI tools, and multilingual support technologies will be critical to the reform's implementation;
- Governments and regulatory bodies: Responsible for facilitating the legal frameworks and promoting harmonisation with international instruments;
- Trade partners and intermediaries: Including entities facilitating MSMEs' cross-border transactions, such as logistics companies and financial institutions, who may see reduced transaction risks.

- **Who is targeted to gain from the law reform? Are the stakeholders to whom the envisaged rules are intended easily identified?**

118. Stakeholders are generally easy to identify as they include well-documented groups like MSMEs, rural community representatives, trade associations, arbitration centres, and technology firms. However, granular identification, especially among rural and remote MSMEs, may require outreach through local agencies and community organisations.

- **What is the size of the market(s) affected by the law reform (e.g., in terms of investment, trade flows, expenditure), relative to the Benchmark?**

119. The size of the affected markets is substantial, especially in regions heavily reliant on MSMEs, such as Asia-Pacific, Africa, and Latin America. MSMEs account for a significant portion of GDP and employment in these areas. Benchmarks such as APEC's ODR framework could provide a reference, where similar initiatives have targeted millions of businesses and billions in trade flows annually.

- **What is the expected change in the affected markets brought about by the legal reform?**

120. The expected changes would include:

- Increased trade participation: The reform may encourage more MSMEs to engage in cross-border transactions by reducing dispute resolution risks;
- Improved efficiency: Faster resolution mechanisms could increase the velocity of trade flows, reducing delays caused by unresolved disputes;
- Reduced transaction costs: More accessible dispute resolution could decrease overall costs for businesses involved in international trade.

➢ **What is the expected improvement of transactions at individual level?**

121. The proposed measures are expected to enhance the stability and efficiency of transactions at the individual level by significantly improving access to justice for individual MSMEs and rural stakeholders with a time-efficient and cost-effective mechanism for resolving small-value disputes. This would reduce barriers that traditionally hinder these groups from seeking legal recourse, ensuring fairer outcomes and broader participation in the justice system.

122. By minimising financial and administrative burdens associated with traditional dispute resolution methods, such as court litigation or in-person arbitration, the measures are expected to lower the cost of pursuing claims. This cost reduction is particularly beneficial for stakeholders operating with limited resources, enabling them to resolve disputes without jeopardising their financial stability. Thus, it is expected that the costs associated with resolving disputes arising from transactions at the individual level will be reduced.

123. The ability to recover losses promptly and efficiently through the proposed mechanism will enhance cash flow for individual MSMEs and rural stakeholders. This improvement in liquidity is critical for maintaining sustainable operations and mitigating the adverse effects of unresolved disputes on their day-to-day business activities.

➢ **Is the law reform expected to lead to compliance costs (e.g., costs to comply with reporting requirements, etc.)?**

124. Yes, the reform may lead to compliance costs, including:

- Adoption of ODR platforms: MSMEs may incur costs for registering on or learning to use the platform;
- Training and awareness: Ensuring familiarity with simplified procedures and technologies;
- Initial investments in technology: Governments or institutions might face costs to set up ODR systems and provide rural communities with access to necessary digital infrastructure.

125. These costs, however, are expected to be offset by the long-term benefits of reduced litigation expenses and enhanced trade opportunities.

➢ **Is the law reform expected to lead to increased legal predictability, relative to the Benchmark? If so, is this expected to affect the number of disputes and related costs?**

126. The law reform is expected to enhance legal predictability compared to existing mechanisms. This improvement stems from the adoption of simplified procedures, clearer rules, and the integration of enforceability instruments, such as the New York Convention of 1958. These measures are expected to reduce uncertainties in dispute outcomes.

127. Regarding the number of disputes, the enhanced predictability may encourage MSMEs and rural communities to pursue legitimate claims instead of absorbing losses. This could initially lead to an increase in the number of disputes filed. However, over time, the establishment of a reliable and accessible mechanism is likely to deter frivolous claims and incentivise better contractual practices, which may potentially stabilise or even reduce dispute volumes in the long term.

128. In terms of related costs, the introduction of simplified and technology-driven processes is expected to decrease the overall expense of dispute resolution. Nonetheless, the initial implementation phase may involve costs for installing technological infrastructure and training stakeholders, temporarily offsetting these savings. Once established, the streamlined procedures are likely to deliver significant cost reductions, particularly for small and resource-constrained parties.

