



**Asia-Pacific  
Economic Cooperation**

**Advancing** Free Trade  
for Asia-Pacific **Prosperity**

# **Workshop on Implementing the APEC ODR Collaborative Framework**

**APEC Economic Committee**

March 2022





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Economic Cooperation**

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Workshop on Implementing the APEC ODR Collaborative Framework

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This report consists of two parts: a summary of the dialogue and two appendices, which contain the agenda and biographies of the speakers.

## TABLE OF CONTENTS

I. Executive Summary.....	5
1.1 Overview .....	5
1.2 Event Details .....	6
II. Background .....	8
III. Event Summary.....	9
3.1 Opening Remarks .....	9
3.2 Day One Sessions .....	9
3.2.1. Session One: Benefits and Operation of the Collaborative Framework	
▪ Why is Collaborative Framework Important?	
▪ How Does an Economy Opt-in?	
▪ How Does an ODR Provider Partner with the APEC EC?	
▪ How do we use the APEC ODR Satellite Website	
( <a href="https://www.apec.org/SELI">https://www.apec.org/SELI</a> )? .....	9
3.2.2. Session Two: Opting into the APEC ODR Collaborative Framework: Experience sharing by Five Economies.....	13
3.2.3. Session Three: How to Be an APEC ODR Provider	
▪ Components of an ODR Platform	
▪ Providers Wishing to Partner with APEC .....	17
3.2.4. Session Four: Encouraging Businesses Involvement in the APEC ODR Collaborative Framework	
▪ Capacity Building – Assisting MSMEs to Use ODR	
▪ Leveraging Private Sector Support .....	20
3.3 Day Two Sessions .....	24
3.3.1. Session Five: APEC Courts and Arbitration Centers During the Pandemic	
▪ How ODR is Implemented for Other Types of Disputes	
3.3.2 Session Six: Open Discussion: Issues Concerning the Launch of the Collaborative Framework and Partnering with Providers .....	28
Comments on the Administrative Implementation Work Plan or the APEC ODR Satellite Website	
IV. Conclusions and Recommendations.....	29
V. Appendices .....	31

## I. EXECUTIVE SUMMARY

### 1.1 Overview

The Workshop on Implementing the APEC ODR Collaborative Framework was held virtually on February 16-17, 2022. The online format allowed wide participation by speakers and other attendees from APEC economies.

The goal of the Workshop was to pave the way for the implementation of the APEC ODR Collaborative Framework for Cross-Border B2B disputes (Collaborative Framework) by: providing economies an opportunity to learn about and consider “opting in” to the Collaborative Framework; encouraging ODR providers to partner with the EC (by agreeing to comply with the Framework and Procedural Rules and get listed as an ODR provider on the APEC EC webpage); encouraging businesses (including MSMEs) to consider settling their disputes via ODR and the listed ODR providers; seeking support from the academic community, including in the oversight of ODR providers (as provided in the SELI ODR Administrative Implementation Work Plan (endorsed by the EC at EC 1 in 2021—SELI Administrative Implementation Work Plan)); and discuss open issues concerning the Collaborative Framework and the SELI Administrative Implementation Work Plan.

EC Chair James Ding, SELI Conveyor Yoshi Hayakawa, and Mike Dennis, ODR expert and primary author of the SELI Administrative Implementation Work Plan, opened the discussion with an overview of the operation of the Collaborative Framework. Under the Collaborative Framework, APEC partners with ODR providers to offer ODR to APEC businesses, especially MSMEs, to help them resolve their commercial cross-border disputes. Platform hosts and ODR providers supply their own platform to offer online negotiation, mediation, and arbitration. They must also comply with the Framework and Model Procedural Rules. The APEC EC promotes partnering ODR providers on its website and encourages MSMEs to use them to resolve commercial cross-border disputes.

The Collaborative Framework calls for a centralized website known as the “APEC ODR Satellite Website” or “APEC ODR Website”, which is dedicated to the implementation of the Framework. Kazu Ogawa, the designated APEC ODR Satellite Website administrator, explained that the Website was launched in September 2021 at <https://www.apec.org/SELI> (also accessible through the webpage of the APEC EC at <https://www.apec.org/groups/economic-committee>) and hosts in-depth information on the Framework to enable the APEC EC to partner with and oversee ODR providers, help MSMEs use ODR, and collaborate with the international community—including the public and private sectors, and the academic community.

Speakers from the five economies that have thus far opted into the Collaborative Framework—China, Hong Kong, China, Japan, Singapore, and the United States—then explained the importance of opting into the Collaborative Framework. They stressed that opting-in to the Collaborative Framework does not create binding obligations for an economy, but that it allows the economy’s ODR providers to participate in the Collaborative Framework and be listed as a partnering ODR providers. They noted that the challenges that surfaced during the COVID-19

pandemic highlighted the need for effective systems to resolve disputes involving small businesses. They also stressed how the Collaborative Framework aligns with each of the four pillars of EAASR.

The Workshop also heard from speakers from five ODR platform and service providers from each of the economies that have opted into the Collaborative Framework. All these providers have developed platforms that are compliant with the APEC ODR Collaborative Framework and Procedural Rules. They are seeing great results in terms of time and cost savings for users.

During the final panel on day one, speakers from Hong Kong China, Indonesia, Viet Nam, the Philippines and the United States stressed the crucial importance that the APEC EC plays under the Collaborative Framework in promoting ODR to MSMEs, governments and the legal community. The speakers noted that widespread adoption of ODR would promote a culture of contract. In turn, it would make transactions more efficient, drive down risk and increase the competitiveness of MSMEs by lowering costs. It was also pointed out that the lead academics from participating economies stand ready to assist in the promotion and development of ODR in APEC economies.

Day two highlighted the seismic shift the pandemic has caused in the way justice is delivered in APEC courts and arbitration centers. Speakers from Hong Kong China, Thailand, Chile, Russia, Japan and Singapore explained that elements of ODR—primarily virtual hearings—have been implemented in many economies across APEC in both courts and arbitration centers. The speakers noted the need to document what works or hasn't worked. For example, online judging may not be appropriate for all cases but is well-suited to the disposal of low value disputes where a decision must be made as quickly as possible. Furthermore, a user-friendly system is paramount for parties involved in the dispute resolution process that are not represented by lawyers, including MSMEs.

The final two sessions provided economies an opportunity to offer comments on the Administrative Implementation Work Plan and APEC ODR Satellite Website and make recommendations concerning the way forward. A number of economies recommended that the APEC EC should begin signing up providers as provided on the Website.

## **1.2 Event Details <sup>1</sup>**

The event followed this format:

- 1) Opening Remarks from EC Chair James Ding**
- 2) Session One: Benefits and Operation of the Collaborative Framework**
  - Why is Collaborative Framework Important?
  - What is the Collaborative Framework?
  - How Does an Economy Opt-in?

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<sup>1</sup> Appendix I is the agenda for the Workshop.

- How Does an ODR Provider Partner with the APEC EC?
  - How do we use the APEC ODR Satellite Website (<https://www.apec.org/SELI>)?
- 3) Session Two: Opting into the APEC ODR Collaborative Framework: Experience sharing by Five Economies
  - 4) Session Three: How to Be an APEC ODR Provider
    - Components of an ODR Platform
    - Providers Wishing to Partner with APEC
  - 5) Session Four: Encouraging Businesses Involvement in the APEC ODR Collaborative Framework
    - Capacity Building – Assisting MSMEs to Use ODR
    - Leveraging Private Sector Support
  - 6) Session Five: APEC Courts and Arbitration Centers During the Pandemic
    - How ODR is Implemented for Other Types of Disputes
    - Use of Communications Technology vs ODR
  - 7) Session Six: Open Discussion on Issues Concerning the Launch of the Collaborative Framework and Partnering with Providers:
    - Comments on the Administrative Implementation Work Plan or the APEC ODR Satellite Website
  - 8) Workshop Conclusions and Recommendations

81 participants across APEC economies attended the workshop over the two-day event, including 24 moderators and speakers from APEC economies China; Hong Kong, China; Chile; Indonesia; Japan; the Philippines; Russia; Singapore; the United States; and Viet Nam.<sup>2</sup> The speakers were:

- Dr. James Ding, APEC Economic Committee (EC) Chair
- Prof. Yoshihisa Hayakawa, SELI Convenor
- Mike Dennis, International ODR APEC Consultant (United States)
- Prof. Kazuo Ogawa, Rikkyo University (Japan)
- Sharla Draemel, Attorney Adviser, Private International Law, Office of Legal Adviser, U.S. Department of State (United States)
- Lim Joo Hong, Deputy Director, Legal Technology Transformation Office, Ministry of Law (Singapore)
- Takuya Izumi, the Director for Information Policy Planning at the Ministry of Economy, Trade and Industry (METI), (Japan)
- Michelle Fung, Senior Government Counsel, Inclusive Dispute Avoidance and Resolution Office, Department of Justice, Hong Kong, China (Hong Kong, China)
- Prof. Youmin Bian, University of International Business and Economics, China (China)
- Colin Rule, CEO of ODR.com (United States)
- Emmanuelle Ta, CEO, eBRAM International Online Dispute Resolution Centre (Hong Kong, China)

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<sup>2</sup> Appendix II provides brief biographies of the speakers.

- Chen Chen, Department of Business Development, Guangzhou Arbitration Commission (GZAC) (China)
- Shunsuki Mori, Deloitte Tohmatsu (Japan)
- Anil Changaroth, MD of ODRasia & ODRanz (Singapore)
- David Dodwell, CEO of Strategic Access Ltd, and Executive Director of the Hong Kong-APEC Trade Policy Group (Hong Kong, China)
- Atty. Irene D.T. Alogoc, Executive Director V, Office for Alternative Dispute Resolution, Department of Justice, the Philippines (the Philippines)
- Netty Muharni, Assistant Deputy Minister for Regional and Subregional Cooperation (Indonesia)
- Duong Nguyen, Department for General Economic Issues and Integration Studies, Central Institute for Economic Management (Viet Nam)
- Prof. Angie Raymond, University of Indiana (United States)
- Prof. Zhao Yun, University of Hong Kong (Hong Kong, China)
- Laura Aguilera, Head of Studies of the Arbitration and Mediation Center of the Santiago Chamber of Commerce (CAM) (Chile)
- Pasit Asawawattanaporn, Managing Director of Thailand Arbitration Center (THAC) and President of the Asia Pacific Regional Arbitration Group (Thailand)
- Maksim Kaziev, Russian Ministry of Economic Development, Department of multilateral economic cooperation and special projects (Russia)
- Prof. Mayu Watanabe, Rikkyo University (Japan)

## II. BACKGROUND

Under the APEC ODR Collaborative Framework for Cross-Border B2B disputes (endorsed at EC 2 in 2019) (the Collaborative Framework), APEC partners with ODR providers to offer ODR to APEC businesses, especially MSMEs, to help them resolve their commercial cross-border disputes. The APEC Model Procedural Rules (also endorsed at EC 2 in 2019) ensure that the same standards of due process apply across APEC when using ODR under the Collaborative Framework.

The Strengthening Economic Legal Infrastructure (SELI) Administrative Implementation Work Plan for the Collaborative Framework (SELI Administrative Implementation Work Plan) (endorsed as it stood at EC 1 in 2021) provides the structure for the implementation of the Collaborative Framework, including collaboration between academic institutions and the EC. An APEC ODR Satellite Website proposal (endorsed as it stood at EC 1 in 2021) provides for the establishment of a centralized website (<https://www.apec.org/SELI>). The EC recognized the SELI Administrative Implementation Work Plan (the Work Plan) and APEC ODR Satellite Website proposal as “living documents”, noting that they will be further refined.

