

With the Patronage of



*Ministry of Foreign Affairs
and International Cooperation*

**JOINT UNCITRAL/UNIDROIT WORKSHOP
ON LEGAL ISSUES ARISING FROM THE USE OF SMART CONTRACTS, ARTIFICIAL
INTELLIGENCE AND DISTRIBUTED LEDGER TECHNOLOGY**

Rome, UNIDROIT

6 - 7 May 2019

DAY I

9 am - 9.30 am INTRODUCTION

Opening address delivered by Mr Pasquale Velotti (Deputy Head of the Service for Legal Affairs, Diplomatic Disputes and International Agreements, Italian Ministry of Foreign Affairs and International Cooperation)

Introductory remarks delivered by Ms Anna Joubin-Bret (Secretary, UNCITRAL) and Professor Ignacio Tirado (Secretary-General, UNIDROIT)

9.30 am - 11.00 am PANEL I. Mapping the market, defining concepts and understanding applications and business models in the area of DLT, Smart Contracts and AI

This “conceptual” panel will discuss and agree upon (to the extent possible) the main concepts and definitions. There is much confusion as to the specific legal meaning of AI/Fintech concepts, such as smart contracts and digital assets, which are mainly defined technologically. The objective of the panel will be precisely to try to identify the main topics/items that need consensus within the international community and precise legal definitions. The panel will also touch upon cross border issues (jurisdiction/applicable law)

Chair: *Professor Henry Gabriel (UNIDROIT Governing Council member, Elon University)*

Panelists:

Professor Louise Gullifer (University of Oxford)

Professor Teresa Rodríguez de las Heras (Universidad Carlos III Madrid)

Professor Tetsuo Morishita (Sophia University, Tokyo)

11.00 am - 11.30 am Discussion with the floor

11.30 am - 11:45 am Coffee

11:45 am - 1 pm PANEL II. Institutions and participants

The "institutional" panel would help understanding the adequate scope of the work to be undertaken by our joint-venture (without implying that we should focus our work on the regulatory aspects): Should there be some type of institutional framework in place in case of ex ante supervision/regulation and in case of ex post trouble? If so, how/what type of framework? Further - and less controversially -, the panel should address (a) institutional structures that have already grown up or are likely to grow up in the future; and (b) whether any other institutional structures should be mandated to exist or encouraged to exist. The panel will address these issues in the context of two important areas:

Artificial Intelligence: Consideration of (i) the matter of liability arising from the use of AI in, for instance, robots or decision-making, and how standards for such liability could be set, and (ii) challenges presented by decisions based on algorithms including related regulatory and liability issues. (The issues relating to liability also will be considered by Panels III and V.)

Custody of Digital Assets: Consideration of (i) the means of access and control and the use of custodians in holding of digital assets such as cryptocurrencies and cryptosecurities (as to the need/convenience of their participation and a legal analysis of the main elements of access and custody), (ii) private international law aspects of custody, and (iii) issues arising out of the insolvency of custodians, including private law rights of investors, characterization of assets, and treatment in insolvency proceedings.

Chair: Professor *Charles Mooney (University of Pennsylvania)*

Panelists:

Professor Alzbeta Krausova (Institute of State and Law, Prague)

Dr Philipp Paech (London School of Economics)

Professor Matthias Haentjens (University of Leiden)

Professor Ross Buckley (University of South Wales)

1 pm - 1.30pm **Discussion with the floor**

1.30 pm - 2.30pm **LUNCH**

2.30 pm - 4:00 pm **PANEL III. DLT, Smart contracts and AI in the transactional lifecycle: general contract law issues**

The "operational" panel touches upon specific operations and how DLT, smart contracts and AI would fit in the realm of traditional contract law, from the point of view of general contract law (including the relationship with other fields such as torts)

Chair: Professor *Giusella Finocchiaro (University of Bologna)*

Panelists:

Dr Mateja Durovic (Kings College London)

Professor Houman Shadab (New York Law School)

Professor Vincent Gautrais (University of Montreal)

Dr Nikita Aggarwal (Oxford)

4 pm - 4.30pm **Discussion with the floor**

4.30 pm - 4.45 pm **Coffee**

4.45 pm - 6.15 pm PANEL IV. DLT, smart contracts and AI in specific business sectors: focus on fintech

This panel examines particular business usages of DLT and Smart Contracts with a view to: (a) discussing whether there are particular business usages which themselves call out for harmonisation of the relevant law or of standards (b) debating whether any issues that arise in a particular business usage are examples of wider issues in private law which could benefit from harmonised principles or rules. In particular, the panel will discuss the (proprietary and) conflict of laws analysis of exogenous DLT tokens, the potential impact of technology on the enforcement of security interests in financial assets, DLT/Smart Contracts in international sale of goods/commodities, and the legal issues in the financing of rights to payment in the blockchain context.

Chair: Professor Louise Gullifer (University of Oxford)

Panelists:

Dr Peter Werner (ISDA)

Dr Andrea Tosato (University of Pennsylvania)

Dr Thomas Keijser (Radboud University)

Dr Marek Dubovec (NatLaw, Arizona)

6.15 pm - 6.45 pm Discussion with the floor**DAY II****9.30 am - 11:00 am PANEL V. What happens when things go wrong? Liability, execution, remedies**

This panel will discuss the impact of digital emerging technologies on the legacy liability regimes and consider self-executing remedies and their relationship with procedural law and insolvency

Chair: *Professor Teresa Rodríguez de las Heras (Universidad Carlos III Madrid)*

Panelists:

Professor Hannah Lim Yee Fen (Nanyang University, Singapore, participating via remote video contribution)

Professor Gerhard Wagner (Humboldt University of Berlin)

Professor Eugenia Dacornia (UNIDROIT Governing Council member, University of Athens)

Hon. Ole Böger (District Court Judge, Hanseatic Court of Appeal Bremen)

11:00 am - 11.30 am Discussion with the floor**11.30 am - 11:45 am Coffee break****11:45 am - 12:45 am PANEL ON CONCLUSIONS**

This panel will summarise the findings of each prior panel and present them in a form that could be taken into consideration by the UNIDROIT Governing Council and by UNCITRAL

Chair: *Professor Hideki Kanda (UNIDROIT Governing Council member, Gakushuin University)*

Panelists:

All panel chairs