- **What type of statistical information, indicators and information should be generated in order to facilitate an evaluation of the direct impacts of the law reform?**

129. To evaluate the direct impacts of the reform, the following data should be collected:

1. Dispute trends and outcomes:

- Number of disputes initiated pre- and post-reform
- Time taken to resolve disputes at each stage (negotiation, mediation, arbitration)
- Success rates at each stage (percentage resolved through mediation vs. arbitration)

2. Cost analysis:

- Average costs incurred by MSMEs before and after the reform for resolving disputes
- Breakdown of costs by category (e.g., legal fees, platform usage fees, administrative costs)

3. Participation metrics:

- Number of MSMEs and rural communities using the mechanism
- Geographic and sectoral distribution of participants
- Frequency of cross-border transactions post-reform, indicating improved confidence

4. Use of technology:

- Adoption rates of ODR platforms among targeted users
- Usage metrics of key technological features (e.g., AI-based case management, multilingual support)

5. Economic impact:

- Change in trade volumes involving MSMEs pre- and post-reform
- Reduction in financial losses due to unresolved disputes
- Increase in cross-border contracts and investments facilitated by MSMEs

6. Satisfaction and perception:

- Surveys of MSMEs and other stakeholders on ease of use, fairness, and efficiency of the new mechanism

- Perception of predictability and trust in the system

7. Compliance and adaption costs:

- Costs incurred by stakeholders to comply with the new system (e.g., training, technology upgrades)
- Feedback on the affordability and accessibility of the mechanism. By consistently tracking these indicators, policymakers can evaluate the reform's effectiveness, adjust for unintended outcomes, and ensure that the initiative continues to meet the needs of MSMEs and rural communities

Benchmark Comparison for Factor A

130. Compared with the relevant existing Benchmarks for direct impact, particularly the WIPO Expedited Arbitration Rules, the 2021 ICC Arbitration Rules, and the EU Mediation Directive, the proposed law reform is expected to achieve similarly strong direct gains by reducing dispute-resolution costs, procedural delays, travel costs, translation costs and legal representation costs for MSMEs and rural communities. However, the score remains below the maximum because the proposed law reform targets a more heterogeneous and resource-constrained user group than most existing Benchmarks, and its direct benefits may be partly offset by initial compliance, training and digital-access costs.

Factor B (network impact)

➢ **With which existing laws and regulations would the law reform interact with?**

131. The law reform would be expected to complement and create synergies with the following existing laws, regulations and instruments:

1. International agreements:

- New York Convention (1958) on the Recognition and Enforcement of Foreign Arbitral Awards
- United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention, 2018)
- Regional trade agreements (e.g., EU regulations, USMCA, ASEAN agreements) that include dispute resolution provisions

2. National laws:

- Domestic arbitration and mediation laws
- Consumer protection laws, which the reform excludes but could influence indirectly
- Contract laws governing cross-border transactions

3. Technology and data laws:

- Cybersecurity and data privacy laws affecting ODR platforms
- E-commerce and digital trade regulations relevant to MSMEs

➢ **How are the new rules expected to fit into the existing legal framework?**

132. The new rules are expected to complement existing legal frameworks by offering simplified, technology-driven mechanisms tailored to MSMEs and rural communities. They fill

gaps in current systems, particularly for small-value disputes, while aligning with international enforcement instruments like the New York Convention to ensure cross-border enforceability.

- **How do the objectives of the law reform compare to the objectives of the existing legal framework and to the Benchmark (e.g., do they support or oppose each other)?**

133. The reform supports existing legal frameworks by promoting access to justice, encouraging cross-border trade, and reducing barriers to dispute resolution. While traditional frameworks often cater to high-value disputes, the reform narrows its focus to low-value disputes, emphasising inclusivity, affordability, and efficiency.

134. However, potential divergences between the reform and existing frameworks may arise due to differing priorities. Some existing frameworks prioritise formality and comprehensive processes, which may not align with the reform's expedited and simplified approach.

- **What are the expected synergies or conflicts with existing regulations?**

135. The proposed law reform is expected to create several synergies with existing regulations. For example, adherence to the New York Convention and the Singapore Convention will foster greater consistency in cross-border enforcement, ensuring that awards and settlements are recognised and upheld internationally. Additionally, the reform will improve access to justice and reduce legal risks for MSMEs, aligning with the economic development goals embedded in many international trade agreements and facilitating a more inclusive and equitable trade environment.

136. However, potential conflicts may arise due to variations in national arbitration laws, which could pose challenges to harmonisation. Additionally, resistance from established arbitration centres or legal professionals may also be encountered, as the reform's emphasis on reduced procedural complexity could be perceived as diminishing their roles or altering traditional processes.

- **How many states are expected to join the initiative (e.g., expected number of ratifications or adoptions)?**

137. While the exact number of expected participants depends on diplomatic engagement and economic incentives, it is reasonable to expect significant uptake from regions like Asia-Pacific (e.g., APEC), Africa, and Latin America, given their reliance on MSMEs. An initial target could be 30-50 states, scaling as adoption grows.

