



# Online Dispute Resolution

under APEC

Twenty-first In-House Congress Hong Kong

The In-House Community

3 October 2019

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# APEC Economic Committee (EC)



# Economic Committee

Committee under APEC

- To remove trade and investment obstacles by promoting structural reform within APEC
- Including regulatory reform, competition policy, public sector governance, corporate governance, and strengthening economic legal infrastructure

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# Strengthening Economic Legal Infrastructure (SELI)



# SELI

- Friends of the Chair Group - Strengthening Economic Legal Infrastructure (SELI) created under APEC Economic Committee (EC) in 2015
- Coordinated and led by Hong Kong, China
- All APEC member economies are invited to nominate legal advisors or officials with legal background from their relevant authorities and agencies to join SELI





# SELI

## Objectives


1. To raise awareness of the role and importance of legal infrastructure for economic developments;
2. To promote understanding of relevant international standards and international instruments useful for strengthening the economic and legal infrastructure of member economies; and
3. To identify areas for technical cooperation and capacity building among APEC member economies.



# SELI's scope of operation

SELI is to serve as a network of focal points for relevant legal advisors and officials:

1. To exchange information on legal infrastructure relevant to economic developments;
2. To develop and enhance in-depth understanding of international economic law including relevant international instruments;
3. To share experience and expertise on activities relevant to the implementation of these international instruments and to develop good practice guides in specific legal areas;
4. To identify areas for capacity building and technical cooperation;
5. To examine, when possible, the importance of legal infrastructure on trade and investment;
6. To develop and review appropriate action plans, when necessary; and
7. To do outreach and public relations to APEC Stakeholders .



Major initiative:  
SELI ODR Work Plan  
(endorsed by the  
Economic Committee  
in 2017)

“SELI Work Plan for developing a Cooperative ODR Framework for MSMEs in B2B transactions and Use of Modern Technology for Dispute Resolution and Electronic Agreement Management”





# SELI ODR Work Plan

## Rationale and perception

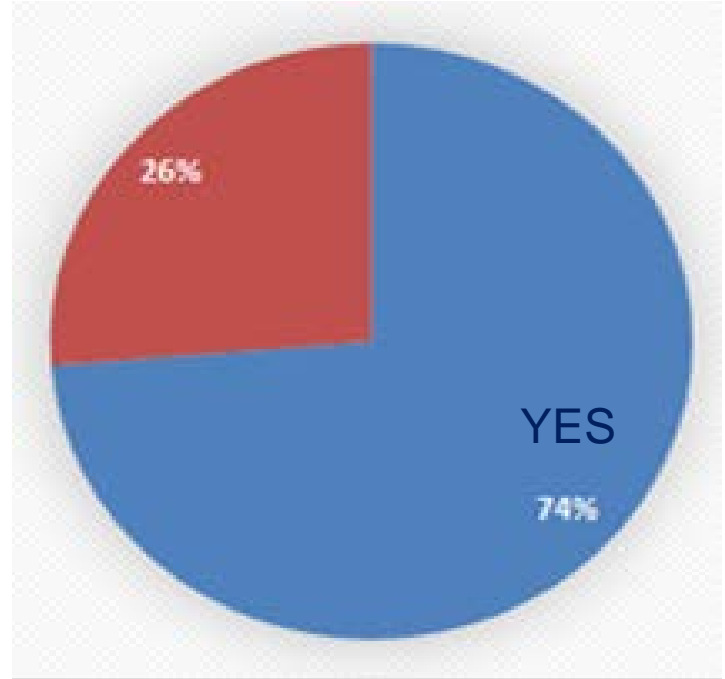
- Lack of effective/efficient means to resolve cross border commercial disputes for MSMEs: traditional means of dispute resolution for cross border transactions do not work effectively for MSMEs.
- *Questionnaire to ABAC and member economies* in 2017 shows that cost and time are the major challenges in cross border disputes and there is general support for the use of ODR in certain low-value disputes (but the main obstacle for using ODR is the lack of knowledge of ODR and its value).
- 2017 Asia-Pacific Policy Community Survey by Pacific Economic Cooperative Council also shows that the majority of the respondents consider that that online dispute resolution mechanism is of importance for digital economy (in particular, MSMEs put a much higher emphasis on this than large companies).