The Workshop builds on the earlier APEC workshops and webinars on developing the Collaborative Framework as well as Policy Dialogues on ODR held at EC 2 in 2018, EC 1 in 2019, EC 1 in 2020, and EC 1 in 2021. Japan, as the economy

responsible for the website, launched a website for the Framework in September 2021 at <https://www.apec.org/seli/overview>. Japan also sponsored four webinars on the Collaborative Framework between August and October 2021 to provide economies with information on the operation of the Collaborative Framework and on opting-in, and to discuss outstanding issues relating to the Work Plan and the Website.

The Workshop took forward the outcome of the Structural Reform Ministerial Statement (June 16, 2021) recognizing the importance of the Collaborative Framework (para. 13) “which encourages the use of digital technology to resolve cross border business to business disputes” and the APEC SME Ministers statement (September 2019) supporting (para. 14) “the development, on a pilot basis, of the APEC Collaborative Framework for Online Dispute Resolution of Cross-Border Business-to-Business Disputes, which will provide a cost-effective and efficient platform to resolve low-value cross-border disputes.”

The SELI Work Plan under the Enhanced APEC Agenda for Structural Reform (EAASR) (endorsed by the EC in November 2021) recognizes the important contribution the Collaborative Framework makes to all four pillars of APEC EC work on EAASR including: creating an enabling environment for open, transparent, and competitive markets; boosting business recovery and resilience against future shocks; and harnessing innovation, new technology, and skills development to boost productivity and digitalization.

### III. EVENT SUMMARY

#### 3.1 Opening Remarks

James Ding, the EC Chair, delivered opening remarks providing the background to the Collaborative Framework.

#### 3.2 Day One Sessions

##### 3.2.1. Session One: Benefits and Operation of the Collaborative Framework

- Why is Collaborative Framework Important?
- What is the APEC ODR Collaborative Framework?
- How Does an Economy Opt-in?
- How Does an ODR Provider Partner with the APEC EC?
- How do we use the APEC ODR Website (<https://www.apec.org/SELI>)? `

Professor Yoshi Hayakawa, the SELI Convenor, moderated the session.

**Mike Dennis** is an international ODR expert, an adviser to APEC EC, and a senior adviser with the Kozolchyk National Law Center and author of the SELI Administrative Implementation Work Plan for the Collaborative Framework. Mr. Dennis provided an overview of the operation of the Framework and Administrative Implementation Work Plan.

According to Mr. Dennis, as recognized under the SELI Work Plan under EAASR, lack of access to cost-effective and timely commercial justice for cross border transactions is a key reason why APEC MSMEs account for only a fraction of APEC exports despite representing 97% of APEC businesses domestically. Many avoid trading across borders altogether. An ABAC survey of APEC businesses found the lack of effective dispute resolution to be one of the greatest challenges facing MSMEs in the digital economy when they trade across borders. Fifty eight percent of respondents cited it as a major or severe problem; in emerging economies that number rose to 74%.<sup>3</sup>

Those barriers have increased during COVID-19 due to travel restrictions and court closures, with cross border trade being particularly affected. Cross-border ODR under the Collaborative Framework provides MSMEs with a much-needed means to recover debts and settle disputes for speedy business recovery.

Under the Framework, APEC partners with ODR providers located in APEC economies that have opted into the Framework. Platform hosts and ODR providers supply their own platform to offer online negotiation, mediation, and arbitration. They must also comply with the Framework and Model Procedural Rules. The APEC EC promotes partnering ODR providers on its website and encourages MSMEs to use them to resolve commercial cross-border disputes.

Mr. Dennis explained that, as stated on the APEC ODR Satellite Website, opting into the Framework does not involve any binding legal obligations:

Any APEC economy may opt-in to the APEC ODR Collaborative Framework by contacting the EC Chair in writing or by making a statement at an EC meeting.

**Opting-in to the APEC ODR Collaborative Framework does not create binding obligations for an economy but it allows that economy's ODR providers to participate in the Framework and be listed as a partnering ODR provider.** (Emphasis added)<sup>4</sup>

Economies that have already opted-in include:

- China
- Hong Kong, China
- Japan
- Singapore
- United States

ODR providers self-certify their compliance with the Collaborative Framework and the APEC Model Procedural Rules. Compliance involves:

- (a) keeping all information confidential; maintaining secure databases and websites
- (b) charging reasonable fees proportionate to the amount in dispute

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<sup>3</sup> ABAC, Realizing the Untapped Potential of MSMEs in APEC -- Practical Recommendations for Enhancing Cross-Border Trade (November 2018) at iv, vi, 52, 54, 57, 68.

<sup>4</sup> See APEC ODR Website, Economies Opting-In, <https://www.apec.org/SELI/Economies>.

- (c) providing their own platform to offer online negotiation, mediation, and arbitration
- (d) providing data on the success of the pilot to the APEC EC and to other providers.<sup>5</sup>

The APEL Model Procedural Rules are based upon the UNCITRAL Technical Notes on Online Dispute Resolution<sup>6</sup> and the UNCITRAL Arbitration Rules.<sup>7</sup> The APEC Model Procedural Rules provide for online negotiation, mediation, and arbitration.

Furthermore, ODR providers should use modern technologies such as artificial intelligence whenever possible. Partnering ODR providers are responsible for process issues, including fairness, due process, transparency, accountability, neutral selection and appointment and the performance of their ODR platforms.

The listed ODR providers are governed by the relevant laws and regulations of the respective participating economies. If a listed ODR provider is not in compliance with any part of the Framework and Model Procedural Rules, APEC may remove the ODR provider from its list of Partnering ODR providers.<sup>8</sup>

As recognized in the APEC ODR Collaborative Framework, paragraph 7, it is not essential for the laws and practices relevant to ODR within APEC economies to be identical. However, the listing of the private international instruments referenced in paragraph 7 is helpful and provides a cornerstone for the implementation of the APEC ODR Collaborative Framework:

- the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) has now been implemented by all APEC economies.<sup>9</sup> The principle aim of the New York Convention is to ensure that arbitration awards issued in one economy are recognized and enforced in another economy.
- 18 out of 21 APEC economies have implemented the UNCITRAL Model Law on International Commercial Arbitration.<sup>10</sup> The Model Law establishes a unified framework for the fair and efficient settlement of disputes arising in

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<sup>5</sup> The Self-Certification form is provided on the APEC ODR website at <https://www.apec.org/SELI/Self-Certification>.

<sup>6</sup> The UNCITRAL Technical Notes on Online Dispute Resolution are available at [https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/v1700382\\_english\\_technical\\_notes\\_on\\_odr.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/v1700382_english_technical_notes_on_odr.pdf).

<sup>7</sup> The UNCITRAL Arbitration Rules are available at <https://uncitral.un.org/en/texts/arbitration/contractualtexts/arbitration>.

<sup>8</sup> See Collaborative Framework, para. 4.6. The Removal Procedure is provided on the APEC ODR website at <https://www.apec.org/SELI/Removal-Procedure>.

<sup>9</sup> See Status, Convention on the Recognition and Enforcement of Foreign Arbitral Awards, (New York, 1958), [https://uncitral.un.org/en/texts/arbitration/conventions/foreign\\_arbitral\\_awards/status2](https://uncitral.un.org/en/texts/arbitration/conventions/foreign_arbitral_awards/status2)

<sup>10</sup> See Status, UNCITRAL Model Law on International Commercial Arbitration (1985) with amendments adopted in 2006, [https://uncitral.un.org/en/texts/arbitration/modellaw/commercial\\_arbitration/status](https://uncitral.un.org/en/texts/arbitration/modellaw/commercial_arbitration/status).

cross border transactions. APEC studies show that all APEC economies provide for ADR of commercial disputes.<sup>11</sup>

- 13 out of 21 APEC economies have implemented the UNCITRAL Model Law on E-Commerce<sup>12</sup> and 2 out of 21 economies have implemented the UN Convention on the Use of Electronic Communications in International Contracts.<sup>13</sup> These instruments allow for the legal recognition of e-signatures and electronic contracts on the same basis as an agreement concluded in writing. APEC studies show that 20 out of 21 APEC economies provide for legal recognition of e-signatures and electronic contracts.<sup>14</sup>

Therefore, a strong legal framework for ODR exists within APEC economies.

Another important instrument that came into force after the endorsement of the Collaborative Framework is the Convention on the Enforcement of International Settlement Agreements (Singapore Convention) (2018). The Convention provides for expedited enforcement of international mediation agreements. Singapore has implemented the Convention and Brunei Darussalam, China, Chile, Malaysia, the Philippines, and the United States have signed it.<sup>15</sup>

Under the Framework, paragraph 6, APEC member economies should encourage businesses, especially MSMEs, to use the partnering ODR providers. The APEC ODR website provides guidance on what businesses should know before selecting an ODR provider, along with a disclaimer.

APEC has a crucial role to play in promoting ODR to MSMEs. Multiple surveys show that micro enterprises tend to work without clear contracts and dispute resolution clauses, leaving them vulnerable in case of dispute. Widespread adoption of ODR would promote a culture of contract. In turn, it would make transactions more efficient, drive down risk and increase MSMEs competitiveness by lowering costs.

The SELI Administrative Implementation Work Plan, Part II, provides the structure to enable collaboration between the EC and academic institutions from economies that have opted into the Collaborative Framework. The Work Plan specifies that academics may assist with local capacity building for economies, MSMEs and potential platform providers in participating economies through workshops, webinars, and other events. The APEC EC can also call on its team of academic experts to help review ODR Providers' compliance with the Framework and Rules and help

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<sup>11</sup> See Assessing APEC Enforcing Contracts Frameworks according to International Best Practices: Report and Matrix at 17-18 (June, 2018) USAID

<sup>12</sup> See Status, UNCITRAL Model Law on E-Commerce (1996), [https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic\\_commerce/status](https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce/status).

<sup>13</sup> See Status, UN Convention on the Use of Electronic Communications in International Contracts (New York, 2005), [https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic\\_commerce/status](https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce/status)

<sup>14</sup> See Assessing APEC Enforcing Contracts Frameworks, *supra* note 13, at 17-18.

<sup>15</sup> See Status, Convention on the Enforcement of International Settlement Agreements Resulting From Mediation (Singapore Convention) (2018). [https://uncitral.un.org/en/texts/mediation/conventions/international\\_settlement\\_agreements/status](https://uncitral.un.org/en/texts/mediation/conventions/international_settlement_agreements/status)

bring Providers into compliance where appropriate. Additionally, the Lead Academics may assist with the drafting of the Annual Report to the EC.<sup>16</sup>

**Professor Kazu Ogawa** from Rikkyo University (Japan) is a dispute resolution expert and an IT expert who was designated by SELI under the Work Plan to be the APEC ODR Website Administrator. He explained that Japan is the economy responsible for the website under the APEC ODR Satellite Website Proposal.

The Collaborative Framework calls for a centralized website known as the APEC ODR Website, which is dedicated to the implementation of the Framework. The APEC ODR Website <https://www.apec.org/SELI> was launched in September 2021 and hosts in-depth information on the Framework to enable the APEC EC to partner with and oversee ODR providers, help MSMEs use ODR, and collaborate with the international community—including the public and the private sectors, and the academic community.

The Website includes the following elements:

- Navigation Menu
- Overview of the Framework
- Economies: Opting-In
- List of Partnering ODR Providers
- APEC EC Contacts for information concerning the Collaborative Framework
- Model Form whereby ODR providers self-certify compliance with the Framework and Model Procedural Rules
- Procedures for possible removal of an ODR provider from official listing based on noncompliance
- Link to SELI Annual Reports to EC
- List of upcoming and past events including workshops.

The APEC ODR Website has no set up or annual renewal fee. As the Website Administrator, Professor Ogawa manages the ODR Website, troubleshoots problems, and updates the website content. The lead academics from participating APEC economies assist him by reviewing any new content.

### **3.2.2. Session Two: Economies Opting into the Collaborative Framework**

Professor Yoshi Hayakawa, the SELI Convenor also moderated the session. The Workshop heard from each of the economies that opted into the Collaborative Framework.