- **What gains would arise as more states adopt the law reform (e.g., implement a model law or become party to a treaty)?**

138. Gains are expected to be higher than those of the Benchmark as more states adopt the law reform, given the emphasis of the law reform on international harmonisation and inclusivity.

139. Increased uniformity in dispute resolution frameworks across jurisdictions will significantly reduce legal risks and transaction costs, fostering a more predictable and stable environment for cross-border trade. This harmonisation will enhance the efficiency of dispute resolution processes.

140. Economic growth is another expected benefit, as the reform's implementation encourages greater participation in cross-border trade. The improved confidence in more

accessible dispute resolution mechanisms is expected to incentivise MSMEs and other stakeholders to engage in international commerce more actively.

141. Scaling benefits will become evident as the reform is adopted by a larger number of states. Harmonised frameworks will facilitate shared use of technological infrastructure, reducing costs per case and enhancing the overall efficiency of the system. These network effects will amplify the advantages of the reform, making it an increasingly valuable tool for cross-border dispute resolution.

- **How does the law reform affect states that are not direct addressees of the reform?**

142. States that do not directly adopt the law reform may still experience indirect benefits through economic spillovers. As adopting states engage in increased trade facilitated by the reform, global markets could see stimulation, creating opportunities for non-adopting states to benefit indirectly from the economic growth.

143. Additionally, non-adopting states may face pressures to align their legal frameworks with the principles of the reform. To remain competitive and attract MSME trade, these states might find it advantageous to harmonise their dispute resolution laws with those of adopting jurisdictions, ensuring compatibility and minimising barriers to cross-border transactions.

144. Conversely, non-participation also carries potential risks. Non-adopting states may face reduced engagement with MSMEs in adopting states due to perceived legal risks and a lack of alignment with international norms. This exclusion could limit their participation in global trade and hinder access to economic opportunities created by the reform.

145. Overall, the law reform’s alignment with international norms and its scalability makes it a valuable initiative with broad-reaching implications for global trade and dispute resolution.

- **What type of statistical information, indicators and information should be generated in order to facilitate an evaluation of the network impacts of the law reform?**

146. To evaluate the network impacts of the law reform (Factor B), the statistical information and indicators such as the following should be generated: number of jurisdictions adopting laws related to the dispute resolution mechanisms for MSMEs and rural communities to track how many states implement the new dispute resolution framework; the geographical distribution of implementing states; the extent of alignment with international dispute resolution and enforcement mechanisms;, the level of cross-border cooperation in dispute resolution, measured by the number of mutual recognition agreements and cooperation frameworks established between states; legal harmonisation metrics to analyse legislative fragmentation between different jurisdictions by tracking how many states adopt similar uniform rules.

<u>Benchmark Comparison for Factor B</u>

147. Compared with the relevant existing Benchmarks, particularly the New York Convention, the Singapore Convention on Mediation, the UNCITRAL Model Law on International Commercial Mediation, and the Brussels I Regulation, the proposed law reform is expected to generate strong network gains by promoting a more harmonised and interoperable dispute-resolution framework across jurisdictions. These gains would arise from reduced legal search costs, more standardised dispute-resolution clauses and procedures, greater predictability of recognition and enforcement, and increasing value as more states, ODR providers and MSMEs

rely on the same framework. The score of 10 is justified on the assumption that the proposed law reform can reproduce the broad legal-network effects of these Benchmarks in the MSME context, although actual implementation risks are addressed separately under Factor D and the level of certainty.

Factor C (indirect/systemic impact)

- **Which actors would be indirectly affected by the law reform?**

148. From an initial stakeholder mapping, the following actors would be expected to be indirectly affected by the law reform:

- Trade partners and intermediaries: Businesses that facilitate MSME trade (e.g., logistics, payment processors) may benefit from smoother transactions and reduced delays due to disputes;
- Consumers: Though excluded from direct participation, consumers could experience better product availability and pricing due to the improved efficiency of MSME operations;
- Large corporations: They may see increased competition as MSMEs are empowered to expand into cross-border markets;
- Arbitration centres and law firms: Adjustments to workflows and revenue models may arise due to streamlined and lower-cost dispute resolution processes;
- Governments: Enhanced tax revenues from increased MSME trade and economic activity.

- **Which sectors are expected to be indirectly affected?**

149. The following sectors are expected to be indirectly affected by the law reform:

- Technology: Increased demand for ODR platforms, AI solutions, and multilingual technologies;
- Logistics and Supply Chain: MSMEs engaging in more cross-border transactions will drive growth in transportation, warehousing, and customs processing;
- E-Commerce: Greater confidence in resolving disputes may boost online cross-border trade;
- Financial Services: Heightened demand for trade financing, cross-border payments, and financial advisory services.

