



**Asia-Pacific
Economic Cooperation**

2018/SOM1/EC/WKSP2/014

**Online Dispute Resolution Under the Strengthening
Economic Legal Infrastructure Work Plan from the
Experiences of CCJ-Net in Japan and United Nations
Commission on International Trade Law Online
Dispute Resolution Working Group**

Submitted by: Japan



**Workshop on the Use of Modern
Technology for Dispute Resolution and
Electronic Agreement Management
Particularly Online Dispute Resolution
Port Moresby, Papua New Guinea
3-4 March 2018**

*Online Dispute Resolution (ODR)
under the SELI Work Plan*

*-from the experiences of CCJ-Net in Japan
& UNCITRAL ODR WG-*

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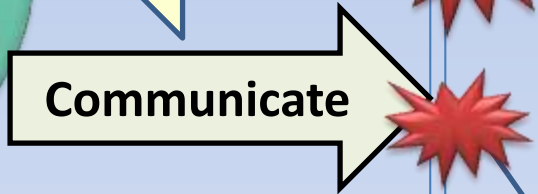
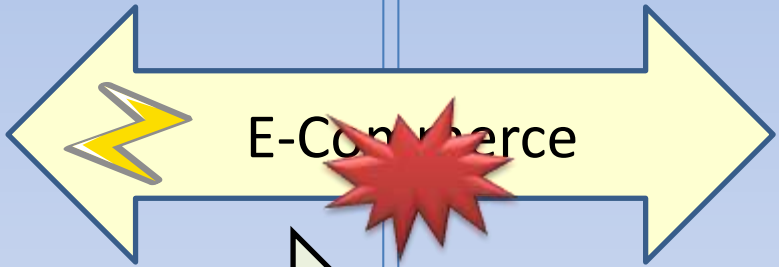
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State A

State B

Language Problems

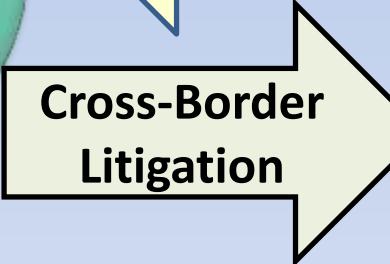


In a dispute, a Buyer in State A cannot communicate with the Seller **due to Language**

