

# *Online Dispute Resolution (ODR) and UNCITRAL ODR WG*

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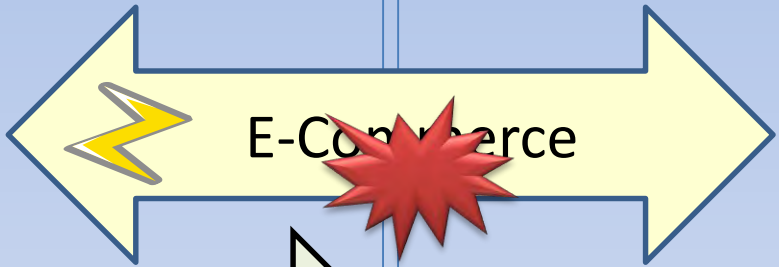
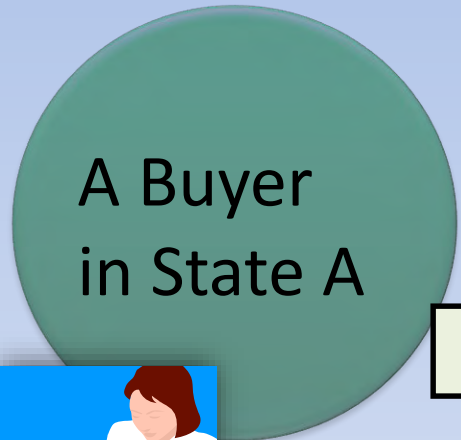
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State A

State B

Language Problems

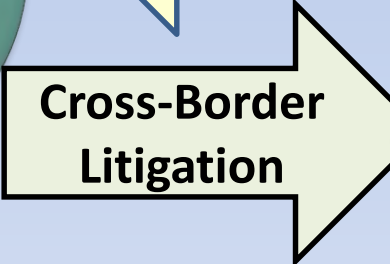
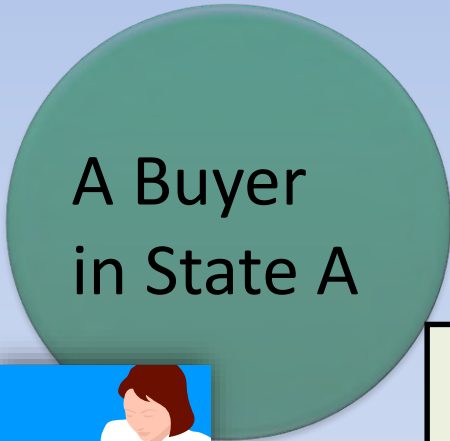


In a dispute, a Buyer in State A cannot communicate with the Seller **due to Language**

