

Mr. GUEST (United Kingdom) said that although he discerned general agreement on a maximum limitation period of eight years, subject to certain conditions and reservations, the basic questions remained of whether once the defect had been discovered, the limitation period should be two years as in alternative A or four years as in alternative B. The Indian representative had suggested that the drafting group should proceed on the assumption that it would be better to adopt the four-year period, but other delegations strongly favoured a two-year period. Without some guidance from the Commission, the drafting group would inevitably come up with two alternative proposals similar to the present alternatives A and B, and it would therefore be useful to know the Commission's opinion on the matter.

Mr. RECZEI (Hungary) said he agreed with the Belgian delegation's view that a latent defect was latent only as long as it was not discovered. After discovery it was the same as a patent defect. The same period of time should be adopted for both latent and patent defects. With regard to the length of the period, in practice, the buyer never required more than two months after discovery of a defect or lack of conformity to exercise his rights and claims. A four-year period seemed a very long time and his delegation therefore favoured a two-year period for both latent and patent defects.

Mr. MANTILLA-MOLINA (Mexico) felt that the drafting group might consider whether it was appropriate to use the word "acción" in the Spanish text of article 10.

The CHAIRMAN said that if he heard no objection, article 10 would be referred to a drafting group composed of the representatives of Austria, Belgium, Ghana, Nigeria and the United Kingdom.

It was so decided.

#### Article 9 (continued)

The CHAIRMAN invited the Commission to comment on the proposed new article 9 in document A/CN.9/V/CRP.21/Rev.1/Add.2.

Mr. LEMONTEY (France) suggested that the phrase "for the purpose of paragraph 1" should be added between the word "shall" and the words "be deemed"

in paragraphs 2 and 3. He also pointed out a typographical error in the French text. The word "vol" should read "dol".

Mr. SMIT (United States of America) pointed out that if the proposed new article 9 was accepted, the words "subject to articles 10 and 11" should be deleted from paragraph 3, for it would be quite clear that the entire article was subject to those articles.

Mr. KHOO (Singapore) said that he was satisfied with the revised article 9, whether or not it was amended as suggested by the representative of France.

Mr. MANTILLA-MOLINA (Mexico) said that he was not satisfied with the formulation of article 9. Although paragraph 3 was intended as a clarification of paragraph 1, in fact it destroyed it and he would be quite satisfied to delete the first sentence of paragraph 3 as the representative of Australia had suggested at the morning meeting. Besides, there were two different elements in paragraph 3. The first was contained in the first sentence and the second, regarding the provisions in cases where notice to the other party was a condition for the acquisition or exercise of a claim, should be the subject of a separate paragraph.

Mr. GONDRA (Spain) said he agreed entirely with the objection of the representative of Mexico and that the attempt to establish an alleged connexion between paragraphs 1 and 3 of article 9 was not justifiable because those paragraphs related the start of the prescription period to two points in time which were conceptually and practically distinct. Paragraph 3 provided for an exception to the general norm established in paragraph 1 and, to preserve the balance of the legal construct, should be deleted. He also favoured the deletion of the final point in paragraph 3 relating to the question of time-limits (caducidad), which was outside the sphere of application of the Law.

Mr. GUEST (United Kingdom) supported by Mr. NESTOR (Romania) and Mr. KENNEDY (Australia), said that he agreed with the revised article 9 as amended by the French and the United States representatives.

The CHAIRMAN noted that there seemed to be general acceptance of the revised article 9 with the addition, in paragraphs 2 and 3, of a reference to

paragraph 1 and the deletion from paragraph 3 of the phrase "subject to articles 10 and 11".

Mr. MANTILLA-MOLINA (Mexico) pointed out that as it stood paragraph 3 contradicted paragraph 1. Moreover, it was inconsistent with the system adopted elsewhere in the Convention, since claims based on fraud (article 9 (2)) and those based on defects (article 10 (2)) were both deemed to become due on the date on which the fraud or defect came to the buyer's knowledge. The Convention was therefore inconsistent.

Mr. CHAFIK (Egypt) and Mr. COLOBRES (Argentina) supported the objection of the representative of Mexico.

The CHAIRMAN said that it would be noted that four delegations objected to article 9.