



eBRAM
一邦國際網上仲調

Building Agility in the Digital New Normal

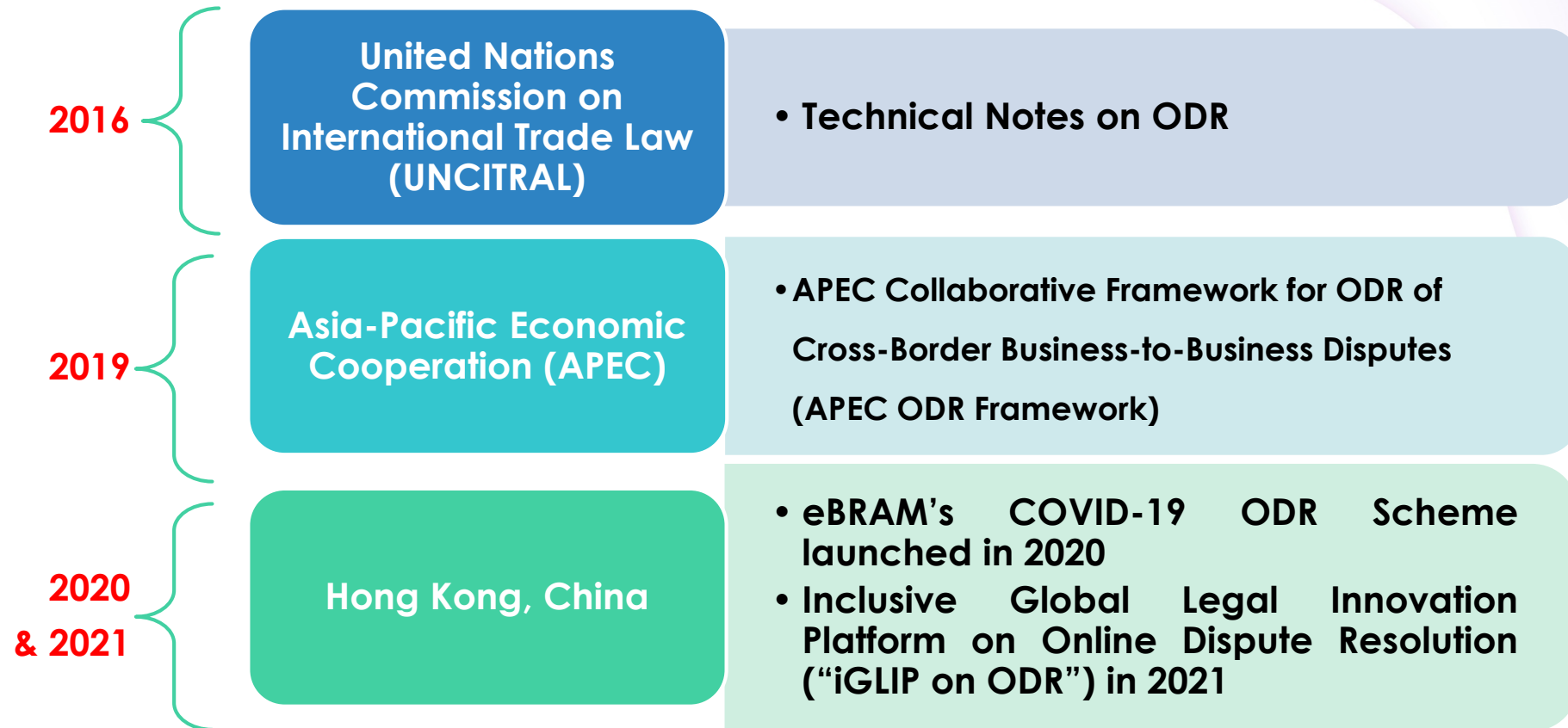
Virtual **Open Day** 2021

Recent Development of ODR and the APEC ODR Framework

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Recent ODR developments



UNCITRAL Technical Notes on ODR

The United Nations

- The United Nations Commission on International Trade Law (UNCITRAL) adopted the **Technical Notes on Online Dispute Resolution** (Technical Notes) in 2016.
- The United Nations General Assembly recognized that ODR “can assist the parties in resolving disputes in a simple, fast, flexible and secure manner, without the need for physical presence at a meeting or hearing” (as provided for in the Technical Notes) and requested all member states to support the promotion and use of the Technical Notes.

