

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.

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.