Mr. GUEIROS (Brazil) said that the Working Group should replace the Latin expression "dies non juridicus" by plain language; the draft Convention, being intended for businessmen, should avoid legalistic Latinisms.

Mr. ELLICOTT (Australia) said that his delegation was proposing a new article 28 A containing a provision as to service (A/CN.9/V/CRP.16).

Mr. LOEWE (Austria) said that, while the Working Group could usefully discuss the Australian proposal, his delegation would have some difficulty in agreeing to the addition of a purely procedural provision as to service, which took no account of either Austrian legislation or international instruments to which Austria was a party. Indeed, the inclusion of such a provision would make it impossible for his Government to accede to the draft Convention.

Mr. JENARD (Belgium) said that he entirely agreed with the Austrian representative's remarks.

Mr. OGUNDERE (Nigeria) said that his country's legislation provided that service could be accomplished in a variety of ways - by hand directly, by publication in newspapers or through notices in the Official Gazette. A provision such as that envisaged by the Australian representative would be too restrictive.

Mr. MANTILLA-MOLINA (Mexico) regretted that his delegation could not support the inclusion of the provision as to service proposed by the Australian representative.

Mr. CHAFIK (Egypt) agreed entirely with the objections of the Austrian representative. The Australian proposal concerned a question of pure procedure and Egyptian legislation in any case contained a provision exactly corresponding to that proposed by the Australian representative.

Mr. ELLICOTT (Australia) said that his delegation would not wish to press its proposal in the face of objections. It had not intended the provision in question to be exclusive; it would be without prejudice to other systems.

Article 29

Mr. BURGUCHEV (Union of Soviet Socialist Republics) thought it desirable that article 29 should be optional. It implied that, in addition to ratification, some special act or instrument was required for the entry into force of the Law.

In some States, however, ratification would be sufficient for the Law to enter into force. The article should not therefore be binding on such States.

Mr. JAKUBOWSKI (Poland) endorsed the USSR representative's remarks. He thought that the article should be deleted, but if a majority of the Commission considered it necessary he would support the USSR proposal that it should be facultative. Under his country's legal system, accession to a convention was sufficient for the instrument to become binding proprio vigore. The provisions of article 29 were in contradiction to the status of the draft Convention as such.

Mr. ROGNLIEN (Norway) said that the purpose of article 29 was to state that Part I of the Convention would have the force of law in each Contracting State. In his view, that principle was an important one. Part I of the Convention was entitled "Uniform Law"; it was an integral part of the Convention and should be regarded as binding. Paragraph (1) of article 29 did not spell out the way in which Contracting States should give the Uniform Law the force of law; that was left to each Contracting State to decide, in accordance with its constitutional procedures. In those countries where it was sufficient to ratify the Convention, Part I, being self-executing, would become the law of the land by the act of ratification and no further action would be required.

Article 29 (2) stated that each Contracting State should communicate to the Secretary-General of the United Nations the text whereby it had given effect to the Convention. If the text in question was simply the act of ratification, that instrument should be transmitted to the Secretary-General. In his view, the article was a significant one. However, if some delegations had difficulties, it should be possible for the Working Group to devise a formulation that would prove acceptable to all delegations and enable the article to be retained.

Mr. HONNOLD (Secretary of the Commission) agreed that paragraph (1) might have to be revised and clarified.

Mr. GUEIROS (Brazil) noted that, almost 30 years after the Brazilian delegation had taken part in the diplomatic conference to draft the Geneva Convention providing a Uniform Law for Bills of Exchange and Promissory Notes, the Brazilian Congress had ratified the Convention and the question had arisen regarding the need for specific legislation to enable it to acquire legal force.

After a number of contradictory decisions, the Supreme Court of Brazil had ruled that the Uniform Law had become binding proprio vigore, as the result of the ratification of an international instrument such as the Convention. Therefore, his delegation considered that the article and commentary were both perfectly clear and covered the point satisfactorily.

Mr. LOEWE (Austria) associated himself with the views expressed by the Soviet and Polish representatives. His own country also observed the principle of direct transmission and a text such as article 29 could give rise to considerable difficulty; his delegation would therefore prefer to delete the article. However, if the article was to be retained, his delegation would support the proposal to reformulate it in order that it should specify that implementing legislation could be purely optional and that States could simply ratify the Convention.

Mr. JENARD (Belgium) felt that a protracted discussion was somewhat premature since the main point at issue was the field of application of the Convention. His own delegation would prefer the Convention to be applied by mutual agreement, in which case there would be no need of article 29. The alternative was that the Convention should be of the traditional kind. However, what was needed, first of all, was a decision upon the Convention's field of application.

Mr. KAMAT (India) said that his delegation appreciated the purpose of article 29 because in his country conventions did not automatically become the law of the land and implementing legislation was required. However, it had some doubts whether the language in the article could take care of the problem of reservations in Part III. The commentary on the article stated that the Uniform Law was not a "model Law" and that its provisions could not be changed to modify its meaning. However, Contracting Parties would presumably make changes or reservations with regard to Part I when adopting the implementing legislation. The language of the article did not seem quite satisfactory and should perhaps be amended to specify that the Contracting State would give the provisions of Part I the force of law, subject to any changes that might be necessary as a result of reservations.

