

119th meeting (1 May 1972)

New draft proposed by the Working Group on Prescription (A/CN.9/V/CRP.21/Rev.1)  
(continued)

Article 19 (continued)

Article 19 was approved.

Article 20 (continued)

Mr. BURGUCHEV (Union of Soviet Socialist Republics) said that in the English text the words "which is not personal to the creditor" seemed to duplicate the other terms used to define the circumstances envisaged in article 20. There should be no difficulty in deleting those words.

Mr. MANTILLA-MOLINA (Mexico) said that the French and Spanish versions of article 20 diverged from the English version on one point. The French text spoke of a circumstance which the creditor could "neither foresee (prévoir) nor overcome" whereas the English text used the words "avoid" and "overcome". The terminology used in the English text seemed more appropriate for there were examples of force majeure, war for example, which could easily be foreseen without it being possible to overcome them. The terms used should therefore be harmonized.

Mr. GUEST (United Kingdom) explained that the Working Group had used the terms "not personal to the creditor" to introduce the idea of non-imputability. There were in fact unforeseeable and insurmountable circumstances which were personal to the creditor - the fact that he fell ill, for example. Such circumstances were excluded from the field of application of article 20.

Mr. SMIT (United States) said he was afraid that the expression "not personal to the creditor" would give rise to uncertainty and confusion. He would prefer it to be replaced by the expression "beyond the control of the creditor" which was more currently employed by Anglo-Saxon jurists.

Mr. SAM (Ghana) supported the suggestion made by the United States representative.