

A Global Overview on the Rules for ODR

-Japan, EU, US, UN and APEC-

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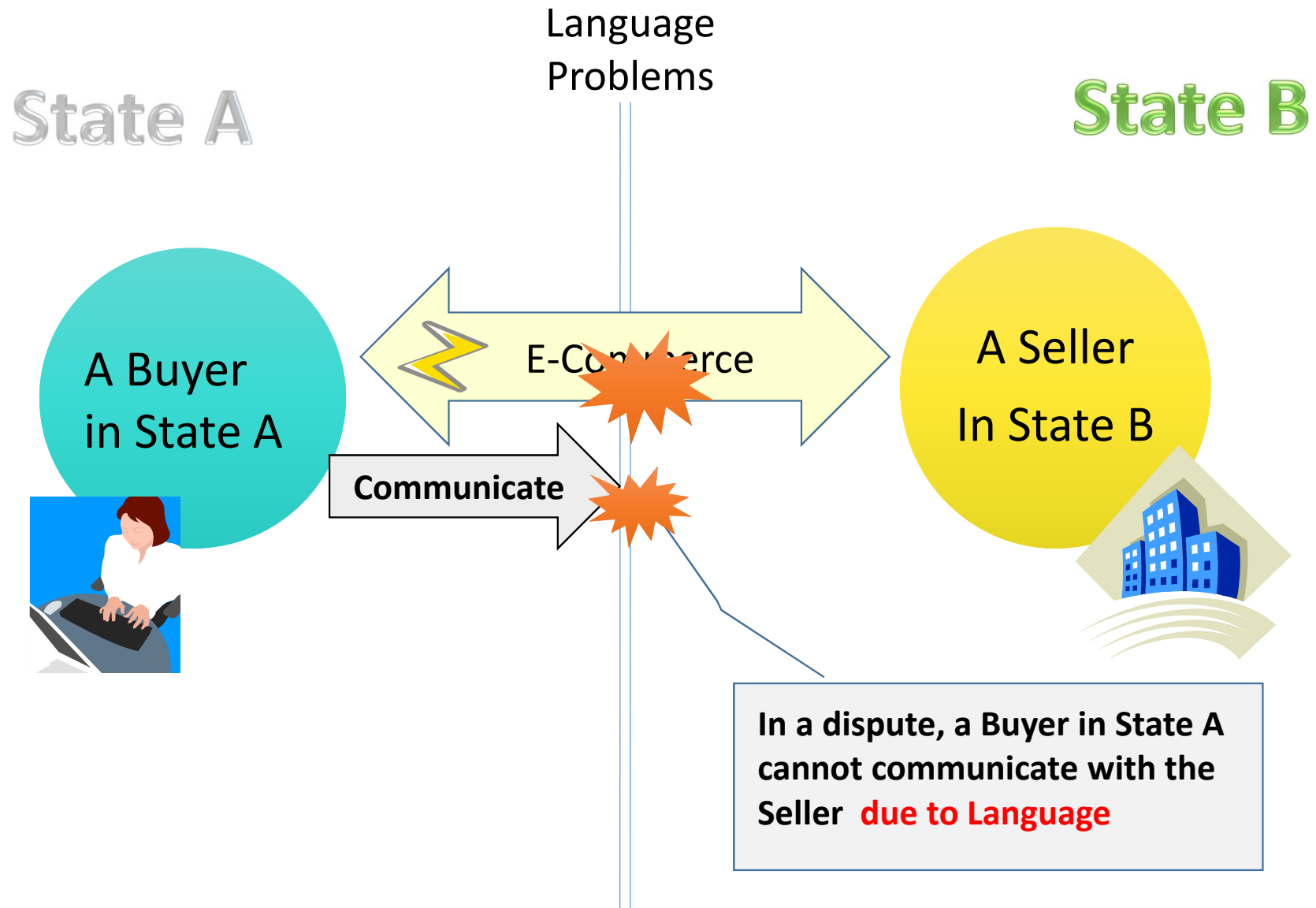
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