

117th meeting (28 April 1972)

Article 11 (continued)

Article 11 was approved.

Article 12 (continued)

Mr. MANTILLA-MOLINA (Mexico) recalled that, when the provision in paragraph 1 was first examined, his delegation had stated that its wording could give the impression that cessation of the limitation period was linked indiscriminately with the institution of judicial proceedings or the delivery of the request for such proceedings to the defendant. The lack of clarity was all the more regrettable because paragraph 2 of article 13, on arbitration, stated that delivery of the request was taken into consideration. The problem was of considerable practical importance, since, in international proceedings, the institution of proceedings and delivery of the request to the defendant were often separated by several months.

Mr. RECZEI (Hungary) said he had reservations on the words "different contract" at the end of paragraph 2. Indeed, parties frequently maintained continuous trade relations and concluded a series of successive "different" contracts. Thus, the condition provided for at the end of paragraph 2 should not cover the contract, but the relationship between the parties.

Mr. MANTILLA-MOLINA (Mexico) said that the Commission had agreed to consider the article paragraph by paragraph and he regretted that members were not following that procedure.

The CHAIRMAN said that he had submitted article 12 as a whole for consideration by the Commission. He asked representatives to confine their comments to a single article.

Mr. KENNEDY (Australia) proposed deleting the words "against the debtor" in paragraph 1, in order that the provision should cover acts performed by way of counterclaim.

Mr. LOEWE (Austria) recommended that paragraph 1 should remain in its