A Border

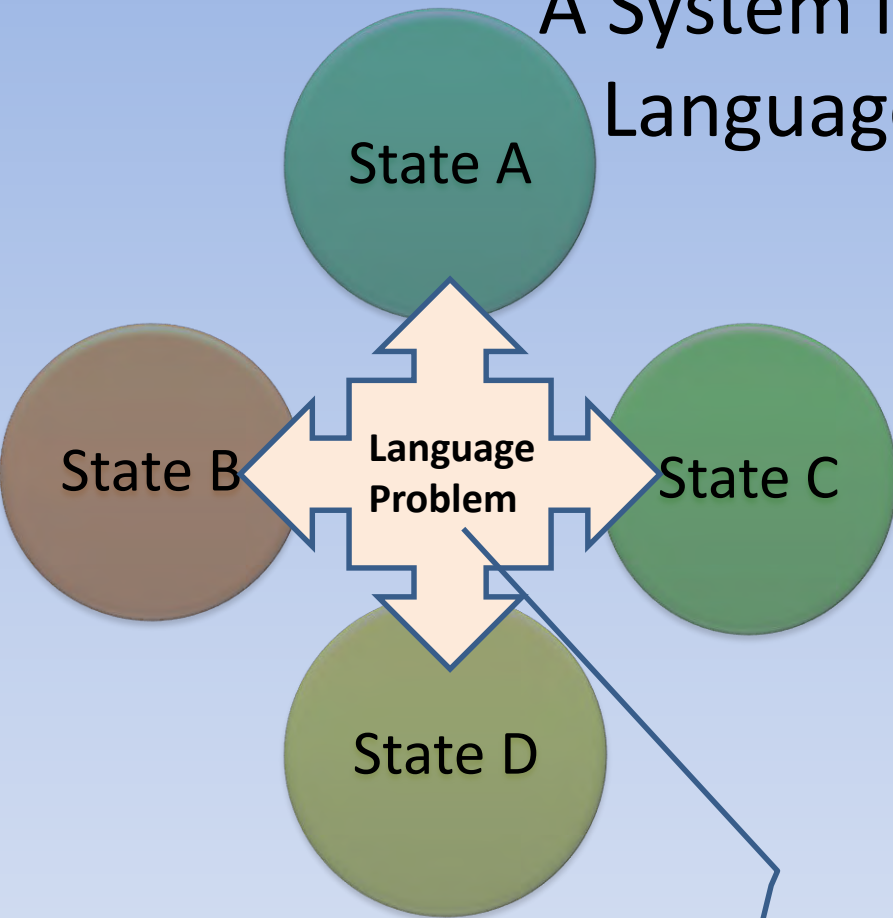
State A

State B

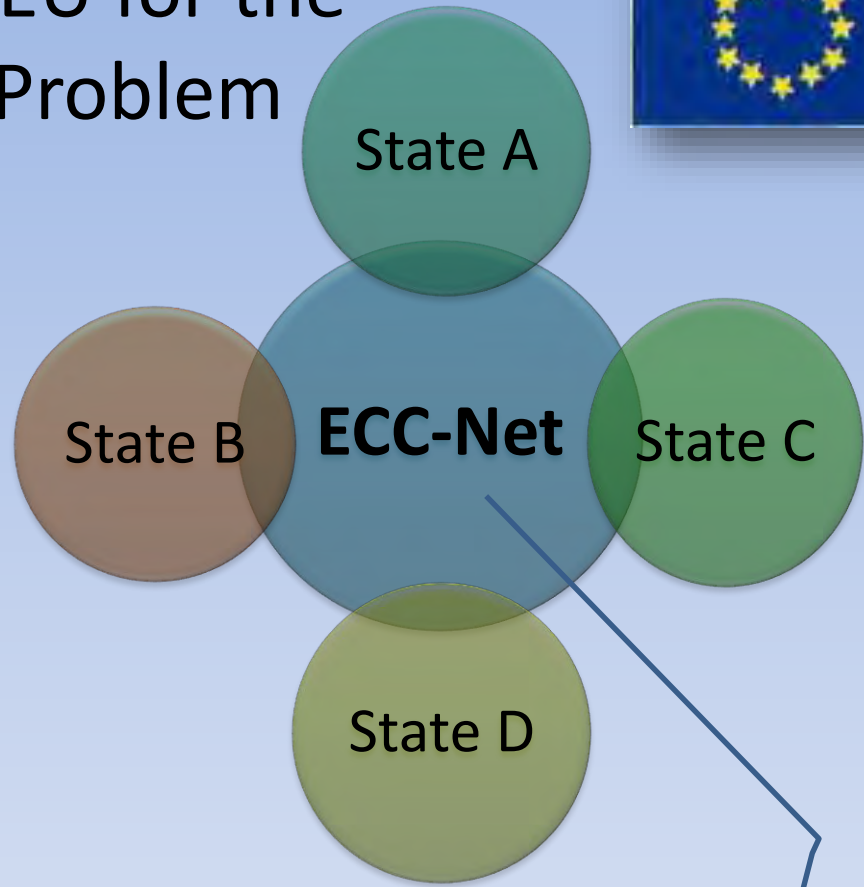


The Buyer in State A cannot easily bring a cross-border law suit against the Seller in State B **in a low-value case**

# A System in EU for the Language Problem



Consumers in State A cannot communicate with Venders in State B **due to Language**



