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**Summary record of the 894th meeting**

Topic:  
**Other topics**

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133. Mr. TUNKIN said that "contracting States" would be inappropriate in paragraph 4, since it could happen that, at the time the error was discovered, there were no contracting States in the sense of States which had given their final consent to be bound by the treaty.

134. Mr. BARTOŠ said that he agreed with Mr. Tunkin. It was essential to know the result of the negotiations, for it was on the result of the negotiations that the participation of the States that were entitled to participate as contracting parties depended. If they discovered an error, they could change their attitude and decide to participate. That, at all events, was the argument that had been put forward on several occasions at major international conferences. Until the treaty came into force, the rights all belonged to the States which had been invited to participate, and which had participated.

135. Mr. JIMÉNEZ de ARÉCHAGA suggested that the Special Rapporteur be asked to prepare a new draft, in consultation with the Drafting Committee.

136. Sir Humphrey WALDOCK, Special Rapporteur, said that the best course seemed to be to leave the text as it stood; whatever change was made one situation was bound to be excluded.

137. Mr. AGO said that it might be better to use the same expression, "the negotiating States" throughout, even in paragraph 3, so as to avoid any inconsistency with paragraphs 1 and 2.

*Article 26 was adopted without amendment.*

ARTICLE 25 (Registration and publication of treaties) [75]

*Article 25 was adopted without comment*

138. The CHAIRMAN said that the Commission had concluded its final reading of the draft articles. He invited the Commission to vote on the draft articles as a whole.

*The draft articles on the law of treaties, as a whole, were adopted unanimously.*

139. The CHAIRMAN said the Commission was to be congratulated on its achievement, which was certainly an epoch-making event in its history and had only been made possible by the untiring work of the Special Rapporteur.

DRAFT RESOLUTION PROPOSED BY MR. AMADO

140. Mr. AMADO proposed that the Commission adopt the following draft resolution:

*"The International Law Commission*

*"Having adopted the draft articles on the law of treaties,*

*"Desires to express to the Special Rapporteur, Sir Humphrey Waldock, its deep appreciation of the invaluable contribution he has made to the preparation of the draft throughout these past years by his tireless devotion and incessant labour, which have enabled the Commission to bring this task to a successful conclusion."*

*The resolution was adopted by acclamation.*

141. Mr. AMADO said that he would not dwell on the Special Rapporteur's, Sir Humphrey Waldock's, all-embracing knowledge of the law, of the sources of law, of doctrine and practice, or on his respect for legal precedent. Among the outstanding features of his character was a total freedom from any doctrinaire or

partisan approach. His primary concern had always been the stability of the law, but at the same time he realized that the law was subject to change: he held that the law was the law as it was and as it could be, not the law as dreamers thought it ought to be. As a result of his objectivity, the Commission had never had to wrestle with any disputes other than those occasioned by its anxiety to serve the interests of States even better. The Commission did not give lessons in law; it tried to help States to derive the maximum benefit from their contacts within the international community.

142. Another of Sir Humphrey's distinguishing characteristics was his complete lack of vanity and his unflinching modesty, which was especially noticeable in the respect which he showed for the opinions of others.

143. For him (Mr. Amado), it had been an outstanding cultural experience to watch a scholar who was so sure of what he believed to be right, yet so ready to listen to what others believed to be right, and to follow the evolution of his thinking, in the face of counter-arguments, through to his conclusions. On very many occasions indeed, Sir Humphrey had proved to be right and the Commission had agreed with him in the end. He also wished to pay a tribute to Sir Humphrey's kindness, even temper, equanimity and infinite patience.

144. The name of Sir Humphrey Waldock would thenceforward be associated with a work that would remain as a landmark in history, a milestone in the march of the law. Members of the Commission were honoured to have collaborated with him in the achievement of such outstanding success, and proud that a little of his fame should be reflected on them.

145. Sir Humphrey WALDOCK, Special Rapporteur, said that he had been deeply touched by the resolution and by the extremely generous terms in which Mr. Amado had referred to him. It was clear that every member of the Commission considered it to be a great occasion and that fact in itself gave him all the satisfaction he could ever have desired.

The meeting rose at 6.15 p.m.