- **How many different regions or countries are expected to be affected?**

150. The reform is expected to influence multiple regions globally, particularly those with significant MSME presence and rural economies. These include:

- Asia-Pacific: Home to APEC's initiatives and numerous MSMEs;
- Africa: High dependence on rural economies and MSMEs for economic growth;
- Latin America and the Caribbean: Dynamic but underserved cross-border trade ecosystems;
- Europe and Central Asia: Regions with mature but fragmented MSME markets.

151. Collectively, over 50 countries may be affected either directly or indirectly, with the scope expanding as the reform gains traction.

- **How is the law reform expected to affect the labour market?**

152. The law reform is expected to contribute to employment growth, particularly in rural areas, by empowering MSMEs to expand their operations. Improved access to efficient dispute resolution mechanisms can reduce financial and operational barriers, enabling these enterprises to create more jobs and stimulate local economies.

153. Furthermore, the reform's focus on integrating technology into dispute resolution is expected to foster skill development. Legal professionals and business owners may need to acquire digital competencies to effectively navigate and utilise technology-driven processes, creating the necessity for a more digitally skilled workforce.

154. Moreover, the reform could help to reduce informality in the labour market. By providing greater legal support and accessible mechanisms for dispute resolution, informal businesses may find it more feasible to transition into the formal economy.

- **How is the law reform expected to impact the financial markets?**

155. Financial markets are expected to benefit from increased investment, particularly through the attraction of foreign direct investment (FDI). The improved dispute resolution mechanisms introduced by the reform create a more reliable and predictable legal framework for MSMEs, encouraging investors to allocate resources to regions that prioritise legal certainty and efficiency.

156. The reform is also expected to enhance access to credit for MSMEs. By reducing the risk of unresolved disputes and fostering confidence in the resolution process, financial institutions may be more inclined to extend credit to smaller enterprises, thereby supporting their growth and contributions to the broader economy.

157. Moreover, the law reform could contribute to greater market stability. By ensuring better enforcement and predictability in cross-border transactions, the reform reduces uncertainties and volatility, particularly in sectors heavily reliant on MSME activity. This stability is crucial for building trust and fostering sustained growth in financial markets.

- **What is the expected impact of the law reform on prices?**

158. The law reform is expected to lead to cost reductions for MSMEs by lowering dispute resolution expenses. These savings may translate into reduced production and operational costs, ultimately benefiting consumers through more affordable goods and services.

159. Increased market participation by MSMEs, facilitated by the reform, is likely to drive competitive pricing. By enabling smaller enterprises to thrive in the marketplace, the reform encourages healthier competition, leading to fairer and more accessible pricing for consumers.

160. Supply chain efficiency is another expected impact of the law reform on prices. Faster dispute resolution processes can help minimise logistical delays, ensuring more stable pricing by reducing disruptions within supply chains.

- **What are the effects on economic growth or development?**

161. The reform is expected to expand global trade volumes by increasing MSMEs' participation in cross-border transactions. By providing a reliable legal framework, the reform fosters confidence and encourages international business activities.

162. Formalising and scaling MSMEs' operations through the reform will likely contribute to tax revenue growth. Increased economic activity and compliance by MSMEs will enhance tax collection, supporting public finances and infrastructure development.

163. The law reform promotes inclusive development by opening economic opportunities for rural communities and underrepresented businesses. By addressing barriers to participation, the reform helps narrow regional inequalities and fosters more balanced economic growth.

164. The adoption of technology-driven solutions within the reform is expected to drive innovation across dispute resolution mechanisms, legal services, and related sectors. This technological advancement will create new opportunities and efficiencies.

165. By the improvement of the MSMEs' cash flow and reductions of financial losses, the reform contributes to their long-term resilience and sustainability, fostering stable economic development.

- **What type of statistical information, indicators and information should be generated in order to facilitate an evaluation of the systemic impact?**

166. To evaluate the systemic impact of the law reform (Factor C), the statistical information and indicators such as the following should be generated: the identification of indirectly affected actors, the analysis of indirectly affected sectors, the number of regions or countries and their geographical distribution, labour market effects through employment data in MSME-heavy industries, financial market data regarding MSMEs' access to credit and investment flows (especially FDI data), price variations in MSME-related goods and services, and economic growth indicators such as MSME contribution to GDP, trade expansion, and tax revenue changes resulting from enhanced dispute resolution mechanisms.