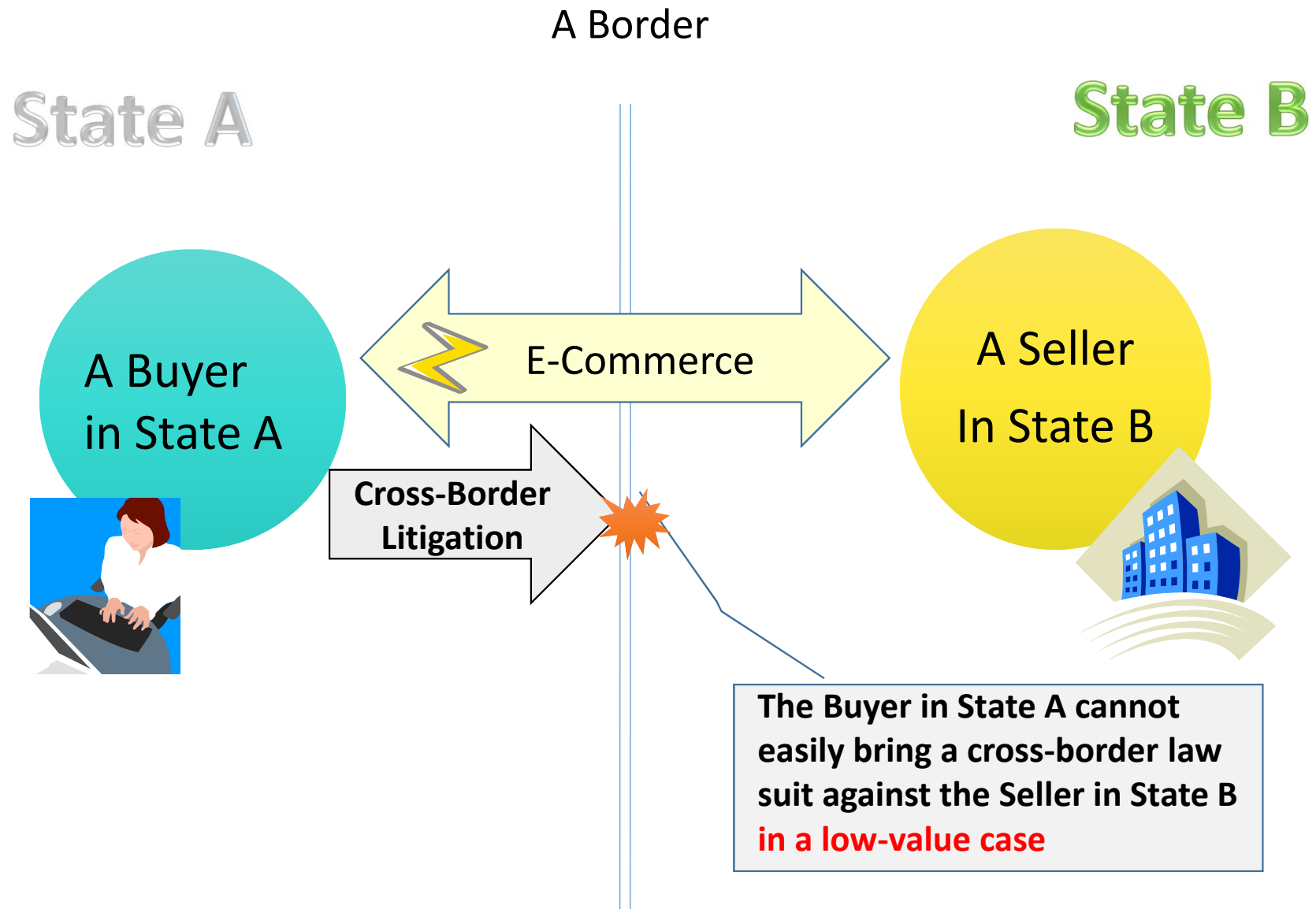
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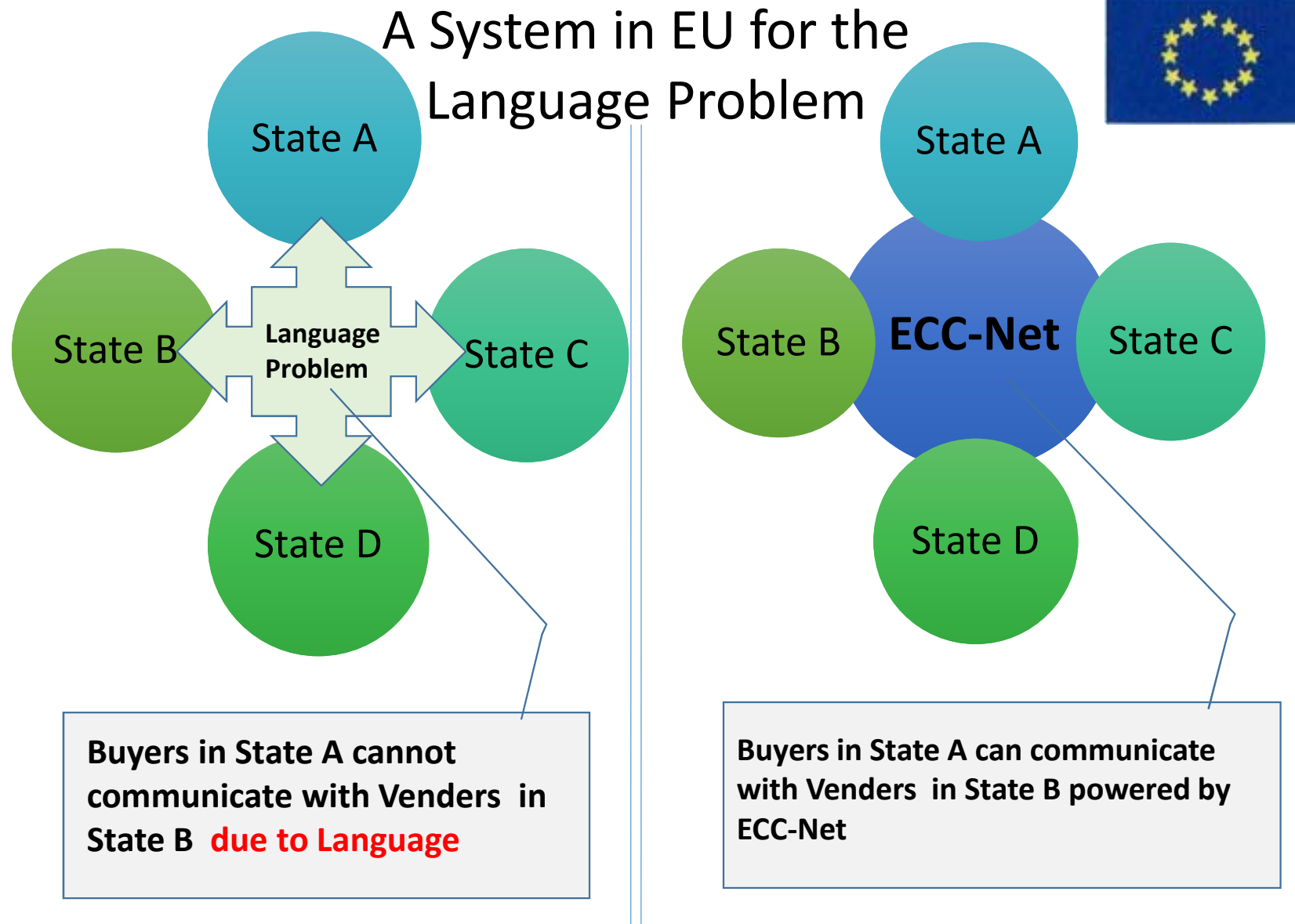
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I. Introduction



