

Mr. SMIT (United States) pointed out that the proposal of the representative of Guyana would restrict the scope of the text.

The CHAIRMAN noted that a majority had emerged in favour of the revised version of paragraph 2 of article 12 and he suggested that the Commission should adopt that text.

Revised article 12, paragraph 2, was approved.

The CHAIRMAN suggested that the Commission should approve revised article 23.

Revised article 23 was approved.

Article 15 (A/CN.9/V/CRP.21/Rev.1/Add.7) (continued)

Mr. GUEST (United Kingdom), speaking as a member of the drafting party which had been asked to revise article 15, pointed out that in the first reading the Commission had been divided on the question whether paragraph 1 should retain the provision relating to the consent of the debtor. Finally, the drafting party had not maintained that restriction because, under article 21, paragraph 2, the debtor could, in any case, during the limitation period, prolong that period by a written declaration. Furthermore, the drafting party had tried to formulate paragraph 2 more clearly because certain delegations, including that of the Soviet Union, had found it incomprehensible.

Mr. KAMAT (India), speaking as a member of the drafting party, said that he fully approved of paragraph 1 of article 15, but would have preferred some other formulation for paragraph 2. He considered that, to be entitled to an additional period, a creditor should produce proof that he had instituted the initial proceedings with all due dispatch. In a spirit of compromise, however, he had given his support to the text before the Commission.

Mr. OGUNDERE (Nigeria) welcomed the new wording of article 15.

Mr. GUEIROS (Brazil) said that, while he did not withdraw his proposal concerning the article and although he endorsed the Indian representative's comments, he was ready to accept the new wording in a spirit of compromise.

Mr. LOEWF (Austria) supported the revised version of article 15.

Mr. GUNDRA (Spain) said that the use of the term "perención" in the Spanish version was inappropriate.

The CHAIRMAN suggested that Spanish-speaking delegations should amend the text as necessary to accommodate the Spanish delegation's view and invited the Commission to approve revised article 7.

Revised article 7 was approved.

Article 16 (A/CN.9/V/CRP.31/Add.9) (continued)

Mr. SMIT (United States of America), speaking on behalf of the drafting party, said that the new text proposed for article 16 represented an attempt to resolve the problems arising where a creditor, having pursued to judgement an action based on the merits of his claim, found that the judgement could be enforced only in the country in which it was rendered, the assets of the debtor being situated in another State. Revised article 16 would allow the creditor either to institute new proceedings in the other State in order to assert his original claim (para. 1) or to take the necessary steps to obtain recognition or execution in that State of the original decision (para. 2). In both cases, he was entitled to an additional period of one year on the basis of the decision which the Commission had already taken in that connexion. He added that the Commission had already approved paragraph 2 which the drafting party had amended only as necessary to bring it into line with the new wording of paragraph 1.

Mr. MANTILLA-MOLINA (Mexico) had some misgivings with regard to the new wording of article 16. It was for the creditor to establish whether the judgement which he was seeking would be enforceable and, if it was not, he should bear the consequences. Furthermore, he feared that the new article would allow a creditor who had received only partial satisfaction of his claim through judicial proceedings to claim a review of the original judgement by resorting to a court in another State, a procedure contrary to the principle of res judicata.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) thought that paragraph 1 should be deleted. If a majority of the Commission did not agree with that view, he requested that his delegation's position should be noted in the summary record of the meeting.