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Draft Convention on the Use of Electronic Communications in International Contracts

Compilation of comments by Governments and international organizations

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II. Compilation of comments

B. Intergovernmental organizations

1. European Commission

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[14 April 2005]

1. Having taken into consideration the *acquis communautaire*, notably the Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), the Commission services would like to propose to insert to the Convention an additional provision for a “disconnection clause”, which would aim at ensuring that national measures taken by European Commission Member States in their mutual relations might not in any event conflict with the existing or future European Commission law.

Such a “disconnection clause”, possibly inserted as an article 1.4 of the draft Convention, might be drafted in the following way:

“In their mutual relations, Parties which are members of the European Community shall apply Community rules and shall not therefore apply the rules arising from this Convention except in so far as there is no Community rule governing the particular subject concerned and applicable to the case.”

2. The Commission services would like to underline the importance of retaining the article 16 bis on participation by regional economic integration organizations in order to allow wider participation in the Convention. Such a clause would also give the positive signal to the external world of the importance of this Convention on electronic commerce.

3. The Commission services would like to reserve the right to make more detailed comments on the July meeting.

2. Organization for Economic Cooperation and Development

[Original: English]
[5 April 2005]

The text of article 9.4 (b) could be amended as follows:

“(b) The information is capable of being **retained and** displayed to the person to whom it is to be presented.”

This suggestion aims to suppress the beginning of the sentence to follow the same presentation as in article 9.4 (a). It also aims to address the issue of **retention** of contract in its original form which is mentioned in article 4 together with the issues of presentation, but currently not addressed in 4 (b).