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Summary record of the 661st meeting

Topic:
Law of Treaties

Extract from the Yearbook of the International Law Commission:-
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661st MEETING

Wednesday, 13 June 1962, at 10 a.m.

Chairman: Mr. Radhabinod PAL

Law of treaties (A/CN.4/144 and Add.1) (item 1 of the agenda) *(continued)*

DRAFT ARTICLES SUBMITTED BY THE DRAFTING COMMITTEE *(continued)*

ARTICLE 19 *bis*. — THE RIGHTS AND OBLIGATIONS OF STATES PRIOR TO THE ENTRY INTO FORCE OF A TREATY

1. The CHAIRMAN invited the special rapporteur to introduce article 19 *bis*, a new article which had been prepared by the Drafting Committee and which read as follows:

"1. A state which takes part in the negotiation, drawing up or adoption of a treaty is under an obligation of good faith, unless and until it shall have signified that it does not intend to become a party to the treaty, to refrain from acts calculated to frustrate the objects of the treaty, if and when it should come into force.

"2. Pending the entry into force of a treaty and provided always that such entry into force is not unduly delayed, the same obligation shall apply to the state which, by signature, ratification, accession, acceptance or approval has established its consent to be bound by the treaty".

2. Sir Humphrey WALDOCK, Special Rapporteur, said that in the course of the discussion of various articles, it had been suggested that particular points should be transferred to article 19 *bis*. One of those points was the question of provisional entry into force. The Drafting Committee had decided, however, that that question should be dealt with in the articles concerning entry into force.[1]

3. The Drafting Committee had further decided that the question of the legal force of the final clauses of a treaty, before the treaty had come into force, should be dealt with in the provisions concerning authentication.

4. After some discussion as to what article 19 *bis* should include, the Drafting Committee had finally reduced it to two paragraphs, one relating to the position of the state which takes part in the negotiation or drawing up of a treaty, and the other to the position of the state which commits itself to be bound by one of the acts of signature, ratification, accession, acceptance or approval. In discussing earlier in connexion with article 5 the question of the obligation on a state to refrain from any action that might frustrate the object of the treaty, the Commission had not in any sense taken a position; it had merely reserved a decision on that point.[2] But in dealing with the position of a state which commits itself to be bound by a treaty, it was not possible to proceed by the negative method. If the Commission accepted the Drafting Committee's text in article 19 *bis*, it would be going rather further than he had done in his original draft, but he thought it would be right to say that the obligation in question did in fact exist.

5. The CHAIRMAN said that, if there were no objection, he would consider that article 19 *bis* was approved.

It was so agreed.

ARTICLE 22. — THE REGISTRATION AND PUBLICATION OF TREATIES

6. The CHAIRMAN invited the special rapporteur to introduce the Drafting Committee's redraft of article 22, which read as follows:

"1. The registration and publication of treaties entered into by Members of the United Nations shall be governed by the provisions of Article 102 of the Charter of the United Nations.

"2. Treaties entered into by any party to the present articles, not a member of the United Nations, shall as soon as possible be registered with the Secretariat of the United Nations and published by it.

"3. The procedure for the registration and publication of treaties shall be governed by the regulations in force for the application of Article 102 of the Charter."

7. Sir Humphrey WALDOCK, Special Rapporteur, said that the redraft was very brief. The Drafting Committee had carried out the Commission's instructions not to state rules on the subject, but to deal with the matter by reference to the United Nations Charter and to the regulations made under the Charter. Under paragraph 2, states not members of the United Nations but parties to the convention which the Commission was drafting were obliged to register treaties with the United Nations Secretariat, but could not be subject to the sanctions provided for in Article 102 of the Charter.

8. Mr. ROSENNE pointed out that the words "or filed and recorded as appropriate" which had appeared in brackets after the word "registered" in paragraph 1 of the special rapporteur's original draft of the article had been omitted from the Drafting Committee's version.

9. Sir Humphrey WALDOCK, Special Rapporteur, suggested that the words should be included in paragraph 2, since it was the practice of the Secretariat to file and record treaties submitted by states not members of the United Nations.

