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Monday

3RD

UNCITRAL Asia Pacific

Judicial Summit 2019



Online Dispute Resolution

under APEC

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APEC Economic Committee (EC)

- 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
- 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 Work Plan

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” endorsed by EC in 2017

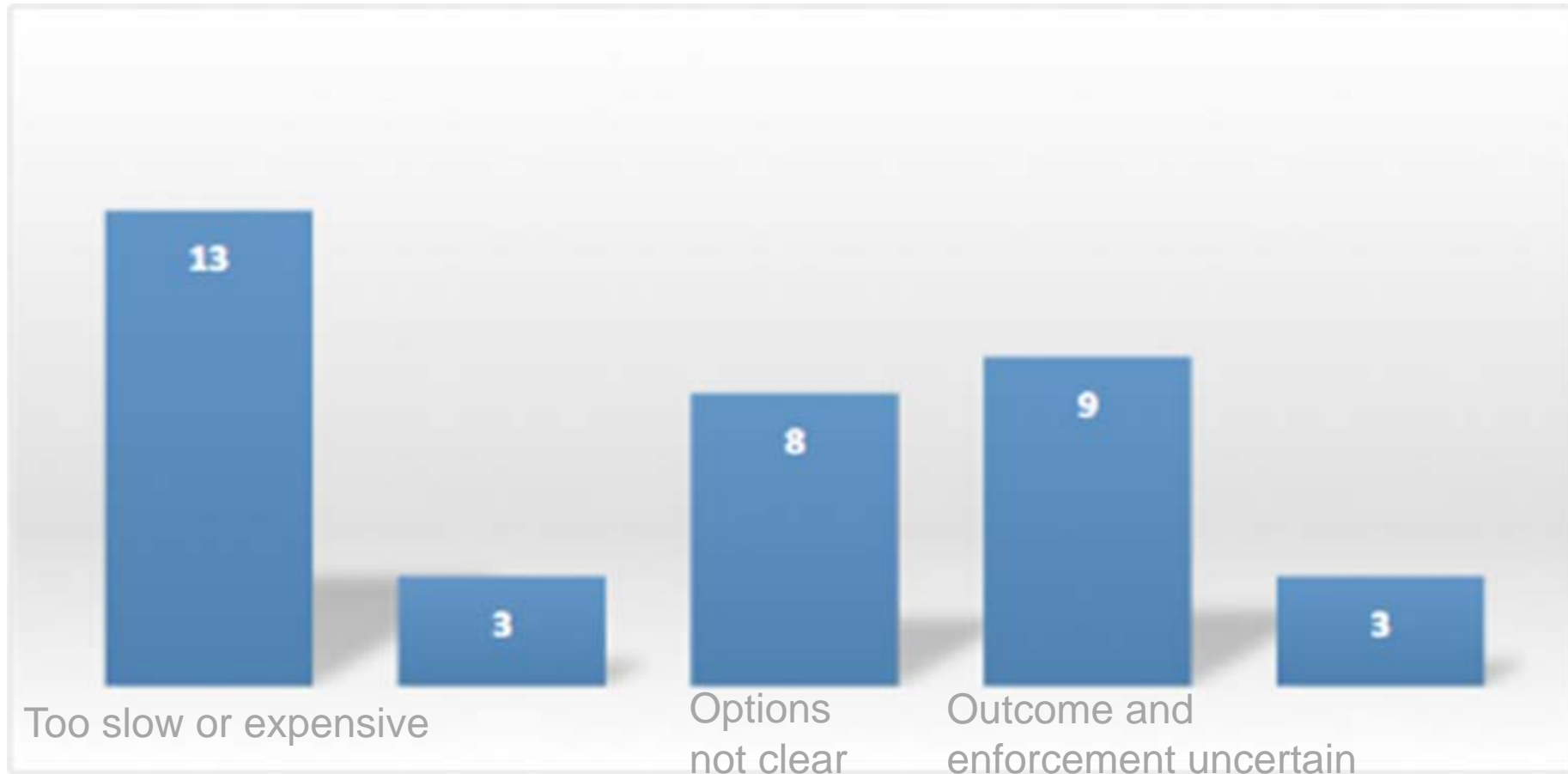
Rationale : Lack of effective/efficient means to resolve cross border commercial disputes for MSMEs: traditional means of dispute resolution for cross border transactions do not work effectively for MSMEs.

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).

