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DECLASSIFICATION

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Subject: UNCITRAL Online Dispute Resolution
- Comments from the delegation of Luxembourg

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



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NOTE

from :	the delegation of Luxembourg
to :	Working Party on Civil Law Matters (General Questions)
No. prev. doc.	15977/13 JUSTCIV 259 CONSOM 194 EJUSTICE 95
Subject :	UNCITRAL Online Dispute Resolution - Comments from the delegation of Luxembourg

The proposed two-track approach, whereby there is either arbitration as a final step or a recommendation, seems sensible to us.

Article L- 211-3, point 13, of Luxembourg's Consumer Code declares as unreasonable "clauses excluding the right for the consumer to lodge an appeal with an ordinary court".

Compulsory submission to arbitration before a dispute has arisen would take away the possibility for the consumer to apply to the courts.

Thus, Luxembourg is among the countries mentioned in Article 1a (Track I).

The following comments refer to the "consumer" component of documents WP.123 and WP.123/ADD:

- **Art. 1:**

Track I: We find paragraph 1a and option 1 of paragraph 3 restrictive, and in practice they would need to be carefully updated. We would prefer option 2 of paragraph 3, which has a quite general content.

We also feel that the Regulation should stipulate that the consumer should be better informed of the fact that choosing Track I may mean abandoning his right to apply to the courts (even if such a clause should not survive before the courts).

- **Art. 2:**

The definition of "consumer", in addition to not being the same as that advocated by the most recent EU Directives - e.g. by Directive 2011/83/EU on consumer rights: "any natural person who, in contracts covered by this Directive, is acting for purposes which are outside his trade, business, craft or profession", as taken over in our Consumer Code - does not appear among the definitions for Track II.

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