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UNCITRAL | UNITED NATIONS
COMMISSION ON INTERNATIONAL TRADE LAW

UNCITRAL
Technical Notes on
Online Dispute Resolution



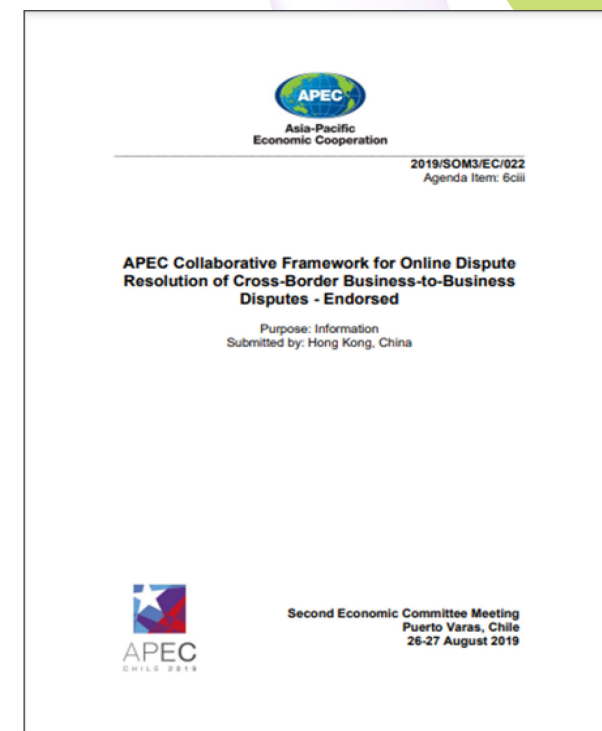
APEC Collaborative Framework on ODR

The APEC

- Promotes use of ODR to help global businesses, in particular MSMEs to **resolve business-to-business (B2B) cross-border disputes** focusing on low value disputes.
- A framework for business, in particular MSMEs in participating economies, to provide technology-assisted dispute resolution through negotiation, mediation and arbitration for B2B claims.
- Endorsed by the APEC Economic Committee (EC) in August 2019, including its Model Procedural Rules.



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APEC ODR Framework - Background (cont'd)

- In the APEC region, **MSMEs** account for **over 97%** of all businesses; continued growth of MSMEs is important for APEC economies' wellbeing.
- **One of the greatest challenges faced by MSMEs** when trading across borders is returns and **dispute resolution**, with **94%** of them reporting that was a problem. (“Driving Economic Growth Through Cross-Border E-Commerce in APEC: Empowering MSMEs and Eliminating Barriers” published by ABAC in November 2019)

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(Source: Simpliance)

APEC ODR Framework - Background (cont'd)

- Another study on the use of ADR for business to business disputes in the European Union reported that **over 35%** of **cross-border disputes involving MSMEs remain unresolved** with the average value of the dispute being some **US\$50,000**. (“Study on the use of Alternative Dispute Resolution for Business to Business disputes in the European Union” published by Ecorys, jointly with the ADR Center S.p.a. in October 2012)