## 894th MEETING

*Tuesday, 19 July 1966, at 9 a.m.*

*Chairman: Mr. Mustafa Kamil YASSEEN*

*Present: Mr. Ago, Mr. Amado, Mr. Bartoš, Mr. Briggs, Mr. Castrén, Mr. Jiménez de Aréchaga, Mr. Lachs, Mr. de Luna, Mr. Pessou, Mr. Rosenne, Mr. Ruda, Mr. Tsuruoka, Mr. Tunkin, Sir Humphrey Waldock.*

### Draft report of the Commission on the work of its eighteenth session

(A/CN.4/L.116 and Addenda)

*(resumed from the previous meeting)*

#### CHAPTER II: LAW OF TREATIES (*continued*)

COMMENTARY TO ARTICLE 65 (General rule regarding the amendment of treaties) AND TO ARTICLE 66 (Amend-

ment of multilateral treaties) (A/CN.4/L.116/Add.8) (resumed from the 892nd meeting) [35 and 36]

1. The CHAIRMAN invited the Commission to resume its consideration of the commentaries to the draft articles. He pointed out that paragraph (1) of the commentary to articles 65 and 66 had been deleted.<sup>1</sup>

*Paragraph (2)*

2. Mr. ROSENNE proposed the deletion of the words "especially in the case of technical conventions", in the eighth sentence, because the humanitarian conventions given as examples in the next sentence were not of a technical character.

3. Sir Humphrey WALDOCK, Special Rapporteur, said that although the statement was correct, he was prepared to delete those words.

*It was so agreed.*

*Paragraph (2), as thus amended, was approved.*

*Paragraphs (3) to (8)*

*Paragraphs (3) to (8) were approved.*

*Paragraph (9)*

4. Mr. TUNKIN said that paragraph (9) would need to be shortened as it was unnecessary to set out the views of individual jurists at such length.

5. Sir Humphrey WALDOCK, Special Rapporteur, said he would shorten the text.

*Paragraph (9), as thus amended, was approved.*

*Paragraph (10)*

6. Mr. TUNKIN proposed the deletion of the third sentence, which read "A refusal to bring a particular party or parties into consultation has usually been a political decision taken on political grounds and the question whether it was legally justified in the particular case has been left unresolved".

7. Sir Humphrey WALDOCK, Special Rapporteur, said that the purpose of that sentence had been to reply to the argument of certain jurists that there was no law to regulate the situation when a group of parties succeeded in effecting an amendment of a treaty régime without consulting the other parties. However, he was prepared to drop the sentence.

*It was so agreed.*

*Paragraph (10), as thus amended, was approved.*

*Paragraph (11)*

*Paragraph (11) was approved.*

*Paragraph (12)*

8. Mr. ROSENNE proposed the deletion of the last sentence because the constituent instruments of international organizations were dealt with in article 3 (*bis*).

*It was so agreed.*

*Paragraph (12), as thus amended, was approved.*

*Paragraph (13)*

9. Mr. BRIGGS proposed the insertion of the word "unamended" before the word "treaty" in the opening

phrase of the fifth sentence, "Any State party only to the treaty", in order to make the meaning absolutely clear.

*It was so agreed.*

*Paragraph (13), as thus amended, was approved.*

*Paragraph (14)*

*Paragraph (14) was approved.*

*Paragraph (15)*

10. Mr. JIMÉNEZ de ARÉCHAGA said he thought the explanation of the Commission's decision, given in the last sentence, was too drastic. It had not wished to exclude altogether the possibility of the principle *nemo potest venire contra factum proprium* being applied.

11. Sir Humphrey WALDOCK, Special Rapporteur, pointed out that he had qualified the word "rule" with the word "absolute". He would have thought that that met Mr. Jiménez de Aréchaga's objection.

*Paragraph (15) was approved.*

*The commentary to articles 65 and 66, as amended, was approved.*

COMMENTARY TO ARTICLE 67 (Agreements to modify multilateral treaties between certain of the parties only) (A/CN.4/L.116/Add.8) [37]

*The commentary to article 67 was approved.*

COMMENTARY TO ARTICLE 68 (Modification of treaties by subsequent practice) (A/CN.4/L.116/Add.8) [38]

*Paragraph (1)*

12. Mr. ROSENNE said that no mention should be made of the *Case concerning the Temple of Preah Vihear*, which had been primarily of importance in connexion with the article on error. To refer to it in the commentary on article 68 was unnecessary and might be confusing.