Benchmark Comparison for Factor C

167. Compared with the relevant existing Benchmarks, particularly the New York Convention, the Singapore Convention on Mediation, the Brussels I Regulation, and the EU Mediation Directive, the proposed law reform is expected to generate strong systemic gains by extending the benefits of accessible, enforceable, and cost-effective dispute resolution to MSMEs and rural communities. Similarly to these Benchmarks, the proposed law reform may support broader market confidence, cross-border commercial participation, legal certainty, and more efficient dispute resolution beyond the immediate parties to individual disputes. However, the score remains below the maximum because the proposed law reform targets a more heterogeneous and resource-constrained user group than the existing Benchmarks, and its wider systemic gains depend on external conditions such as digital infrastructure, market access, MSME awareness, institutional capacity, and actual uptake across jurisdictions.

Factor D

- **How complex are the new rules?**

168. The new rules are designed to be simple and user-friendly, especially for MSMEs and rural communities with limited access to legal expertise. The simplified mediation and arbitration processes aim to eliminate unnecessary legal complexities, offering a clear, expedited procedure. The rules will provide guidance on each stage (e.g., Notice, Response, Mediation, Arbitration) and ensure ease of understanding for non-legal professionals, with emphasis on affordability and efficiency. Although not overly complex, stakeholders may still require some initial guidance to adapt to the system.

- **Do the new rules provide for specific dispute resolution or other enforcement mechanisms?**

169. Yes, the new rules provide for specific dispute resolution mechanisms, particularly focusing on mediation and arbitration. These mechanisms will be streamlined for small-value B2B cross-border disputes, with clear timelines and procedures to ensure that disputes are resolved quickly and cost-effectively. The system integrates Online Dispute Resolution (ODR) for remote participation, and it links with international enforcement instruments like the New York Convention and regional trade agreements to ensure the enforceability of awards across jurisdictions.

- **Do the new rules have direct effect at national level or are implementing actions needed?**

170. The new rules are expected to require implementing actions at the national level. While the framework provides the overall structure, countries will need to adapt their national arbitration laws and potentially develop or adapt ODR infrastructure. Legislative reforms at the national level may be necessary to ensure compatibility with international agreements, such as the New York Convention, and to create the necessary legal environment for enforcing ODR awards in cross-border transactions.

- **How will stakeholders be involved in the law reform?**

171. Stakeholders will be involved in the law reform through:

- Consultations: Engaging key actors such as government representatives, MSME associations, legal experts, and technology providers in discussions on the design and implementation of the rules;
- Feedback loops: Stakeholders, particularly MSMEs and rural communities, will have opportunities to provide feedback on the system's accessibility, affordability, and effectiveness;
- Capacity building: Training and awareness-raising activities will be conducted to help MSMEs, legal professionals, and mediators understand and apply the new rules effectively;
- Public and private partnerships: Collaboration between governments, trade organisations, and private-sector entities (e.g., ODR platforms) will be essential for implementation.

- **What advocacy and assistance activities are anticipated?**

172. Anticipated advocacy activities are the following:

- Advocacy will focus on raising awareness among MSMEs and rural communities about the benefits of the new system, emphasising cost savings, accessibility, and ease of use;
- Efforts will include promoting cross-border collaboration and demonstrating how the law reform can streamline international trade for small businesses;
- Government-led advocacy campaigns will engage relevant stakeholders in discussing potential benefits and building political will for adoption.

173. Anticipated assistance activities are the following:

- Technical support for setting up ODR infrastructure;

- Training programmes for MSMEs, legal professionals, and local authorities to ensure they can use the system efficiently;
- Legal guidance and support for MSMEs with limited resources to understand and navigate the dispute resolution process.

- **To what extent are direct stakeholders expected to effectively apply the new rules?**

174. The direct stakeholders (MSMEs, rural communities, and legal professionals) are expected to apply the new rules effectively, particularly due to the simplified and user-friendly design of the mechanisms. However, the adoption rate may vary by region depending on digital literacy, infrastructure access, and willingness to engage with new systems. In regions with less technological penetration, additional support and education will be required.

- **To what extent are courts in the relevant jurisdictions expected to effectively apply the new rules?**

175. Courts in relevant jurisdictions are expected to apply the new rules effectively, particularly in those jurisdictions where the legal framework already supports arbitration and ODR mechanisms. Countries with strong judicial support for alternative dispute resolution (ADR) are more likely to seamlessly integrate the new rules. In jurisdictions with weaker support for ADR or limited experience with ODR, courts may need additional training and clearer guidelines to ensure consistency in applying the rules. Over time, the harmonised approach and links with international enforcement frameworks will increase the effectiveness of courts in enforcing ODR decisions.

- **Is any data available on compliance with comparable legal instruments?**

176. Data on compliance with similar legal instruments (such as the New York Convention and Singapore Convention) can be used as an indicator of expected compliance with the new rules. The global adoption rate of the New York Convention—which is widely regarded as an effective framework for enforcing arbitral awards—demonstrates that international agreements focused on dispute resolution can achieve significant levels of compliance. Similarly, the Singapore Convention, which aims to facilitate enforcement of international mediation settlements, offers a model for tracking compliance with cross-border dispute mechanisms. Monitoring compliance rates post-implementation of the new rules will be crucial for understanding the reform's success and areas for improvement.