I. Introduction



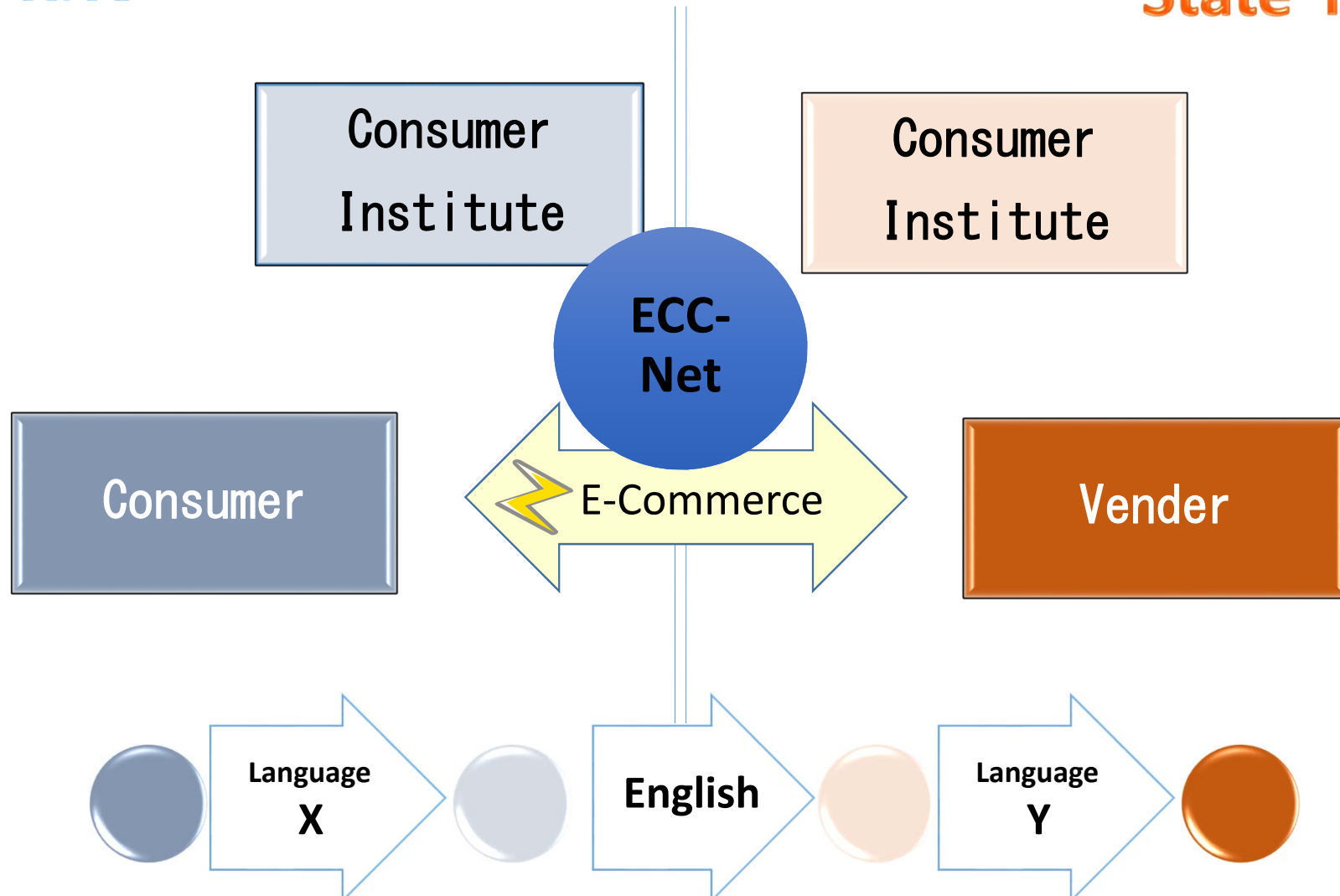


II. EU & Japan

State X

Border

State Y

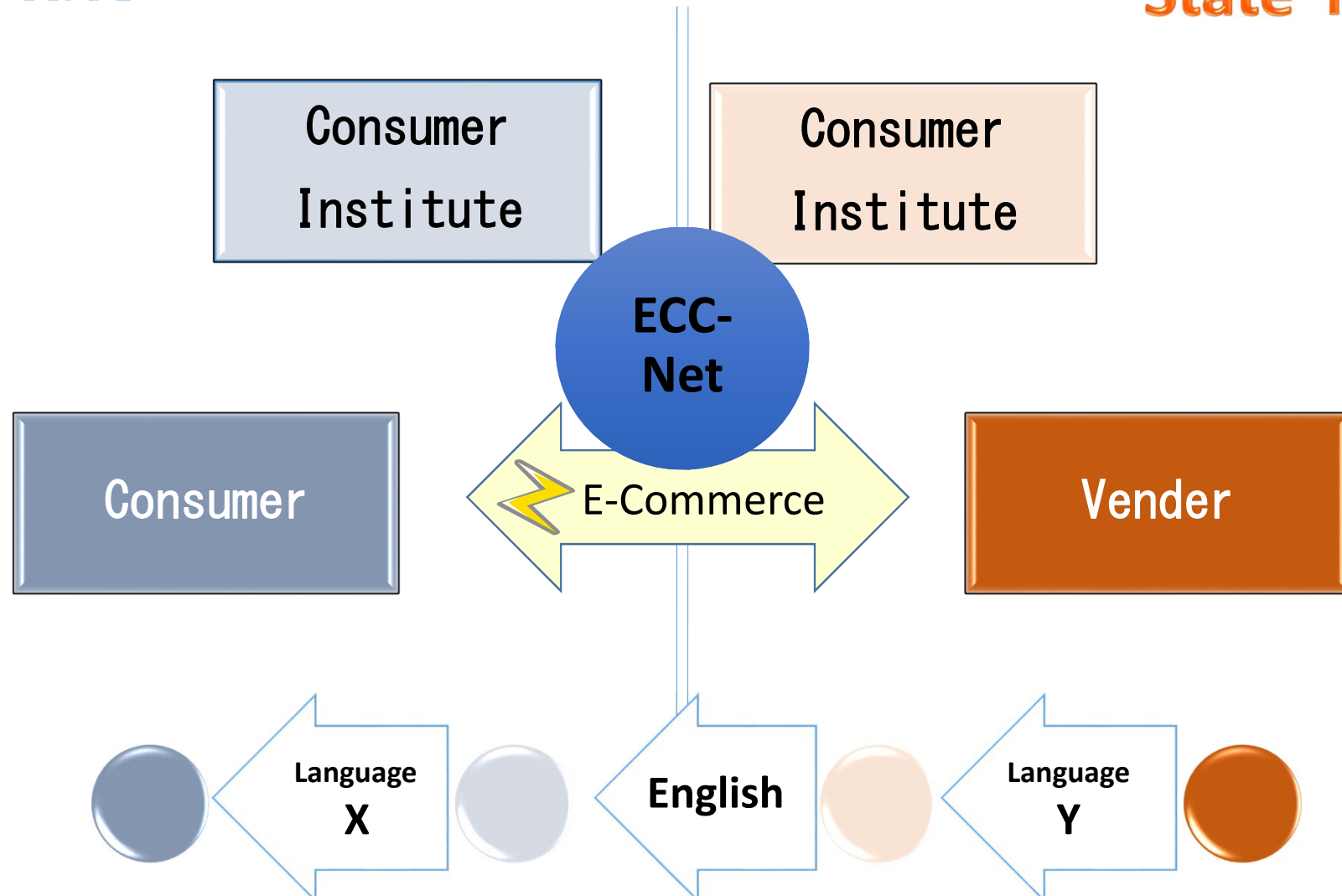


II. EU & Japan

State X

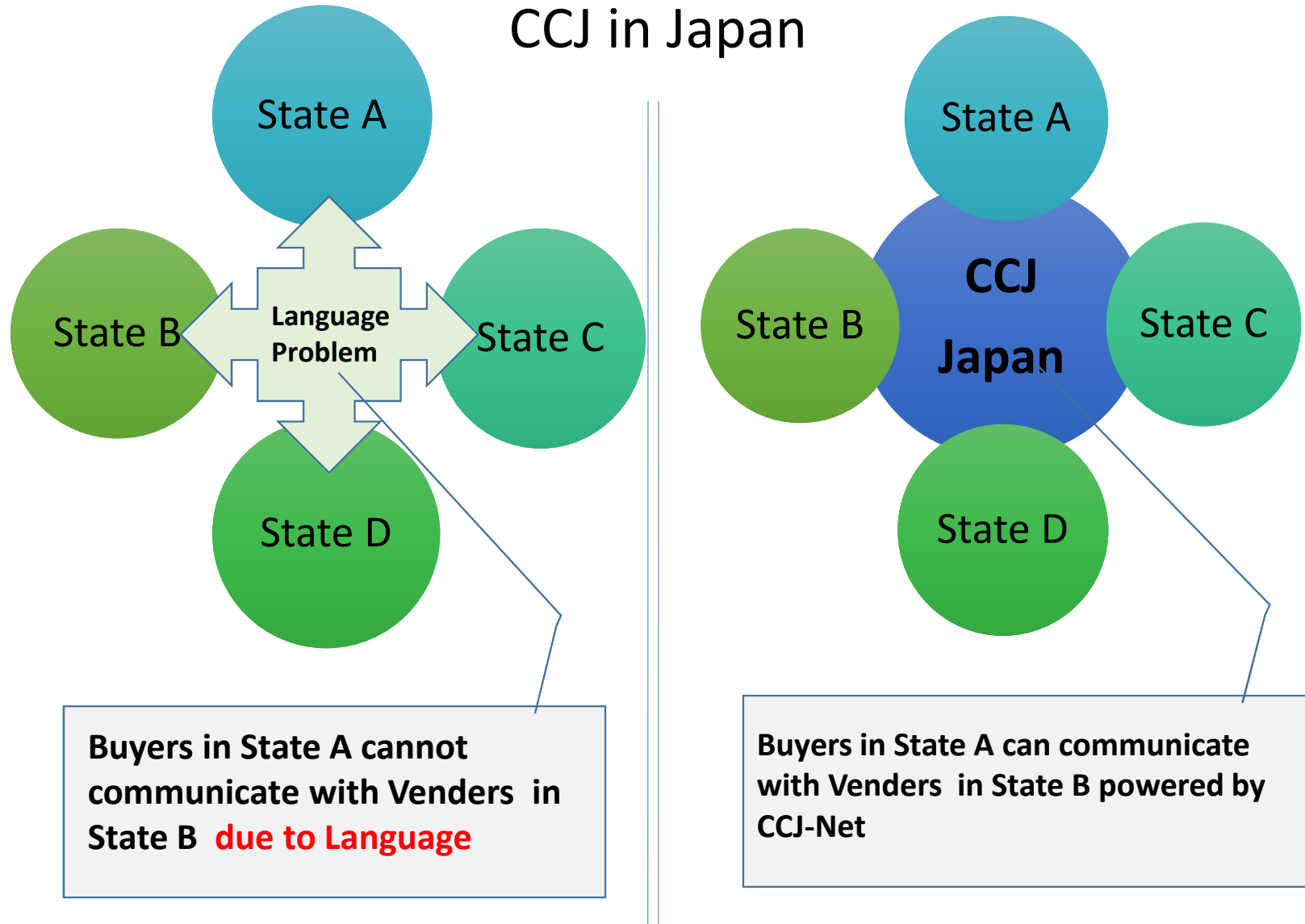
Border

State Y



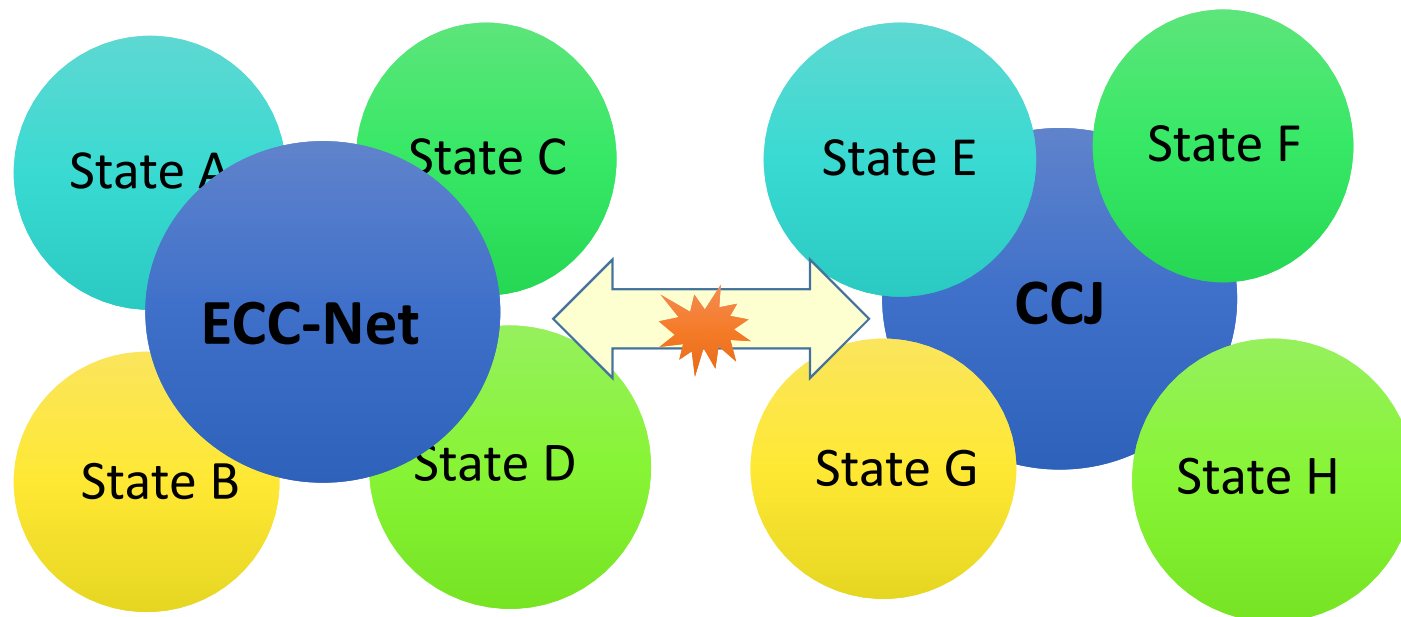
II. EU & Japan

CCJ in Japan