A Border

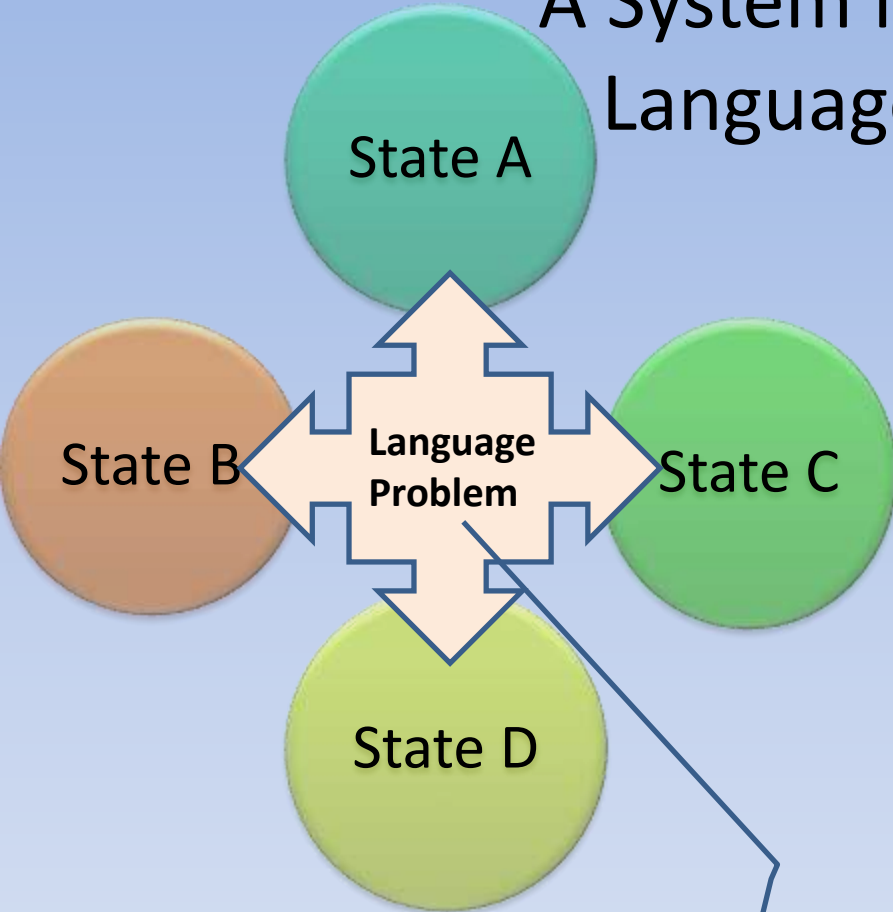
State A

State B

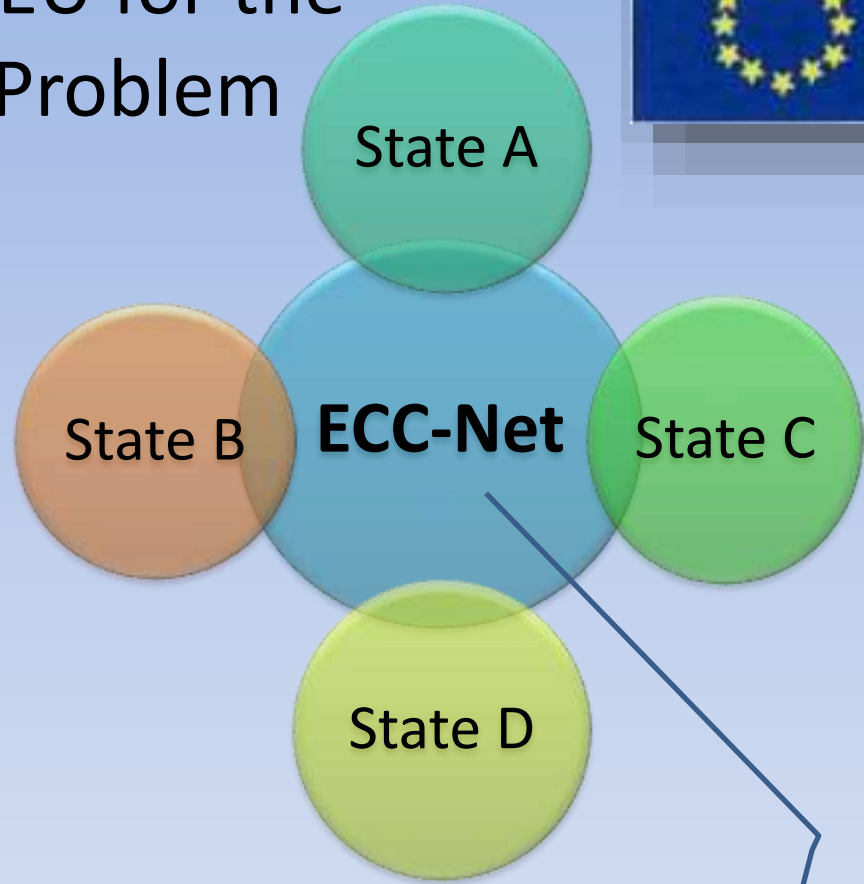


The Buyer in State A cannot easily bring a cross-border law suit against the Seller in State B **in a low-value case**

