

120th meeting (1 May 1972)

The CHAIRMAN invited the Commission to continue its consideration of the new draft of articles 29-46 proposed by the Working Group on Prescription (A/CN.9/V/CRP.21/Rev.1/Add.1)

Articles 29 and 30 (continued)

Mr. BURGUCHEV (Union of Soviet Socialist Republics) said that his delegation's views on the substance of article 29 were already known. It was undesirable to require States to provide for an additional instrument giving part I of the Convention the force of law. The article should be redrafted or deleted.

Mr. JENARD (Belgium) thought that the article should be deleted because the Convention would be applicable only in respect of a contract of sale concluded between partners having their places of business in Contracting States.

Mr. GUEST (United Kingdom) was uncertain as to the possible effects of the deletion of article 29. He could not immediately say whether it would be possible, for example, for a State to ratify the Convention and yet not implement it. It might be that ratification would connote that the State in question had implemented the Convention or that it proposed to implement it. If there was any possibility that deletion of article 29 would leave a loop-hole whereby States could ratify but not implement the Convention it would be better to refer the article to the international conference of plenipotentiaries.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) proposed that article 30 should be referred to the conference of plenipotentiaries without further discussion in the Commission.

Mr. KENNEDY (Australia) supported the USSR proposal.

Mr. LOEWE (Austria) agreed that article 29 should be deleted, as it served no purpose.

Article 30 would be applicable in the case of Austria, which was a federal State. However, it would be difficult to reconcile it with the Austrian federal

structure because all the legislative acts relating to the Convention would fall under federal jurisdiction. The requirement that the federal Government should bring acts to the notice of the Austrian provinces would therefore raise difficulties for his Government. As a solution, the text of paragraph (b) might be amended to refer to articles which did not fall entirely within the legislative purview of the federal authority.

Mr. OGUNDERE (Nigeria) said that while he could not agree to the approach suggested by the representative of Austria, he could accept the substitution of "may" for "shall" in paragraph (b).

Mr. GUEST (United Kingdom) said that it would be better to leave the text as it stood for consideration by the international conference of plenipotentiaries, at which States could express their views regarding its content.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) endorsed the United Kingdom representative's remarks.

The CHAIRMAN said that, if there was no objection, he would take it that the Commission agreed to refer articles 29 and 30, as formulated by the Working Group and in brackets, for discussion by the international conference of plenipotentiaries.

It was so decided.

Article 31 (continued)

Article 31 was approved.

Part III: Declarations and reservations

The CHAIRMAN said that, if there was no objection, he would take it that the Commission approved the title of part III.

It was so decided.

Article 32 (continued)

Mr. BURGUCHEV (Union of Soviet Socialist Republics) said that paragraphs 2 and 3 of article 32, which the Working Group had left in brackets,