

APEC Concept Note

Project Title:	Stakeholder Engagement and Capacity Building on the APEC Collaborative Framework on ODR to Improve Cross-Border Trade in Indonesia
Fund Source (Select one): <input type="checkbox"/> General Project Account (GPA) <input type="checkbox"/> Trade and Investment Liberalization and Facilitation Special Account (TILF) <input type="checkbox"/> APEC Support Fund (ASF) – General Fund <input checked="" type="checkbox"/> APEC Support Fund (ASF) – Sub-fund: SELI Sub-Fund	
APEC Forum:	Economic Committee
Proposing APEC Economy:	Indonesia
Co-sponsoring Economies:	Chinese Taipei; Hong Kong, China; Japan; Viet Nam
Expected Start Date:	1 May 2022
Project Completion Date: <small>See Chapter 7 Guidebook on APEC Projects</small>	31 May 2023
Project Summary: <i>In 150 words -</i> <ul style="list-style-type: none"> • What is the issue that you will address or examine in your project? • Outline the key things your project will do, in terms of what, where, when and with whom. <small>(Summary <i>must be</i> no longer than the box provided. Cover Sheet must fit on one page)</small>	<p>MSMEs account for around 99.9% of all businesses in Indonesia. A large number of MSMEs (77%) is also taking part in the total number of Indonesian enterprises engaging in cross-border trade. Thus, resolving cross-border disputes is a potential risk and a challenging task. The APEC Online Dispute Resolution (ODR) Collaborative Framework may provide an alternative and affordable online cross-border dispute resolution for MSMEs, however, it is yet to have adequate exposure and recognition in Indonesia.</p> <p>The results of an ODR study conducted in Indonesia recommends the importance of further exploring the ODR Framework in terms of regulations, infrastructure, and beneficiaries. This project is a follow-up from the result of this original study, by conducting a further study with expected recommendations on how to design a more detailed regulatory framework for ODR mechanisms in Indonesia.</p> <p>The results and recommendations of this new study will be presented at a two-day workshop in Indonesia in March 2023. Speakers from academia, dispute resolution agencies, regulators, MSMEs, and private sectors from APEC economies will be invited to participate in the workshop and share experiences.</p>
Total cost of proposal: <small>(100,000 + 25,000): USD 125,000</small>	Total amount being sought from APEC (USD): 100,000 By category: <i>Travel: 42,000 Labor costs: 33,000</i> <i>Hosting: 15,000 Publication & distribution: Other: 10,000</i>
List all project outputs:	<i>(1) Research and Background Paper; (2) Workshop; (3) Project Summary Report</i>

Project Overseer Information and Declaration

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As Project Overseer and on behalf of the above said Organization, I declare that this submission was prepared in accordance with the **Guidebook on APEC Projects** and any ensuing project will comply with said Guidebook. Failure to do so may result in the BMC denying or revoking funding and/or project approval. I understand that any funds approved are granted on the basis of the information in the document's budget table, in the case of any inconsistencies within the document. By submitting this APEC Project Proposal to the APEC Secretariat, I agree that the APEC Secretariat will collect, use, disclose, and transmit the data contained in the APEC Project Proposal, which I have provided to the APEC Secretariat in accordance with Singapore's Personal Data Protection Act 2012 and the APEC Secretariat's data protection policy (<https://www.apec.org/PrivacyPolicy>). The APEC Secretariat will transfer any data provided on this form, which may contain personal data of Project Overseer(s), to APEC member economies overseas via the APEC Secretariat.

Netty Muharni & Titis Arba, 1 March 2022

Name of Project Overseer / Date

Project Synopsis

Project Objective:

- **State the overarching objective of the project in 100 words or less.**
The objective is the overarching goal of your project. For example: 'The objective of this project is to improve the capacity of APEC economies to collect and report gender data, in order to enhance collaboration on regional gender initiatives, including the implementation of the APEC La Serena Roadmap'.

