



**Asia-Pacific  
Economic Cooperation**

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**2021/CTI/DIA1/008**

Session: 3

## **International Rule Making Projects on Online Dispute Resolution**

Submitted by: Rikkyo University



**Public-Private Dialogue on Promoting  
Consumer Protection in the Dispute  
Resolution and Redress Mechanisms in E-  
Commerce  
27-29 April 2021**

# International Rule Making Projects on Online Dispute Resolution (ODR)

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# I. Introduction

- Wide Use of Online Shopping and Increasing Number of the Related Disputes.
- Average of the Disputed Amount is approximately less than 500 USD. Litigation does not work as a Realistic Tool for the Dispute Resolution.
- ADR Systems using Online has been developed in the US. ex. e-Bay
- Now ODR has been used in the various fields as an efficient tool for dispute resolution in the US.

# I. Introduction

- EU has established its ODR Regulations in 2013 and has encouraged the use of ODR in the territory.
- Even in Japan, ODR has become an important issue to be discussed in the government and the Japan Federation of Bar Associations since 2019.
- Online Shopping can easily become Cross-border Transactions and Cross-border disputes can easily happen.

# I. Introduction

An Effort for making international rules on ODR has started for ...

- 1) Effective Reactions to the Cross-border E-commerce Disputes
- 2) Facilitating the Use of ODR even in the Emerging Market Economies

## II. UNCITRAL ODR WG

Dec 2010	1 <sup>st</sup> Meeting in Vienna
May 2011	2 <sup>nd</sup> Meeting in NYC
Nov 2011	3 <sup>rd</sup> Meeting in Vienna
May 2012	4 <sup>th</sup> Meeting in NYC
Nov 2012	5 <sup>th</sup> Meeting in Vienna
May 2013	6 <sup>th</sup> Meeting in NYC
Nov 2013	7 <sup>th</sup> Meeting in Vienna
Mar 2014	8 <sup>th</sup> Meeting in NYC
Oct 2014	9 <sup>th</sup> Meeting in Vienna
Feb 2015	10 <sup>th</sup> Meeting in NYC
Dec 2015	11 <sup>th</sup> Meeting in Vienna
Mar 2016	12 <sup>th</sup> Meeting in NYC

## II. UNCITRAL ODR WG

At the beginning stage, UN ODR **Uniform Rules** for **B2B** and **B2C** were tried to establish:

- 1) Three steps approach:
  - ① Negotiation (Complains Handlings)
    - > ② Mediation
    - > ③ Arbitration
- 2) All processes will be basically conducted by On-line based documents
- 3) Simple & Quick Process for Low Value Disputes



## II. UNCITRAL ODR WG

At the beginning stage, UN Online **Arbitration** Rules were tried to established:

- 1) A **single arbitrator** chosen by ODR Administrator
- 2) All awards shall or should be **in public** on web-site except private information
- 3) Substantial **Enforcement by Trustmark system**
- 4) World-wide **Uniform Rules for the Merits !**

## II. UNCITRAL ODR WG

But ... gradually ... a serious issue appeared:

Validity of the Arbitration Agreement between a Consumer  
and a Business Corporation

US and other economies: **Of course, it's valid !**

EU, Japan and other economies:

**Consumer has a cancel right !**

## II. UNCITRAL ODR WG

Regulations in EU (and Japan):

Since **A Consumer should not be removed its right to go to Courts**, the Consumer shall have a right to cancel the Pre-Dispute Arbitration Agreement

ex. **ADR Directive 2013/11/EU**

**ODR Regulation 524/2013**

## II. UNCITRAL ODR WG

Dec 2010 1<sup>st</sup> Meeting in Vienna

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May 2013 6<sup>th</sup> Meeting in NYC

Nov 2013 7<sup>th</sup> Meeting in Vienna

Mar 2014 8<sup>th</sup> Meeting in NYC

Oct 2014 9<sup>th</sup> Meeting in Vienna

Feb 2015 10<sup>th</sup> Meeting in NYC

Dec 2015 11<sup>th</sup> Meeting in Vienna

Mar 2016 12<sup>th</sup> Meeting in NYC

Jul 2016 Commission adopted the **Technical Notes on ODR**

## II. UNCITRAL ODR WG

### UNCITRAL Technical Notes on ODR

[http://www.uncitral.org/pdf/english/texts/odr/V1700382\\_English\\_Technical\\_Notes\\_on\\_ODR.pdf](http://www.uncitral.org/pdf/english/texts/odr/V1700382_English_Technical_Notes_on_ODR.pdf)

- No Legal Effect
- Three Steps but No Explanation about the Third Step

# III. APEC ODR Project

EU is now establishing its own ODR platform.

