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ORGANIZATION OF AMERICAN STATES
COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

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PROPOSALS BY THE MEMBER STATES FOR THE SEVENTH INTER-AMERICAN
SPECIALIZED CONFERENCE ON PRIVATE INTERNATIONAL LAW (CIDIP-VII)

TOPIC I: CONSUMER PROTECTION

(Brazil, Simplified Version)

***PERMANENT MISSION OF BRAZIL
TO THE
ORGANIZATION OF AMERICAN STATES***

No. 503

The Permanent Mission of Brazil to the Organization of American States presents its compliments to the General Secretariat of the OAS (Secretariat for Legal Affairs) and has the honor to refer to the Seventh Inter-American Specialized Conference on Private International Law (CIDIP-VII).

In this connection, the Permanent Mission is forwarding the attached Simplified Version of the Final Brazilian Proposal for an Inter-American Convention on the Law Applicable to Some International Consumer Contracts and Transactions, presented to the OAS during a teleconference on October 23, 2009, and prepared in coordination with Argentina and Paraguay.

The Permanent Mission of Brazil wishes to request that said document be translated and distributed to all delegations and that it be posted on the CIDIP-VII Web page.

The Permanent Mission of Brazil to the Organization of American States avails itself of this opportunity to renew to the General Secretariat of the OAS (Secretariat for Political Affairs) the assurances of its highest consideration.

Washington, D.C., December 24, 2009

**SIMPLIFIED VERSION
OF THE FINAL BRAZILIAN PROPOSAL**

“BUENOS AIRES PROPOSAL”

Joint proposal of the Governments of Brazil, Argentina, and Paraguay

NOTE: To simplify the proposed Convention, the delegations of Brazil, Argentina, and Paraguay, gathered in Buenos Aires at an informal meeting, reorganized the final version of the Brazil proposal presented to the OAS. Some articles were transferred to additional protocols, so that the text of the proposed Convention contains only the main articles, now rearranged in terms of protection of the passive consumer in distance contracting and protection of the active consumer or tourist. All other articles of the final Brazilian proposal are included in the simplified proposed Convention and the ancillary provisions (Hilfsnormen). In particular, the definitions and rules of application are contained in Protocols I (definitions) and II (application of the Convention). The delegation of Argentina proposed minimum rules on international jurisdiction in the form of an optional protocol (III). All additional protocols facilitate the application of the main Convention, but the States Parties may or may not adopt these protocols, without prejudice to adoption of the Convention. This simplified version is a joint proposal of the Governments of Brazil, Argentina, and Paraguay.

**Inter-American Convention on the Law Applicable to
International Consumer Contracts and Transactions**

The States Parties to this Convention,

REAFFIRMING their desire to continue the progressive development and codification of private international law among member States of the Organization of American States;

BEARING IN MIND the advisability of harmonizing the solutions to questions regarding international consumption as a means to contribute to the development of international trade in the region, and the need to provide adequate protection to the consumer, in accordance with United Nations General Assembly resolution A/RES/39/248 (Guidelines for Consumer Protection, 16 April 1985-1999) and to grant greater legal certainty to all the parties who engage in consumer transactions;

OBSERVING that the exponential growth of relations between consumers and professionals, producers or suppliers of goods and services in the region, and the changing forms those relations take, require the creation of a clear regulatory framework that facilitates international contracts and leads to greater confidence of the parties in international consumer contracts; and

NOTING that the principal objective of this Convention is to establish a legal regime in the matter of applicable law that affords more favorable and special protection to consumers in their

international contracts and transactions with professionals and providers of goods and services, whether as tourists or in distance sales, thereby making it possible to expand the circulation of goods and services as well as consumer options, without discrimination, in the regional market;

HAVE AGREED to adopt the following Convention:

CHAPTER ONE SCOPE OF APPLICATION

I - DEFINITIONS

Article 1. Definition of consumer^{1/}

1. **(Main definition of consumer)** For the purposes of the contracts and transactions covered by this Convention, consumer means any natural person who, in a transaction with a professional or provider of goods or services, acting for personal, family, or household purposes, for purposes not related to his professional activity, or for purposes of reselling.
2. **(Consumer by assimilation)** Third parties who directly enjoy, as final consignees, the contracted services and products shall also be regarded as consumers for the purposes of this Convention.