13. The reference to the recent arbitration between France and the United States should be kept, however, but with the substitution of the words "a bilateral air transport services agreement" for the words "the interpretation of an air transport services agreement", since otherwise the passage quoted from the tribunal's decision might be misunderstood.

14. He agreed with the statement in the last sentence but considered that something ought to be said in the introduction to chapter II indicating that the Commission had not dealt with the problem of the relationship between conventional and customary law, except in article 37, on the emergence of a new preemptory norm. It was a major point and might be overlooked if it were only mentioned in the commentary to article 68.

15. A statement should also be inserted in the introduction to chapter II, as had been done in the reports on the past three sessions, indicating that the draft articles on the law of treaties contained elements of progressive development as well as of codification.

16. Sir Humphrey WALDOCK, Special Rapporteur, said he agreed that the reference to the *Temple* case, although he considered it to be correct, could be dropped; admittedly, the implications of the Court's reasoning were complex and by no means easy to analyse.

<sup>1</sup> 892nd meeting, para. 26.

17. Mr. Rosenne's other amendments were acceptable.

18. Mr. TUNKIN said he disliked the wording "inconsistent with" in the first sentence.

19. In the second sentence the word "decisive" was too strong and the words "of the provisions" should be inserted after the word "meaning", in the interests of clarity.

20. Sir Humphrey WALDOCK, Special Rapporteur, said that the words "which its provisions do not envisage" could be substituted for the words "inconsistent with its provisions" in the first sentence. Mr. Tunkin's amendments to the second sentence were acceptable.

*It was so agreed.*

*Paragraph (1), as amended, was approved.*

*Paragraph (2)*

21. Mr. TUNKIN said that the last sentence was redundant and should be deleted because acquiescence was already sufficiently covered in the explanation given in the two preceding sentences.

*It was so agreed.*

*Paragraph (2), as thus amended, was approved.*

*Paragraph (3)*

*Paragraph (3) was approved.*

*The commentary to article 68, as amended, was approved.*

COMMENTARY TO ARTICLE 28 (Depositaries of treaties) (A/CN.4/L.116/Add.9) [71]

*Paragraph (1)*

*Paragraph (1) was approved.*

*Paragraph (2)*

22. Mr. AGO said that the last sentence of paragraph (2) gave the impression that the Commission had envisaged only the case where the depositary was a State, though in practice the depositary was often not a State. He therefore proposed that the beginning of the sentence be recast to read: "Of course, if the depositary is a State, it may, in its capacity as a party to the treaty, express"...

23. Sir Humphrey WALDOCK, Special Rapporteur, said that Mr. Ago's point could be met by substituting the words "a State when it" for the words "a State which".

*It was so agreed.*

*Paragraph (2), as thus amended, was approved.*

*The commentary to article 28, as amended, was approved.*

COMMENTARY TO ARTICLE 29 (Functions of depositaries) [72]

*The commentary to article 29 was approved.*

COMMENTARY TO ARTICLE 26 (Correction of errors in texts or in certified copies of treaties) (A/CN.4/L.116/Add.9) [74]

*Paragraph (1)*

24. Mr. ROSENNE suggested the substitution of the word "sometimes" for the words "not uncommonly" in the first sentence.

*It was so agreed.*

*Paragraph (1), as thus amended, was approved.*

*Paragraphs (2) and (3)*

*Paragraphs (2) and (3) were approved.*

*Paragraph (4)*

25. Mr. JIMÉNEZ de ARÉCHAGA, referring to the last sentence, said that there was some inconsistency in the text of article 26 itself which ought to be removed, even at that late stage in the session.<sup>2</sup> Under paragraph 1 of the article, all the negotiating States had to agree that the text contained an error and that already created certain problems, but under paragraph 2, when the error had been corrected, the correction had to be communicated to the contracting States only.

26. Sir Humphrey WALDOCK, Special Rapporteur, said that the distinction between the rights of States which had signed the text and thus had an interest in it, and those which had committed themselves by becoming contracting States or parties, had troubled him during the past five years because of the difficulty of establishing at what point in time the interests of those which had signed the text should be overridden by the interests of the latter group of States. The Commission had still not devised an entirely satisfactory solution.