10. The CHAIRMAN said that, if there were no objection, he would consider that article 22, as thus amended, was approved.

It was so agreed.

ARTICLE 24. — THE CORRECTION OF ERRORS IN THE TEXTS OF TREATIES FOR WHICH THERE IS NO DEPOSITARY

11. The CHAIRMAN said the Drafting Committee had prepared a redraft of article 24, which read as follows:

"1. Where an error is discovered in the text of a treaty for which there is no depositary after the text has been authenticated, the interested states shall by mutual agreement correct the error either:

"(*a*) by having the appropriate correction made in the text of the treaty and causing the correction

[1] 657th meeting, para. 3.

[2] 643rd meeting, para. 47.

to be initialled in the margin by representatives duly authorized for that purpose;

"(*b*) by executing a separate protocol, a *procès-verbal*, an exchange of notes or similar instrument, setting out the error in the text of the treaty and the corrections which the parties have agreed to make; or

"(*c*) by executing a corrected text of the whole treaty by the same procedure as was employed for the erroneous text.

"2. The provisions of paragraph 1 shall also apply where there are two or more authentic texts of a treaty which are not concordant and where it is proposed to consider the wording of one of the texts inexact and requiring to be corrected.

"3. Whenever the text of a treaty has been corrected under the preceding paragraphs of the present article, the corrected text shall replace the erroneous text as from the date the latter was adopted."

12. Sir Humphrey WALDOCK, Special Rapporteur, said that the article did not differ fundamentally from his original draft, but certain points raised in the discussion had been taken into account.

13. Mr. CADIEUX said that, in the French text of paragraph 2, the wording "*deux ou plusieurs*" should be replaced by "*deux ou multiples*".

14. Mr. GROS said that he thought that both meant the same thing, but he preferred the former.

15. Sir Humphrey WALDOCK, Special Rapporteur, said that Mr. Briggs had expressed his reluctance to accept the wording "two or more authentic texts of a treaty". Had that view been accepted, the word "version" would have been used instead of "authentic text". In the opinion of the Drafting Committee, however, it was correct to speak of two or more authentic texts, and not of two or more versions. Two or more versions of a treaty would imply that one of them was not authentic.

16. Mr. BARTOŠ said that both he and Mr. Rosenne had raised the question of the concordance of the texts of treaties drawn up in different language versions. They had since agreed that the new text of article 24, paragraph 2, covered not only errors in the authenticated text of a treaty, but also discrepancies between the different versions of the treaty drawn up in several languages. If the special rapporteur would agree to insert an explanation to that effect in the commentary, there would be no need to lay down the rule in the article itself.

17. Another point which might be mentioned in the commentary was that, although it had been decided that the corrected text had no retroactive effect, it was nevertheless possible for the parties to insert in the text an express provision making the correction retroactive.

18. Sir Humphrey WALDOCK, Special Rapporteur, pointed out that, in his original draft of article 24, paragraph 3, he had included the words "unless the states concerned shall otherwise decide". If that clause were included in the new text of the article, Mr. Bartoš' point might be met.

19. Mr. LIANG, Secretary of the Commission, said he was not quite clear as to the force of the words "it is proposed" in paragraph 2. Perhaps the second half of the paragraph could be altered to read "and where it is considered that the wording of one of the texts is inexact and requires to be corrected".

20. Sir Humphrey WALDOCK, Special Rapporteur, said that, in his original draft, he had stressed the need for the parties to agree that an error had occurred, because there was a real danger of one party unilaterally declaring that the text was inexact and using that as a pretext for not accepting the treaty. Agreement was a prerequisite for the correction of errors. In discussing article 25, on the correction of errors in the text of treaties for which there is a depositary, the whole question of agreement on the existence of errors would have to be viewed differently; in such cases objections to the text were made either by the depositary or by one of the parties, and a notice was circulated to all the interested states. Paragraph 3 of article 25 described that procedure, and the Drafting Committee, believing that the procedure in cases where there was no depositary was broadly the same, had used similar phraseology in paragraph 2 of article 24, especially since agreement was expressly provided for in paragraph 1. It had been thought that there would necessarily be a formal proposal that the wording of one of the texts should be regarded as inexact.