But others **still need** uniform rules and schemes for the global ODR platform with negotiation and the third party's interventions.

**APEC** started its project to establish another global ODR platform.

UNCITRAL and UNIDROIT assist the APEC Project on ODR.

**B to C issues were avoided**, at least, at the beginning stage.

### III. APEC ODR Project

- Aug 2017 A formal proposal in Vietnam
- Mar 2018 A Workshop on ODR in Papua New Guinea
- Aug 2018 Meetings in Economic Commission in PNG
- Nov 2018 A Workshop on ODR in Japan
- Mar 2019 Meetings in Economic Commission in Chile
- June 2019 A Workshop on ODR in Japan
- Aug 2019 Meetings in Economic Commission in Chile
- Feb 2020 Meetings in Economic Commission in Malaysia
- Aug 2020 Meetings in Economic Commission (Online)
- Mar 2021 Meetings in Economic Commission (Online)

# III. APEC ODR Project

APEC will not work as a provider of the ODR Platform

Instead, APEC will encourage Members to collaborate for the wide use of ODR, provide model procedural rules and encourage many ODR providers to join the APEC Collaborative Framework on ODR.

Now a document of *APEC Collaborative Framework on ODR* and *APEC Model Procedural Rules on ODR* has been approved.

It is the substantially same as the final draft on Model Procedural Rules of UNCITRAL.

[http://mddb.apec.org/Documents/2019/EC/EC2/19\\_ec2\\_022.pdf](http://mddb.apec.org/Documents/2019/EC/EC2/19_ec2_022.pdf)



# III. APEC ODR Project

*APEC Collaborative Framework on ODR* aims to assist Member Economies to encourage the use of ODR and potential business corporation users in the APEC region, including e-commerce market providers (platformer), to actively use ODR.

Academic Institutions in the APEC region assist to maintain a webpage on the Satellite Website of APEC, where the list of ODR service providers adopting *APEC Model Procedural Rules on ODR* is presented.

### III. APEC ODR Project

Nov 2018 A Workshop on ODR in OSAKA

Mar 2019 Meetings in Economic Commission in Chile

Jun 2019 A Workshop on ODR in OSAKA

Many ODR providers and entities, which plan to provide ODR service all over the world, met together.

Aug 2019 Meetings in Economic Commission in Chile

Feb 2020 Meetings in Economic Commission in Malaysia

Aug 2020 Meetings in Economic Commission (Online)

Mar 2021 Meetings in Economic Commission (Online)

Fall 2021 A Workshop on ODR in TOKYO

## IV. ISO TC321 Project with ODR

A Project for **TC321** has started in ISO as below:

Standardization in the field of “transaction assurance in e-commerce related upstream/downstream processes”, including the following:

Assurance of transaction process in e-commerce (including easier access to e-platforms and e-stores);

Protection of online consumer rights including both prevention of online disputes and resolution process;

Interoperability and admissibility of inspection result data on commodity quality in cross-border e-commerce;

Assurance of e-commerce delivery to the final consumer.

## IV. ISO TC321 Project with ODR

The Project for **TC321** was proposed by China.

Japan tries to use this ISO standards as a Trustmark for the implementation of arbitral awards or recommendation issued in the scheme of ODR.

Nov 2019      A Presentation from Japan (METI) in the TCI 321 Meeting.

Sep 2020      Discussions on ODR in the TC321 Meeting

Jan 2021      Discussions on ODR in the TC321 Meeting

June 2021     A rough image of the standard will be proposed from Japan.

# IV. ISO TC321 Project with ODR

<Standard Making Processes in ISO>

Technical Committees, including TC321 > Working & Study Groups (Experts)

Preliminary stage Preliminary work item (PWI) ← Study Groups

Proposal stage New work item proposal (NP)

Preparatory stage Working draft (WD) ← Working Groups

Committee stage Committee draft (CD)

Enquiry stage Draft International Standard (DIS)

Approval stage Final draft International Standard (FDIS)

Publication stage International Standard (IS)

Review stage International Standard (IS)

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