

Mr. CHAFIK (Egypt) said that he could accept the text of article 10 prepared by the Working Group even though it was somewhat less favourable to the developing countries than the version he had originally supported.

Mr. SMIT (United States of America) said that his delegation welcomed the compromise reflected in the proposed new article 10. The representative of Egypt had made a valuable contribution to the achievement of that compromise.

Mr. JENARD (Belgium) welcomed the compromise reflected in the text before the Commission, which his delegation would do everything possible to implement.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) commended the Working Group, which had achieved a compromise. At the same time, he found it very difficult to understand the relation between paragraphs 1 and 2 and paragraph 3 and wondered whether the tenor of paragraph 2 did not contradict the content of paragraph 3. He would not pursue the matter during the current debate but wished his delegation's doubts as to whether paragraphs 2 and 3 were fairly balanced to be recorded. He reserved his delegation's right to state its views in that connexion at the international conference of plenipotentiaries, should it find it necessary to do so.

Mr. MANTILLA-MOLINA (Mexico) pointed out that whereas the English text of paragraph 3 was consistent in referring to a "claim" the French and Spanish referred alternately to "action" (acción) and "droit" (derecho). The French and Spanish versions should use "action" (acción) throughout. He also pointed out that the expression "whether expressed in terms of a specific period of time or otherwise" was loose and required reformulation.

Mr. GONDRA (Spain) pointed out that in the Spanish text "entregados" did not correspond to the English phrase "handed over". He suggested that the wording "puestos a disposición" should be used.

The CHAIRMAN invited the representatives of Mexico and Spain to submit their amendments to the Secretariat.

#### Article 20 (continued)

The CHAIRMAN drew the Commission's attention to the proposed new article 20, in document A/CN.9/V/CRP.21/Rev.1/Add.4.

Mr. SMIT (United States of America) said that in the new article 20, which replaced the original article 19 (A/CN.9/70), the phrase "not personal to the creditor" had been replaced by "beyond the control of the creditor" and the 10-year maximum limitation period had been reduced to four years. In the French and Spanish texts the word "prévoir" ("prever") had been replaced by "éviter" ("evitar") so that the texts in those languages would be closer to the English text.

Mr. CHAFIK (Egypt) said that he would prefer to retain the word "prévoir" (foresee) in the French text, particularly since "éviter" (avoid) and "surmonter" (overcome) were practically synonymous.

Mr. MANTILLA-MOLINA (Mexico) said that the Working Group had discussed the point raised by the representative of Egypt and had considered that "avoiding" and "overcoming" were different, since the first came before and the second after the event. As had been pointed out in the Working Group, foreseeability might apply to contractual obligations, but not with regard to circumstances affecting the limitation period. The Working Group had therefore thought it should not introduce the idea of foreseeability into article 20 by using the words "prévoir" or "prever".

Mr. KHOO (Singapore) said that the formulation of article 20 was no improvement on the original article 19. It allowed extension of the limitation period in a situation where, for example, a creditor could not take action because of adverse financial circumstances. While not objecting to the new article going into the draft Convention, his delegation wished to reserve its position thereon.

Mr. SAM (Ghana), supported by Mr. MUDHO (Kenya), said that article 20 could be readily understood by businessmen and was therefore quite acceptable.

The CHAIRMAN noted that the majority of the Commission appeared to be in favour of approving article 20.

He suggested that the Commission should consider alternative methods for the final adoption of the draft Convention on prescription as set out in document A/CN.9/R.12 and invited the representative of the Secretary-General to address the Commission on the matter.

Mr. SLOAN (Representative of the Secretary-General) said that document A/CN.9/R.12 contained an analysis of alternative methods for the final adoption of the draft Convention on prescription. The alternatives were the convening of an international conference of plenipotentiaries to study the draft articles and to conclude a convention or the conclusion of a convention within the framework of the General Assembly by having the Sixth Committee prepare a final draft. He had discussed the question with the Legal Counsel, who was also the Under-Secretary-General for General Assembly Affairs, and in their view the convening of an international conference of plenipotentiaries would be more suitable in view of the technical nature of the Convention and would be more likely to achieve the best results.

There were also other considerations which the Commission might wish to discuss. It had been suggested that the draft Convention should be circulated to Governments, whose comments and proposals might be reviewed by a small working group, such as the Working Group on prescription, which had played such a notable role in preparing the draft Convention.

Mr. MICHIDA (Japan) said that his delegation considered that an international conference of plenipotentiaries would be the most suitable forum for finalizing the draft Convention on prescription. Furthermore, the Secretariat might be requested to circulate the draft Convention together with the commentary to Governments and interested international organizations for comment and proposals. With regard to the suggestion that the Working Group on prescription should prepare a compilation of those comments and proposals, the Working Group itself had discussed the matter and had felt that the Secretariat would be the most appropriate organ to prepare a summary of comments and proposals received from Governments. His delegation associated itself with that view.

Mr. OGUNDERE (Nigeria) said that on balance his delegation supported the convening of an international conference of plenipotentiaries since it felt that an international conference would give greater publicity to the draft Convention. It would also be inclined to assign the task of compiling comments received from Governments to the Secretariat.

Mr. JENARD (Belgium) said that his delegation favoured an international conference of plenipotentiaries because the Convention dealt with technical issues of a private law nature which were somewhat outside the scope of the normal work of the Sixth Committee. Consequently, it might be necessary to call in experts in private law, which would be an expensive and time-consuming procedure. If the Commission decided to recommend the convening of an international conference of plenipotentiaries, it might be possible to convene it immediately after the 1974 session of UNCITRAL, since a number of the members of UNCITRAL would also be invited to attend the conference. His delegation was convinced of the need to circulate the draft Convention as soon as possible to Governments which had so far not had an opportunity of participating in the work of the Commission. He felt that the Secretariat should be entrusted with the work of summarizing the comments received from Governments.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) said that his delegation was also inclined to favour the convening of an international conference of plenipotentiaries. The annex to A/CN.9/R.12 indicated clearly that the conventions concluded by the Sixth Committee had been rather general in nature, whereas those concluded by international conferences of plenipotentiaries had dealt with more technical and complex subjects. The draft Convention on prescription dealt with technical matters and required a conference attended by specialists capable of considering all aspects of the Convention. An international conference of plenipotentiaries would therefore be the most appropriate forum for the work.

His delegation felt that Governments should be allowed sufficient time to study the draft Convention and that the Secretariat should be entrusted with the work of summarizing comments from Governments.

Mr. MANTILLA-MOLINA (Mexico) said that he was in favour of convening an international conference of plenipotentiaries. The draft Convention should be circulated as widely as possible to Governments for comments and the Secretariat should summarize the replies received from Governments.

The CHAIRMAN noted there appeared to be a consensus in favour of recommending the convening of an international conference of plenipotentiaries to study the draft articles and conclude a convention. However, before a final decision was taken, the question of financial implications would have to be considered. Second, the Secretariat would distribute copies of the draft Convention to Governments, and would invite them to submit their views. The Secretariat would summarize the replies from Governments, which would be submitted to the international conference of plenipotentiaries.

[ The last part of the meeting was taken  
up by the discussion of other matters ]