21. Mr. LIANG, Secretary of the Commission, suggested that in that case the last part of paragraph 2 should be replaced by the words "and where a request has been made to correct one of the texts". The Drafting Committee's wording was not explicit enough to convey that the proposal was to be formal.

22. Sir Humphrey WALDOCK, Special Rapporteur, suggested that the last part of the paragraph should read "and where it is proposed to correct the wording of one of the texts".

23. Mr. YASSEEN said that corrections of errors should be given retroactive effect, as was in fact done in paragraph 3. A genuine correction should be intended to restore the provision which the parties had originally had in mind. He would refrain from referring to the rules of domestic law on the matter; the conclusion he had reached was due to the very nature of the error and of the correction. In deference to Mr. Bartoš' point, however, the words "unless the parties shall otherwise decide" might be added at the end of the paragraph. That addition seemed to be justified, since it might be said that in certain specific cases non-recognition of the retroactive effect of a correction would mean that the parties ascribed to that correction a significance exceeding that of merely revealing their original intentions.

24. Mr. LACHS said that the adjective "erroneous" in sub-paragraph 1 (*c*) did not properly describe the text to be corrected, whose main feature was that it was the original text; it just happened to be erroneous. The emphasis should therefore be placed not on the error but on the originality, and the adjective "original" should be substituted for "erroneous".

25. Sir Humphrey WALDOCK, Special Rapporteur, said that if the Drafting Committee decided to retain the sub-paragraph in its existing form, the word "defective" might be a more appropriate word than "erroneous".

26. The CHAIRMAN suggested that article 24 should be referred back to the Drafting Committee for redrafting.

It was so agreed.

ARTICLE 1. — DEFINITIONS

27. The CHAIRMAN said that the Drafting Committee had submitted a redraft of article 1, which read as follows:

"1. (*a*) 'Treaty' means any international agreement in written form, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation (treaty, convention, protocol, covenant, charter, statute, act, declaration, concordat, exchange of notes, agreed minute, memorandum of agreement, *modus vivendi* or any other appellation), concluded between two or more states or other subjects of international law and governed by international law.

"(*b*) 'Treaty in simplified form' means a treaty concluded by exchange of notes, exchange of letters, agreed minute, memorandum of agreement, joint declaration or other instrument concluded by any similar procedure.

"(*c*) 'General multilateral treaty' means a multilateral treaty which concerns general norms of international law or deals with matters of general interest to states as a whole.

"(*d*) 'Ratification', 'Accession', 'Acceptance', and 'Approval' mean in each case the act whereby a state establishes on the international plane its consent to be bound by a treaty.

"(*e*) 'Full-powers' means a formal instrument issued by the competent authority of a state authorizing a given person to represent the state either generally for the purpose of concluding a treaty or for the particular purpose of negotiating or signing a treaty or of executing an instrument relating to a treaty.

"(*f*) 'Reservation' means a unilateral statement made by a state, when signing, ratifying, acceding to or accepting a treaty whereby it purports to exclude or vary the legal effect of some provisions of the treaty in its application to that state.

"(*g*) 'Depositary' means the state or international organization entrusted with the functions of custodian of the authentic text and of all instruments relating to the treaty.

"2. Nothing contained in the present articles shall affect in any way the characterization or classification of international agreements under the internal law of any state."

He suggested that the various sub-paragraphs of paragraph 1 should be discussed in order.

28. Sir Humphrey WALDOCK, Special Rapporteur, said that the new draft of article 1 was a good deal shorter than his original draft. The definitions of "Party", "Adoption", "Authentication", "Signature" and "Signature *ad referendum*" had been omitted but would be explained in the articles concerned. The Drafting Committee had, however, included definitions of "Treaty in simplified form", "General multilateral treaty" and "Reservation". The Drafting Committee had had considerable difficulty with the definitions of "Ratification", "Accession", "Acceptance" and "Approval".