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<sup>16</sup> As provided in the SELI Administrative Implementation Workplan (Section II), the following Lead Academic Institutions have agreed to coordinate collaboration with other academic institutions:

- University of Hong Kong (Dr. Yun Zhao)
- Indiana University (Dr. Angie Raymond)
- Rikkyo University (Dr. Mayu Watanabe)
- Singapore International Dispute Resolution Academy (Academic Director Nadja Alexander)
- University of International Business and Economics, School of Law (Beijing, China) (Dr. Yongmin Bian)

**Sharla Draemel**, from the Office of Legal Adviser, U.S. Department of State, observed that after the ODR Framework was approved, the US was comfortable about opting-in to the pilot, especially since it imposed no legal obligations on the US, or any of those who participate, but given how APEC decided to structure the pilot, opting in enables the US private sector to participate, should it wish to do so.

The US understood at the time that work would still need to be undertaken to launch it formally, and that data would be collected over time demonstrating whether it is a successful model or needs to be adjusted. However, the US believed that the sooner they were identified as a participant, the more time our private companies would have to consider the Framework and if they wished to do so, prepare their commercial offerings. We of course wanted to allow that engagement to proceed.

The United States had been active in the negotiation of the Framework from the outset and, prior to that, of the UNCITRAL developed the Technical Notes on ODR, on which many of the provisions are based. One reason for our on-going interest in the context of APEC is our leadership of APEC's Ease of Doing Business (EoDB) initiative. The EoDB initiative was introduced in 2009 to make it cheaper, faster, and easier to do business in the APEC region. The current, third, Ease of Doing Business Action plan identifies enforcing contracts as one of five priority issues to be promoted through studies, workshops, and targeted technical assistance. One of the lessons learned from the implementation of the first and second EoDB Action Plans was that APEC experienced slower progress in priority areas where reforms required action by more levels of independent governmental actors. For example, making progress on "enforcing contracts" generally required engagement by both the executive and the judiciary in many APEC economies, and progress on reforms was often limited. This experience highlights the value of encouraging the development of options, so businesses can have access to alternatives for resolving their disputes and enforcing contracts.

While the ODR Framework was developed separately and was not formally part of the EoDB Initiative, we believe it nonetheless supports and complements the initiative's goals. Specifically, ODR provides an important tool, especially for small and medium sized businesses, to enforce their contracts through timely resolution of disputes. As has been, and will be, discussed by others more fully, MSMEs in the region often lack the time or resources to use existing mechanisms for dispute resolution, leaving them vulnerable whenever disputes arise. In a region where MSMEs account for over 97 percent of all businesses and employ over half of the workforce, removing barriers that constrain individual businesses and cause legal uncertainty plays a significant role in encouraging investment and strengthening resilience. The Framework's engagement with the private sector should result in greater availability of alternative dispute resolution options, hopefully providing added legal certainty and economic advantages to businesses in the APEC region.

**Ms. Michelle Fung**, the **Hong Kong China** representative to the EC, explained that the government of Hong Kong China opted into the APEC ODR Collaborative Framework to encourage the use of digital technology to resolve cross border B2B disputes. Hong Kong China believes that the Collaborative Framework will strengthen APEC economies economic and legal infrastructure, enhance collaboration among APEC economies, and create a strong, balanced, inclusive,

innovative, and sustainable growth. ODR is a rising trend worldwide following the transition to the digital economy and the increasing use of e-commerce today. The rise in e-commerce in the wake of the COVID-19 pandemic has made the use of ODR even more important today than when the EC started discussing the framework at SELI a few years ago.

Ms. Fung further noted how the APEC ODR Collaborative Framework contributes to all four pillars of the APEC EC work on the new Enhanced APEC Agenda for Structural Reform (EAASR) agenda as follows:

**1. Creating an enabling environment for open, transparent, and competitive markets:**

- The Collaborative Framework is designed to promote confidence among businesses by providing quick electronic resolution and enforcement of disputes across borders, languages, and different legal jurisdictions.
- The Model Procedural Rules, which will be listed on the APEC ODR website, will help align ODR processes across jurisdictions and provide transparency.
- The availability of a low-cost dispute resolution mechanism will enhance competitiveness and create an enabling environment for businesses, especially MSMEs, to thrive.

**2. Boosting business recovery and resilience against future shocks:**

- The development of ODR is crucial during a pandemic like COVID-19 in light of travel restrictions and court closings, particularly in the case of cross-border trade.
- Use of cross-border ODR under the Collaborative Framework helps MSMEs and other businesses settle disputes, recover debts and stay afloat.

**3. Ensuring that all groups in society have equal access to opportunities for more inclusive, sustainable growth, and greater well-being:**

- Lack of access to commercial justice explains why MSMEs constitute 97% of APEC businesses domestically but account for only a fraction of APEC exports. The lack of cost effective and timely commercial justice for cross-border transactions means that many avoid the risk of trading across borders.
- The Collaborative Framework opens the door for MSMEs to compete and flourish in the global supply chain by lowering costs of doing business across borders and making justice more accessible to all.
- The Collaborative Framework promotes inclusivity, good regional business relationships and entrepreneurship by women. It protects women against unfair disadvantages by giving them access to justice.
- ODR ensures that all groups in society have equal access to opportunities for more inclusive sustainable growth and greater well-being.

**4. Harnessing innovation, new technology, and skills development to boost productivity and digitalization:**

- ODR and the Collaborative Framework are prime examples of harnessing innovation and new technology to boost productivity.
- Opting-in to or otherwise participating under the Collaborative Framework will enhance digitalization of APEC economies in handling cross-border disputes.
- The use of artificial intelligence (AI) and other modern technology is encouraged by the Collaborative Framework throughout the online negotiation, mediation, and arbitration stages.

In short, opting into the Collaborative Framework is a very concrete and direct way for an economy to support all four pillars of the APEC EC EAASR agenda.

**Lim Joo Hong**, the Deputy Director of Singapore Ministry of Law's Legal Technology Transformation Office, explained that Singapore opted into the Collaborative Framework in 2020, in recognition of the growing importance of online dispute resolution, accelerated in part by the COVID-19 pandemic. The COVID-19 pandemic has resulted in businesses, including MSMEs, facing increasing levels of instability and uncertainty. In the circumstances, they would appreciate dispute resolution mechanisms that can help them to resolve their disputes fairly, efficiently and cost effectively.

A key element of the Collaborative Framework is that it encourages amicable settlement. Singapore offers a full suite of international dispute resolution services, including mediation. Mediation is cost and time effective, and more importantly, helps to preserve commercial relationships at a time when businesses need it most. With the Singapore Convention on Mediation now in force, businesses have greater assurance that mediation can be relied on to settle their cross border commercial disputes because settlement agreements can now be enforced across borders. To date, 55 economies have signed, and 9 economies have ratified or approved the Convention. Singapore hopes that more economies will come on board soon.

Singapore believes the Collaborative Framework has the potential to help businesses resolve their cross-border disputes with greater ease and flexibility and looks forward to greater adoption of the Framework by businesses around the world.

**Takuya Izumi**, the Director for Information Policy Planning at the Ministry of Economy, Trade and Industry (METI), observed that ODR has long been a promising solution for improving commercial dispute resolution, especially for cross-border disputes. However, the progress toward the full-scale adoption of ODR has been slower than expected. Governments and the international community must work together toward the goal.

The COVID-19 pandemic has expedited the Japanese domestic discussion on ODR. The Ministry of Justice held a series of meetings with experts beginning in October 2020. The Ministry published its basic policy on the promotion of ODR and called for public feedback by December 2021. It is aiming at making ODR closer to potential users. Japan is gradually getting ready for the full-scale use of ODR.

The International community can help governments in implementing ODR, for example by raising public awareness of and building trust for ODR. APEC is an important venue for those purposes. APEC has already provided the Collaborative Framework, the world's first international framework for ODR. As soon as an economy opts into the Collaborative Framework, even small ODR providers can build their systems around the Framework and partner with APEC. Several ODR software platform providers in APEC are already making their platforms available to ADR providers. Another advantage of the Collaborative Framework is the partnership with academic institutions. Under the Framework, academic institutions review the performance of partnering ODR providers and help them be in compliance with the Framework. The academic institutions also assist APEC

economies with promoting ODR and the Collaborative Framework to potential users including MSMEs.

In sum, the APEC framework is helpful for raising public awareness of and building trust for ODR. Japan believes opting into the Collaborative Framework will enhance access to justice and boost trade within its economy, particularly for MSMEs.

**Professor Yongmin Bian** is the Deputy Dean of the School of Law, University of Business and Economics (Beijing, China) and a representative of the University as a Lead Academic Institution in its collaboration with the APEC EC and SELI in the implementation of the APEC ODR Collaborative Framework.

China opted into the Collaborative Framework because widespread implementation of the Framework will provide certainty and predictability to Chinese small businesses engaged in cross-border trade. For many MSMEs, ODR is more than an alternative; it is the only viable way to settle disputes, especially for small trans-boundary commercial transactions. The restrictions on travel and in-person meetings following the COVID-19 pandemic made offline dispute settlement particularly difficult, especially in cases requiring international travel.

Since the pandemic, it has been easier to persuade parties in China to use ODR to resolve disputes. China has focused on promoting ODR to lawyers and mediators because they are better placed to convince their clients to use ODR. China has also promoted ODR through Alibaba's example of providing timely and cost-effective online dispute resolution with trading partners. ODR has also been widely implemented in Chinese courts since the pandemic.

It is important that APEC launch the Collaborative Framework and begin partnering with ODR Providers. Several Chinese ODR providers have implemented ODR Platforms following the APEC ODR Collaborative Framework and Procedural Rules.

### **3.2.3. Session Three: How to Be an APEC ODR Provider**

- Components of an ODR Platform
- Providers Wishing to Partner with APEC Cross-border consumer protection in the new digital markets

**Mike Dennis** moderated the session.

ODR providers from each of the five economies that opted into the Framework shared information on their ODR platforms and their views on the APEC ODR Collaborative Framework.

**Colin Rule** is the CEO of ODR.com, located in the U.S.A. ODR.com is in the process of launching a multilingual ODR platform for cross-border resolution of SME disputes. The platform is compliant with the APEC ODR Collaborative Framework and optimizes the needs of cross-border SMEs to resolve disputes quickly and fairly. The ODR.com platform software has several key components:

- the solution explorer module helps parties diagnose their situation and envision acceptable resolution options. It also assists users with filing cases.
- the caseload manager module tracks every case, calendar event, and completed activity to ensure cases stay on track and reports are accurate.
- the meeting room module enables disputants and neutrals to interact in an online collaborative workspace designed specifically for their case type.
- the reporting engine offers real time visibility into data on customized dashboards that can be shared internally or externally.

ODR.com doesn't have any arbitrators or mediators, it is only a software platform. It is offering its platform to any ADR provider looking to deliver ODR services in line with the APEC ODR Collaborative Framework. ODR.com hopes to find partners that can help it localize its services across APEC, in different cultural contexts.

Earlier, Mr Rule was responsible for the development of online dispute resolution at eBay. eBay resolves some 60 million disputes per year and 90 percent of those disputes are resolved with software only, meaning that the parties worked out an agreement without the involvement of a third party. As the Collaborative Framework evolves and a larger data set is developed, similar resolution rates during the negotiation phase can be expected. ODR.com and other providers in the U.S are seeing expedited timelines of 4-5 days for family disputes, workplace disputes, landlord tenant, debt collection and small claims. This expedited timeline increases user satisfaction and improves the financial sustainability and scalability of the platform. Time to decision is a key predictor of participant satisfaction: eBay found people were frustrated even if they won their dispute if it took a long period of time, as opposed to if they lost their dispute on day one. Technology can bring efficiency to resolve cases as quickly as possible.

