

He agreed with the Australian representative that an attempt should be made to find a solution to the problems raised by the United Kingdom. The essential problem was to find a way of ensuring that a debtor was informed in due time of proceedings initiated against him in a foreign country by a creditor. He thought the matter should be referred to the Working Group for consideration.

Mr. GUEST (United Kingdom) said that the three problems which the Working Group should consider were: (a) the question of the notification of a debtor of the institution against him of judicial proceedings; (b) the question of the competence of the forum in which the proceedings were instituted; and (c) whether international effect should be given to the causes of interruption stated in articles 12, 14, 15, 16 and 18 (1) (b).

Mr. SMIT (United States of America) said that the Working Group should also consider the question of the definition of the countries in which the occurrence of an interruptive event would have international effect.

The CHAIRMAN observed that certain delegations, such as Belgium, Brazil, France and Nigeria, favoured the deletion of article 35, that others were opposed to it but would accept a reformulation of the principles stated therein and that the overwhelming majority favoured a compromise solution. He suggested that the article should be referred to the Working Group together with the comments of delegations, notably those of the United Kingdom.

It was so decided.

#### Article 36

Mr. BURGUCHEV (Union of Soviet Socialist Republics) proposed that discussion of article 36 should be deferred until the Commission's next meeting because the Working Group was currently engaged in its reformulation.

It was so decided.

#### Articles 37 and 38

The CHAIRMAN noted that the Soviet delegation had proposed (A/CN.9/V/CRP.19) that article 37 should be deleted.

Mr. ROGNLIEN (Norway) felt that the deletion of article 37 would mean that any State could make any reservations it deemed appropriate. The Working Group's intention had been to indicate that, while reservations to specific articles could be made, States would not be free to make other reservations if they wished to be regarded as Contracting States. If article 37 was deleted altogether, States would be able to enter all kinds of reservations and declarations. His delegation would like to have some clarification from the Soviet delegation on that point.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) assured the members of the Commission that it was not the intention of the USSR to enter an indefinite number of reservations. His delegation felt that any international document should permit the minimum number of reservations but was unable to accept article 37, since it stipulated that reservations could be made only in accordance with specific articles and that no other reservations would be permitted. His delegation might have to make declarations or reservations on certain provisions when it signed the Convention, and consequently was unable to support an article which formally precluded such a possibility.

Mr. WARIOBA (United Republic of Tanzania) said that there would obviously be provisions in the Convention that were unacceptable to one delegation or another, but he felt that all delegations should make every effort to reach agreement. The Soviet proposal did not commend itself to his delegation because according to general international law, if there was no article on reservations, any State could enter the reservations it deemed appropriate. Furthermore, as the Nigerian representative had pointed out, the interpretation of reservations was a very difficult task. If the Commission deleted article 37, the result would be a confusing proliferation of reservations and declarations. In the view of his delegation, it would be better for States to become parties to the Convention as it stood or not to become parties at all.

Mr. SMIT (United States of America) said that his delegation supported the deletion of article 37, not because it felt that countries which wanted to ratify the Convention should be free to make any reservations they deemed appropriate, but because it was conscious of the doctrinal concept of the nature

of international law and of the role of sovereignty. It was also anxious to avoid a lengthy and inconclusive debate on the sovereign right of States to make any reservations they desired.

Mr. JAKUBOWSKI (Poland) said that, while his delegation supported a limitation on reservations and felt that any limitation on the scope of the Convention would give rise to very complicated legal consequences, in view of the problems which had given rise to the Soviet proposal, he would suggest that the phrase "in respect of Part I of the Convention" should be inserted at the end of article 37.

Mr. DEI-ANANG (Ghana) said that so far the Commission had been dealing with technical problems but it was now encountering political ones. Certain articles, which were really appendages to the Convention, might give rise to problems for many delegations. For that reason, although his delegation would have liked to retain article 37, it was prepared to accept the proposal of the Soviet delegation.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) said that, although his delegation found the Polish proposal constructive and had no desire to make reservations on the operative part of the Convention, it was nevertheless the sovereign right of States to make reservations. That right should not be curtailed.

Mr. OGUNDERE (Nigeria) suggested that the article might be placed in square brackets for the time being.

Mr. ROGNLIEN (Norway) noted with satisfaction that there appeared to be a consensus that it should not be possible to enter reservations on Part I of the Convention, namely the Uniform Law. He therefore wished to propose that article 37 should be placed in square brackets and referred to the Diplomatic Conference. The Commission should report agreement that there should be no possibility of reservations in respect of Part I of the Convention. It should state that the article was placed in square brackets because it would be left for the Diplomatic Conference to decide whether or not it should be included in the Convention, since the reasons adduced for its deletion had been based on

the principle of sovereignty. The Commission should also refer to the problem of relations between States which made reservations and States which did not make reservations. Finally, in his view, if article 37 was deleted, it might be necessary to have a special provision to clarify the situation; but that could be left to the Diplomatic Conference.

Mr. OLIVENCIA (Spain) supported the Norwegian proposal. He agreed with the representative of Ghana that the subject under discussion was not technical but political and felt that the Diplomatic Conference was the appropriate forum for its solution. Articles 37 and 38, together with Part IV, should be referred directly to the Diplomatic Conference without further discussion in the Commission.

Mr. CHAFIK (Egypt) supported the Norwegian proposal.

Mr. GUEST (United Kingdom) said that, although his delegation would have preferred to retain paragraph 37, it had some doubts about the solution proposed by Poland. It agreed with the Spanish delegation that articles 37 and 38, together with the final clauses, should be referred to the Diplomatic Conference or the Sixth Committee.

The CHAIRMAN said that, if there was no objection, he would take it that articles 37 and 38 and Part IV of the Convention, on which there had been no discussion, should be referred to the Diplomatic Conference.

It was so decided.