29. Mr. TSURUOKA suggested that, at the beginning of article 1, an introductory passage along the following lines should be inserted:

"For the purposes of the present articles, the following expressions shall have the meanings hereunder assigned to them."

It was so agreed.

30. Mr. PAREDES said that he reserved his position on the first definition, sub-paragraph 1 (*a*), and would abstain from any vote on it.

Sub-paragraph 1 (a) *was approved.*

31. Sir Humphrey WALDOCK, Special Rapporteur, introducing sub-paragraph 1 (*b*), said that the Drafting Committee had found that it could not define "Treaty in simplified form" except by means of illustrations, for, if it were defined in abstract terms, the Commission would also have to define a treaty in the formal sense. The difficulty in preparing a complete definition lay in the fact that certain instruments, such as protocols, might be either treaties in simplified form or other treaties. It had therefore been decided to indicate the sense in which the term was used in the draft articles by naming certain instruments. The Drafting Committee had been tempted to define the meaning of the term by reference to ratification — or its absence — but had found that such a definition was not really admissible, because some treaties in simplified form were in fact subject to ratification.

Sub-paragraph 1 (b) *was approved.*

32. Sir Humphrey WALDOCK, Special Rapporteur, referring to sub-paragraph 1 (*c*), said that the essential feature of a general multilateral treaty was the general character of its objects. That general character was expressed in two forms in the sub-paragraph, through reference to the general norms of international law and to matters of general interest to states. The purpose of the second reference was to broaden the scope of the definition, since there were many multilateral treaties which, although entirely general, did not relate to norms of international law. For example, general agreements on formalities for the introduction of motor vehicles into various countries were of general interest to all states, but could not be said to concern general norms of international law.

Sub-paragraph 1 (c) *was approved.*

33. Sir Humphrey WALDOCK, Special Rapporteur, said that the four definitions in sub-paragraph 1 (*d*) had originally been separate. The Drafting Committee had

at first tried to distinguish between the various forms whereby a state committed itself to be bound by a treaty, and had had no difficulty in drawing such a distinction between ratification and the other forms. But it had gradually reached the conclusion that the various forms of committing a state were largely a matter of terminology. Ratification and acceptance might seem to be different procedures, since ratification had a long history in international law; but some forms of acceptance were very similar to ratification, while others were very close to accession. It was also hard to distinguish between approval and acceptance. The Drafting Committee had consequently decided that the only point that really needed to be stressed was that all four terms meant an act, effective internationally, which denoted a state's consent to be bound by a treaty; differences of procedure would be apparent from the relevant articles.

34. Mr. VERDROSS said that, while he could accept sub-paragraph (*d*) in substance, he must point out that signature also could establish the final consent of a state to be bound by a treaty. Unless some reference to signature were included, the provisions of sub-paragraph (*d*) would not be consistent with those of article 9, on the legal effects of signature.

35. Mr. TUNKIN said he agreed with Mr. Verdross that a reference to signature should be added. He also suggested that, after the words "the act", the words "so designated" should be inserted.

36. Mr. BRIGGS asked how the provisions of article 1, sub-paragraph (*d*), would differ from those of articles 7, 7 *bis* and 7 *ter*, which dealt with participation in a treaty, and covered ratification, accession, acceptance, approval and some of the legal effects of signature.

37. Sir Humphrey WALDOCK, Special Rapporteur, said that articles 7, 7 *bis* and 7 *ter* dealt with the range of states to which a treaty was open. The procedure by which participation took place would be dealt with in subsequent articles. Separate articles would deal with signature, ratification, accession, acceptance and approval; those articles would be short because the substance was already in articles 7, 7 *bis* and 7 *ter*.

38. Mr. AMADO asked for an explanation of the expression "established on the international plane"; in sub-paragraph (*a*) the term "treaty" was already defined as an "international" agreement.

39. Also in connexion with sub-paragraph (*a*), he repeated his earlier reservations with regard to the expression "governed by international law", an expression which he could not accept.

40. The least that could be said of that definition was that there was unnecessary repetition of the term "international".