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

English

Language
Y

English

State X

State Y

Border

Consumer
Institute

Consumer
Institute

ECC-
Net

E-Commerce

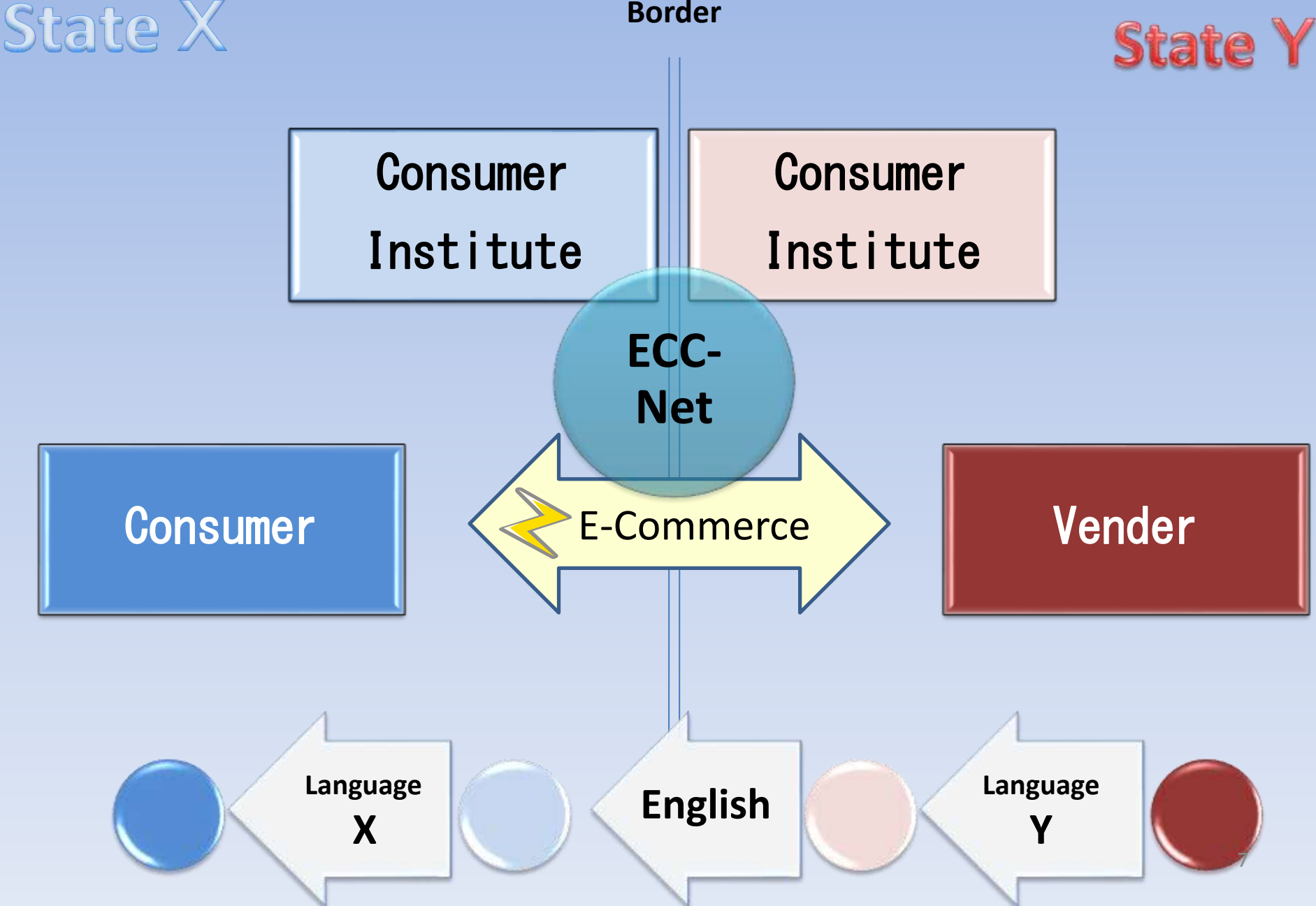
