



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 24 June 2013

**8992/13
EXT 1**

**Interinstitutional File:
2013/0071 (NLE)**

**JUSTCIV 104
CONSUM 79
EJUSTICE 38**

PARTIAL DECLASSIFICATION

of document:	8992/13 RESTREINT UE/EU RESTRICTED
dated:	2 May 2013
new status:	Public
Subject:	Proposal for a Council Decision on the position to be adopted, on behalf of the European Union, in the United Nations Commission on International Trade Law and its Working Group III regarding the negotiation of a legal standard on online dispute resolution for cross-border electronic commerce transactions - Adoption

Delegations will find attached the partially declassified version of the above-mentioned document.



ANNEX

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 2 May 2013

**8992/13
EXT 1 (24.06.2013)**

**Interinstitutional File:
2013/0071 (NLE)**

**JUSTCIV 104
CONSUM 79
EJUSTICE 38**

NOTE

from:	Presidency
to:	Coreper/Council
No. prev. doc. :	8508/13 JUSTCIV 83 CONSUM 64 EJUSTICE 28 + COR 1 RESTREINT UE/EU RESTRICTED
No Cion doc.:	7247/13 JUSTCIV 54 CONSUM 35 EJUSTICE 11 RESTREINT UE/EU RESTRICTED
Subject:	Proposal for a Council Decision on the position to be adopted, on behalf of the European Union, in the United Nations Commission on International Trade Law and its Working Group III regarding the negotiation of a legal standard on online dispute resolution for cross-border electronic commerce transactions - Adoption

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, in the United Nations Commission on International Trade Law and its Working Group III regarding the negotiation of a legal standard on online dispute resolution for cross-border electronic commerce transactions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 114 and 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The United Nations Commission on International Trade Law (UNCITRAL) is a body established by and subordinate to the General Assembly of the United Nations. Its mandate is to further the progressive harmonisation and modernisation of the law of international trade by preparing and promoting the use and adoption of legislative and non-legislative instruments in a number of key areas of commercial law;

- (2) The Union has enhanced observer status within UNCITRAL. This entails the right to participate in the deliberations and debates and to present positions of the Union and its Member States, *inter alia*, by exercising the rights to speak, to reply and to present proposals and amendments. The right to vote is reserved to the members of UNCITRAL. Currently, eleven Member States of the Union are members of UNCITRAL;
- (3) At its 43rd session (New York, 21 June-9 July 2010), the UNCITRAL Commission assigned its Working Group III to undertake work in the field of online dispute resolution (ODR) relating to cross-border electronic commerce transactions, including business-to-business and business-to-consumer transactions. In December 2010, Working Group III started its work on the preparation of a legal standard on ODR for such transactions. Since then, draft rules for a standard ODR procedure (the "ODR Rules") have been discussed. The ODR Rules would apply by agreement of the parties to a cross-border low-value, high volume transaction conducted by means of electronic communication;

- (4) On 29 November 2011, the Commission adopted two legislative proposals that aim to establish rules in the field of alternative dispute resolution (ADR) and ODR: a proposal for a Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)¹ and a proposal for a Regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes (Regulation on consumer ODR)². A political agreement on the adoption of both legislative instruments in early 2013 was reached in December 2012³. The European Parliament adopted its position at first reading on both proposals⁴ on 12 March 2013. This position was approved by the Council on 22 April 2013⁵. The rules established by the impending European legislation on ADR and ODR are common rules within the meaning of Article 3(2) of the Treaty on the Functioning of the European Union;
- (5) The ODR Rules discussed at the level of UNCITRAL overlap with the impending European legislation on ADR and ODR and may affect it or alter its scope;
- (6) **NOT DECLASSIFIED**.

¹ COM (2011) 793 final.

² COM (2011) 794 final.

³ See document 17514/2/12 REV 2 CONSOM 157 MI 818 JUSTCIV 355 CODEC 2987.

⁴ See documents 7217/13 CONSOM 33 MI 182 JUSTCIV 51 PE 113 CODEC 514 and 7218/13 CONSOM 34 MI 183 JUSTCIV 52 PE 114 CODEC 515.

⁵ See documents 7700/1/13 REV 1 CODEC 633 CONSOM 51 MI 221 JUSTCIV 65 OC 158, 7700/13 ADD 1 REV 2 CODEC 633 CONSOM 51 MI 221 JUSTCIV 65 OC 158, PE-CONS 79/12 CONSOM 163 MI 852 JUSTCIV 381 CODEC 3130 OC 773 and 7701/1/13 REV 1 CODEC 634 CONSOM 52 MI 222 JUSTCIV 66 OC 159, PE-CONS 80/12 CONSOM 164 MI 853 JUSTCIV 382 CODEC 3131 OC 774.

HAS ADOPTED THIS DECISION:

Article 1

1. The position of the Union in the negotiations of a legal standard on online dispute resolution for cross-border electronic commerce transactions in the framework of the United Nations Commission on International Trade Law (UNCITRAL) and its Working Group III shall be as set out in the Annex.
2. The Commission shall present the Union position.
3. Member States shall support the Commission in presenting the Union position.
4. The Commission will keep the relevant Working Party of the Council informed of the implementation of this Decision. The relevant Working Party of the Council shall be convened whenever further guidance on the decisive elements of the position adopted by this Decision is appropriate.

Article 2

This Decision shall take effect on the day following that of its adoption.

Article 3

This decision is addressed to the Commission and to the Member States.

Done at Brussels,

For the Council

The President

NOT DECLASSIFIED FROM THIS POINT UNTIL THE END OF THE DOCUMENT

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