Article 2. Definition of international consumer contract or transaction. For the purposes of this Convention, an international consumer contract or transaction shall be deemed to exist when, at the moment of contracting, the consumer is domiciled in a State Party different from the domicile or main office of the professional, company, or provider of goods or services taking part in the transaction, operation, or contract.^{2/}

II – SCOPE OF APPLICATION

Article 3. Excluded matters

1. **(Direct exclusion)** Excluded from the scope of this Convention are:
 - [a. transport contracts governed by international instruments in force];^{3/}
 - b. [insurance and] reinsurance contracts;
 - c. matters arising from the marital or legal status of natural persons or the legal capacity of parties;
 - [d. questions arising from extra-contractual product liability]
 - e. contractual obligations relating mainly to wills and successions, matrimonial property regimes, or those derived from family relations;
 - [f. arbitration agreements and agreements on the choice of forum;]

1. See Protocol on definitions.

2. See Protocol on definitions.

3. Article in square brackets for discussion. Suggestion of the delegation of Argentina since it is *bis in idem* to Article 3.2.

- [g. matters of jurisdiction, representation by attorneys before courts, and alternative dispute resolution;]
 - h. matters of company law, social security, taxation, labor issues, domain names [and intellectual property];^{4/}
 - [i. contracts and transactions free to the consumer, not related to other remunerated consumer contracts;]
 - j. contracts for international commercial transactions conducted between professionals or providers of goods and services;
 - [k. obligations relating to bills of exchange, promissory notes, bills of lading, or any transferable document or instrument that entitles the bearer or beneficiary to claim the delivery of goods or the payment of a sum of money;]
 - l. legal arrangements between bankrupts and their creditors and other similar procedures, especially debt reorganization plans (*concordatos*) and analogous arrangements.^{5/}
2. **(Indirect exclusion)** Excluded from the scope of application of this Convention are all other consumer contracts and transactions and the obligations arising therefrom, that, including consumers, are governed by specific international treaties in force.

CHAPTER TWO APPLICABLE LAW

I – GENERAL RULES

Article 4. Contractual protection in distance contracting

1. **(Limited and valid choice of law applicable to passive consumers)** International contracts and transactions concluded by the consumer in the State of his or her domicile, especially in the case of distance contracting, shall be governed by the law chosen by the parties; the parties may choose the law of the consumer's domicile or the law of the place of conclusion, the place of performance, or the law of the main office of the provider of goods or services; such law shall be applicable to the extent it is more favorable to the consumer.
2. **(Determination of the law most favorable to the passive consumer)** To that end, the most favorable option for the consumer shall be regarded as the following, in the order indicated:
- a. The law of the consumer's domicile;
 - b. The law of the common residence of the consumer and one of the branches of the provider of goods or services;
 - c. The law of the place of conclusion or the law of the place of performance, if it coincides with the law of the domicile, the principal place of business or main office

4. Article in square brackets for discussion. Suggestion of the delegation of Brazil for possible exclusion or inclusion of: "*and intellectual property not related to the cession or acquisition of rights, goods and services for personal use.*"

5. Article in square brackets for discussion. Inclusion of the connection in subparagraph (i) by the delegation of Brazil.

of the provider of goods or services, which acted in the contract in a capacity other than that of mere distributor.^{6/}

3. **(Place of conclusion in distance contracting)** In the case of international distance contracting, the place of conclusion shall be considered to be that of the domicile notified by the consumer at the moment of contracting, except in the case of fraud.^{7/}
4. **(Domicile notified at the moment of conclusion of the contract)** In the case of international distance consumer contracting, the consumer's domicile shall be regarded as the address or domicile communicated by the consumer to the professional or provider of goods or services at the moment of conclusion of the contract between the parties, except in the case of fraud.^{8/}
5. **(Subsidiary rule for passive consumers)** If there is no valid choice of law by the parties, international contracts and transactions concluded when the consumer is in the State of his or her domicile shall be governed by the law in force therein.
6. **(Online choice of the law)** In the case of distance online and interactive choice by the consumer, the options of State laws to be selected must be clearly and prominently communicated in the prior information given to the consumer.^{9/}

Article 5. Contractual protection of the tourist or active consumer^{10/}

1. **(Limited and valid choice law applicable to active consumers)** International contracts and transactions concluded by the consumer when he or she is outside of the State of his or her domicile shall be governed by the law chosen by the parties, who may validly choose the law of the place of conclusion of the contract, the law of the place of performance, or the law of the consumer's domicile.
2. **(Subsidiary rule for active consumers)** If there is no valid choice, contracts and transactions concluded by consumers who are outside the State of their domicile shall be governed by the law of the place of conclusion, the latter being deemed to be the place where the consumer and the provider or professional are physically present for the conclusion of the contract.