Consumer

Vender

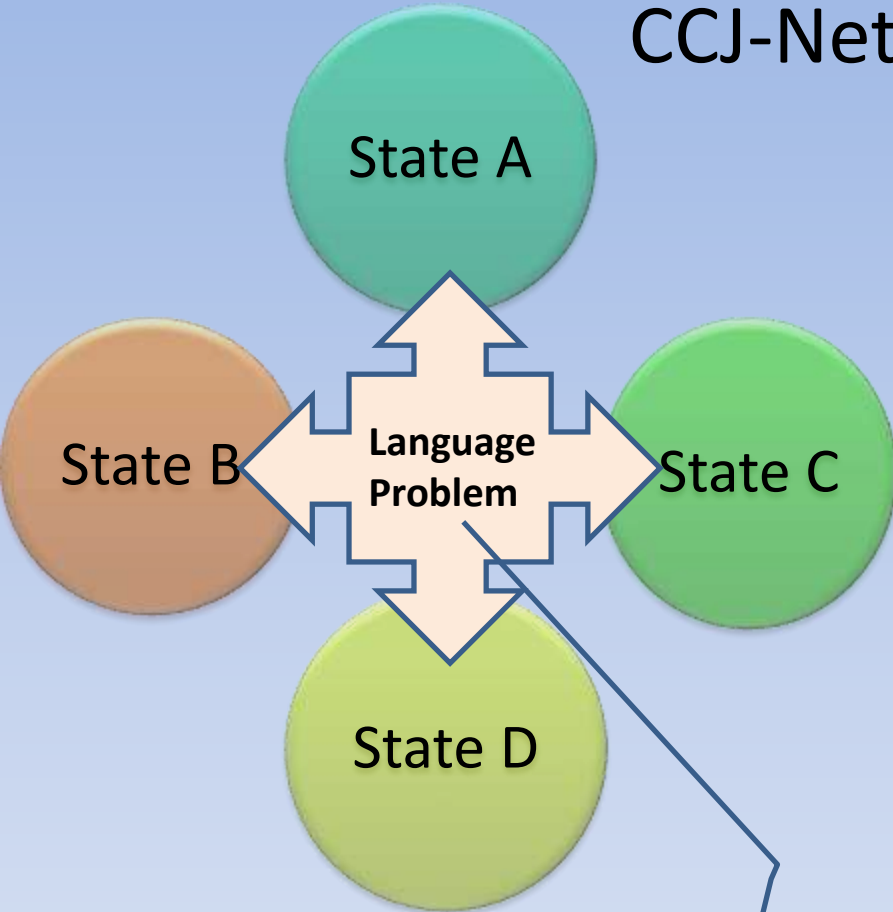
Language
X

English

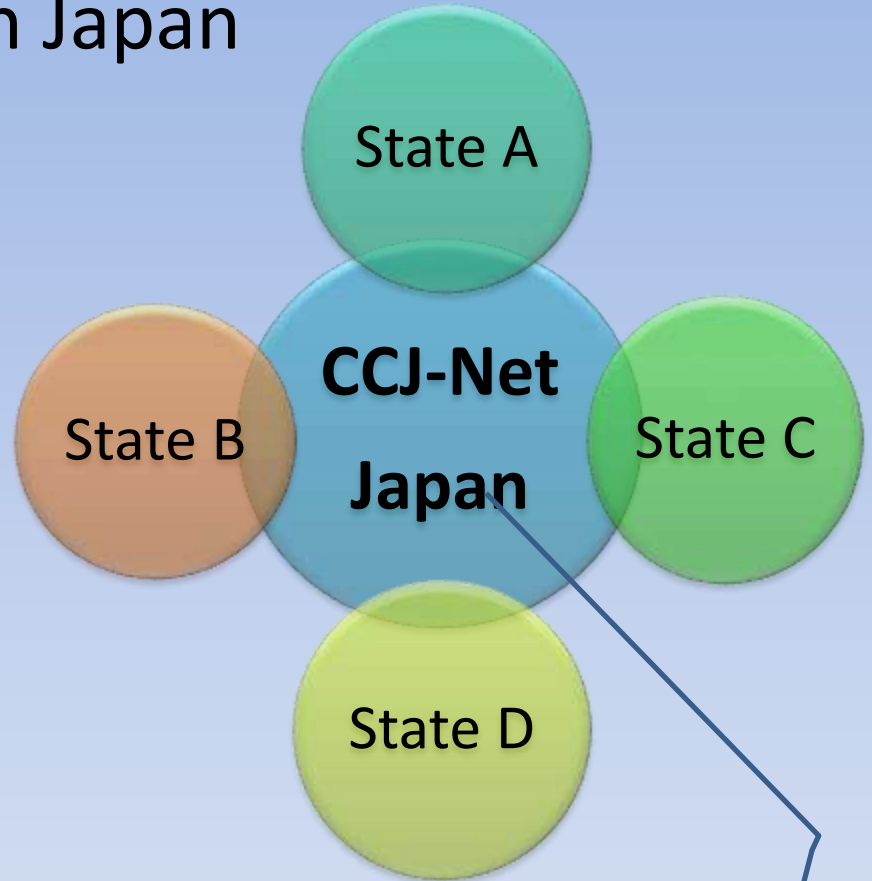
Language
Y



CCJ-Net in Japan

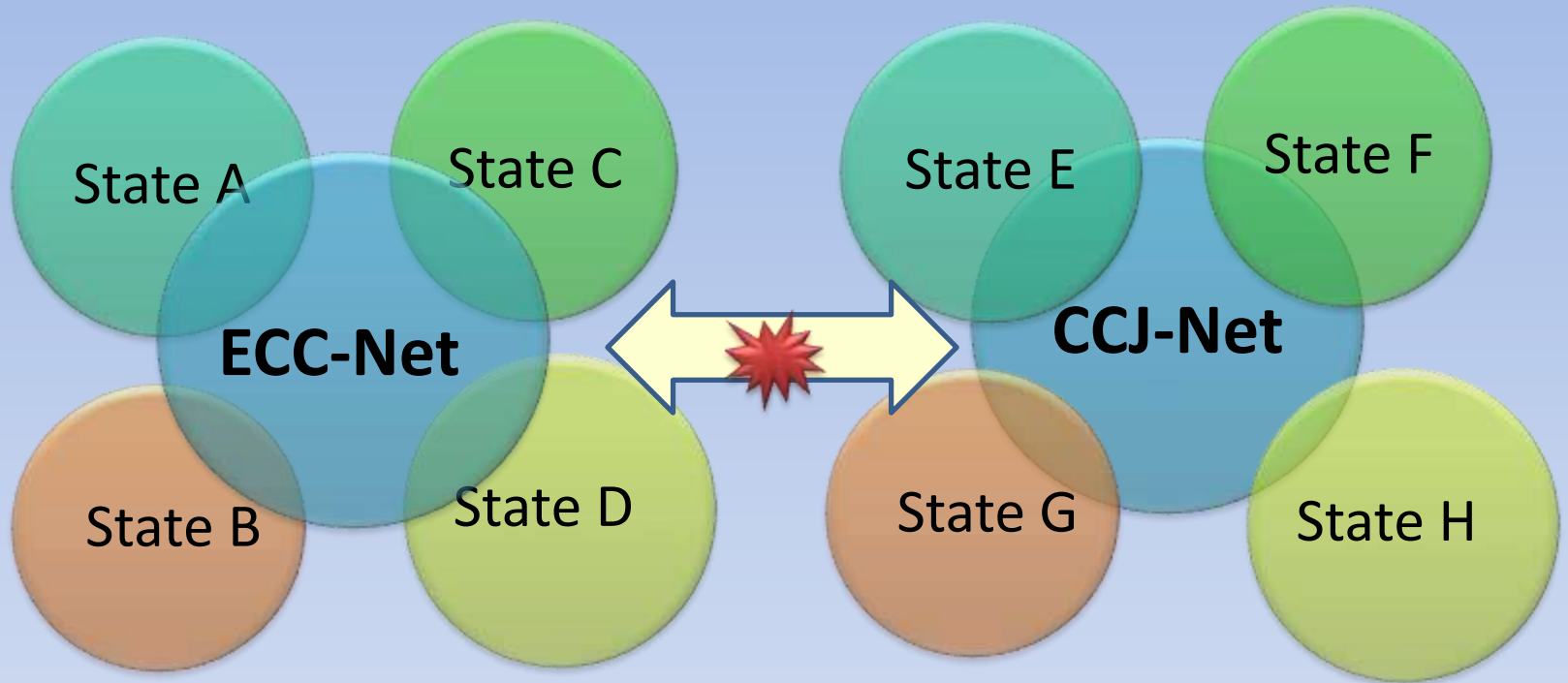


