

Articles 33 and 34 (continued)

Mr. JENARD (Belgium) pointed out that the text of both articles should refer to the Convention as opposed to the "Uniform Law".

Articles 33 and 34 were approved.

Article 35 (continued)

Mr. BURGUCHEV (Union of Soviet Socialist Republics) proposed that article 35 should be deleted for the reasons which he had given for the deletion of article 29.

Mr. JAKUBOWSKI (Poland) said that as the Commission had not adopted the text of alternative B which the Working Group had proposed for article 3, there was no reason to retain article 35. He agreed that it should be deleted.

It was so decided.

Article 36 (continued)

Replying to a question by Mr. OGUNDERE (Nigeria), Mr. JENARD (Belgium) explained that article 36 and article 32, paragraph 1, covered different cases and should both be retained. Article 36 covered conventions, while article 32, paragraph 1, referred to the case of Contracting States which applied the same or closely related legal rules.

Mr. LOEWE (Austria) pointed out that article 36 in fact referred to the Uniform Law on the International Sale of Goods, which did not regulate all matters of prescription in the field of sales, such as cases of non-delivery of goods and failure to pay. Article 32 was wider in scope, since it enabled countries to state that the Convention would not apply between them. It was therefore necessary to retain both articles.

The CHAIRMAN noted that a majority of the Commission was in favour of retaining article 36.

Articles 37-46

The CHAIRMAN suggested that articles 37-46, which had not been considered by the Working Group, should be referred to the international conference of plenipotentiaries for consideration.

Mr. LOEWE (Austria), supported by Mr. BURGUCHEV (Union of Soviet Socialist Socialist Republics), said that the reference to article 35 should be deleted from articles 37 and 38, since article 35 had been deleted.

The CHAIRMAN noted that the Commission agreed that articles 37-46 should be referred to the international conference of plenipotentiaries and asked the Secretariat to make the requisite drafting changes.

Articles 8 and 10 (continued)

The CHAIRMAN called the Commission's attention to the Working Group's proposed new articles 8 and 10 (A/CN.9/V/CRP.21/Rev.1/Add.3). Article 8 simply embodied the Commission's views and would be incorporated in the draft Convention. He asked the delegates for their views on proposed new article 10.

Mr. GUEST (United Kingdom) said that the Working Group had followed its instructions from the Commission in extending the five-year cut-off period to eight years. In the new draft the limitation period was two years from the date of delivery of the goods in cases of patent defects and from the date of discovery of the defect in cases of latent defects. The Working Group had drafted a more satisfactory formulation of the commencement of the limitation period.

Mr. SAM (Ghana) said that he was pleased to see that some measure of consensus was emerging with regard to the limitation period in respect of defects. He would, however, have preferred that period to be four years instead of two. The purchaser was in fact in a worse position if he found a defect in the goods than if the basic four-year limitation period had applied, since the new article 10 meant that a purchaser must take action within two years of discovery of the defect or could not take action at all. However, in a spirit of compromise, he could accept article 10 and would appeal to other delegations to do likewise.

Mr. LOEWE (Austria) said that his delegation reluctantly accepted the compromise proposed by the Working Group, for whose efforts he was grateful. He continued to think that it would be difficult to determine the point at which the limitation period would commence to run under the terms of paragraph 1 and that the period itself was extremely and unusually long.