

Mr. HYERA (United Republic of Tanzania) proposed that the Commission should suspend its discussion of article 22 and take a decision on that article when it took up article 34.

The CHAIRMAN said that, in his opinion, it would be better for the Commission to take a decision immediately on article 22. He proposed that the article should be approved on the understanding that the objections raised by various delegations would be reflected in the Commission's report and that the question of reservations would be considered in connexion with article 34.

Article 22 was approved.

Article 23 (continued)

Mr. MANTILLA-MOLINA (Mexico) said that the article was incomprehensible, at least in the Spanish version. Moreover, even the English and French texts of paragraph 1 were not precisely equivalent. The English text appeared to sustain the interpretation that a claimant could be prevented from pressing a claim in respect of which the period of limitation had expired only by judicial decision. The French text, on the other hand, indicated that the claim itself would not be recognized.

Mr. RECZEI (Hungary) recalled that in connexion with the discussion of article 12, his delegation had requested that the words "out of a different contract", which appeared at the end of paragraph 2, should be replaced by a formulation indicating that the restriction in question did not apply to the contract but to the commercial relationship between the two parties. He recommended that the wording adopted for that purpose should also be used in article 23, paragraph 2 (a), which referred to "the same contract".

Mr. SMIT (United States of America) supported the suggestion put forward by the Hungarian delegation. Replying to the point raised by the Mexican delegation, he observed that article 22 met the Working Group's concern to establish a general rule. That provision was not incompatible with article 23 inasmuch as the latter was "Subject to the provisions... of article 22".

Mr. COLOMBRES (Argentina) supported the comments made by the representative of Mexico with reference to paragraph 1 and recommended that the French and Spanish texts should be changed accordingly.

Mr. JENARD (Belgium) said that, in his opinion, the French text was satisfactory and he saw no reason to change it.

Mr. CHAFIK (Egypt) said that whatever the wording chosen to replace the phrase "to the same contract", it should express the idea that both claims must relate to the same action.

Mr. JAKUBOWSKI (Poland) associated himself with the view expressed by the representative of Hungary to the effect that articles 12 and 23 should be changed in tandem.

Mr. COLOMBRES (Argentina) proposed, in view of the obscurity of article 23, paragraph 1, that the provision in question should simply be deleted.

Mr. LOEWE (Austria) seconded that proposal.

Mr. OGUHDERE (Nigeria) said that his delegation was opposed to the deletion of paragraph 1.

Mr. KAMAT (India) recalled that during its initial consideration of article 23, the Commission had expressed itself in favour of retaining paragraph 1. In view of that decision, nothing more than mere drafting changes could be envisaged for the provision in question.

Mr. RECZEI (Hungary) read out the text proposed by the Egyptian delegation for the final clause in article 12, paragraph 2: "provided that such counterclaim does not arise out of a contract of a different nature". His delegation endorsed that formulation and recommended that a similar wording should be used in article 23, paragraph 2 (a).

The CHAIRMAN observed that a clear majority was in favour of retaining article 23, paragraph 1. With regard to paragraph 2, he proposed that a drafting group consisting of the representatives of Austria and Hungary should be entrusted with the task of amending that provision, taking into account the Egyptian proposal. Subject to that amendment, he put article 23 forward for the Commission's approval.

Article 23 was approved.

Article 24 (continued)

Article 24 was approved.