Consumers in State A cannot communicate with Venders in State B **due to Language**



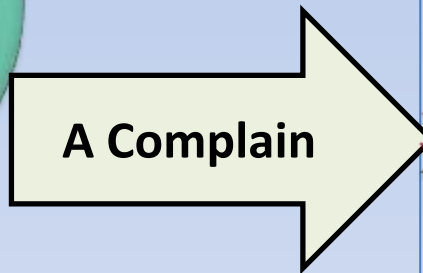
Consumers in State A can communicate with Venders in State B powered by CCJ-Net

Inside Rules of the Systems are different !



In a Case of Negotiation Refused

State A



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

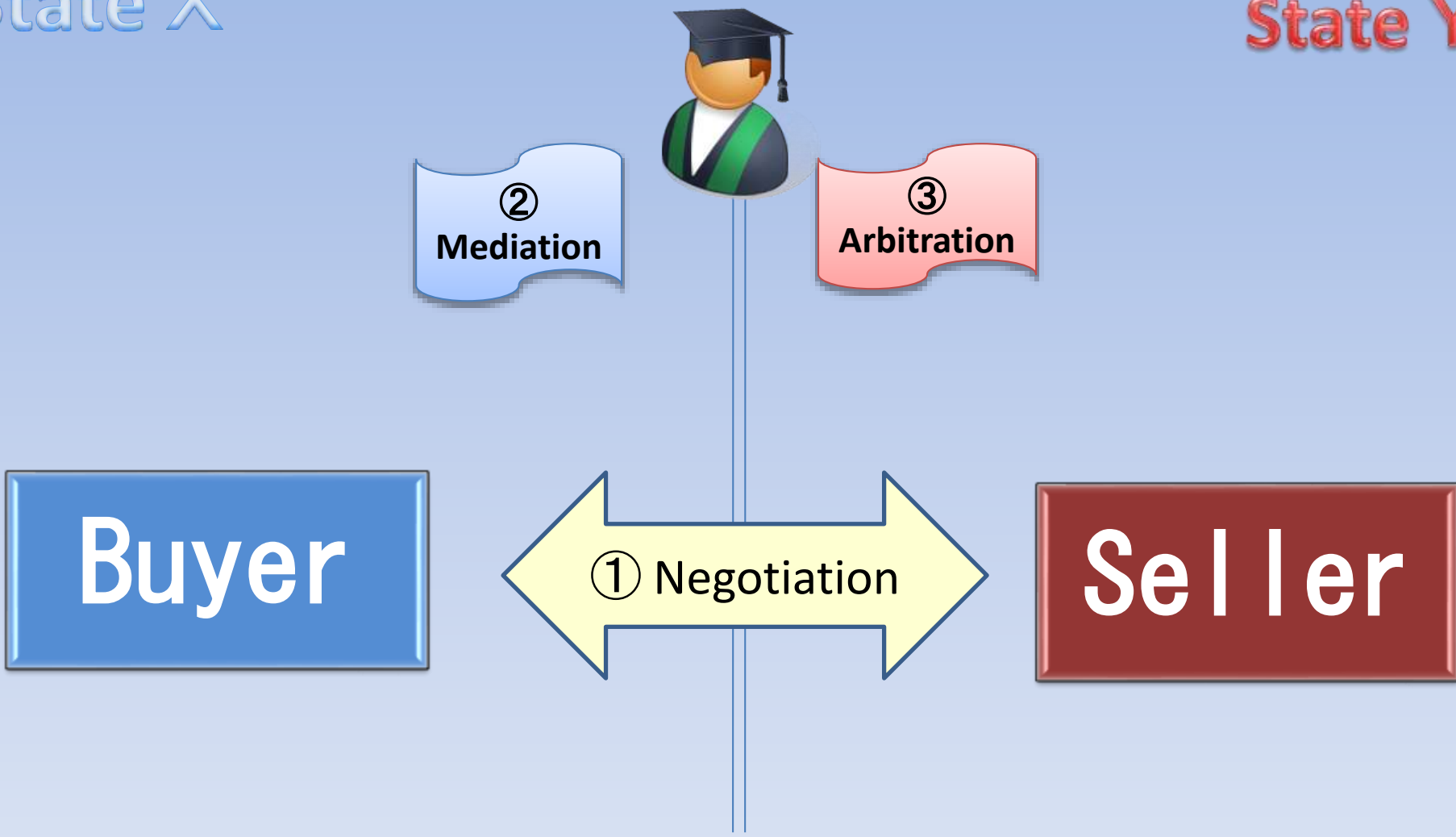
III. UNCITRAL Online Dispute Resolution WG