41. Mr. GROS, Chairman of the Drafting Committee, said that the Drafting Committee had carefully weighed the remarks and the suggestion made by Mr. Amado at the 655th meeting, but had preferred not to depart from the decision of the Commission in 1959 to include the expressions "international agreement" and "governed by international law" in the definition of "treaty" in sub-paragraph (*a*).[3]

42. The use of the expression "international agreement" was correct in a definition which was to appear in a convention embodying rules of international law; it served to indicate that the term "treaty" did not include, for example, agreements between a private individual or company and a state.

43. As to Mr. Amado's dissenting opinion regarding the expression "governed by international law" based on his observation that agreements between states existed which were subject to the private law of one of the two states concerned, the Drafting Committee had come to the conclusion that a reference to it should be included in the commentary. The Committee had taken the view that, since such agreements were not governed by international law, they fell outside the definition of "treaty" for the purposes of the draft articles.

44. With regard to sub-paragraph (*d*), all the members of the Drafting Committee had agreed that the clause should indicate that ratification, accession, acceptance and approval meant the act whereby a state established its consent to be bound by a treaty, not on the constitutional but on the international plane. Constitutional authorization to ratify might be extremely important in internal law but the sole intention in sub-paragraph (*d*) was to define the international act by which the decision, taken on the internal constitutional plane, was brought to the knowledge of the other parties to the treaty. Sub-paragraph (*d*) defined the international act by which the consent of the state to be bound by the treaty became manifest; that act took effect, in the case of ratification, by the deposit or the exchange of the instruments of ratification.

45. Sir Humphrey WALDOCK, Special Rapporteur, said that if signature had to be included in sub-paragraph (*d*), it would have to be dealt with separately because signature had sometimes the effect of merely authenticating the text and sometimes that of finally committing the state.

46. Mr. LIANG, Secretary to the Commission, said that the French term "*manifeste*" was preferable to the English term "establishes", which suggested connotations that might not have been present in the minds of the members of the Drafting Committee.

47. Sir Humphrey WALDOCK, Special Rapporteur, said he preferred the English term. It was not enough for the state to "manifest" its intention to be bound by the treaty; that intention had already been made manifest by the signature which was subject to ratification. Sub-paragraph (*d*) was meant to refer to the communication of the instrument of ratification by means of its deposit or its exchange for the corresponding instrument; it was that deposit or exchange which constituted the international act of ratification.

48. Mr. VERDROSS said that he could accept sub-paragraph (*d*) subject to the additions proposed by Mr. Tunkin.

[3] *Yearbook of the International Law Commission 1959*, Vol. II (United Nations publication, Sales No.: 59.V.1, Vol. II), p. 95.

49. He also thought that it should be possible to include a reference to signature; the difficulty indicated by the special rapporteur could be avoided by referring to "final signature".

50. Mr. AMADO thanked the Chairman of the Drafting Committee for his explanations, which he accepted. He would be reluctant, however, to accept the use of the word "establishes" in the English text, perhaps the word "publishes" or "expresses" would be better.

51. Mr. TABIBI said he supported the suggestion of Mr. Verdross that a reference to signature should be included in sub-paragraph (*d*). Final signature was an important method of establishing the consent of a state to be bound by a treaty; more and more treaties did not need ratification and in those cases signature was the only international act which signified the commitment of states.

52. Sir Humphrey WALDOCK, Special Rapporteur, in reply to Mr. Amado, pointed out that his original definition did not contain the word "establishes", which had been introduced by the Drafting Committee, largely because it was not possible to say that the state became a party to the treaty. For a state to become a party to a treaty, the treaty had to enter into force, and entry into force usually depended on a specified number of ratifications or accessions. None of the terms suggested by Mr. Amado contained all the implications of the word "establishes".

53. Mr. AMADO said he would not press the point.

54. Mr. ROSENNE, supporting the use of the word "establishes", suggested that the French text should be brought into line with the English.

55. To take account of the point made by Mr. Verdross, he suggested that the full stop at the end of sub-paragraph (*d*) should be replaced by a comma and the words "where signature is not sufficient for that purpose" added. That would avoid the danger of defining the term "signature", which was used in several meanings, including that of full signature.