Benchmark Comparison for Factor D

177. In terms of effective application, the proposed law reform is expected to resemble the stronger implementation models reflected in the New York Convention, the Brussels I Regulation, the Singapore Convention on Mediation, all of which rely on clear procedural frameworks and recognisable enforcement pathways. However, unlike these Benchmarks, the proposed law reform would need to operate across jurisdictions with different levels of judicial capacity, ADR experience, digital infrastructure, and familiarity with ODR. A score of 0.9 therefore reflects a high expected level of effective application, while preserving a deduction for implementation risks in developing economies and rural contexts.

Factor E

- **What are the expected costs for negotiating and adopting the law reform?**

178. The costs associated with negotiating and adopting the law reform will primarily include:

- Consultation costs: Engaging key stakeholders such as government agencies, international bodies, legal professionals, MSME associations, and technology providers to ensure that the reform addresses the needs of all affected parties – this may involve extensive roundtables, workshops, and public consultations;
- Legal drafting and alignment: Costs related to drafting the new legal frameworks and ensuring alignment with existing national laws, regional trade agreements, and international enforcement mechanisms like the New York Convention – this will require legal expertise and possibly external consultants to ensure compatibility;
- Negotiation costs: Efforts to negotiate the adoption of the reform across various jurisdictions, potentially involving diplomatic efforts and multilateral agreements among participating countries – this process will likely incur travel costs, administrative costs, and legal consultation fees.

- **What are the expected educational costs for the instrument?**

179. Educational costs will be focused on ensuring stakeholders understand and can effectively use the new dispute resolution mechanisms. Key areas include:

- Training for Legal Professionals: Offering training programmes and workshops for legal professionals, including arbitrators, mediators, and lawyers, to familiarise them with the new rules and the ODR platform;
- MSME Awareness Campaigns: Educating MSMEs and rural communities about the advantages of the new system, especially regarding simplified dispute resolution and cost savings – this will involve the development of educational materials (e.g., pamphlets, online tutorials, webinars) and outreach activities;
- Technological literacy: Providing technology-related training for MSMEs, especially in rural areas, to ensure they can effectively engage with the ODR system – costs here include platform setup, internet access, and software training for users.

- **What are the expected costs for implementing and complying with the instrument?**

180. The expected costs for implementing and complying with the instrument include:

- Infrastructure development: The establishment and maintenance of ODR platforms, including the technological infrastructure for remote mediation and arbitration – this involves costs related to server setup, security protocols, and platform updates;
- Monitoring and enforcement: Governments and regulatory bodies may need to invest in mechanisms for monitoring compliance and ensuring the system operates smoothly – this includes the potential creation of national regulatory bodies to handle disputes and maintain compliance.
- Support services: The development of support services (e.g., customer service for the ODR platform, technical support, and legal assistance for MSMEs) will require operational funding;

- International cooperation: For countries that participate in cross-border dispute resolution, there may be costs associated with harmonising national laws with the reform, ensuring international enforceability of decisions, and handling disputes with foreign jurisdictions.

➢ **What are the expected future costs of inaction?**

181. The costs of inaction, relative to the Benchmark, of adopting a simplified, technology-driven dispute resolution mechanism, are likely to include:

- Increased transaction costs: MSMEs may face higher costs due to unresolved disputes and inefficient dispute resolution mechanisms – legal fees, delays, and the cost of entering traditional legal proceedings could deter MSMEs from engaging in cross-border trade, leading to lost business opportunities;
- Decreased market participation: Failure to adopt such reforms could exclude MSMEs from international markets, leaving them at a disadvantage compared to competitors in jurisdictions with efficient dispute resolution systems – this can slow down economic development, particularly in developing regions;
- Economic losses: The absence of a streamlined dispute resolution process may lead to increased risks of losses from unresolved cross-border disputes. MSMEs could face damaged relationships, write-offs from outstanding payments, and difficulties in securing financing due to higher perceived risks;
- Negative impact on FDI: Countries that do not adopt such a reform could lose out on foreign direct investment (FDI), as investors are often hesitant to enter markets where dispute resolution mechanisms are inefficient or costly;
- Fragmentation of legal systems: Without a harmonised approach, different legal frameworks across countries may create legal uncertainty, increasing the complexity and cost of cross-border transactions. This could hinder the overall growth of the global MSME sector.