**Ms. Emmanuelle Ta** is the CEO of eBRAM International Online Dispute Resolution Centre in Hong Kong, China. eBRAM's vision as a Law Tech company is to provide SMEs and enterprises with state-of-the-art technology and a high level of security for cross border deal making, dispute avoidance and dispute resolution. In 2020, eBRAM developed its own ODR platform for resolution of COVID-19 related disputes where one of the parties is a Hong Kong, China resident or company.

Implementation of ODR in Hong Kong, China had faced challenges. General public and businesses have been reluctant to use ODR to resolve their disputes because of a lack of understanding of what ODR is and its advantages. It is assumed that ODR may be more suitable for legal professionals or large enterprises. Use of the COVID-19 platform has also been hindered by psychological barriers concerning the impact of ODR on the dispute, including for data privacy.

As a result, the government of Hong Kong, China has undertaken initiatives to encourage and support the development of ODR. In turn, eBRAM has promoted ODR by providing mediation training sessions to local legal professionals. It has also been engaged in advertising campaigns to raise awareness and promote the use of ODR.

eBRAM is not only an ODR provider, who develops ODR platforms and provides LawTech services, but it is also an institution, who administers ODR proceedings to

ensure that the ODR process is conducted in accordance with its Rules. eBRAM issued various sets of ODR rules, including the COVID-19 ODR Scheme, APEC ODR, e-mediation and e-arbitration rules.

As an ODR provider under the APEC Collaborative Framework for ODR, eBRAM launched its APEC ODR Rules in June 2021, which incorporate the APEC model procedural rules, and has developed an APEC ODR platform which complies with the APEC ODR Framework. It is a technology-based platform with a human element for the administration of the cases, and the decision making.

When it comes to appointment of neutrals to conduct the ODR proceeding, such appointment shall be made by eBRAM from its panel of neutrals, which comprises international, experienced commercial dispute resolution professionals, coming from different jurisdictions and speaking the languages of the APEC economies.

eBRAM's Rules and platform comply with the APEC Framework in terms of the ODR process, time limits, costs, and conditions of application of eBRAM APEC Rules. To ensure security and confidentiality, the platform includes an authentication system to verify the identity of any party, who registers. All documents exchanged through the platform will be saved on a highly secure cloud storage, using blockchain technology, to preserve file and meeting integrity.

eBRAM expects to launch its APEC ODR Platform next month.

**Chen Chen** is a representative of the Guangzhou Arbitration Commission (GZAC). The GZAC was established in 1995 and is China's largest alternative dispute resolution provider. In September 2020, GZAC set up its first ODR platform and in January 2021, it launched an APEC-ODR platform which meets the requirements of the APEC ODR Collaborative Framework and Model Procedural Rules. The APEC-ODR platform features include: providing online negotiation, mediation, and arbitration; multilingual translation; use of artificial intelligence to answer questions automatically throughout the process; online amendment of the settlement agreement and online signing; and issuance of legal documents to facilitate international enforcement of settlement agreements. GZAC plans to further improve platform functions by adding languages and interfaces including international electronic signatures, and providing the parties the choice of different hearing proceedings.

Since January 2021, 169 domestic and international disputes have been filed on GZAC's APEC-ODR platform totaling over 3.7 billion yuan (approximately 510 million euros) in dispute, including cases in emerging industries such as e-commerce, live streaming, and intelligent vehicle manufacturing. The average time to resolve a dispute has been 23 days, with 62% of the disputes being resolved during the mediation stage. GZAC has held 61 seminars and press conferences to collect opinions and suggestions from scholars, e-commerce traders and parties on its APEC-ODR platform. The Guangzhou government has also actively supported the use of ODR.

**Anil Changaroth** is the Managing Director of ODRasia (serving Asia) & ODRanz (serving Oceania), subsidiaries of Changaroth International Consultancy, which

provide licensed and subscription-based platforms for ODR and online digital reengineering services. Both ODRasia and ODRanz will provide revolutionary online subscription based digital platforms for managing disputes (through online negotiation, mediation, and arbitration), managing conflicts (through analyzing issues quantitatively and qualitatively), managing data (through blockchain-based document management), managing people (applying and considering emotional intelligence quotient), managing infrastructure and construction projects (with AI/machine learning solutions), and managing businesses (operating automated client onboarding (know your customer (KYC))). The dispute management component will follow the APEC ODR Collaborative Framework and Model Procedural Rules, which provides the backbone for future work on ODR in the APEC region.

While the COVID 19 pandemic has brought unprecedented challenges, it has also galvanized people and economies and dramatically disrupted how work and society functions. Social distancing is resulting in a greater use of technology and communication and interaction. The dispute resolution community, mainly legal practitioners, courts, and dispute resolution institutions are moving away from traditional forms of dispute resolution and are adopting online dispute resolution platforms. ODR will soon no longer merely be an option. Instead, it will become the preferred choice for the majority.

**Shunsuke Mori** is a Vice President of the Deloitte Tohmatsu Financial Advisory (DFTA) and oversees the planning and development of its ODR platform and other digital services. In 2020 Deloitte launched its Smart Judgment ODR platform. Deloitte makes the ODR platform available to ODR service providers. The platform is highly secure with a complete information security system and compliant with the APEC ODR Collaborative Framework and Model Procedural Rules.

Deloitte has introduced its Smart Judgment ODR platform to many e-commerce service providers and is slowly gaining traction. ODR is not yet well known by Japanese people, who are more familiar with using Japanese courts for dispute resolution. Government leadership is therefore needed to assist with the implementation of ODR, including by sponsoring ODR providers, providing subsidies to support the implementation of ODR, and actively promoting ODR in public institutions.

#### **3.2.4. Session Four: Encouraging Businesses Involvement in the APEC ODR Collaborative Framework**

- Capacity Building— Assisting MSMEs to Use ODR
- Leveraging Private Sector Support

**Yoshi Hayakawa and Mike Dennis**, served as the co-moderators.

**David Dodwell** is the Executive Director of the Hong Kong-APEC Trade Policy Study Group and the Chief Executive Officer of Strategic Access Limited. He has worked with the APEC EC on behalf of the APEC Business Advisory Council (ABAC) in implementing the Collaborative Framework since 2017.

According to Mr. Dodwell, ABAC has worked hard to expand the role of MSMEs in international commerce. The definition of an MSME varies from economy to economy. However, MSMEs typically lack dedicated accounts, IT, or legal departments, forcing the CEO to multitask, including by managing disputes. This creates particularly acute problems and vulnerabilities once they enter overseas markets.

Additionally, according to multiple studies MSMEs engaged in cross-border trade often do so without a proper contract. These MSMEs were unaware of the financial risks they faced if a dispute arose when the cost of travel, arbitrators and lawyers can rapidly outweigh the value of the claim. Under these circumstances, ABAC risked being accused of acting in bad faith by encouraging small companies to go overseas without adequately preparing them for the risks involved.

ODR can radically improve the way small companies resolve the disputes that arise as they enter foreign markets. Soon, most disputes will be handled by algorithms and AI, without the intervention of a neutral person, significantly bringing down the cost.

Lawyers and business-led organizations like ABAC are faced with the significant task of educating businesses to the importance of having contracts and dispute resolution clauses providing for ODR.

**Attorney Irene Alogoc**, the Executive Director of the Office for Alternative Dispute Resolution (OADR), Department of Justice, the Philippines, shared the initiatives of the Philippine government to encourage business involvement in online dispute resolution.

First, the Philippine legal framework encourages parties to resolve disputes outside of litigation and provides the overall legal basis of ADR in the Philippines in accordance with international standards. The OADR was created by law to promote use of ADR and ODR in both the public and private sectors, including for consumer protection, promotion of e-commerce and resolution of business cross-border disputes. The OADR conducts training, orientation activities, advocacy programs, accreditation and certification of practitioners, and reviews and proposes policy issuances and statutory changes to develop, strengthen and improve use of ADR and ODR.

Second, the Philippines' strategic framework on ADR expressly includes the promotion of online dispute resolution as among the key strategies in the expansion of ADR in the Philippines.

Third, through the OADR, information dissemination and advocacy activities were conducted by the government to increase awareness and involvement in ADR. These activities were mounted on online platforms to expand the reach of dissemination and implementation, bridging the gap brought about by geographical and logistical restrictions.

Finally, the Philippines is currently working on the establishment of the Philippine Online Dispute Resolution System or the PODRS. The system will

provide an accessible facility for the filing and resolution of consumer complaints through an online platform, wherein regulatory agencies can act more efficiently as mediators and arbitrators for e-commerce transaction disputes without going through the rigorous judicial proceedings.

**Mrs. Netty Muharni** is the Indonesian Representative to the EC and the Assistant Deputy Minister for Regional and Subregional Cooperation. She gave an overview of the role of MSMEs and importance of ODR in Indonesia.

MSMEs in Indonesia represent over 99% of firms, 60.5% of GDP, 96.9% of manpower, and 77% of the firms engaged in cross border (13,755 out of 13,799). However, MSME sales account for only 4% of the total value of exports. Indonesia hopes to create 500,000 new MSME exporters by 2030.

Indonesia also has the fastest growing Internet economy in the region. Estimated at \$40 billion in 2019, Indonesia's Internet economy has more than quadrupled in size since 2015 at an average growth rate of 49% per year. Indonesia also has the world's fourth largest number of internet users with 73% of its population connected to the internet.

While the pandemic had a negative effect on MSME performance, it has also provided MSMEs with unprecedented access to global markets. ODR is an essential tool to help resolve cross-border disputes for MSMEs.

The pandemic led to increased use of digitalization in dispute settlement in Indonesia. The Badan Arbitrase Nasional Indonesia (BANI/Indonesian National Arbitration Body) reported an increased use of online platforms for hearings. During the pandemic, the Indonesian Supreme Court also increased the use of communication technology including digital hearing in its court processes in order to keep courts open.

Since the Collaborative Framework was adopted, Indonesia has held public engagements on ODR. Indonesia received strong support from its stakeholders—policymakers, academicians, law practitioners, and business entities including MSMEs—for its implementation of ODR. Stakeholders universally believe that ODR will bring substantial advantages for all parties, especially for MSMEs.

Currently, Indonesia is undertaking an assessment of its readiness to implement ODR and to opt into the ODR Collaborative Framework. The initial findings show widespread understanding that the Collaborative Framework provides an inclusive dispute settlement process which is affordable, time efficient, and flexible (24/7 access) and that will accommodate MSMEs needs in cross-border dispute settlement. From a legal framework standpoint, Indonesia has 15 laws and regulations related to and supporting ODR. Indonesia ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Indonesia is looking forward to collaborating with other economies in capacity building for Indonesian MSMEs and ODR providers for the use of ODR in cross-border disputes.

**Duong Nguyen** is the Viet Nam representative to the EC and the leader of a Vietnamese initiative to promote ODR capacity building and implementation for MSMEs under the Collaborative Framework. He explained that in Viet Nam, MSMEs play a crucial role in job creation and economic growth and that effective dispute resolution was of key importance.

Viet Nam has recently held training sessions and an ODR pilot for Vietnamese MSME business leaders. The ODR pilot used online negotiation, mediation, and arbitration processes to resolve sample disputes such as those involving late delivery, payment, and quality issues. Training funds were provided by the Australian Department of Foreign Affairs and Trade and ODR use during the pilot was facilitated by Resolve Dispute Online (Australia) and the Vietnam International Arbitration Centre (VIAC).

Before the training, Vietnamese MSMEs surveyed favored negotiation as a means of resolving disputes. Use of arbitration and the courts were unpopular because they were too costly for MSMEs. Only a third of the participants believed ODR would be helpful in resolving their disputes.