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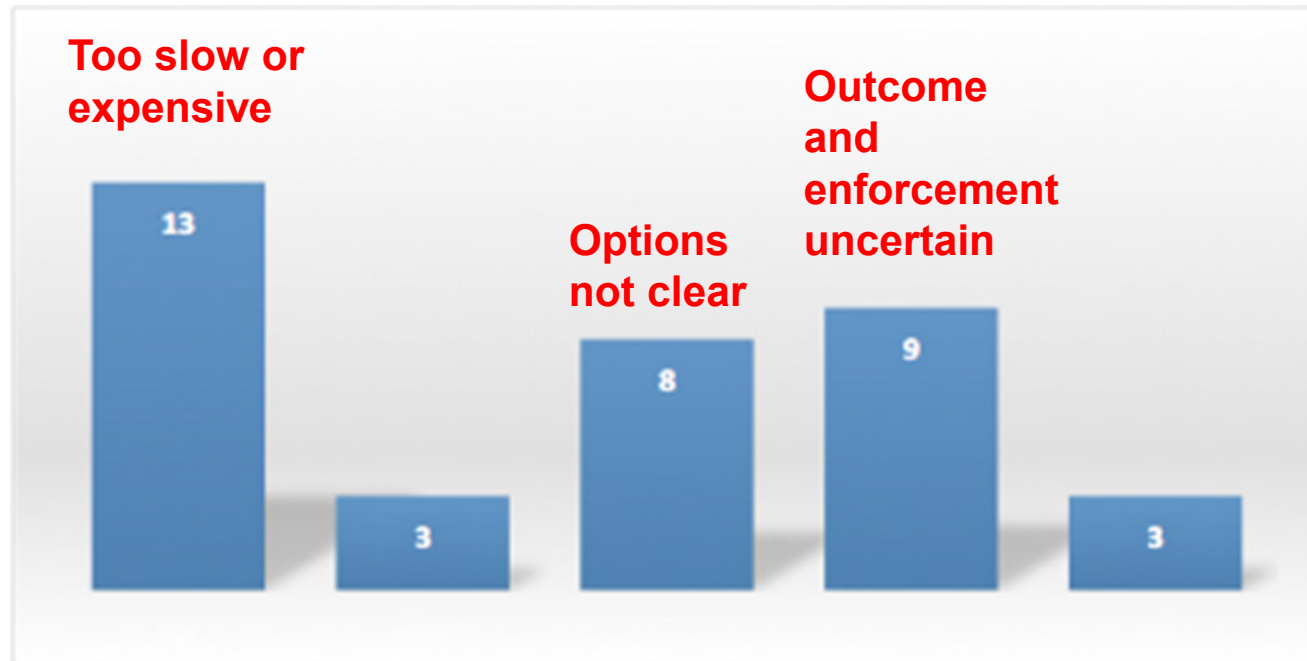
Micro, Small
and Medium
Enterprises



(Source: Simpliance)

APEC ODR Framework - Background (cont'd)

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

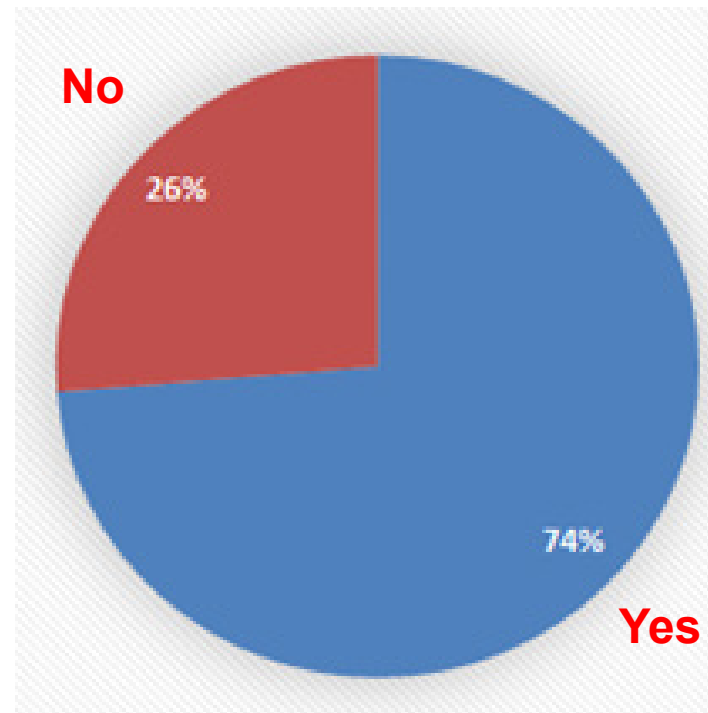


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Questionnaire from APEC EC to APEC Business Advisory Council (ABAC) and member economies in 2017

APEC ODR Framework - Background (cont'd)

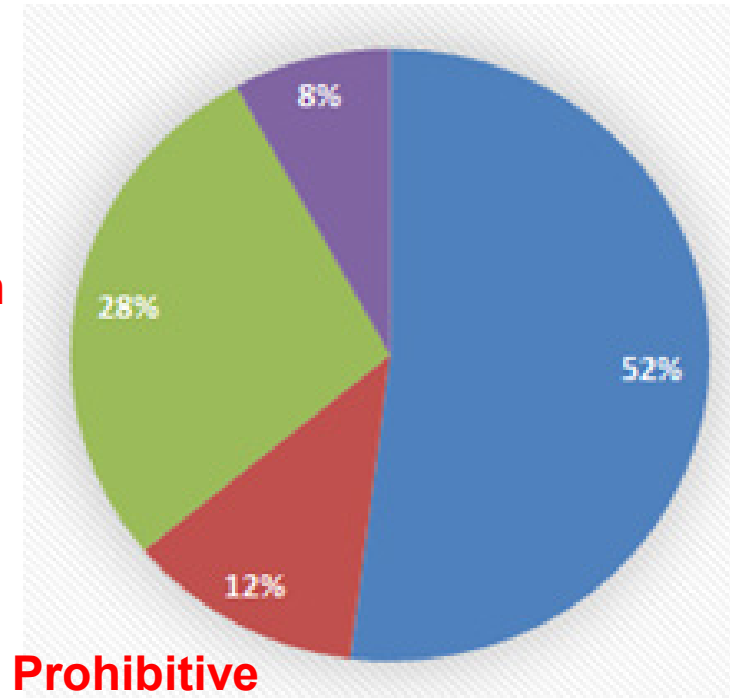
Would you like to have the option of using ODR to resolve disputes?