# What are the three main obstacles or challenges your organization faces when seeking to resolve cross-border commercial disputes?



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Would you like to have the option of using ODR to resolve disputes?



What types of dispute are best suited?




**PECC Survey Question:  
How important do you think Online Dispute Resolution mechanisms are  
for the growth of the digital economy?**

	<b>Not at all/ Slightly important</b>	<b>Important/ Moderately important</b>	<b>Very important</b>
<b>All</b>	<b>11.4%</b>	<b>62.3%</b>	<b>22.2%</b>
<b>North America</b>	<b>20.6%</b>	<b>45.5%</b>	<b>23.5%</b>
<b>Northeast Asia</b>	<b>11.4%</b>	<b>65.1%</b>	<b>20.8%</b>
<b>Oceania</b>	<b>16.5%</b>	<b>64.7%</b>	<b>14.1%</b>
<b>Pacific South America</b>	<b>8.7%</b>	<b>69.6%</b>	<b>15.2%</b>
<b>Southeast Asia</b>	<b>8.5%</b>	<b>61.7%</b>	<b>27.9%</b>
<b>Large Business</b>	<b>20.8%</b>	<b>57.3%</b>	<b>22.0%</b>
<b>MSMEs</b>	<b>10.3%</b>	<b>61.8%</b>	<b>25.7%</b>

(Source: 2017 Asia-Pacific Policy Community Survey by Pacific Economic Cooperation Council: disaggregated result)



## SELI ODR Work Plan:

- Build a pilot, working with regional arbitration/mediation centers etc.
- Promote harmonisation of the relevant ODR laws, with existing international instruments
- Collaborate across APEC, leveraging private sector and academic support
- Research/information gathering
- Design ODR platform, develop procedural rules 
- Build capacity in APEC economies
- Explore new technologies such as blockchain for automated/smart contracts, contract management, prevention of disputes