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6. Simplifying the text, the text of subparagraph (c) is that of Proposal II of Brazil, when (c) and (d) of Proposal IV of the Brazilian Government are merged. In general, two other options have been considered for Article 4.2: (1) delete it completely; (2) establish material assumptions.
 7. Text transferred from Article 3.2 of Proposal IV of the Brazilian Government. Inclusion of the exception of fraud for States that did not ratify the Inter-American Convention on General Rules of Private International Law (CIDIP-II).
 8. Text transferred from Article 4.2 of Proposal IV of the Brazilian Government. Inclusion of the exception of fraud for States that did not ratify the Inter-American Convention on General Rules of Private International Law (CIDIP-II).
 9. Text transferred from Article 7.2 of Proposal IV of the Brazilian Government.
 10. Subdivision of Article 6 of Proposal IV of the Brazilian Government. Text transferred from Articles 6.4 and 5 of Proposal IV of the Brazilian Government.

Article 6. Choice of and information about applicable law^{11/}

1. **(Information to the consumer about the choice)** The choice of applicable law by the parties must be express and in writing, known and agreed to in each case. If the choice is made by the provider for adherence by the consumer, the law chosen as applicable must be clearly indicated in the prior information given to the consumer and, if possible, in the contract itself.

2. **(A posteriori choice of law)** By common agreement and after a dispute has arisen, the parties may choose, among the options provided for in Articles 4 and 5, a State's domestic law other than that expressly provided for in the contract. Such modification shall not affect the formal validity of the original contract or the rights of third parties.

3 **(Law applicable to prior information)** Prior information to be given to the consumer in the pre-contractual phase must be in accordance with the provisions of this Convention and with those resulting from the law presumably applicable to the contract once it has been concluded.

Article 7. Internationally mandatory rules

1. **(Mandatory rules of the forum)** Notwithstanding the provisions of the preceding articles, the provisions of the law of the forum shall necessarily be applied, in favor of the consumer, when they are internationally mandatory requirements.^{12/}

2. **(Mandatory rules of the State of the consumer's domicile)** In the event that the conclusion of the contract or transaction was preceded by any negotiations or marketing activities by the provider or its representatives in the State of the consumer's domicile, especially the dispatch of advertising material, mail, e-mail messages, prizes, invitations, and other similar activities aimed at trading in goods and services and attracting customers, that State's internationally mandatory rules shall be applied in favor of the consumer, in addition, wherever possible, to those of the *lex fori* and the law applicable to the contract or consumer transaction.

Article 8. Hard clause. The law specified as applicable by this Convention may not be applicable in exceptional cases, if, considering all the circumstances of the case, the connection with the law indicated as applicable proves to be superficial and the case itself is more closely related to another law more favorable to the consumer.^{13/}

Article 9. Harmonization clause. The different laws that may be applicable to various aspects of one and the same transaction or legal relation shall be applied harmoniously, in order to attain the purposes pursued by each of such laws, always in favor of the consumer. Difficulties that may arise from their simultaneous application shall be resolved in light of the requirements of consumer protection and of equity in each specific case.

11. Merging of Articles 7.1 and 3 and Article 8.2 of Proposal IV of the Brazilian Government

12. Text of Proposal II of the Brazilian Government, as distinguished from the Inter-American Convention on the law applicable to international contracts (CIDIP-V).

13. New title suggested by the delegation of Argentina. See Protocol on application of the Convention.

II – RULES FOR SPECIFIC SITUATIONS

Article 10. Travel and tourism contracts. Individual international travel contracts concluded as packages or with combined services, such as a tourist groups or together with other hotel and/or tourist services, shall be governed by the law of the consumer's domicile, if it is also the main office or branch of the travel agency or package organizer with whom the travel contract was entered into, where the offer was made, or where advertising or any prior negotiations by the provider, organizer, or agent or their independent representatives took place.

Article 11. Timesharing contracts and similar contracts for the use of real estate in turns. Without prejudice to the rules set forth above, the mandatory rules of the State where the offer was made, where advertising or any marketing activity was conducted, such as phone calls, invitations to receptions, meetings, parties, sending of prizes, tenders, raffles, all-paid trips or awards, among other activities conducted by representatives or owners, organizers, or managers of timeshares and similar systems or contracts for the use of real estate in turns, or where pre-contracts or timeshare contracts or contracts for the right of use/enjoyment of real estate in turns are signed, shall apply in addition to those contracts in favor of the consumer.