The project aims to analyze Indonesia's readiness to implement the APEC ODR Framework and to recommend regulatory elements to support ODR providers to build ODR mechanisms. The project will also facilitate sharing of knowledge and exchange of information on international legal instruments and ODR to support economic development through a capacity-building workshop. The result of the workshop will be compiled to develop a set of recommendations that could serve as a reference to promote the development of ODR mechanisms in APEC economies.

1. **a) Relevance – Issues: What problems does the project seek to address? Does it have sustained benefits for more than one economy in the APEC region?**

The outbreak of the COVID-19 pandemic presented us with the momentum to transform our way of life to be more effective, efficient, and adaptable, especially in doing business. The APEC Online Dispute Resolution (ODR) Collaborative Framework, which encourages the use of digital technology to resolve cross-border business-to-business disputes, is one of the options available to solve business disputes in an innovation-friendly manner. Moreover, with social distancing likely to become the new norm for a while, courts are faced with the task of balancing the public's need for an efficient justice system with everyone's health and safety. ODR, along with a host of other approaches, will likely play a role in tackling the post-pandemic demand for legal services (Houlberg, 2020).

Currently, the knowledge and legal infrastructure regarding online dispute resolution in Indonesia are somewhat limited. A study conducted by the Center for Indonesian Law and Policy Studies (PSHK) in 2021 found that creating awareness, developing capacity as well as supporting formulation of rules for dispute resolution agencies are the initial steps towards accepting the APEC ODR Framework in Indonesia. Technically, Indonesia's judiciary, both in the Constitutional Court and the district court, has utilized video conferencing facilities to listen to witness testimonies and experts, and these proceedings are increasing amidst the global pandemic. However, the ODR B2B Framework is a holistic mechanism that utilizes technologies such as artificial intelligence, robust security, anonymity, and neutrality that often lacks in online litigation (and non-litigation) procedures. Although online proceedings in judiciary have had their regulatory basis, arguably, the technical aspects of ODR have yet been precisely defined or regulated in Indonesia's court and arbitration system.

The project will consist of research to further explore the ODR Framework in terms of regulations, infrastructure, and beneficiaries. A study will be produced, based on the result of the previous study by PSHK, with the expected recommendation on how to design a more detailed regulatory ODR framework in Indonesia in terms of regulations, infrastructure, and beneficiaries as well as to increase stakeholder awareness about the potential benefits of ODR for SMEs and businesses in general. The established ODR mechanism in APEC economies may be utilized as benchmarks for comparative analysis for the future development of the ODR B2B Framework in Indonesia. The result of the study will be presented in a two-day workshop that invites prominent speakers from Indonesia and other APEC economies.

b) Relevance – Alignment to APEC: Describe specific APEC priorities, goals, strategies and/ or statements that the project supports, and explain how the project will contribute to their achievement.

The project supports Thailand's host year APEC 2022 first priority, Open Trade and Investment to all opportunities, by accelerating APEC's work to support the digital economy. This project will help to boost awareness of MSMEs in utilizing ODR as an alternative dispute resolution. Moreover, this project is also in line with several collective actions on the second economic driver of Aotearoa Plan of Action such as (i) Adopt new and emerging technologies to stimulate growth, connectivity and digital transformation and (ii) Promote ecosystems that support MSMEs, including those in the creative industry, to take advantage of the digital economy.

c) Relevance – Alignment to Forum: How does the project align with your forum's work plan/ strategic plan?

This project aligns with the fourth EAASR pillar in harnessing innovation, new technology, and skills development to boost productivity and digitalization by replacing face-to-face interaction with the internet.

This project also follows one of the key areas on the 2021 APEC Ministerial Meeting Joint Statement, to utilize a variety of tools to advance structural reform and other business to reduce behind-the-border barriers and promote strong, balanced, secure, sustainable and inclusive growth in the region.