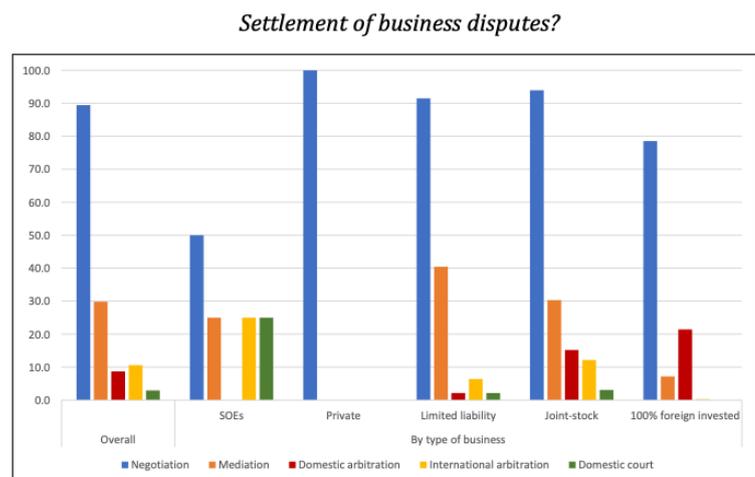
### Viet Nam Consideration of ODR

#### Negotiation most popular

- Against arbitration/courts: require dedicated lawyers or legal departments

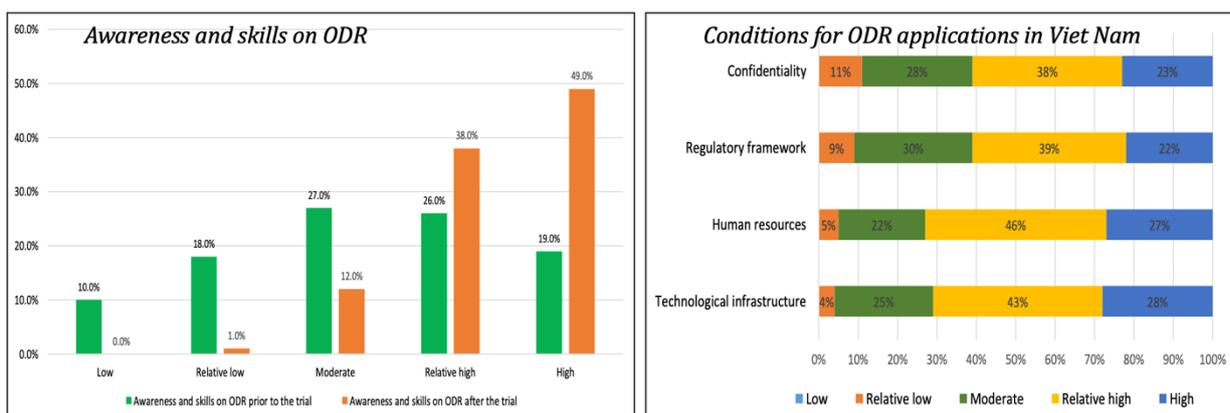
→ costly for MSMEs

Only 32.29% of surveyed firms initially believed ODR would be applicable in Viet Nam



Source: Nguyen et al. (2021).

After the training, there was a complete shift. The vast majority of the MSMEs believed ODR would be important to use in resolving their disputes.



The pandemic has also led to increased use of digitalization generally in dispute settlement in Viet Nam. In November 2021, Vietnam's National Assembly approved a resolution which allows the People's Court to hold online proceedings for first-instance trials and simple appeal trials in criminal, civil and administrative cases. Additionally, the VIAC has increased its use of digital technology including the use of virtual hearings.

Viet Nam hopes to be in a position to opt into the Collaborative Framework soon.

**Professor Angie Raymond** of Indiana University (USA) and a representative of the University as a Lead Academic Institution in its collaboration with the APEC EC and SELI in the implementation of the APEC ODR Collaborative Framework explained that academic institutions have a key role in assisting with MSME capacity building. The Administrative Implementation Work Plan specifies that academics may assist with:

- Local capacity building for economies, MSMEs and potential platform providers in participating economies through workshops, webinars, and other means.
- Coordinating and Collaborating academic institutions may:
  - Host local conferences and meetings to engage academics, potential users, potential platform providers, and economies in identifying key areas of need and assessing local laws and barriers to deployment.
  - Coordinating academic institutions will work with Collaborating academic institutions to secure funding for such events and for assessment and research.

Ms. Raymond noted that academic institutions are uniquely placed to assist in this work because it is already part of their mission. They have substantial experience organizing local conferences and working meetings and they can find resources to support these undertakings.

### 3.3.2. Session Five: APEC Courts and Arbitration Centers During the Pandemic

- How ODR is Implemented for Other Types of Disputes
- Use of Communications Technology vs ODR.

**Yoshi Hayakawa and Mike Dennis** served as the Co-moderators for the Session.

**Prof. Yun Zhao**, the Head of the Department of Law at the University of Hong Kong, and a representative of the University as a Lead Academic Institution in its collaboration with the APEC EC and SELI in the implementation of the APEC ODR Collaborative Framework.

noted that because of the Covid-19 pandemic, Hong Kong China courts had conducted 1,000+ remote hearings by late September 2021. The Hong Kong International Arbitration Center (HKIAC) also shifted to virtual hearings during the Pandemic and issued its HKIAC Guidelines on Virtual Hearings (Hong Kong, China). In 2021, HKIAC hosted 138 hearings, of which 101 were fully or partially virtual, and 37 were in-person at HKIAC's premises in Hong Kong.

China has also made widespread use of ODR in courts and arbitration centers after the pandemic. Prior to the pandemic, the government had established several internet courts including in Guangzhou, Hangzhou, Guangzhou and Beijing Internet Courts.<sup>[2]</sup> These courts have experienced excellent results. For example, for the Hangzhou internet court:

- 90% cases were filed online
- 100% heard online with the parties' agreement
- online hearings took on average 28 minutes
- the whole proceedings took on average 38 days

These courts use technology for case management (e.g., computerization of documents, processes) and to facilitate access to justice (e.g. special programmes for parties that are not represented by lawyers).

**Laura Aguilera**, head of Studies of the Arbitration and Mediation Center of the Santiago Chamber of Commerce (CAM Santiago, Chile) discussed the new ODR platforms that CAM Santiago offers. CAM Santiago's ODR B2B Platform is in its pilot stage and provides for resolution of commercial disputes between businesses, particularly MSMEs, through online negotiation, mediation, and arbitration, consistent with the requirements of the APEC ODR Collaborative Framework and Model Procedural Rules.

In 2020, CAM Santiago launched [Resolución en Línea](#), a B2C platform which allows businesses to sign up voluntarily to offer ODR to their customers including online algorithm assisted negotiation and online mediation. Thus far:

- 134 companies have subscribed to the platform
- more than 200 cases have been resolved
- average claim value is USD \$150
- 98% of cases were resolved in the algorithm-assisted negotiation stage
- 60% of settlements are reached in less than 48 hours
- 48 hours first Response average time

Cam Santiago already used communications technology and an electronic case management system for its mediation and arbitration cases prior to the Pandemic. In 2021 it conducted 2060 virtual hearings.

In 2019, the Santiago Chamber of Commerce (CCS) implemented and funded the "A Thousand Online Mediations" Pro-Bono program to help business, especially Micro, Small and Medium Enterprises (MSMEs), resolve conflicts mainly caused by the breach of contracts during the 2019 social crisis, and subsequently with the COVID-19 pandemic for disputes not in excess of 3,000 UF (about 100,000 U.S.D). By May 2021, this Program had benefited more than 200 parties, with a settlement agreement rate of 63%.

Chilean courts have allowed remote hearings since the onset of the pandemic under an emergency law. Cam Santiago signed an interconnection agreement with the Judiciary System of the Republic of Chile allows interconnection with CAM Santiago cases when the case is set aside.

Elsewhere in Latin America, APEC economies Mexico and Peru have also implemented ODR platforms for consumer disputes. See <https://concilianet.profeco.gob.mx/Concilianet/> (Mexico) and <https://www.gob.pe/indecopi> (Peru).

**Pasit Asawawattanaporn** is Managing Director of Thailand Arbitration Center (THAC) and President of the Asia Pacific Regional Arbitration Group (Thailand). THAC was established by the Thailand Act of Arbitration Center B.E. 2550 (2007) to strengthen ADR systems and services in Thailand. It commenced operation in 2015 and implemented a newly revised ODR platform in 2020 (Talk DD) that provides online negotiation, mediation and arbitration for copyright, patent, and trademark infringements; family law (including divorce and separation); and e-commerce disputes (such as goods not received or are not what was ordered). The ODR platform provides flexibility, and time and cost savings to the parties including by allowing them to select the neutral, communicate through audio and video calls or built-in chat, and draft settlement agreements.

With 69.5% of the population connected to the internet and users spending on average 8 hours and 44 minutes on the internet, Internet usage is very high, which has led to an increase in e-commerce and subsequently e-commerce disputes. However, Thai people are not aware of the availability of ODR and its time and cost savings. Email is not the main communication channel in Thailand; most people use the telephone on online chat. THAC needs to promote and raise awareness ODR so it becomes Thai people's first choice for dispute resolution.

In July 2020, with the advent of COVID, THAC issued also updated Rules on Online Alternative Dispute Resolution Proceedings B.E. 2563 (A.D. 2020) authorizing virtual hearings for mediation and arbitration cases generally. Similarly, Thai courts have implemented virtual hearings.

Maxim Kaziev, the Chief Officer, Asia Pacific Division, Department of Multilateral Economic Cooperation, Ministry of Economic Development (Russia) presented an overview of the Russian APEC stock take on use of ODR technologies. The stocktake included a questionnaire to APEC economies and an analysis of 160 APEC ODR providers. Russia plans to disseminate a report of the deliverables soon.

The pandemic restrictions deepened the workload of courts and put ODR in the public eye. Pre-pandemic statistics show simple disputes involving small businesses

take over a year to resolve in Asia Pacific region. For this reason, Russia welcomes the APEC ODR Collaborative framework initiative. There is still a lot to be done for ODR to become a widespread, effective and inclusive solution to cross border disputes including:

- Internet Penetration. The survey showed a high level of correlation between Internet penetration and ODR development within the economy. Economies where the percentage of Internet users is high tend to be pioneers in the field.
- Computer Literacy. Lack of computer skills in an economy is a barrier to ODR development. Ignoring this issue increases the risk of unequal access to ODR.
- Lack of systemized reliable information on ODR. All respondents understood the need to inform individuals and professional groups about ODR.
- Lack of Legislation. Today there is no legislation specifically regulating ODR in any of the economies. The Parliament of Russia is currently considering a bill regulating ODR and implementing ODR into e-government services.
- Absence of a centralized coordinating agent. There is generally no centralized coordinating agent with complete information about ODR and domestic providers making it impossible to monitor at the level of individual economies and within APEC.
- Lack of Statistics. There are no statistics on the use of ODR by MSMEs even though ODR is universally seen as less costly mechanism for dispute resolution.

There is a clear tendency for the use of ODR to increase in legal proceedings. In several economies ODR has been included in the operation of the courts. Online courts and online private mediation systems subsidized by economies have been created. ODR has also been included in e-government services and associated websites. Use of ODR generally creates more trust.

The analysis of existing projects of more than 160 providers shows video conference as a prevailing technology in 2022. The majority of the projects provide dispute resolution via web forms although many providers still use email only correspondence. A pioneering minority of ODR providers have implemented AI algorithms, Blockchain, cloud and big data and other technologies. In fact, innovation will be crucial to make ODR more time and cost effective, faster, and attract more businesses. ODR providers should therefore implement legal tech and develop more inclusive and user centric ODR.

ODR represent a paradigm change in the dispute resolution system. Technological solutions facilitate and improve the settlement process thus becoming the fourth participant in the dispute resolution process. Russia expects great development in the field of ODR and encourages providers to implement digital technologies and best practices into their services. Russia also urges regulators within the economies to introduce legislation that promotes ODR and trust.