CHAPTER THREE GENERAL CLAUSES

Article 12. Law of non-party States. The law designated by this Convention shall be applied even if this law is that of a State that is not a party to this Convention.^{14/}

Article 13. Reservations. When signing, ratifying, or acceding to this Convention, States may formulate reservations that apply to one or more specific provisions hereof that are not incompatible with the purpose of this Convention and the objective of protection more favorable to the consumer.^{15/}

Article 14. *Ordre public international.* The law specified by this Convention shall not be applied when it is manifestly incompatible with international public policy (*ordre public international*).^{16/}

Article 15. Notifications and follow-up

1. The States Parties shall notify the OAS Secretariat of any decisions or information they deem useful for the purposes of application of the Convention.
2. The Permanent Council of the OAS shall promote the periodic convocation of a committee to examine the operation of this Convention, which may make any recommendations it deems appropriate or, if appropriate, propose the amendment or review of the Convention or the formulation of an additional Protocol.^{17/}

14. Text transferred from Article 11.1 of Proposal IV of the Brazilian Government

15. See the Protocol on application of the Convention.

16. Text transferred from Article 9.3 of Proposal IV of the Brazilian Government.

17. Modified text. Provision present in some conventions of the Hague Conference on Private International Law.

CHAPTER FOUR FINAL CLAUSES

[**Article 16.** In the case of a State which has two or more systems of law applicable in different territorial units with respect to matters covered by the Convention:

- a. any reference to the laws of the State shall be construed as a reference to the laws in the territorial unit in question;
- b. any reference to residence, domicile, main office, or place of business in that State shall be construed as a reference to residence, domicile, main office, or place of business in a territorial unit of that State.

Article 17. A State within which different territorial units have their own systems of law in regard to matters covered by this Convention shall not be obliged to apply this Convention to conflicts between the legal systems in force in such units.

Article 18.

1. If a State has two or more territorial units in which different systems of law apply in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, or accession, declare that this Convention shall extend to all its territorial units or to only one or more of them.

2. Such declarations may be amended by subsequent declarations, which shall expressly indicate the territorial unit or units to which the Convention will apply. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall take effect ninety days after the date of their receipt.

Article 19. This Convention shall be open for signature by the member states of the Organization of American States and shall be subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article 20. This Convention shall remain open for accession by any other State after it has entered into force. The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

Article 21.

1. This Convention shall enter into force for the ratifying States on the thirtieth day following the date of deposit of the second instrument of ratification.

2. For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 22. This Convention shall remain in force indefinitely, but any of the States Parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Convention shall no longer be in force for the denouncing State.

Article 23. The original instrument of this Convention, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall forward an authenticated copy of its text to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of its Charter. The General Secretariat of the Organization of American States shall notify the member States of the Organization and the States that have acceded to the Convention of the signatures, deposits of instruments of ratification, accession, and denunciation, as well as of reservations, if any, and of their withdrawal.]

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective governments, do hereby sign the present Convention.

DONE AT,,

ADDITIONAL PROTOCOL ON DEFINITIONS (I)

The States Parties gathered at the Seventh Inter-American Specialized Conference on Private International Law (CIDIP-VII), on consumer protection, in addition to the definitions contained in the Convention, propose to the States the adoption of this Protocol setting forth the following definitions to facilitate the application of the Convention:

Article 1. Consumer as final consignee. For the purposes of the contracts and transactions covered by this Convention, consumer shall also mean any natural personal who is the final consignee of goods and services who, in relations with a professional or provider of goods and services, acts for purposes not pertaining to his professional activity.^{18/}

Article 2. Possible extension of the definition of consumer. If the law indicated as applicable by virtue of this Convention or other law closely connected to the case gives a broader definition of who is to be regarded as a consumer or includes other agents as consumers, the judge entitled to adjudicate the matter may take into consideration this expansion of the scope of application of this Convention, to the extent that it is more favorable to the consumer's interests.^{19/}

Article 3. International consumer contract or transaction as operations. An "international consumer contract or transaction" shall be understood to mean all operations or acts concluded between a consumer and a professional or provider of goods or services that have real and objective contacts with more than one State Party. Real and objective contacts are, inter alia, domiciles, places of business or habitual residences of the parties, places of conclusion of contracts and of performance, and the situation of the goods referred to in the international contract or transaction.^{20/}