II. EU & Japan

Inside Rules of the Systems are different !



消費者庁



In a Case of Negotiation Refused

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**

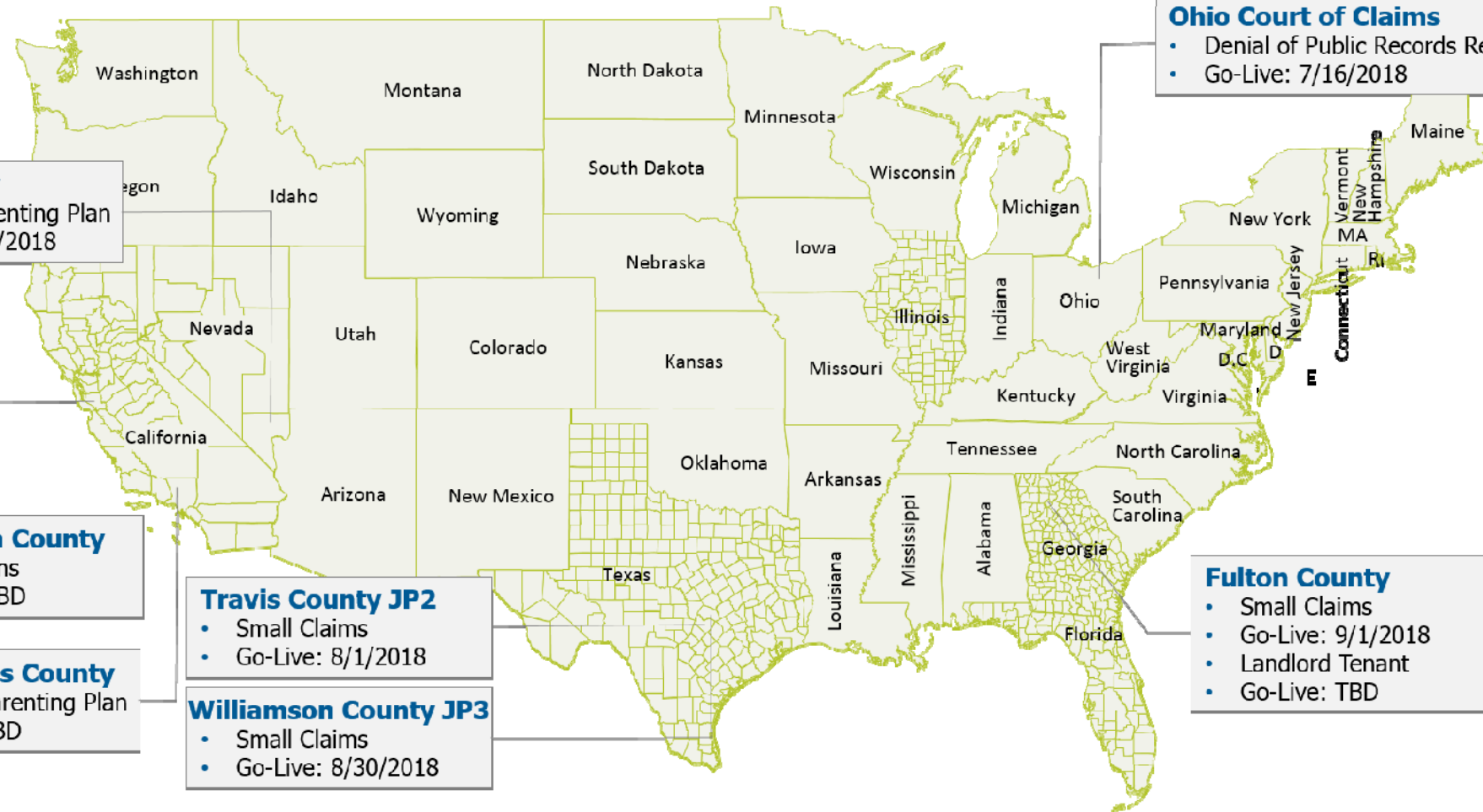
III. United States

- ODR was originally developed to meet the needs of private sectors, especially platformers like eBay and PayPal.
- eBay ODR resolutions as an example:
 - 60+ million disputes per year
 - 50% resolved amicably
 - 90% resolved in software with no human intervention
 - Extrajudicial process, with 100% private enforcement of outcomes

III. United States

- ODR Process of MODRIA as an example:
 - Negotiation
 - Mediation
 - Arbitration or Adjudication
 - Extrajudicial process, with 100% private enforcement of outcomes
- The technology has been used not only for e-commerce disputes but for various types of disputes including family matters.
- The technology has been used not only in ADR but in Courts.