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 website 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:

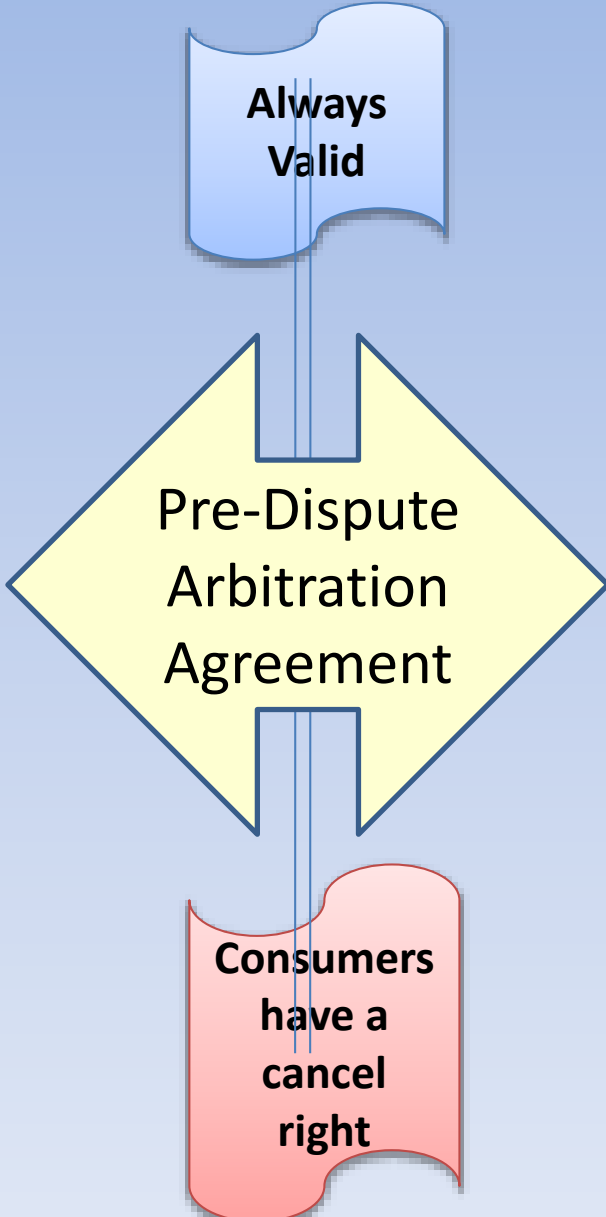
Consumer has a cancel right !

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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- Feb 2015 10th Meeting in NYC
- Dec 2015 11th Meeting in Vienna
- Mar 2016 12th 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

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

IV. A Study from the Experiences

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

APEC would be one of the best forum for the establishment of the new global platform.

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

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