2. **Eligibility and Fund Priorities: How does the project a) meet the eligibility criteria and b) support the funding priorities for the nominated Fund or Sub-fund? Refer to the APEC website**

The project seeks to be funded by APEC SELI Sub-Fund. This project will support Indonesia to strengthen its economic legal infrastructure in building awareness and understanding about ODR in Indonesia and the Asia-Pacific region. The contribution of this project would be in line with the SELI priorities to support MSMEs in their business transactions by helping to settle disputes more effectively and efficiently. In this pandemic era, where business should be done with minimum face-to-face interaction, this project may offer valuable insight to accelerate the implementation preparation to establish an ODR mechanism from the aspect of regulation, infrastructure and users as well as part of the efforts towards Indonesia's readiness to opt-in the APEC ODR Framework.

3. **Capacity Building: How will the project build the capacity of APEC member economies. For ASF projects, please identify the APEC developing member economies that will benefit from this project. (Refer to capacity building goals, objectives and principles at Appendix K of the Guidebook.)**

The project is expected to develop the awareness of the ODR Framework with stakeholders in Indonesia and evaluate businesses' viability in utilizing the Framework. The project will also carry out an inventory, identification and consolidation phases with stakeholders regarding issues/topics in preparing the implementation of the APEC Collaborative Framework on ODR in Indonesia. The result of these activities will be recommendations to formulate policies/infrastructure, including the requirements of specific regulations or other legal provisions needed for the implementation of the Framework in Indonesia. The two-day workshop will then be organized as the final program of this project to showcase the study among stakeholders and inviting APEC economies to stimulate further discussion and comments and to share their experiences on implementing the APEC ODR Collaborative Framework. The objective of the workshop is to develop capacity by increasing awareness and understanding and emphasize learning from the business community, policymakers, and experts on various topics related to the regulatory regimes, challenges, and opportunities on current and future utilization of the APEC ODR Framework.

4. **Methodology: How do you plan to implement the project? Briefly address the following:**

- **Workplan: In a simple table, outline the project from start to end. Show key project outputs and activities and associated dates or timelines.** Indicate if you intend to record any project event. Refer to the *APEC Project Event Recording Policy* at Annex N of the Guidebook.

Month	Milestone	Output
Jun 2022	Engagement of Consultant	Consultant Contract, ToR
Jul – Oct 2022	Follow-up ODR Research in Indonesia (Literature Review, Data Collection, and Data Analysis)	Research Report
Nov – Dec 2022	Research Report consultation with local stakeholders	Updated Research Report
Jan – Feb 2023	Workshop Preparation	Agenda & General Information
March 2023	Workshop	Workshop materials and evaluation
April - May 2023	Developing Final Report	Summary Report

- **Beneficiaries: Selection criteria for participants, beneficiary profiles (e.g. participants, end users, policy makers, researchers/ analysts, gender) and how they will be engaged.**

Direct beneficiaries are APEC officials from the Ministries dealing with Justice, Ministry of Law and Human Rights, Supreme Court, Ministry of Communication and Technology, Business/SMEs Associations, ODR Providers, academia and legal experts focused on ADR subjects. Policy makers will gain insights on ODR mechanisms and the necessary provisions of the Framework. Businesses will improve their awareness of the benefit of the Framework as an alternative platform to settle cross-border disputes.

- **Evaluation: Outline the indicators which will be used to measure progress towards the project outcomes. Where possible, provide indicators which could assess impacts on women.**

The long-term success will be measured by Indonesia's and other APEC member economies legal framework to accommodate the ODR framework. Key outputs will include a survey to collect information from participating economies and a final report to APEC. While the direct impact of this project will be measured by number of people who attend the workshop (including the number of gender and origin of the economy) and the comparison pre-task and post-task scores.

- **Linkages: Information on other APEC and non-APEC stakeholders and how they will be engaged. If and how this proposal builds on (but does not duplicate) the work of other projects. How will this activity promote cross fora collaboration?**

The organizer will invite APEC EC, CTI, SMEWG, DESG, ABAC representatives, ODR Providers, and International Organizations, such as UNCITRAL, HKIAC, and HCCH.