APEC ODR Framework - Background (cont'd)

What types of dispute are best suited to ODR?

**Need fast
resolution**



Low value

**Prohibitive
travel costs**

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APEC ODR Framework - Background (cont'd)

How important do you think ODR mechanisms are for the growth of the digital economy?

	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%

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2017 Asia-Pacific Policy Community Survey by Pacific Economic Cooperative Council: disaggregated result

APEC ODR Framework – Scope

The APEC ODR Framework applies to disputes which are:

- **Business-to-business;**
- **Cross-border;**
- **Low value** (as may be defined by the participating economies); and
- Involving **businesses in participating economies**, provided that the parties have consented to resolve their disputes under the APEC ODR Framework.

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APEC ODR Framework – ODR Proceedings

- Governed by the **Model Procedural Rules**, set of rules for resolving disputes in cross-border transaction between B2B (especially for MSMEs) through the use of electronic communications and other information and communication technology.
- Participating APEC ODR providers operating under the APEC ODR Framework agree to use the Model Procedural Rules.

Negotiation

Mediation

Arbitration

APEC ODR Framework – ODR Proceedings (cont'd)

- Not intended to interfere with the operation by participating economies of their own ADR systems.
- Adopts a **multi-tiered dispute resolution mechanism** designed to provide quick resolution of disputes.

Negotiation

Mediation

Arbitration

APEC ODR Framework – Implementation

The APEC Satellite Website

The APEC EC will maintain a **list** on the APEC EC's webpage, known as the Satellite Website, ODR providers from participating economies that have agreed to process claims using ODR in accordance with the terms of the APEC ODR Framework.

Each ODR provider, before listing, are required to **submit a written undertaking** of its commitment to comply with the Rules and terms of the APEC ODR Framework.

Each ODR provider will **provide its own ODR platform** for the resolution of disputes under the APEC ODR Framework.

APEC Economies

APEC economies should encourage businesses, especially MSMEs, to consider using participating ODR providers.

APEC economies should support the development and recognition of **private international law instruments** relevant to ODR.

APEC economies may enter into **bilateral agreements** to enforce arbitration awards in accordance with the APEC ODR Framework.

APEC ODR Framework – Benefits

- Provides a **rule-based framework** for the sustainable development of ODR;
- Facilitates **speedy and cost-effective resolution of disputes**, thereby promoting B2B cross-border confidence and **inclusive access to justice for MSMEs**; and
- Builds capacity for **economic growth and development** among APEC economies.
- Strengthens economic and legal infrastructure including contribution to 4 pillars of **Enhanced APEC Agenda for Structural Reform (EAASR)**.

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APEC ODR Framework – Progress

Economies that have already opted into the APEC ODR Framework:

- **China; Hong Kong, China; Japan; Singapore; and USA.**
- A number of other member economies are undergoing internal procedures with a view to opting into the APEC ODR Framework in the very near future.

SELI Administrative Implementation Work Plan for the APEC Collaborative Framework for ODR of Cross-Border B2B Disputes

- Under SELI Administrative Implementation Work Plan for the APEC Collaborative Framework for ODR of Cross-Border B2B Disputes, non-compliance with the APEC Collaborative Framework can lead to possible removal of an ODR provider from the list.
- To identify willing and capable ODR service providers from APEC economies which comply with the APEC ODR Framework and to list them on the APEC Satellite Website
- To further promote the APEC ODR Framework and engage in capacity building.

ODR Providers

- A number of ODR providers have expressed interest in participating in the pilot, including eBRAM International Online Dispute Resolution Centre Limited (eBRAM), from Hong Kong, China.

