

121st meeting (2 May 1972)

The CHAIRMAN said that the Commission had before it addenda 5 to 9 of document A/CN.9/V/CRP.21/Rev.1, which contained the amendments proposed by the different drafting parties which had been asked to reformulate certain articles, and also document A/CN.9/V/CRP.27 which contained a proposal by the representative of Singapore.

Paragraph 1 of article 18 (A/CN.9/V/CRP.21/Rev.1/Add.5) (continued)

Mr. MICHIDA (Japan) said that, in accordance with the Commission's instructions, the drafting party, composed of the representatives of Argentina, Singapore and Japan, had revised the wording of article 18, paragraph 1 by using the words "which... has the effect of recommencing the limitation period prescribed under that law" to describe the act accomplished by the debtor and by reducing the extension of the limitation period from 10 to four years.

Mr. CHAFIK (Egypt) wondered why the authors of the text had put certain words in round brackets in the first sentence and whether those brackets should not be deleted.

Mr. LOEWE (Austria) supported the suggestion made by the representative of Egypt. If the English and French versions were compared, it could be seen that the French text was more correct in using the words "faire courir un nouveau délai de prescription". Moreover, the words "prescribed under that law" which did not appear in the French text, should be deleted from the English text because they were purely repetitive.

Mr. GUEST (United Kingdom), supported by Mr. GUEIROS (Brazil), proposed that the English text should employ the words corresponding exactly to the French formula, "faire courir un nouveau délai de prescription".

Mr. SMIT (United States of America) proposed that the text submitted by the drafting party should be clarified by inserting in the fourth line of the English text the word "original" before the words "limitation period".

Mr. SAM (Ghana) proposed that the round brackets should be replaced by commas.

Mr. MICHIDA (Japan) said he would not object to the deletion of the words "prescribed under that law" from the English text; they had been inserted merely to avoid any ambiguity.

Mr. KHOO (Singapore) supported the proposals for the deletion of the round brackets and the words "prescribed under that law".

Mr. JENARD (Belgium) supported the proposal put forward by the United States representative and suggested that in the French text the words "un nouveau délai de prescription" should be replaced by the words "à nouveau le délai initial de prescription".

The CHAIRMAN suggested that the Commission should adopt the text of article 18, paragraph 1 as proposed by the drafting party, with the following amendments: the round brackets would be replaced by commas; the words "prescribed under that law" would be deleted from the English text; the word "original" would be inserted before the words "limitation period" in the fourth line of the English text; and the words "un nouveau délai de prescription" would be replaced by the words "à nouveau le délai initial de prescription" in the French text.

Article 18, paragraph 1, as amended, was approved.

Articles 12 and 23 (A/CN.9/V/CRP.21/Rev.1/Add.6) (continued)

Mr. RECZEI (Hungary) said that the representative of Austria and himself had been instructed to put forward a new text of article 12, paragraph 2 and article 23, paragraph 2 (a). At the end of article 12, paragraph 2, which dealt with the counterclaim, a new sentence had been introduced making it clear that the claim and the counterclaim related to a contract or contracts concluded in the course of the same transaction. The amendment to article 23, paragraph 2 (a) followed logically on the amendment to article 12.

Mr. CHAFIK (Egypt) felt that the last sentence of article 12, paragraph 2 should be deleted because the counterclaim raised a question of procedure within the field of the lex fori. With regard to article 23, paragraph 2 (a), the two