III. United States



III. United States

- According to a statistic, consumers of the platformers who experienced the platformers' ODR system tend to use much more services of the platformers after the experiences of ODR.
- Now many private ODR service providers has emerged and are providing their services all over the United States.

IV. UNCITRAL ODR WG

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

IV. UNCITRAL ODR WG

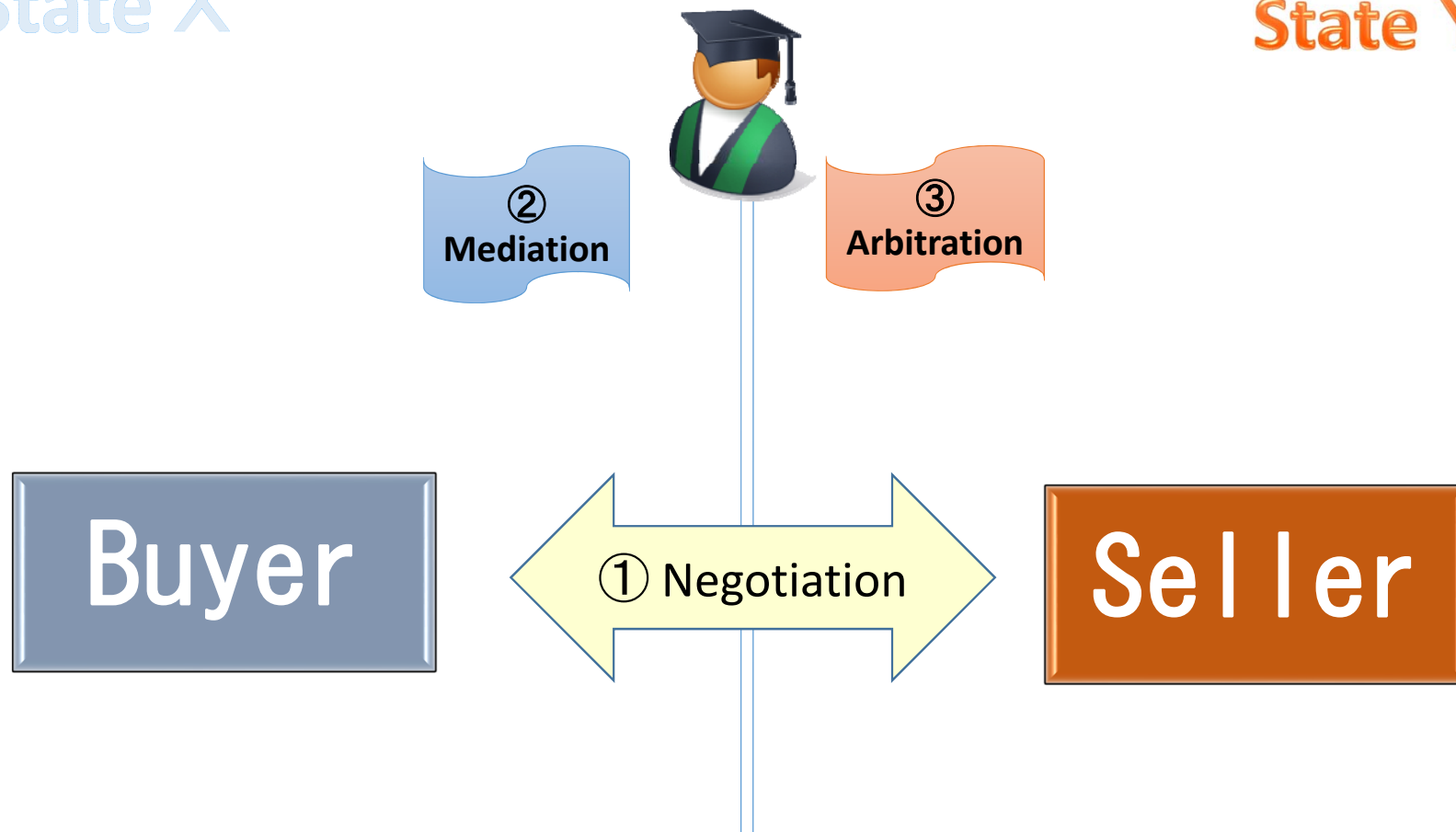
At the beginning stage, UN ODR **Uniform Rules** for **B2B** and **B2C** were tried to establish:

- 1) Three steps approach:
 - ① Negotiation (Complaints 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