**Professor Mayu Watanabe**, Rikkyo University (Japan) and a representative of the University as a Lead Academic Institution in its collaboration with the APEC EC and SELI in the implementation of the APEC ODR Collaborative Framework, commented on the widespread use of communication technology (virtual hearings) during the Pandemic by various courts and ADR centers across APEC. She emphasized that ODR is not just about using communication technology for dispute resolution. If a

single platform can seamlessly connect the phases from obtaining legal information to reaching a settlement, the convenience of the dispute resolution system is greatly enhanced for users. On the other hand, simply using communication technology in dispute resolution will result in the fragmentation of each process.

The purpose of ODR is to resolve disputes and the system should be developed to expand access to justice. Research suggests unmet legal needs carry a high cost. ODR can support the delivery of timely legal and justice services that will benefit many so the MSME-focused discussion around ODR in the APEC community is crucial. The goal of ODR should therefore be to design a new system and not simply convert existing ADR processes into IT-enabled ADR.

Japan is actively reviewing its policies concerning ODR and has established two related committees the ODR Promotion Committee (established by the Ministry of Justice in 2020) and the Japanese ODR Revitalization committee (established by the Cabinet Secretariat in 2019). Professor Wantanabe is a member of the ODR Promotion Committee and has presented at the ODR Revitalization Committee. The Japanese Ministry of Justice has issued an “Action Plan for Making ODR More Accessible to the Public”, which has been made available for public comment. The final version will be released in March.

As we move into the phase of social implementation of ODR, ODR policies will continue to be discussed in each economy, and at that time, the goal of implementing ODR should be clarified, and the knowledge and ideas of what part of ODR we are talking about should be shared among stakeholders before moving forward to design the system for social implementation.

#### **3.4.1 Session Six:** Open Discussion: Issues Concerning the Launch of the Collaborative Framework and Partnering with Providers and Comments on the Administrative Implementation Work Plan or the APEC ODR Satellite Website

Economies were appreciative of the efforts undertaken by Japan in hosting the Workshop. Several stressed the importance of the Framework for MSMEs in their economies.

Three participants (from the U.S., Canada, and Mexico) are members of the newly established Dispute Resolution Advisory Committee under the new United States-Mexico-Canada Agreement (USMCA) (July 2020). They are responsible for promoting the development of alternative dispute resolution including ODR within the three economies. They believe that the Collaborative Framework will be an important element of their work since the United States, Mexico and Canada are all APEC members. They hope to be able to work collaboratively with the APEC EC and SELI as we move forward.

EC Chair James Ding, SELI Convenor Yoshi Hayakawa, and Mike Dennis provided background on the SELI Administrative Implementation Work Plan and APEC ODR Satellite Website proposal. Both documents had been endorsed as they stood at EC 1 in 2021. The EC recognized both documents as “living documents”, noting that they will be further refined.

The Administrative Implementation Work Plan provides the structure for implementing the Collaborative Framework, including collaboration between academic institutions and the EC. The APEC ODR Satellite Website proposal provided for the establishment of the website (<https://www.apec.org/SELI>).

Minor revisions to the SELI Administrative Implementation Work Plan were circulated to economies in August of 2021 prior to the launch of the ODR Satellite Website. No adverse comments were received. The current February 2022 version of the Administrative Implementation Workplan includes an updated schedule of past and upcoming events. Similar changes will be made on the APEC ODR Satellite Website.

Participants were asked if they had any comments or revisions to the SELI Administrative Implementation Work Plan or APEC ODR Satellite Website. No changes or revisions were suggested. It was noted that the documents would be further reviewed as we move forward.

SELI Convenor noted that Japan had circulated a new concept note for future work on ODR that had been co-sponsored by Hong Kong China, Indonesia, Russia, Singapore, the United States and Viet Nam. It is currently pending endorsement by the EC.

#### IV. CONCLUSIONS AND RECOMMENDATIONS

The conclusions of the Workshop are as follows:

- ✓ APEC-wide implementation of the Collaborative Framework will assist APEC businesses, particularly MSMEs engage in cross-border trade, with quick and affordable dispute resolution and enforcement across borders, languages, and legal jurisdictions.
- ✓ Use of the Collaborative Framework will substantially reduce timelines and costs for MSME dispute resolution compared to courts.
- ✓ The development of ODR is crucial during a pandemic like COVID-19 in light of travel bans and court closings, particularly in cross-border trade.
- ✓ Use of cross-border ODR under the Collaborative Framework will assist MSMEs and other businesses recover debts and settle disputes for speedy business recovery.
- ✓ Widespread availability of low-cost dispute resolution will enhance competitiveness and create an enabling environment for businesses to thrive.
- ✓ The Collaborative Framework promotes inclusivity, good regional business relationships and entrepreneurship by women.
- ✓ Several APEC ODR Providers have implemented ODR platforms per the Collaborative Framework and Procedural Rules and are seeing great reductions in time and cost.

The recommendations of the Workshop are as follows:

- ✓ **APEC Economies** should consider opting into the Collaborative Framework.
- ✓ **APEC EC/SELI** should partner as soon as possible with ODR providers that (1) are from economies that have opted into the Collaborative Framework and

(2) have certified compliance with the Collaborative Framework and Procedural Rules. Those partners should be listed on the APEC Satellite Website.

- ✓ **SELI, with the help of Lead Academic Institutions,** should:
  - Work with ABAC to promote the Collaborative Framework and identify businesses willing to participate.
  - Stimulate economy-level capacity building for governments, lawyers, MSMEs potential platform providers, and courts for implementation of ODR through workshops, webinars, etc. (See SELI Administrative Implementation Work Plan on APEC ODR Collaborative Framework, Part II).
  - Promote improvement of APEC legal regimes on ODR including through encouraging implementation of UNCITRAL texts.
  - Produce economy report, e.g., examination of local laws, barriers to implementation, implementation of private international law instruments (for any economy requesting such information).
  - Conduct regular APEC-wide follow-up workshops, webinars, and other events as the pilot progresses.
  - Compile information on use of communications technology in ADR centers and courts during the pandemic to document what works or doesn't work.
- ✓ **ODR providers** should use modern technologies such as artificial intelligence, whenever possible.

## APPENDIX I



### APEC Virtual Workshop on Launching the APEC ODR Collaborative Framework

16-17 February 2022

Agenda

**Day 1: 16 February 2022, 10:00am-12:45pm JST (Duration: 2 hours and 45 minutes)**

10:00-10:05	<p><b>Opening Remarks</b></p> <ul style="list-style-type: none"> <li>- Dr. James Ding, APEC Economic Committee (EC) Chair</li> </ul>
10:05-10:25	<p><b>Session One: Benefits and Operation of the Collaborative Framework</b></p> <ul style="list-style-type: none"> <li>• Why is Collaborative Framework Important?</li> <li>• How does an Economy Opt-in?</li> <li>• How does an ODR Provider Partner with the APEC EC?</li> <li>• How do we use the APEC ODR Satellite Website (<a href="https://www.apec.org/SELI">https://www.apec.org/SELI</a>)?</li> </ul> <p><b>Moderator:</b> Prof. Yoshihisa Hayakawa, SELI Convenor</p> <p><b>Speakers:</b></p> <ul style="list-style-type: none"> <li>- Mike Dennis, International ODR Consultant (United States)</li> <li>- Prof. Kazuo Ogawa, Rikkyo University (Japan)</li> </ul>
10:25-11:05	<p><b>Session Two: Opting into the APEC ODR Collaborative Framework: Experience sharing by Five Economies</b></p> <p><b>Moderator:</b> Prof. Yoshihisa Hayakawa, SELI Convenor</p> <p><b>Speakers:</b> (around 6 minutes per speaker)</p> <ul style="list-style-type: none"> <li>- Sharla Draemel, Attorney Adviser, Private International Law, Office of Legal Adviser, U.S. Department of State (United States)</li> <li>- Michelle Fung, Senior Government Counsel, Inclusive Dispute Avoidance and Resolution Office, Department of Justice, Hong Kong, China (Hong Kong, China)</li> </ul>

	<ul style="list-style-type: none"> <li>- Lim Joo Hong, Deputy Director, Legal Technology Transformation Office, Ministry of Law (Singapore)</li> <li>- Takuya Izumi, Director for Information Policy Planning, Ministry of Economy, Trade and Industry (METI), (Japan)</li> <li>- Prof. Youmin Bian, University of International Business and Economics, China (China)</li> </ul>
11:05-11:45	<p><b>Session Three: How to Be an APEC ODR Provider</b></p> <ul style="list-style-type: none"> <li>▪ <b>Components of an ODR Platform</b></li> <li>▪ <b>Providers Wishing to Partner with APEC</b></li> </ul> <p><b>Moderator:</b></p> <ul style="list-style-type: none"> <li>- Prof. Yoshihisa Hayakawa, SELI Convenor</li> </ul> <p><b>Speakers:</b> (around 6 minutes per speaker)</p> <ul style="list-style-type: none"> <li>- Colin Rule, CEO of ODR.com (United States)</li> <li>- Emmanuelle Ta, CEO of eBRAM International Online Dispute Resolution Centre (Hong Kong, China)</li> <li>- Chen Chen, Department of Business Development, Guangzhou Arbitration Commission (GZAC) (China)</li> <li>- Shunsuki Mori, Deloitte Tohmatsu (Japan)</li> <li>- Anil Changaroth, CEO of ODRasia &amp; ODRanz (Singapore)</li> </ul>
11:45-12:25	<p><b>Session Four: Encouraging Businesses Involvement in the APEC ODR Collaborative Framework</b></p> <ul style="list-style-type: none"> <li>• <b>Capacity Building – Assisting MSMEs to Use ODR</b></li> <li>• <b>Leveraging Private Sector Support</b></li> </ul> <p><b>Moderator</b></p> <ul style="list-style-type: none"> <li>- Mike Dennis, International ODR Consultant (United States)</li> </ul> <p><b>Speakers:</b> (around 6 minutes per speaker)</p> <ul style="list-style-type: none"> <li>- David Dodwell, CEO of Strategic Access Ltd, and Executive Director of the Hong Kong-APEC Trade Policy Group (Hong Kong, China)</li> <li>- Netty Muharni, Assistant Deputy Minister for Regional and Subregional Cooperation (Indonesia)</li> <li>- Duong Nguyen, Department for General Economic Issues and Integration Studies, Central Institute for Economic Management (Vietnam)</li> <li>- Atty. Irene D.T. Alogoc, Executive Director, Office for Alternative Dispute Resolution, Department of Justice (the Philippines)</li> <li>- Prof. Angie Raymond, University of Indiana (United States)</li> </ul>
12:25-12:40	<b>Questions and Answers</b>

12:40-12:45	<b>Closing Remarks for Day 1</b> Prof. Yoshihisa Hayakawa, SELI Convenor
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**Day 2: February 17, 2022, 10:00am-12:00pm JST (2 hours in total)**

10:00-10:05	<b>Introduction and Summary of Day 1</b> Prof. Yoshihisa Hayakawa, SELI Convenor
10:05-10:45	<p><b>Session Five: APEC Courts and Arbitration Centers During the Pandemic</b></p> <ul style="list-style-type: none"> <li>▪ <b>How ODR is Implemented for Other Types of Disputes</b></li> <li>▪ <b>Use of Communications Technology vs ODR</b></li> </ul> <p><b>Moderator</b> Mike Dennis, International ODR Consultant (United States)</p> <p><b>Speakers:</b> (around 6 minutes per speaker)</p> <ul style="list-style-type: none"> <li>- Prof. Zhao Yun, University of Hong Kong (Hong Kong, China)</li> <li>- Laura Aguilera, Head of Studies of the Arbitration and Mediation Center of the Santiago Chamber of Commerce (CAM) (Chile)</li> <li>- Pasit Asawawattanaporn, Managing Director of Thailand Arbitration Center (THAC) and President of the Asia Pacific Regional Arbitration Group (Thailand)</li> <li>- Maxim Kaziev, Ministry of Economic Development, Department of multilateral economic cooperation and special projects (Russia)</li> <li>- Prof. Mayu Watanabe, Rikkyo University (Japan)</li> </ul>
10:45-11:45	<p><b>Session Six: Open Discussion: Issues Concerning the Launch of the Collaborative Framework and Partnering with Providers:</b></p> <ul style="list-style-type: none"> <li>• <b>Comments on the Administrative Implementation Work Plan or the APEC ODR Satellite Website</b></li> </ul> <ul style="list-style-type: none"> <li>- Co-Moderators: Dr. James Ding, EC Chair; Prof. Yoshihisa Hayakawa, SELI Convenor; Mike Dennis, International ODR Consultant (United States)</li> </ul>
11:45-11:55	<p><b>Workshop Conclusions and Recommendations</b></p> <ul style="list-style-type: none"> <li>- Co-Moderators: Prof. Yoshihisa Hayakawa, SELI Convenor; Mike Dennis, International ODR Consultant (United States)</li> </ul>
11:55-12:00	<p><b>Closing Remarks for the Workshop</b></p> <ul style="list-style-type: none"> <li>- Dr James Ding, EC Chair</li> </ul>