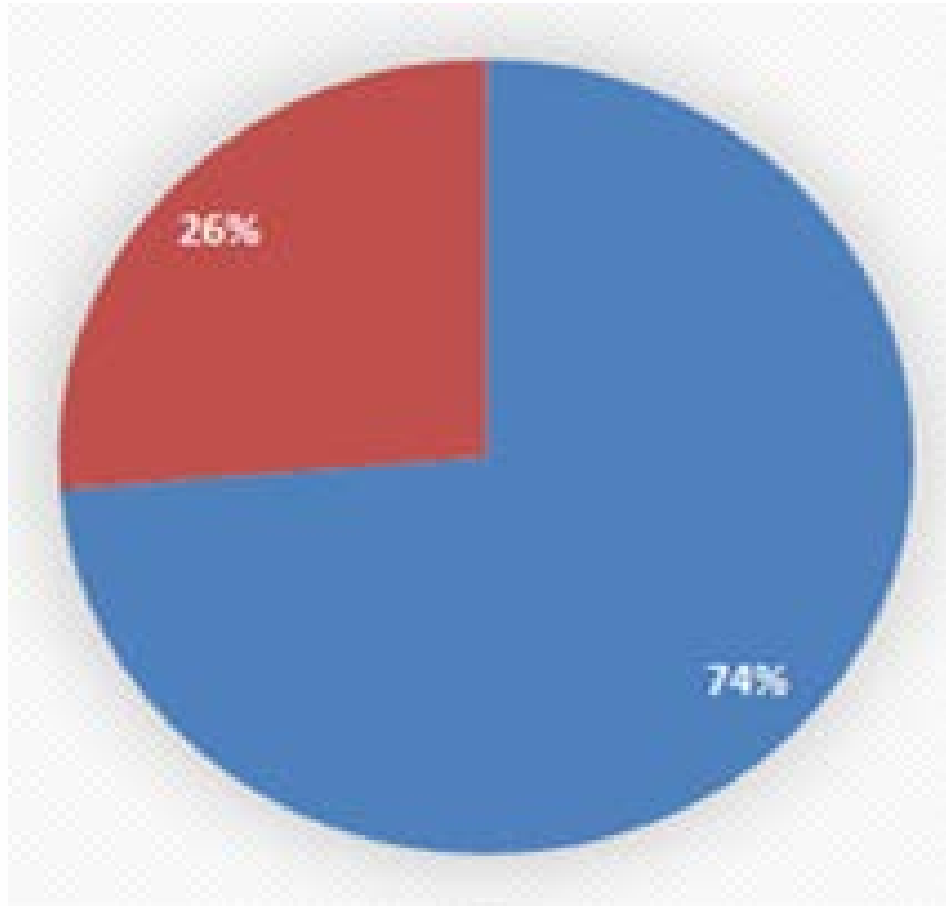
2017 Asia-Pacific Policy Community Survey by Pacific Economic Cooperative Council also shows that the majority of the respondents consider that online dispute resolution mechanism is of importance for digital economy (in particular, MSMEs put a much higher emphasis on this than large companies).

SELI/EC Questionnaire to ABAC and member economies

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



SELI/EC Questionnaire to ABAC and member economies Would you like to have the option of using ODR to resolve disputes?

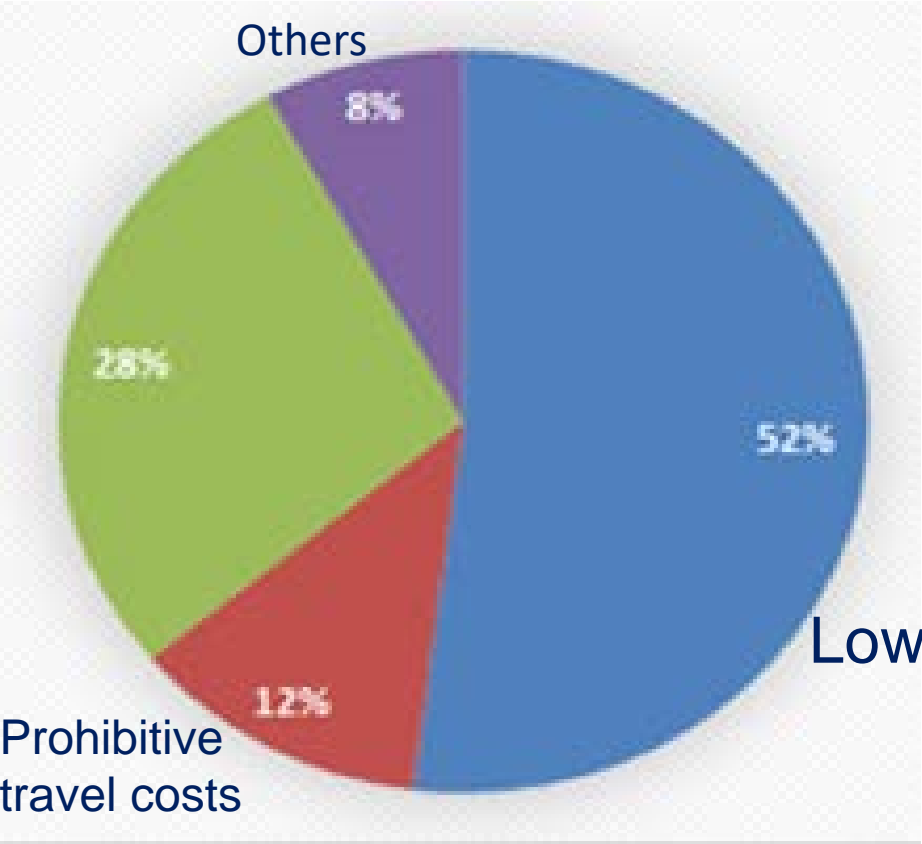


Yes: 74%

SELI/EC Questionnaire to ABAC and member economies

What types of dispute are best suited?

Need fast resolution



Low Value

How important do you think Online Dispute Resolution mechanisms are for the growth of the digital economy? (Source: 2017 Asia-Pacific Policy Community Survey by Pacific Economic Cooperation Council: disaggregated result)

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

SELI ODR Work Plan (from 2017):

- 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 developments

- ❖ Organized various workshops and policy discussions on ODR in APEC since 2017
- ❖ Developed the APEC Collaborative Framework for ODR and Model Procedural Rules (reference made to 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

Future Collaboration

- ❖ 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 APEC Business Advisory Council (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 in 2020



Thank you!

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