Consumers in State A can communicate with Venders in State B powered by ECC-Net

State X

State Y

Border

Consumer  
Institute

Consumer  
Institute

ECC-  
Net

E-Commerce

Consumer

Vender



Language  
X



English



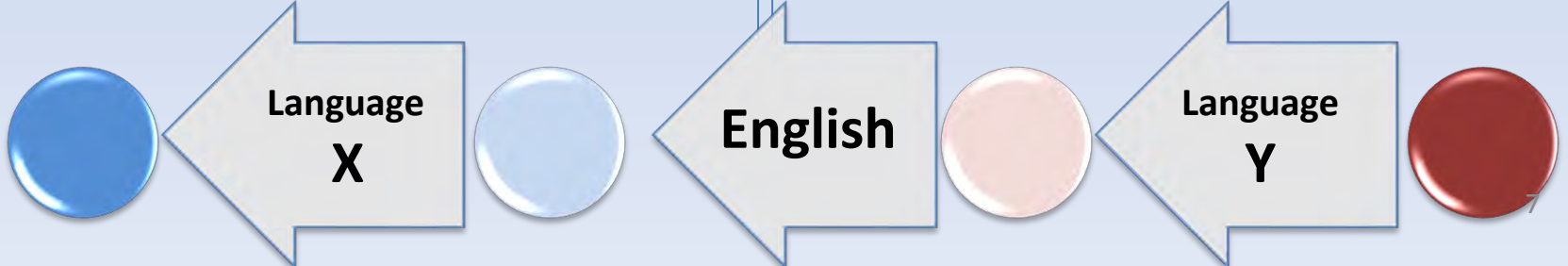
Language  
Y