56. The CHAIRMAN suggested that sub-paragraph (*d*) should be referred back to the Drafting Committee with the suggestions made during the discussion.

It was so agreed.

57. Sir Humphrey WALDOCK, Special Rapporteur, introducing sub-paragraph (*e*), said that the definition of "full-powers" was a modified version of that contained in his original draft.

58. Mr. VERDROSS suggested the inclusion of a reference to the possibility that full-powers might authorize the person concerned to conclude the treaty definitively. He did not know whether the use of the words "for the purpose of concluding a treaty" was intended to cover the situation.

59. Sir Humphrey WALDOCK, Special Rapporteur, replied that there had been no intention to cover final acceptance of a treaty by means of the expression "for the purpose of concluding a treaty".

60. Sub-paragraph (*e*) drew a distinction between full-powers which authorized a person to represent a state for the whole process of concluding a treaty, from negotiation to signature, and full-powers which only covered a particular stage of that process such as negotiation, signature or the execution of an instrument relating to the treaty.

61. Mr. de LUNA said that, in addition to the two possibilities indicated by the special rapporteur and that mentioned by Mr. Verdross, there was a fourth: that the full-powers might authorize the representative in general terms to negotiate any treaty whatsoever.

62. Mr. LIANG, Secretary to the Commission, said that he had never encountered a case of full-powers couched in general terms authorizing a representative to conclude a treaty "definitively", covering the whole process up to and including the deposit of the instrument of ratification. In any case, the full-powers would have to specify all the acts which the representative was authorized to perform.

63. Where full-powers were given "to conclude a treaty", they covered only the negotiation, adoption and authentication of the text. If the representative was to have authority to sign a treaty, the fact should be explicitly stated; full-powers would not authorize the representative finally to commit the state concerned.

64. The provisions of sub-paragraph (*e*) seemed to cover two cases: that of full-powers authorizing a person to represent the state for the whole process of conclusion of the treaty up to signature, and that of full-powers for the particular purpose of negotiating or signing a treaty or of the deposit of ratifications.

65. Mr. GROS said that state practice offered examples of full-powers which covered all the stages of conclusion of a treaty.

66. Mr. TUNKIN pointed out that the answer to the question whether the full-powers covered the process of finally committing the state might depend on the terms of the treaty itself. Full-powers were usually given for the purpose of negotiating and signing a treaty; if, under the terms of the treaty as ultimately agreed upon, no ratification were required, the full-powers would cover the final act of commitment by the state.

67. Mr. BARTOŠ pointed out that the general power of attorney of municipal law, which made the representative or attorney an *alter ego* of the grantor of the power of attorney, was an institution unknown to international law. He had never encountered a case where a representative had been authorized generally to sign any treaty whatsoever. In international practice, the expression "general full-powers" simply meant full-powers to perform all acts relating to a particular treaty or group of treaties, or to all the documents which might be the outcome of a conference or a particular set of negotiations. It was necessary to clarify the language of sub-paragraph (*e*) and avoid any expression which suggested the idea of a general power of attorney.

68. Sir Humphrey WALDOCK, Special Rapporteur, said that he was in entire agreement with Mr. Bartoš. He suggested that the expression "generally for the purpose of concluding a treaty" should be replaced by language indicating that the full-powers could authorize a given person to represent the state for the comprehen-

sive process of the conclusion of the treaty, including all the various stages involved. That change would involve the elimination of the unsatisfactory term "generally".

69. The CHAIRMAN suggested that sub-paragraph (*e*) should be referred back to the Drafting Committee.

It was so agreed.

70. Sir Humphrey WALDOCK, Special Rapporteur, introducing sub-paragraph (*f*), explained that the Drafting Committee had dropped the reference to a "condition" and had decided that the substance of the second sentence in the original definition of a reservation could be dealt with in the commentary. The point was of importance because explanatory statements were quite often made and sometimes constituted a concealed reservation.