IV. UNCITRAL ODR WG

State X

State Y



IV. 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 !**

IV. UNCITRAL ODR WG

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

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

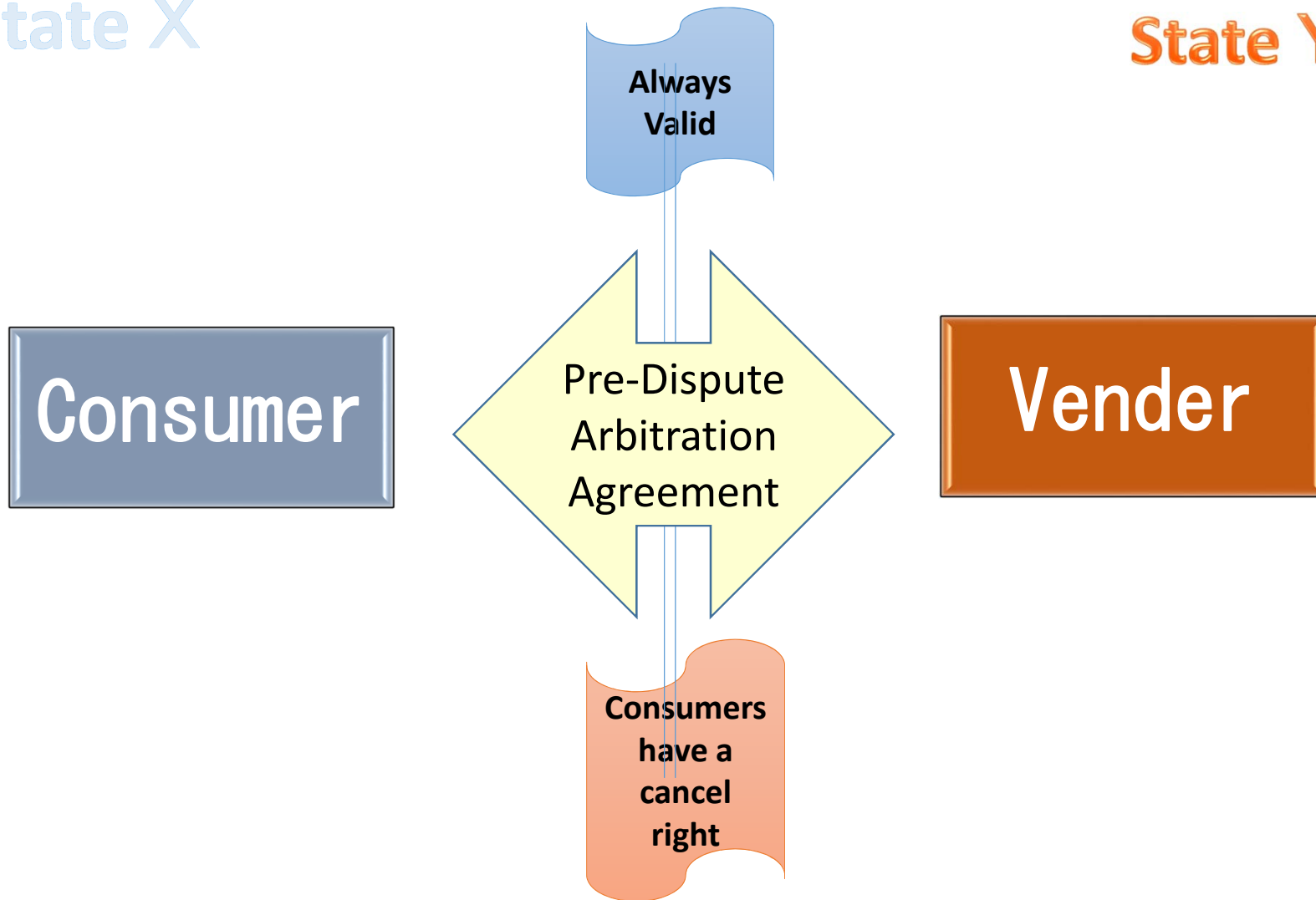
US and other countries: **Of course, it's valid !**

EU, Japan and other countries:

Consumer has a cancel right !

State X

State Y



IV. 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

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Jul 2016	Commission adopted the Technical Notes on ODR

IV. UNCITRAL ODR 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

V. A New ODR Project at APEC

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 was regarded as a desirable forum to establish another global ODR platform without EU.

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

V. A New ODR Project at APEC

[Schedule of the New ODR Project at APEC]

August 2017	A Project of the ODR was proposed at Vietnam
March 2018	An ODR Workshop was held in Papua New Guinea
July 2018	An ODR Workshop was held at Jakarta by Indonesia
August 2018	The Project was discussed at the EC in Papua New Guinea
November 2018	A Two-Days ODR Workshop will be held at Osaka
Spring 2019	Another Workshop & EC Meeting will be held in Chile

V. A New ODR Project at APEC

[Possible Future Products by the New ODR Project at APEC]

A Standard ODR Platform for the Harmonization will be proposed.

Uniform ODR Rules will be proposed.

They will be based on or inspired by the UNCITRAL Technical Notes on ODR, other UNCITRAL Legal Instruments and the Discussions and Tentative Drafts which was made at the UNCITRAL ODR WG.

A Pilot Program is supposed to be launched after the Chile Meeting.

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