Inclusive Global Legal Innovation Platform on Online Dispute Resolution (“iGLIP on ODR”)

1. Background

- iGLIP on ODR has been set up earlier this year, with the support of the DOJ Project Office for collaboration with UNCITRAL.
- The Project Office was established to work on the cooperation envisaged under the MOU between the Hong Kong Government and UNCITRAL in 2019.



Inclusive Global Legal Innovation Platform on Online Dispute Resolution (“iGLIP on ODR”) (cont’d)

2. Objectives

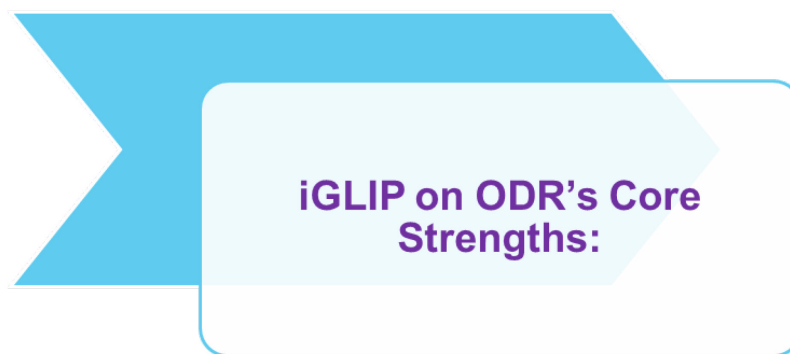
- To keep track of developments in and issues arising from the application of emerging technologies in online dispute resolution
- To provide a platform which acts as a forum to facilitate discussion, collaborative knowledge sharing and creative problem solving.
- To explore, discuss and develop innovative legal tools to address novel issues arising from the use of ODR
- To facilitate the harmonization of new and existing legal tools.
- To explore further co-operation with UNCITRAL



Inclusive Global Legal Innovation Platform on Online Dispute Resolution (“iGLIP on ODR”) (cont’d)

3. Organisation

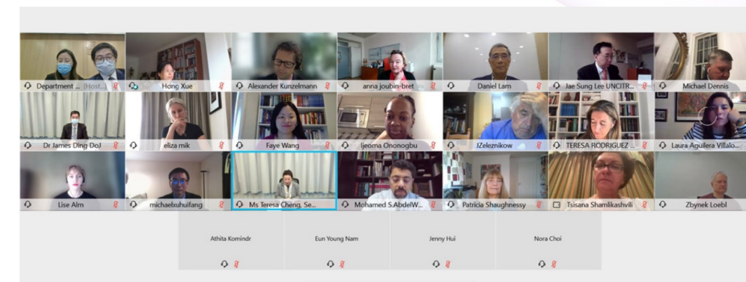
- With over 25 member experts from every continent (except Antarctica) who meet and share with us their experiences on the topic of emerging technologies and their impact on online dispute resolution.



Inclusive Global Legal Innovation Platform on Online Dispute Resolution (“iGLIP on ODR”) (cont’d)

4. Meetings of iGLIP on ODR

- First Meeting with was held online on 18 March 2021 to stocktake current issues and developments in ODR, and to discuss the utilization of ODR solutions to resolve cross-border disputes, particularly in light of the global pandemic.
- The Second Meeting was held in November 2021 to discuss a possible instrument on the role of ODR for Access to Justice.



5. Collaboration with UNCITRAL

- At the 54th Session in 2021, the UNCITRAL Commission has endorsed the continued collaboration between the Secretariat and iGLIP on ODR.

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ODR and deal making platform

Hong Kong, China

- The Department of Justice has been working closely with **eBRAM International Online Dispute Resolution Centre Limited (eBRAM)**. eBRAM aims to develop efficient, cost-effective and secure platform for online deal-making and dispute resolution.



- eBRAM's COVID-19 Scheme provides a speedy and cost-effective means for the general public and businesses in the HKSAR to resolve global and local COVID-19 related disputes of low value.

- eBRAM has developed a more comprehensive ODR platform in line with the APEC ODR Framework, with a view to becoming an ODR service provider under APEC. eBRAM's APEC Online Dispute Resolution procedural rules tailor-made for the APEC ODR Framework was launched on 1 June 2021.

Negotiation



Mediation



Arbitration

Full spectrum of services

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Thank You !

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