Mr. RECZEI (Hungary) agreed with the views of the Belgian delegation and felt that the diplomatic conference would have to take a decision on the final scope of the Convention. In the opinion of his delegation, the ratification of an international convention had, in fact, the force of law because it was considered

as a special law which took precedence over general law. His delegation felt that the article should be deleted, as it appeared both superfluous and premature.

Mr. ELLICOTT (Australia) said that an international convention could not become part of Australian law automatically. His delegation was particularly concerned with two matters: the obligation undertaken by each of the Contracting States and the implementation of that obligation. It might be possible to separate those two aspects and specify either that the provisions in Part I should have the force of law in each Contracting State or that, when necessary, each Contracting State should, in accordance with its constitutional procedures, give the force of law to Part I. His delegation had a further difficulty; Australia was a federal State and it was not always possible for a federal Government to implement a convention which might come within the legislative jurisdiction of its constituent states. His delegation felt that there should be some provision to deal with the problems of federal or non-unitary States and it had therefore submitted an amendment to the article (A/CN.9/V/CRP.16).

Mr. KHOO (Singapore) said that it should not be too difficult to devise a formula for article 29 to satisfy those States whose constitution would require some legislative action to give effect to the Convention. His delegation felt that a formulation such as "Each Contracting State shall take such steps as may be necessary in accordance with its laws or constitution" would not imply that the Contracting State was obliged to take steps under its own law. In his view, such a formulation would solve at least some of the problems connected with article 29 (1). In paragraph (2), a formula such as "Each Contracting State shall notify the Secretary-General of the United Nations of the coming into force of this Convention in its territory and, where any instrument is required under the constitution of law of any Contracting State, a copy of such instrument shall also be forwarded to the Secretary-General of the United Nations" might prove satisfactory.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) said that article 29 was, to say the least, unsatisfactory. In paragraph (1) his delegation had the impression that the words "not later than the date of the entry into force" clearly implied that a document other than the instrument of ratification was necessary for the Convention to have the force of law. Furthermore, article 40 of Part IV stated

that the instruments of ratification were to be deposited with the Secretary-General of the United Nations and article 29 (2) was either a repetition and quite unnecessary, or referred to something other than article 40. Accordingly, article 29 should be referred back to the Working Group.

Mr. OGUNDERE (Nigeria) said that his delegation had some difficulties with article 29, as his own country was a federal State. The article was quite inappropriate in the case of federal or non-unitary States and should be either deleted or referred back to the Working Group with a request to study the problems of federal States more carefully.

Mr. JAKUBOWSKI (Poland) said that in his country a ratified convention acquired the force of law and no other implementing legislation was necessary. The present drafting of article 29 would make it necessary to take specific implementing action. Professors Matteucci and von Caemmerer had drawn attention to a number of situations in which Contracting Parties had introduced changes in the original text of a Uniform Law and had noted that legislative interpretation was one of the main sources of lack of uniformity in its application.

Mr. LEMONTEY (France) felt that the Commission should postpone further consideration of article 29 until it had discussed the field of application of the Convention.

Mr. YAÑEZ-BARNUEVO (Spain) said that his delegation shared the difficulties expressed by a number of delegations with regard to article 29, which seemed to be based on the assumption of the need to incorporate the Convention into national law. In view of the problems raised, his delegation felt that article 29 should be deleted or rephrased to include the expression "... shall have the force of law". Furthermore, his delegation wondered whether it would not be more appropriate to use the term "State Party" rather than "Contracting State"; the Working Group might wish to consider that point.

Mr. JENARD (Belgium) felt that it was still premature to discuss article 29 until the scope of the Convention had been defined. The Commission might envisage either a reciprocal Convention or a Uniform Law and, if it chose the latter, there would be problems for some countries because there would be two instruments, the Convention and the Uniform Law. If no time-limit was established, States might ratify the Convention without introducing the Uniform Law.

Mr. GUEIROS (Brazil) said that article 29 was very closely related to article 42. Both articles should be referred back to the Working Group.

Mr. SINGH (India) said that the question of the ratification of treaties fell within the purview of public international law, not private international law. Multilateral treaties must be governed by public international law. The Convention should not stipulate how States should ratify the instrument; it should be left to each country to ratify the Convention in accordance with its own procedures.

Mr. MAHUNDA (United Republic of Tanzania) said that he considered article 29 superfluous, inasmuch as it could be interpreted as calling for an act of ratification. Article 40 specified that the Convention was subject to ratification.

Mr. LEMONTEY (France) said that the Commission should not decide whether to retain or delete article 29 until it had taken a decision on the sphere of application of the Convention.

The CHAIRMAN said that, if there was no objection, he would take it that the Commission agreed to defer consideration of article 29 until it had discussed the sphere of application of the Convention.

It was so agreed.

/The last part of the meeting was taken up by the discussion of other matters/