## Recent development on ODR in APEC and next steps

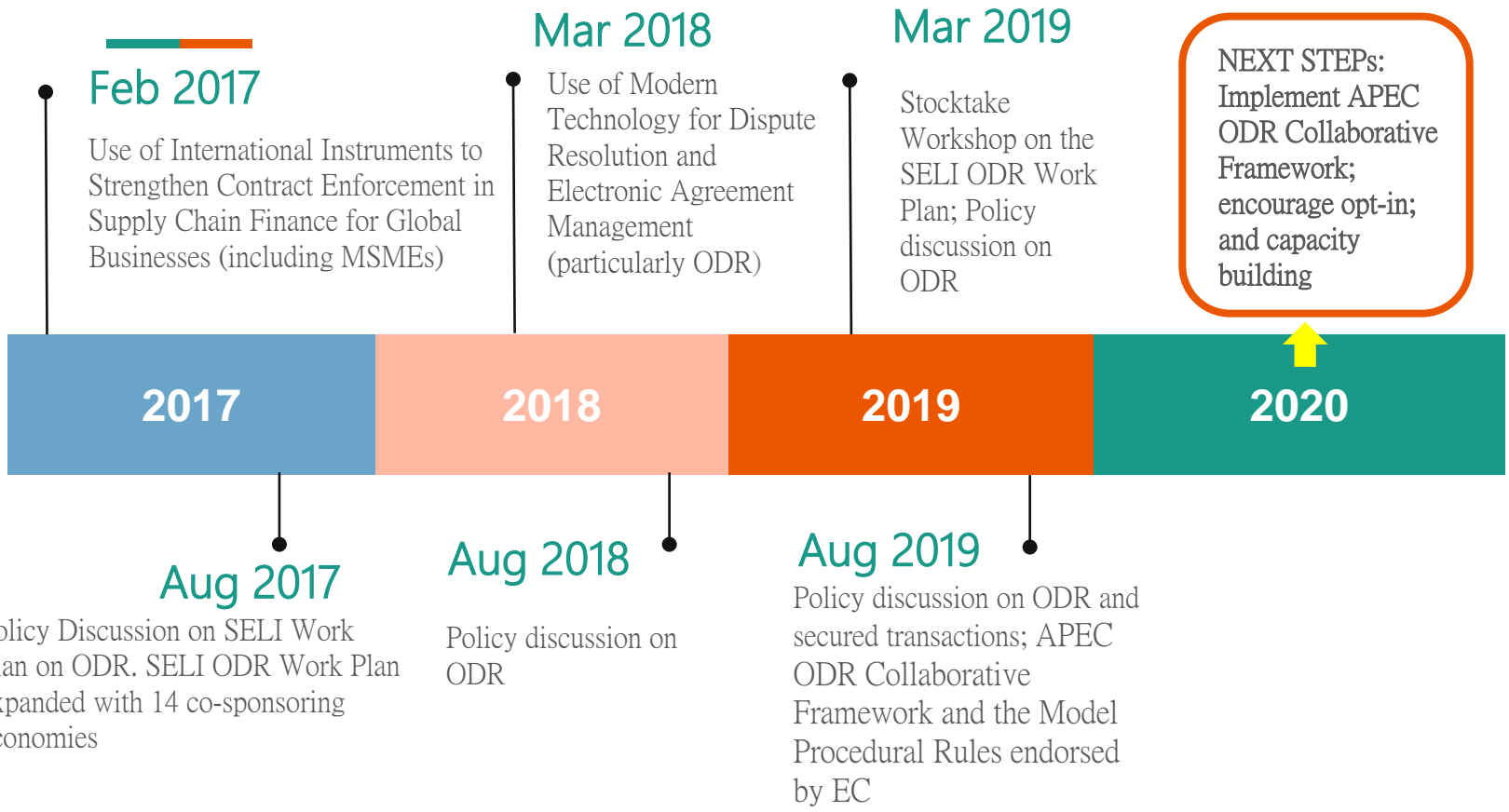
- ❖ Organized various workshops and policy discussions on ODR in APEC since 2017
- ❖ Developed the APEC Collaborative Framework for ODR and Model Procedural Rules (based on the UNCITRAL Technical Notes on ODR)
- ❖ The Framework and Rules endorsed by EC of APEC in August 2019
- ❖ 2019 APEC SME Ministerial Statement recognized the ODR Framework for providing a cost-effective and efficient platform for resolving low-value cross-border B2B dispute
- ❖ **Next steps:** Implement the Framework, encourage economies to opt in, capacity building



# Collaboration plans

- ❖ Collaborate with international organizations e.g. UNCITRAL, HCCH and UNIDROIT
- ❖ Work closely with the business sectors (esp. MSMEs) e.g. through chambers of commerce and ABAC to promote and raise awareness of the value of ODR and using the ODR platform
- ❖ Organize capacity-building workshops and hold policy discussions on ODR





Feb 2017

Use of International Instruments to Strengthen Contract Enforcement in Supply Chain Finance for Global Businesses (including MSMEs)

2017

Aug 2017

Policy Discussion on SELI Work Plan on ODR. SELI ODR Work Plan expanded with 14 co-sponsoring economies

Mar 2018

Use of Modern Technology for Dispute Resolution and Electronic Agreement Management (particularly ODR)

2018

Aug 2018

Policy discussion on ODR

Mar 2019

Stocktake Workshop on the SELI ODR Work Plan; Policy discussion on ODR

2019

Aug 2019

Policy discussion on ODR and secured transactions; APEC ODR Collaborative Framework and the Model Procedural Rules endorsed by EC

2020

NEXT STEPs:  
Implement APEC ODR Collaborative Framework;  
encourage opt-in;  
and capacity building

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# Thank you.

Dr. James Ding, APEC EC Chair  
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