71. Mr. ROSENNE suggested that, as "approval" had been mentioned specifically in sub-paragraph (*d*), the word "approving" should be added in sub-paragraph (*f*).

It was so agreed.

Sub-paragraph (f) *as thus amended was approved.*

72. Sir Humphrey WALDOCK, Special Rapporteur, introducing sub-paragraph (*g*), said that the Drafting Committee had discussed the possibility, particularly in relation to the Red Cross, that there could be other depositaries, but not one of the Committee's members who were legal advisers to their governments could recall a single instance of a depositary not being either a state or an international organization.

73. Mr. ROSENNE pointed out that the word "authentic" had been used in a different sense in the revised version of article 24. In order to avoid confusion it should be replaced by the word "original" in sub-paragraph (*g*).

74. Mr. BRIGGS suggested that the reference was to the "original instrument" rather than the text.

75. Mr. LACHS agreed with Mr. Briggs.

76. Mr. TSURUOKA observed that no adjective was needed to qualify the word "text".

77. Mr. YASSEEN agreed with Mr. Tsuruoka.

78. Mr. CADIEUX said that if the word "authentic" were deleted, the words "of the treaty" should be inserted after the word "text".

Sub-paragraph (g) *as thus amended was approved.*

79. Sir Humphrey WALDOCK, Special Rapporteur, introducing paragraph 2, said that the provision had been discussed at the 655th meeting in connexion with article 1, on definitions, and its general form appeared to have commended itself to the Commission, except that Mr. Briggs had suggested that it should follow sub-paragraph (*c*). Personally, he would prefer that it should remain at the end of the article as a general provision.

80. Mr. BRIGGS said he could agree to that.

81. Mr. de LUNA and Mr. CADIEUX asked that the French text should be brought into line with the English.

It was so agreed.

Paragraph 2 was approved.

The meeting rose at 12.25 p.m.

662nd MEETING

Thursday, 14 June 1962, at 11.15 a.m.

Chairman: Mr. Radhabinod PAL

Law of treaties (A/CN.4/144 and Add.1) (item 1 of the agenda) (*continued*)

DRAFT ARTICLES SUBMITTED BY THE DRAFTING COMMITTEE (*continued*)

ARTICLE 25. — THE CORRECTION OF ERRORS IN THE TEXTS OF TREATIES FOR WHICH THERE IS A DEPOSITARY

1. Sir Humphrey WALDOCK, Special Rapporteur, said that the Drafting Committee had made a number of drafting changes in his original article 25 and proposed the following redraft:

"1. (*a*) Where an error is discovered in the text of a treaty for which there is a depositary, after the text has been authenticated, the depositary shall bring the error to the attention of all the states which participated in the adoption of the text and to the attention of any other states which may subsequently have signed or accepted the treaty, and shall inform them that it is proposed to correct the error if within a specified time-limit no objection shall have been raised to the making of the correction.

"(*b*) If on the expiry of the specified time-limit no objection has been raised to the correction of the text, the depositary shall make the correction in the text of the treaty, initialling the correction in the margin, and shall draw up and execute a *procès-verbal* of the rectification of the text and transmit a copy of the *procès-verbal* to each of the states which are or may become parties to the treaty.

"2. Where an error is discovered in a certified copy of a treaty, the depositary shall draw up and execute a *procès-verbal* specifying both the error and the correct version of the text, and shall transmit a copy of the *procès-verbal* to all the states mentioned in paragraph 1 (*b*) of the present article.

"3. The provisions of paragraph 1 shall likewise apply where two or more authentic texts of a treaty are not concordant, and a proposal is made that the wording of one of the texts should be deemed to be inaccurate and to require correction.

"4. If an objection is raised to a proposal to correct a text under the provisions of paragraph 1 or 3 of the present article, the depositary shall notify the objection to all the states concerned, together with any other replies received in response to the notifications mentioned in paragraphs 1 and 3. However, if the treaty is one drawn up either within an international organization or at a conference convened by an international organization, the depositary shall also refer the proposal to correct the text and the objection to such proposal to the competent organ of the organization concerned.