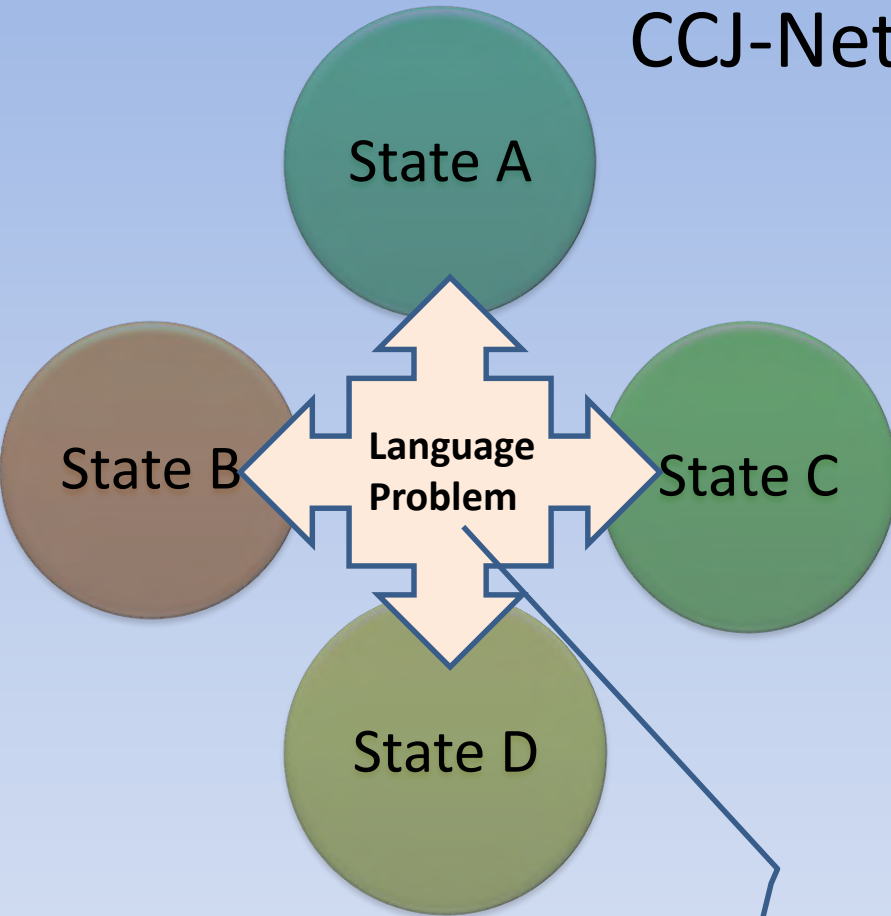
State X

State Y

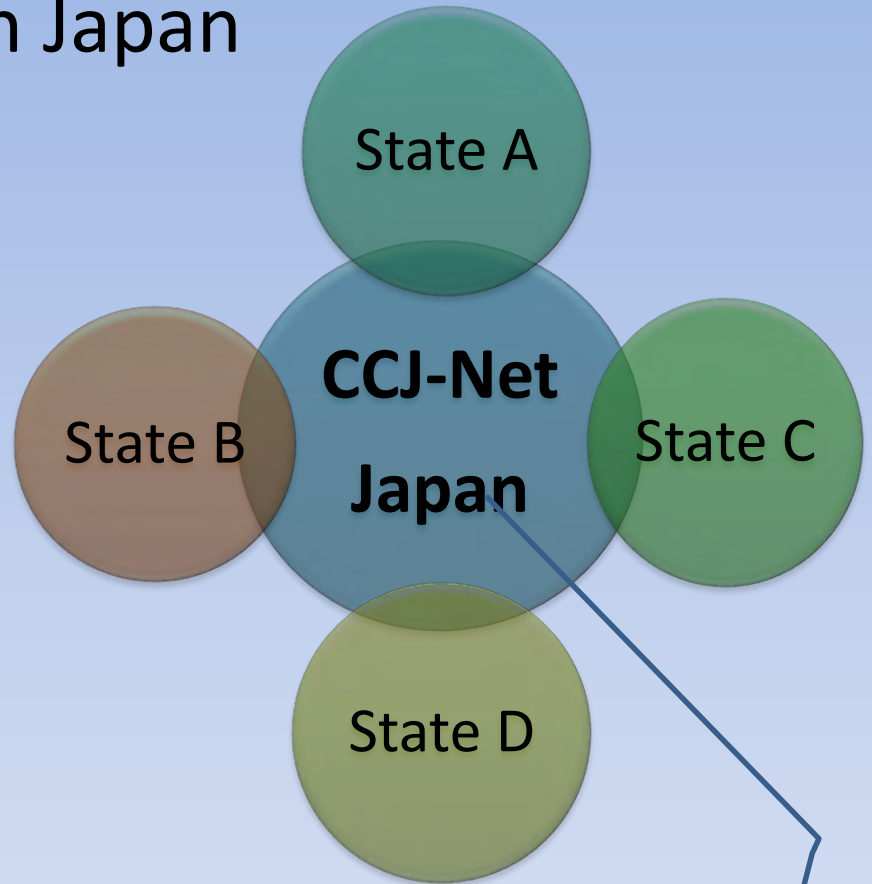
Border



## CCJ-Net in Japan



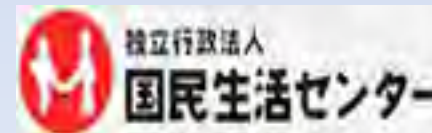
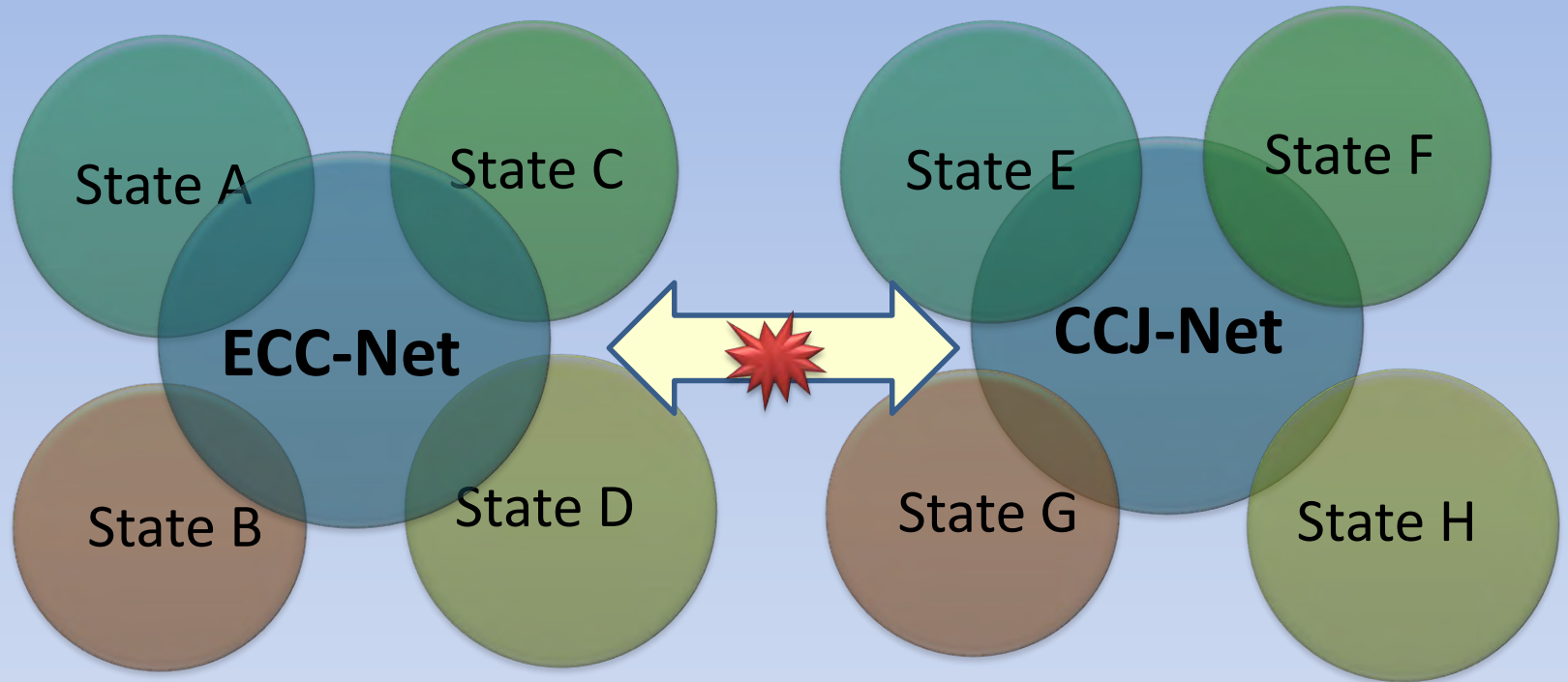
Consumers in State A cannot communicate with Venders in State B **due to Language**