## APPENDIX II

### SPEAKERS

#### **Yoshihisha Hayakawa, SELI Convenor, Moderator of Sessions 1-3 and 6.**

Professor Hayakawa serves as a professor of law at Rikkyo University, Tokyo, and is the Convenor of the EC SELI FoTC. He has taught and conducted research at various foreign universities including Columbia University, Cornell University, QM College of the University of London and the Australian National University. As a partner at Uryu & Itoga, Tokyo, Professor Hayakawa serves as Counsel or Arbitrator in transnational litigation and international commercial arbitration cases. He has represented Japan in inter-governmental organizations including UNCITRAL, APEC and Hague Conference on private international law matters. Professor Hayakawa also serves as President of the Japan National Committee of UIA, Japanese Member for Commission on Arbitration and ADR of the ICC and Japanese Member of Users Council of SIAC. He further serves as Secretary General of Japan International Dispute Resolution Center.

#### **Mike Dennis: Moderator of Sessions 4-6, Panelist Session 1.**

Mike Dennis is a private international law consultant and a senior adviser with the Kozolchyk National Law Center. He serves as a legal consultant to the EC for the APEC ODR Collaborative Framework and Model Procedural Rules. He developed the Administrative Implementation Work Plan and the related Proposal for an APEC ODR Satellite Website for the Collaborative Framework. He was the Project Overseer for the first APEC Workshop on Developing a Collaborative Framework for ODR (Osaka, November 2018). He is a U.S. expert member of the ISO working group on the development of standards for transaction assurance in e-commerce including dispute resolution. He is also a member of the Inclusive Global Legal Innovation Platform on Online Dispute Resolution (GLIP on ODR) (in collaboration with the United Nations Commission on International Trade Law (UNCITRAL)). He was the Executive Director of the Department of State Advisory Committee on Private International Law from 2007 to 2018. He also served as the Representative of the United States to UNCITRAL where he headed U.S. delegations on many private international law matters including the working groups on the UNCITRAL Arbitration Rules (2010) and the UNCITRAL Technical Notes on ODR (2017). He has published widely on human rights and various private international law topics including Online Dispute Resolution.

#### **Session 1**

#### **Professor Kazushige Ogawa, Panelist**

Professor Ogawa serves as Associate Professor at Rikkyo University Faculty of Law and Politics (Tokyo). An IT expert, he was appointed Administrator of the APEC ODR Satellite Website. He is an expert for the Japan Sports Arbitration Agency and a member of its Research Committee and Working Group for the Anti-Doping Disputes Arbitration, as well as its Research Committee for the Anti-Doping Law.

Professor Ogawa is also the Deputy Secretary General of the Japan International Dispute Resolution Center and a member of the Japan Society of Private International Law, the Japan Association of International Economic Law, and the Japan Association of the Law of Arbitration and Alternative Dispute Resolution.

## **Session 2**

### **Sharla Draemel, Panelist**

Sharla Draemel is an attorney with the Office of the Legal Adviser at the US Department of State. As a US representative to UNCITRAL, Unidroit, and the The Hague Conference on Private International Law, she handles a variety of private international law matters for the United States including secured transactions law, maritime law, and international family law.

She served as the Legal Counsellor to the U.S. Embassy at The Hague from 2016 to 2018. She has a Juris Doctor degree from University of California, Berkley – School of Law.

### **Michelle Fung, Panelist**

Michelle Fung is Senior Government Counsel of the Inclusive Dispute Avoidance and Resolution Office of the Department of Justice of Hong Kong, China. She is also a representative of Hong Kong, China to the APEC Economic Committee.

Prior to taking up her current post, Michelle worked in the International Law Division of the Department of Justice, handling treaty negotiation and the implementation of international treaties in Hong Kong, China, as well as advising the Hong Kong Government on international law matters. Michelle has a Bachelor of Laws from the University of Hong Kong and Master of Laws degree from New York University. She is admitted as a lawyer in Hong Kong, China and New York, USA.

### **Lim Joo Hong, Panelist**

Joo Hong is the Deputy Director of Singapore Ministry of Law's Legal Technology Transformation Office, a division set up to drive and coordinate legal technology initiatives across the legal services ecosystem in Singapore.

Prior to this role, Joo Hong was on a two-year secondment as a Senior Lead in Infrastructure Asia, an infrastructure office set up by Enterprise Singapore and the Monetary Authority of Singapore. His portfolio covered several logistics, waste management and affordable housing projects in Cambodia, Indonesia, and the Philippines. Immediately before the secondment, he was Head (Legal and IP Accounts) in the Professional Services Programme Office, an interagency office set up by Singapore Ministry of Law, Ministry of Finance, Economic Development Board and Monetary Authority of Singapore.

Joo Hong holds a Master's degree in Chemical Engineering from Imperial College London and an LL.B from University of London.

### **Takuya Izumi (Mr). Panelist**

Takuya Izumi is the Director for Information Policy Planning at the Ministry of Economy, Trade and Industry (METI), responsible for several domestic and international policy issues such as Interpretative Guidelines on Electronic Commerce, AI governance, Global Partnership on AI and the EU-Japan digital policy dialogue. He has been a frequent speaker on AI policy at conferences such as CEATEC 2020 and 2021, 5G Techritory, and AI/SUM. Before transferring to METI, he was the Director, Medical Imaging Technology Unit at the Japan Patent Office (JPO) (2019-2021) and Senior Director at NEDO Silicon Valley in charge of technology and IP issues (2016 -2019.) He also worked for METI on trade negotiations in intellectual property and technical standard areas, in particular, WTO-TRIPS, WTO-TBT, and FTAs. He earned an LL.M. from the George Washington University Law School in 2008 and a Master of Science from the University of Tokyo in 1999.

### **Yongmin Bian, Panelist**

Yongmin Bian is a Professor and the Deputy Dean of the Law School, University of International Business and Economics in Beijing. She has been a speaker at several APEC EC events on ODR and serves as the representative of the University as a Lead Academic Institution in its collaboration with the APEC EC and SELI in the implementation of the APEC ODR Collaborative Framework. She is a member of the Chinese Society of International Law, a panelist of the Online Dispute Resolution Center of China International Economic and Trade Arbitration Commission, an arbitrator of the Guangzhou Arbitration Commission and the Nanning Arbitration Commission in China. Ms Bian received a Bachelor of Law in 1991 and Master of Law in 1994 from China University of Political Science and Law. She also received a Postgraduate Diploma of International Law and Organizations for Development from the Institute of Social Studies, the Netherlands, in 1998 as well as a Ph.D in Law from University of International Business and Economics, China, in 2002. Her research interests include Public International Law, International Trade Law, Dispute Resolution and Arbitration Law.

## **Session 3**

### **Colin Rule, Panelist**

A world-renowned innovator and expert in ODR, Colin is the CEO of Resourceful Internet Solutions, Inc. ("RIS"), home of Mediate.com, MediateUniversity.com, Arbitrate.com, CaseloadManager.com and several additional leading online dispute resolution initiatives. From 2017 to 2020, Colin was Vice President for Online Dispute Resolution at Tyler Technologies. Tyler acquired Modria.com, an ODR provider that Colin co-founded, in 2017. From 2003 to 2011, Colin was Director of Online Dispute Resolution for eBay and PayPal. Prior, Colin co-founded Online Resolution in 1999, one of the first online dispute resolution (ODR) providers, and served as its CEO and President. Colin also worked for several years with the National Institute for Dispute Resolution in Washington, D.C. and the Consensus

Building Institute in Cambridge, MA. You can read many of Colin's articles and see some of his talks at [colinrule.com/writing](http://colinrule.com/writing).

### **Ms Emmanuelle Pui-ki Ta, Panelist**

Emmanuelle Pui-ki Ta is the Chief Executive Officer of eBRAM. She has over 15 years of experience in international arbitration and case management and has supervised hundreds of international arbitration cases in a wide range of jurisdictions and economic sectors. Prior to joining eBRAM, Ms Pui-ki Ta served as Counsel of the Secretariat of the International Court of Arbitration of the ICC Asia Office in Hong Kong, where she was responsible for managing the Hong Kong team including the administration of Asia-related arbitration cases. In addition, she was appointed as Vice-President of the Asia Pacific Regional Arbitration Group (APRAG) from 2016 to 2019. Prior to that, she worked as Deputy Counsel of the Secretariat of the ICC Court in Paris and was one of the founding members of the ICC Court Secretariat's first overseas case management team based in Hong Kong (2008). She holds a master's degree in international business law from the University Paris I Panthéon-Sorbonne, and a postgraduate degree in International Relations from the University of Marne-la-Vallee (France). She is qualified to practice at the Paris bar.

### **Shunsuke Mori, Panelist**

Shunsuke Mori is the Vice President of the Deloitte Tohmatsu Financial Advisory (DFTA) and oversees the planning and development of its ODR platform and other digital services. Prior to joining DTFA, he worked at an advertising agency and was responsible for planning and implementing marketing communications strategies, including promotions using digital media. He also formed his own company working on internal and external development projects

### **Chen Chen, Panelist**

Chen Chen works for the Department of Business Development in GZAC, China's largest alternative dispute resolution provider, which was established in 1995. Chen Chen helped draft GZAC's guideline on implementing the APEC ODR Collaborative Framework in 2020. Chen Chen also serves as the executive editor of Arbitration Study, a journal published by GZAC. Chen Chen received a J.D. and J.S.D. degrees from Washington University in St. Louis (United States).

### **Anil Changaroth, Panelist**

Anil Changaroth is the Managing Director of ODRasia (serving Asia) & ODRanz (serving Oceania), subsidiaries of ChangAroth International Consultancy, which provide licensed and subscription-based platforms for ODR and online digital reengineering services. He has been in the legal practice since 1995 and is a Mediation, Adjudication, and Arbitration attorney (qualified in Singapore and England). He is also the Managing Director of ChangAroth Chambers LLC. Anil is an Advisory Member (pioneer) on the Singapore Ministry of Law's Industry Engagement and Advisory Group for its Legal Technology Platform and his Chambers is part of the pioneer group of legal practitioners on the Singapore Academy of Law's Future Law Innovation Programme (FLIP) and mentor on its Global Legal Innovation &

Digital Entrepreneurship (GLIDE). Anil was awarded the Law Society Ad Hoc Probono Services Assistance Scheme Champions in 2019. He has published widely on topics including Dispute Resolution. Notably, he published "Resolving Disputes - a Guide to the Options for Appropriate Dispute Resolution" (Marshall Cavendish International Asia) in 2019.

## **Session 4**

### **David Dodwell**

David Dodwell is CEO of Strategic Access Ltd and Executive Director of the Hong Kong-APEC Trade Policy Group, positions he has held since the foundation of the Groups in 2005 and 2010 respectively. A veteran Financial Times journalist, he is recognized as an expert on international business, global trade and economic and political developments, particularly in Hong Kong and China. Closely engaged with APEC's ODR initiative since 2017, David Dodwell has contributed to business input, both through the APEC Business Advisory Council and locally in Hong Kong.