Article 4. International distance consumer contracting. International distance consumer contracting is the act or negotiation of a contract concluded between a professional or provider of goods or services and a consumer, both of whom have their domiciles or seats in different States, without their physical presence in the same State at the moment of conclusion of the contract. This norm is applicable to contracts concluded electronically, by telecommunications, through catalogues, or by any analogous means of international distance consumer contracting.^{21/}

Article 5. Definition of consumer domicile. The domicile of the consumer shall be determined by the following circumstances in the following order:

- a. The place of his or her habitual residence, at the time of the conclusion of the contract between the parties;
- b. In the absence of the foregoing, the place of simple residence or the place where the person is to be found.
- c. The domicile of incompetent persons is that of their legal representatives, except when they are abandoned by those representatives.^{22/}

18. Text transferred from the option of Article 1.2 of Proposal IV of the Brazilian Government.

19. Text transferred from Article 1.3 of Proposal IV of the Brazilian Government.

20. Text transferred from Article 2.2 of Proposal IV of the Brazilian Government.

21. Text transferred from Article 3.1 of Proposal IV of the Brazilian Government.

22. Text transferred from Article 4.1 of Proposal IV of the Brazilian Government.

Article 7. Reservations to this Protocol

1. This Protocol supplements the Convention. When signing, ratifying, or acceding to this Convention, States may accept this protocol or may enter reservations that apply to one or more of its specific provisions.^{23/}
2. A State Party may at any time withdraw a reservation it has entered to the Protocol.^{24/}
3. The effect of such reservation shall cease on the first day of the third calendar month following the date of notification of withdrawal.^{25/}
4. Reservations entered shall have no reciprocal effect.^{26/}

23. Text adapted from Article 15.1 of Proposal IV of the Brazilian Government.

24. Text transferred from Article 15.2 of Proposal IV of the Brazilian Government.

25. Text transferred from Article 15.2 of Proposal IV of the Brazilian Government.

26. Text transferred from Article 15.2 of Proposal IV of the Brazilian Government.

ADDITIONAL PROTOCOL ON APPLICATION OF THE CONVENTION (II)

The States Parties gathered at the Seventh Inter-American Specialized Conference on Private International Law (CIDIP-VII), on consumer protection, propose to the States, in addition to the rules contained in the Convention, the adoption of this Protocol setting forth the following provisions to facilitate and harmonize the application of the Convention, especially for those States that did not ratify the Inter-American Convention on General Rules of Private International Law (CIDIP-II).

Article 1. Harmonious interpretation and application. For the purposes of interpretation and application of this Convention, its international character and the need to promote uniformity in its application must be taken into account.^{27/}

Article 2. Harmonization. The different laws that may be applicable to various aspects of one and the same transaction or legal relationship shall be applied harmoniously in order to attain the purposes pursued by each of such laws in favor of the consumer. Difficulties that may be caused by their simultaneous application shall be resolved in light of the requirements of consumer protection and of equity in each specific case.^{28/}

Article 3. Law applicable to the contract. In all cases, the Parties may select only one applicable law to the contract, which must be a Law of a State or Nation.^{29/}

Article 4. Criteria of the hard clause. **In the event of application of the hard clause of the Convention, the judge must take into account especially:**

- a. **the need for predictability of the applicable law by the parties;**
- b. **the circumstance that the consumer transaction or contract has normal legal force, in accordance with the rules of the States with which it had relations or contacts at the moment of its conclusion;**
- c. **the possibility for both parties of gaining prior knowledge of the consumer protection rules of the chosen law; and**
- d. **the fact that the choice of the applicable law by the professional or provider did not discriminate against the consumer because of his or her nationality or domicile and was in accordance with the provisions of this Convention.^{30/}**

Article 5. Existence and validity of the contract and the choice of law. The conditions for the existence and validity of the international consumer contract, and also the substantial validity of the consent of the parties with respect to the choice of the applicable law, shall be governed by the *lex fori* in addition to the provisions of this Convention.^{31/}

Article 6. Mandatory rules of the State where the real property utilized in turns is located. The mandatory consumer protection rules of the State of physical location of the leisure and hotel

27. Text transferred from Article 11.3 of Proposal IV of the Brazilian Government.

28. Text identical to Article 9 of the Inter-American Convention on the law applicable to international consumer contracts and transactions and Article 11.2 of Proposal IV of the Brazilian Government.