Consumers in State A can communicate with Venders in State B powered by CCJ-Net



# Inside Rules of the Systems are different !



## In a Case of Negotiation Refused

### State A

A Buyer  
in State A



A Complain



### State B

A Seller  
In State B



If the Seller refuses to negotiate,  
the Buyer cannot do anything  
more **in a low-value case**

### *III. UNCITRAL Online Dispute Resolution WG*

#### UN ODR Rules for Low Value Cross-border Disputes

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

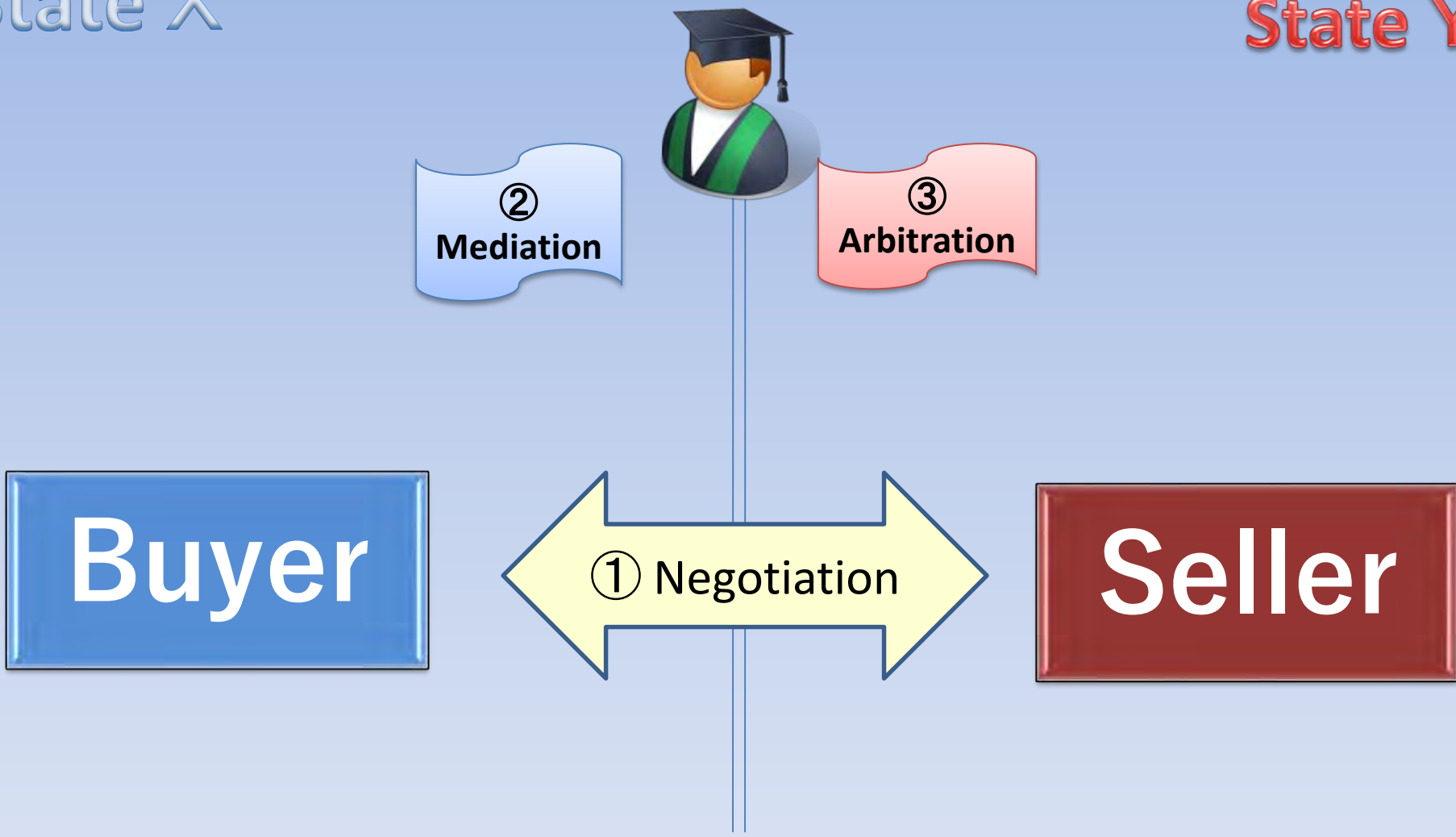
### *III. UNCITRAL Online Dispute Resolution WG*