### **Netty Muharni, Panelist**

Netty Muharni is the Assistant Deputy Minister for Regional and Sub-Regional Economic Cooperation at the Coordinating Ministry for Economic Affairs, Indonesia, and Vice Chair of the APEC-EC. Her portfolio includes the Association of Southeast Asian Nations (ASEAN) and ASEAN+1, the Regional Comprehensive Economic Partnership (RCEP), the Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT) and the Brunei, Indonesia, Malaysia, and the Philippines East ASEAN Growth Area (BIMP-EAGA). She serves as the Head of the National Secretariat of BIMP-EAGA Subregional Economic Cooperation, the Head of the National Secretariat of IMT-GT Subregional Economic Cooperation and as a member of the Steering Committee of the Asian Low Emission Development (LED) Partnership.

Previously, she worked in regional government in Indonesia in the areas of trade and industry, including SMEs and local resource economic development (1996-2001); international trade, export and import, trade promotion and trade mission (2001-2013); and in investment promotion and international cooperation (2013-2015).

She was the chief editor of several publications in the fields of trade, industry and investment (2008-2013). Her social work included local resource and SMEs development as well as women empowerment (1996-2015), for which she received multiple awards.

She completed her Master Degree in Urban and Regional Planning at Curtin University of Technology, Western Australia, and received a degree in Chemical Engineering at University of Syiah Kuala, Aceh, Indonesia.

### **Mr. Anh Duong NGUYEN, Panelist**

Anh Duong Nguyen is the Director of the Department of General Economic Issues and Integration Studies of the Central Institute for Economic Management (CIEM),

the leading think-tank in Viet Nam. He represents Viet Nam in the APEC Economic Committee and served as the Coordinator of the EC FoTC on Corporate Law and Governance from 2011-2021. He also led the EC work in preparation of the Enhanced APEC Agenda for Structural Reform 2021-2025 (EAASR), endorsed by the 3rd APEC Structural Reform Ministerial Meeting in June 2021.

He holds a Bachelor of Economics and a Master of Economics, both from the Australian National University (Australia). At CIEM, he authored significant research papers and policy recommendations to the Government of Viet Nam on macroeconomic policies, economic integration and structural reform. Since 2019, he has represented the CIEM at the ASEAN+6 Regional Institute Network (RIN). Mr. Nguyen designed and led the implementation of the project on “Promoting online-dispute resolution in e-commerce for strengthened customer protection” from March 2020-September 2021. The project was funded by the Australian Department of Foreign Affairs and Trade and managed by DT Global Australia.

### **Attorney Irene D.T. Alogoc, Panelist**

Attorney Irene Alogoc is the Executive Director of the Office for Alternative Dispute Resolution (OADR), an attached agency of the Department of Justice of the Philippines. She is a lawyer by profession as well as a certified Bread and Pastry Chef. As a law professor, she lectures on Mandatory Continuing Legal Education covering topics in Alternative Dispute Resolution (ADR). Atty. Alogoc is a trained government manager and Career Executive Service eligible. Prior to being appointed to her present position, she acquired over ten years of extensive law practice and held key positions in all three branches of the Philippine government, namely: Acting Director IV of the Internal Audit Service of the Department of Agriculture, Court Attorney V at the Judicial and Bar Council, and Director II at the House of Representatives Electoral Tribunal. Her training includes Strategic Conflict Management for Professionals (Modules I and II) at the Singapore Mediation Centre and on Comprehensive Course on International Arbitration under the Chartered Institute of Arbitrators - New York Branch and the Columbia Law School. She is also a Trained Arbitrator of the Philippine Dispute Resolution Center, Inc. Atty. Alogoc represents the Philippines as one of the delegates to the United Nations Commission on International Trade Law (UNCITRAL) Working Groups II and III. Atty. Alogoc is the author of the book “Philippine Alternative Dispute Resolution”, which highlights the different ADR mechanisms and practices in the economy.

### **Professor Anjanette (Angie) Raymond**

**Professor** Raymond is the Director of the Program on Data Management and Information Governance at the Ostrom Workshop, an Associate Professor in the Department of Business Law and Ethics, at the Kelley School of Business, Indiana University, and an Adjunct Associate Professor of Law at Maurer Law School (Indiana). She recently completed her PhD at the Centre for Commercial Law Studies, Queen Mary, University of London where she researched the creation of policy to assist in Managing Bias, Partiality, and Dependence in Online Justice Environments. She has widely written in areas of online dispute resolution, data governance, artificial intelligence governance, privacy, international finance and commercial dispute resolution in such publications as the Harvard Negotiation Law

Review, *Cardozo Journal of Conflict Resolution*, *Journal of Dispute Resolution*, *Wisconsin Law Review*, *Northwestern Journal of Technology and Intellectual Property*, and the *American Review of International Arbitration*. She is one of the U.S. Consultant delegates to UNCITRAL reporting on the Electronic Commerce related issues. She previously attended the United Nations Commission on International Trade Law Online Dispute Resolution Working Group, Non-Governmental Organization (Institute of International Commercial Law (IICL)). She also serves as the representative of Indiana University as a Lead Academic Institution in its collaboration with the APEC EC and SELI in the implementation of the APEC ODR Collaborative Framework, where she leads a pilot project on cross-border ODR. She has spoken at the APEC EC policy dialogues on ODR at EC 1 2020 (Putrajaya, Malaysia) and EC 1 2021 (Virtual Meeting). She also was a speaker at the first APEC Workshop on Developing a Collaborative Framework for ODR (Osaka, November 2018).

## **Session 5**

### **Professor Yun Zhao, Panelist**

Professor Zhao is Henry Cheng Professor in International Law and Head of Department of Law at the University of Hong Kong (HKU); PhD (Erasmus University Rotterdam); LLM (Leiden University); LLM & LLB (China University of Political Science and Law). Professor Zhao has participated and spoken at the APEC Economic Committee (EC) policy dialogue on ODR at EC 1 in 2018 (Port Moresby, Papua New Guinea), EC1 in 2019 (Santiago, Chile), 2020 (Putrajaya, Malaysia), 2021 (Virtual Meeting). He also spoke at the first APEC Workshop on Developing a Collaborative Framework for ODR (Osaka, November 2018).

He serves as the representative of HKU as a Lead Academic Institution in its collaboration with the APEC EC and SELI in the implementation of the APEC ODR Collaborative Framework. Prof. Zhao is currently a Representative of the Regional Office for Asia and the Pacific (ROAP) of the Hague Conference on Private International Law (HCCH); Standing Council Member of Chinese Society of International Law; Council Member of Chinese Law Society; Council Member of Zhuhai International Court of Arbitration and Chair Professor at Xiamen University (2020-2023). He is listed as arbitrator in several international arbitration commissions. He has published widely on various topics including Dispute Resolution and Space Law.

### **Laura Aguilera Villalobos, Panelist**

Laura Aguilera Villalobos is an attorney and Head of the Office of Studies and International Affairs for the Mediation and Arbitration Center of the Santiago Chamber of Commerce. She also supports the Co-Secretary General of the [ICC Chile's](#) Arbitration and ADR Commission. She was co-editor of Arbitration in the Case Law of the Chilean Superior Domestic Courts between 2002 and 2020, and CAM Santiago Arbitral Awards [VI](#) and [VII](#), and author of Brief Notes on the Interim Measures in International Commercial Arbitration, published in *Studies of Chilean and Comparative Private International Law* (2014). She is a member of the Inclusive

Global Legal Innovation Platform on Online Dispute Resolution and the Chilean Association for Private International Law.

She received her law degree from the University of Chile, School of Law and a Diploma in Negotiation with a double mention in Mediation and Advanced Strategy and Leadership from the Pontifical Catholic University of Chile. Prior to joining the Santiago Arbitration and Mediation Center she was as a Teaching Assistant in Private International Law and International Contracting at the University of Chile School of Law.

She previously served as a speaker at the first APEC Workshop for Developing a Collaborative Framework for ODR (Osaka, November 2018) and at the APEC Stock Take Workshop on the SELI ODR Work Plan (Santiago, March 2019).

### **Professor Pasit Asawawattanaporn, Panelist**

Following an impressive career in law, Professor Pasit Asawawattanaporn now serves as Managing Director of the Thailand Arbitration Center (THAC), the new ADR center set up to promote and provide world-class service on ADR. From 1992-2003, before joining THAC, he was a judge in various courts. During this time, he served as a secretary to the newly established Central Bankruptcy court and presided over one of the biggest reorganization cases in Thailand. In 2003, he transferred to become a government official and took various offices at the Ministry of Justice, including Deputy Director-General of the Department of Special Investigation. He later became Deputy Permanent Secretary to Ministry of Justice in 2014 and served as Director-General to Office of Justice Affairs in 2015.

He holds a Bachelor of Laws (Second Class Honors) from Thammasat University, an LL.M. from University of Pennsylvania and Harvard Law School, USA, and a Barrister-at-Law from New York State. He holds a Certificate for Advance Management Program from Wharton Business School. In 2017, he received a Ph. D. from the Mahidol University. He is now a lecturer and Speaker on Bankruptcy and Business Law in several law schools in Thailand.

### **Panelist, Maxim Kaziev**

Kaziev Maxim is chief officer of Asia Pacific Division at the Department of Multilateral Economic Cooperation, Ministry of Economic Development of the Russian Federation. His key task is to uphold and level up trade and economic dialogue, including on the matters of unveiling the potential of the digital economy for the benefit of MSMEs, within such fora as SCO, APEC and Dialogue Partnership Russia-ASEAN. He is responsible for development and implementation of multilateral sectoral projects, aiming to reveal existing best regulatory and technological practices. Before joining the civil service, he attended EU and UN human rights and democracy educational programs and worked in the Distressed Asset Division of Sberbank. His sphere of expertise includes legal tech, fintech and financial markets.

### **Professor Mayu Watanabe, Panelist**

Professor Watanabe is a specially appointed associate professor at Rikkyo University in Tokyo, where she teaches alternative dispute resolution (ADR), dispute system design, and Online Dispute Resolution (ODR). She has been a presenter at various ODR workshops. She also serves as the representative of Lead Academic Institution Rikkyo in its collaboration with the APEC EC and SELI for the implementation of the APEC ODR Collaborative Framework. She holds a doctorate in business law from Hitotsubashi University. While working as a research associate at Hitotsubashi, she planned and organized the first international symposium on ODR in Japan in Sept. 2018.

Professor Watanabe is a founding board member of the Japan Association for Online Dispute Resolution (JODR). She is currently serving as a member of the ODR committee of the Ministry of Justice (OCT. 2020-). She was a visiting fellow at the Gould Negotiation and Dispute Resolution Center at Stanford Law School (2014-2016), an International Fellow at Weinstein JAMS International Fellowship program (2015), a senior fellow at Weinstein International Foundation (2017-), and a fellow at the National Center for Technology & Dispute Resolution (NCTDR) at the University of Massachusetts (2020-)

### **Professor Nadja Alexander, Panelist**

Dr Nadja Alexander is Professor of Law and Director of the Singapore International Dispute Resolution Academy (SIDRA) at the Singapore Management University. In addition, she leads an Online Dispute Resolution project with the Centre for Artificial Intelligence and Data Governance. She has been a presenter at APEC's Economic Committee 1 workshop and attended the SELI meeting and EC policy dialogue meeting (March 2021). She also presented at the APEC EC ODR webinar series in 2021. She serves as the SIDRA Lead Academic Institution representative in its collaboration with the APEC EC and SELI in the implementation of the APEC ODR Collaborative Framework. In 2020, she was appointed as a foundation member of the International Advisory Board of the United Nations Global Mediation Panel established by the UN Office of the Ombudsman. In 2018, she joined the Singapore delegation to the UNCITRAL Working Group II for the drafting of what became the Singapore Convention on Mediation. For more information see <https://faculty.smu.edu.sg/profile/nadja-alexander-2321>