29. Text transferred from Article 7.4 of Proposal IV of the Brazilian Government.

30. Text transferred from Article 10.2 of Proposal IV of the Brazilian Government.

31. Text transferred from Article 8.1 of Proposal IV of the Brazilian Government.

facilities that use, as a method of sales, use, or habitation, the timeshare contract and similar systems or contracts for the use of real estate in turns, located in States parties to this Convention, may also be deemed applicable in addition to these contracts, in favor of the consumer.^{32/}

Article 7. Exclusion of *renvoi*. For the purposes of this Convention, law shall be construed to mean that in force in a State, excluding its private international law provisions regarding the determination of applicable law.^{33/}

Article 8. Information on and proof of consumer law. For the attainment of these goals, States may also make use of mechanisms of the Inter-American Convention on Proof of and Information on Foreign Law or in other international instruments in force in such States, including the designation of Central Authorities.^{34/}

Article 9. Reservations to this Protocol

1. This Protocol supplements the Convention. When signing, ratifying, or acceding to this Convention, States may accept this Protocol or may enter reservations that apply to one or more of its specific provisions.^{35/}
2. A State Party may at any time withdraw a reservation it has entered to this Protocol.^{36/}
3. The effect of such reservation shall cease on the first day of the third calendar month following the date of notification of withdrawal.^{37/}
4. Reservations entered shall have no reciprocal effect.^{38/}

32. Text transferred from Article 13.2 of Proposal IV of the Brazilian Government.
33. Text transferred from Article 14 of Proposal IV of the Brazilian Government.
34. Text transferred from Article 16 of Proposal IV of the Brazilian Government.
35. Text transferred from Article 15.1 of Proposal IV of the Brazilian Government.
36. Text transferred from Article 15.2 of Proposal IV of the Brazilian Government.
37. Text transferred from Article 15.2 of Proposal IV of the Brazilian Government.
38. Text transferred from Article 15.2 of Proposal IV of the Brazilian Government.

**ADDITIONAL PROTOCOL ON INTERNATIONAL JURISDICTION
OVER CERTAIN CONSUMER CONTRACTS AND TRANSACTIONS (III)**

The States Parties gathered at the Seventh Inter-American Specialized Conference on Private International Law (CIDIP-VII), on consumer protection, in addition to the rules contained in the Convention, propose to the States the adoption of this Protocol, as an optional protocol, to facilitate the application of the Convention:³⁹

Article 1. (General rule) The judges and courts of the State Party of domicile of the consumer shall have international jurisdiction over the consumer contracts and transactions covered under this Convention.

Article 2. (Alternative solutions) When the consumer is the claimant, at the consumer's option the following judges and courts of a State Party shall also have international jurisdiction:

- a. those of the place where the contract was concluded;
- b. those of the place of performance of the contract, considering as such the place where the service was performed or where the goods were delivered;
- c. those of the place of domicile of the defendant.

Article 3. (Subsidiaries, branch offices, agencies, or representatives) If the provider against whom a claim has been brought has acted in a consumer relationship through a subsidiary, branch office, agency, or any other type of representation, the judges and courts of the State Party of domicile thereof shall also have international jurisdiction.

Article 4. (More than one defendant) Where a claim has been brought against more than one provider, the judges and courts of the State Party of domicile of any of the defendants shall also have international jurisdiction, regardless of the domicile of the other defendants.

Article 5. Procedural steps taken at a distance

1. To the extent authorized in accordance with the essential and basic principles of the legal procedural system of the forum in which the action is brought, a provider of goods and services may respond to a claim, submit evidence, bring counterclaims, and take any procedural steps arising therefrom before judges of its own place of domicile, who shall act as requested, forwarding documentation to the requesting judge.

2. The preceding subparagraph shall not apply when the provider against which a claim has been brought has subsidiaries, branch offices, places of business, agencies, or any other type of representation in the State Party where the claim is being processed.

3. The authority conferred on the provider under subparagraph 1 of this article does not alter the international jurisdiction established herein or the applicable procedural laws in the State with international jurisdiction.

39. New text, suggested by the delegation of Argentina.

Article 6. Reservations to this Protocol

1. This Protocol is an optional protocol to the Convention and its additional protocols. When signing, ratifying, or acceding to this Convention, States may accept this Protocol or may enter reservations that apply to one or more of its specific provisions.
2. A State Party may at any time withdraw a reservation it has entered to this Protocol.
3. The effect of such reservation shall cease on the first day of the third calendar month following the date of notification of withdrawal.
4. Reservations entered shall have no reciprocal effect.