Benchmark Comparison for Factor E

182. The proposed law reform is expected to involve higher transition costs than non-binding guidance instruments such as the APEC ODR Framework and UNCITRAL Technical Notes on ODR, but lower costs than fully institutionalised or court-based enforcement systems such as the Brussels I Regulation. Its transition costs are closer to those associated with implementing mediation and arbitration frameworks, such as the Singapore Convention on Mediation and the UNCITRAL Model Law on International Commercial Mediation, because the reform would require legal adaptation, training, awareness-raising, ODR infrastructure, cybersecurity, translation tools, and ongoing platform maintenance. The score remains low because these costs are expected to be moderate and clearly outweighed by the reduction in litigation, enforcement, travel, translation and administrative cost.

3. Level of certainty

➢ **How reliable are the findings, based on the type, quantity, quality of evidence or input data, the timing of data collection, and the degree of agreement?**

183. The findings are moderately reliable because they are based on recognised legal frameworks, economic reports, and dispute resolution studies; however, the lack of MSME-specific empirical research and reliance on assumptions about future implementation reduce

certainty. While there is broad agreement on the benefits of harmonised dispute resolution, the absence of direct data on MSMEs limits full reliability.

- **Are there deviations between the evaluated reform and the Benchmark in terms of legal areas, geography, or sector?**

184. Yes, there are deviations between the evaluated reform and the Benchmark in terms of legal areas, geography, and sector. While the Benchmark frameworks focus on general dispute resolution mechanisms, the evaluated reform specifically targets MSMEs and rural communities in cross-border trade, which face unique legal and economic constraints. Geographically, the Benchmark examples are often applied in jurisdictions with well-established legal infrastructures, whereas the reform aims to enhance accessibility in regions with weaker legal frameworks. Additionally, sectoral differences exist, as many Benchmarks focus on high-value commercial disputes, whereas the reform seeks to address low-value MSME disputes, which require cost-effective and simplified procedures.

- **How confidently can the effects documented in the Benchmark be expected to apply to the reform under evaluation?**

185. The effects documented in the Benchmarks can be partially expected to apply to the law reform, but with uncertainties due to contextual differences. While the Benchmarks demonstrate the benefits of harmonised dispute resolution, cost reduction, and increased accessibility, the specific challenges faced by MSMEs and rural communities may limit direct applicability. Differences in legal infrastructure, enforcement mechanisms, and digital accessibility across jurisdictions may create uncertainty in whether the reform will achieve the same outcomes. As a result, while the Benchmark provides valuable insights, its effects on the evaluated reform cannot be predicted with full confidence.

- **Are there any externalities (e.g., environmental or social effects) that should be considered in the evaluation?**

186. Yes, there are social, economic, and technological externalities that should be considered in the evaluation:

- As a positive social externality, the law reform would increase the participation of financially weaker groups, such as MSMEs and rural communities, in cross-border trade. By providing a more accessible and cost-effective dispute resolution mechanism, the law reform can encourage smaller businesses to engage in international commerce with greater confidence. This may enhance economic inclusion and reduce financial inequality in the markets. However, if the law reform is not implemented equitably, it could widen disparities in legal access between similar groups of MSMEs and rural businesses. The latter may create unequal opportunities even among MSMEs and rural communities facing financial and legal constraints.
- The law reform may also produce economic externalities, particularly in complementary markets such as financial services, legal professions, and trade logistics. Increased legal certainty could result in greater investment, lower transaction costs, and improved access to credit for MSMEs, facilitating business growth and cross-border expansion. By reducing legal costs and procedural barriers, the reform may help MSMEs reinvest in growth, strengthen financial stability, and enhance global market integration. Additionally, the digitalisation of dispute resolution processes may reduce administrative costs and resource consumption by decreasing reliance on physical court proceedings, which can create a positive effect on public revenue and may increase social welfare in the jurisdictions where the law reform is implemented.

- Technological externalities can arise from the adoption of Online Dispute Resolution (ODR) systems, which could accelerate digital transformation in legal services.
- On the other hand, no significant environmental externalities are expected.

➢ **Do indirect network effects, such as impacts on complementary markets, influence the law reform?**

187. Yes, indirect network effects influence the law reform by impacting complementary markets such as financial services, legal professions, and trade logistics. Increased legal certainty and enforceability of dispute resolution mechanisms may lead to greater confidence among financial institutions and improve MSMEs' access to credit and insurance. Additionally, law firms and legal professionals may experience a shift in demand as MSMEs opt for alternative dispute resolution (ADR) and online dispute resolution (ODR) over traditional litigation, potentially reshaping the legal services market. The law reform may also enhance supply chain efficiency, as businesses with more predictable dispute resolution mechanisms face lower transaction costs and reduced contractual risks in cross-border trade, fostering greater regional and international trade integration.