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

State X

State Y



### *III. UNCITRAL Online Dispute Resolution 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 !**

### *III. UNCITRAL Online Dispute Resolution WG*

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

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

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

EU, Japan and other countries:

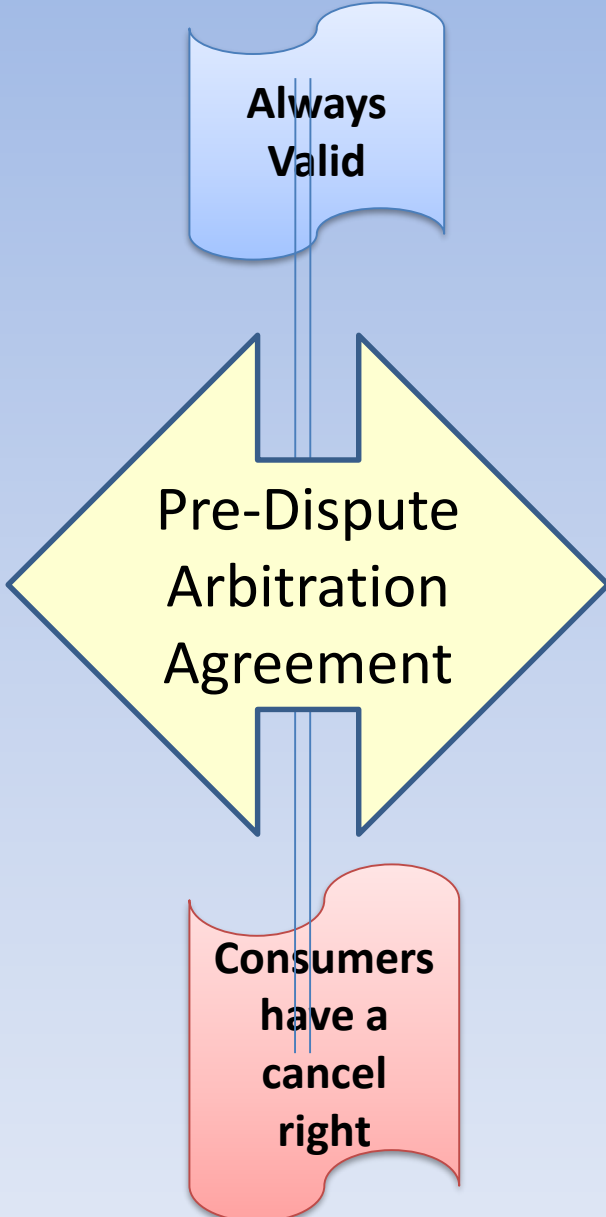
**Consumer has a cancel right !**

State X

State Y

Consumer

Vender





### *III. UNCITRAL Online Dispute Resolution 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**

### *III. UNCITRAL Online Dispute Resolution WG*

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- Mar 2016 12<sup>th</sup> Meeting in NYC
- Jul 2016 Commission adopted the **Technical Notes on ODR**

### *III. UNCITRAL Online Dispute Resolution 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

## IV. A Study from the Experiences

EU is now establishing its own regional ODR platform. But others **still need** uniform rules and schemes for the global ODR platform with negotiation and the third party's interventions.

**APEC**, for example, tries to start its project.

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

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