➢ **How reliable are the data sources used?**

188. The data sources used are generally reliable, as they include *ex-post* economic studies on dispute resolution, reports from international organisations (such as OECD, World Bank, UNCITRAL, WIPO, and APEC), national trade and investment statistics, case law, and enforcement data from judicial mechanisms and arbitration institutions. Additionally, academic research on arbitration, mediation, and comparative legal analysis of similar reforms in different jurisdictions, as well as stakeholder surveys and structured interviews with MSMEs, legal practitioners, and arbitration centres, provide valuable qualitative and quantitative insights.

189. However, data limitations in measuring the impact of dispute resolution reforms on MSMEs and rural communities exist. There is a lack of targeted studies focusing on low-monetary value cross-border disputes, which requires reliance on approximations from broader legal and economic research. Additionally, variations in data collection methodologies across jurisdictions may impact comparability. While most collected data is current and reliable, sector-specific MSME dispute resolution studies remain incomplete.

➢ **How do changes in input data and assumptions effect the certainty and uncertainty of the law reform?**

190. Changes in input data and assumptions directly affect the certainty and uncertainty of the law reform by influencing the accuracy of projections. Since key data on MSME dispute resolution trends, enforcement rates, and cost efficiency is limited, assumptions are necessary to estimate the impact of the law reform. If input data on cross-border trade participation, legal costs, or dispute resolution efficiency deviates from initial assumptions, projected benefits may be overestimated or underestimated. Additionally, variations in jurisdictional adoption, digital infrastructure, and enforcement mechanisms introduce uncertainty, making the reform's outcomes highly dependent on implementation conditions. Therefore, ongoing data collection and monitoring are essential to refine assumptions and improve certainty over time.

➢ **Is there any existing previous economic research that has tackled similar reforms specifically?**

191. Yes, there is previous economic research that has focused on similar law reforms:

- Gil-Pareja et al. (2020) evaluate the effects of mediation, conciliation and arbitration on trade – the research demonstrates that domestic trade law reform and international treaties on arbitration and conciliation have a positive effect on trade, with a stronger effect of the latter;
- Myburgh and Paniagua (2016) evaluate the effects of arbitration on Foreign Direct Investment (FDI) and trade – the research shows that access to arbitration leads to an increase in FDI flows, which largely occurs through a change in the volume of investment, with a much smaller effect on the number of investment projects.

192. The lack of studies investigating the effect of the reform specifically for MSMEs decreases the level of certainty. The effects of the reform on MSMEs have a conjectural level of certainty.

4. Calculation of ES

193. The Economic Score (ES) of the law reform is expected to be the following:

$$\boldsymbol{ES} = \frac{(\boldsymbol{A}+\boldsymbol{B}+\boldsymbol{C})\times\ \boldsymbol{D}}{\boldsymbol{3}} - \boldsymbol{E} = \frac{(\boldsymbol{8}+\boldsymbol{10}+\boldsymbol{9})\times\ \boldsymbol{0.9}}{\boldsymbol{3}} - \boldsymbol{0.2} = \boldsymbol{8.1} - \boldsymbol{0.2} = \boldsymbol{7.9}$$

5. *Ex-post* quantification

194. Gil-Pareja et al. (2020) quantify the impact of UNCITRAL's Arbitration Model Law, finding an increase of 7% in international trade flows. Berkowitz et al. (2006) find a larger effect of the New York Convention on international trade (increasing trade flows by 116%), but only on complex products. The use of structural model of trade advocated by Yotov et al., (2006) used by Gil-Pareja et al. (2020) make their conservative estimate our preferred effect.

195. Myburgh and Paniagua (2016) report an increase of FDI in the lower quantiles (associated to SMEs) of 4%. The expected increase of trade and FDI (associated to SMEs) is about 5.6% and 3.2%, respectively. This is computed by dividing the ES by 10 and multiplying the result by the expected outcomes from the literature.

196. The absence of studies (to the best of our knowledge), that quantify the effects of similar reforms on other economic outputs (e.g., GDP) render further quantifications imprecise. However, the positive effects documented for trade and FDI would suggest also positive effects for economic growth, for instance.

197. *Ex-post* quantification of the law reform can be demonstrated as the following:

For International Trade Flows:

	International Trade Flows	**ES**	**Ex-post quantification**
Gil-Pareja et al. (2020)	7%	7.9	$\boldsymbol{7\%\times\frac{7.9}{10}=5.53\%}$

For FDI in the lower quantiles (associated to SMEs):

	FDI in the lower quantiles (associated to SMEs)	ES	Ex-post quantification
Myburg and Paniagua (2016)	4%	7.9	$\mathbf{4\% \times \frac{7.9}{10} = 3.16\%}$

ANNEX. CONSULTED SOURCES

Sources

Legislation and instruments

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