27. Mr. JIMÉNEZ de ARÉCHAGA said that, at the previous meeting, Mr. Tunkin had made the useful suggestion that the whole system contemplated in article 26 should be restricted to the parties, once the treaty had entered into force.<sup>3</sup> Up till that point in time, the rights of negotiating States should certainly be protected.

28. Sir Humphrey WALDOCK, Special Rapporteur, said that any change would mean having to tamper with the text of the article. The rule set out there was already somewhat arbitrary, because some multilateral treaties could enter into force with very few signatures, and it was extremely difficult to devise any rule that would be workable in every case.

29. Mr. AGO said that, all things considered, it might perhaps be better to use the expression "contracting States" throughout the article.

30. Sir Humphrey WALDOCK, Special Rapporteur, said that it would be going too far to substitute the word "parties" for the words "negotiating States", but to refer throughout the article to "contracting States" would be a reasonable compromise.

31. Mr. de LUNA said that he was not satisfied with the present wording. The term "negotiating States" was used throughout the article, except in paragraph 2 (b), where the term "contracting States" appeared. That formulation would lead, among other results, to the paradoxical result that the copy of the text corrected after consulting the negotiating States, under paragraph 2 (a), would be communicated not to those States but, under paragraph 2 (b), to the contracting States.

32. Mr. AGO said that, at the previous meeting, he had suggested using the same expression "negotiating States" throughout the article,<sup>4</sup> but all things considered,

<sup>2</sup> See 887th meeting, paras. 44-58 and 70.

<sup>3</sup> 893rd meeting, para. 130.

<sup>4</sup> 893rd meeting, para. 137.

he now felt that Mr. Jiménez de Aréchaga was right and that the expression was too vague.

33. Sir Humphrey WALDOCK, Special Rapporteur, said that the article would be less open to criticism if it referred to contracting States, because it must be assumed that in fact a depositary would consult the negotiating States; but it was important to avoid framing a rule that would make it a matter of right for the negotiating States to be consulted.

34. Mr. ROSENNE said that some explanation would need to be inserted in the commentary of any change introduced in the article.

35. Sir Humphrey WALDOCK, Special Rapporteur, said that he could insert in the commentary a statement to the effect that, in practice, depositaries were likely to notify negotiating States of an error and of the proposal to correct it, but that article 26 laid down the rights of the actual parties in that regard.

AMENDMENT TO ARTICLE 26 (Correction of errors in texts or in certified copies of treaties) [74]

36. The CHAIRMAN said that the trend of opinion in the Commission seemed to be in favour of substituting the words "contracting States" for the words "negotiating States" throughout, and he therefore proposed that article 26 be amended accordingly.

*The Chairman's amendment to article 26 was adopted.*

*Paragraph (4), as amended, was approved.*

*Paragraphs (5) and (6)*

*Paragraphs (5) and (6) were approved.*

*Paragraph (7)*

37. Mr. ROSENNE suggested the deletion of the second sentence and of the word "but" at the beginning of the third sentence.

*It was so agreed.*

*Paragraph (7), as thus amended, was approved.*

*Paragraph (8)*

38. Mr. ROSENNE suggested the deletion of the second sentence in paragraph (8); it had now become unnecessary in view of the explanation given by the Special Rapporteur at the previous meeting during the discussion on article 26.<sup>5</sup>

39. Sir Humphrey WALDOCK, Special Rapporteur, said that Mr. Rosenne's amendment was acceptable.

*Paragraph (8), as thus amended, was approved.*

*The commentary to article 26, as amended, was approved.*

COMMENTARY TO ARTICLE 29 (bis) (Notifications and communications) (A/CN.4/L.116/Add.9) [73]

*Paragraphs (1) and (2)*

*Paragraphs (1) and (2) were approved.*

*Paragraph (3)*

40. Mr. AGO said that he disliked the use of the word "achevée" in the French text of paragraph (3). He also felt that, in order to make its intentions clear, the Com-

mission should perhaps draw a distinction between, on the one hand, the point of time at which the State making the notification could be regarded as having performed its obligation, and, on the other, the point of time at which the notification produced its effects in respect of the party notified.

41. Sir Humphrey WALDOCK, Special Rapporteur, said that it would be undesirable to refer to an obligation in the first sentence of paragraph (3), because in fact there was no such obligation to notify. The stipulation simply was that the notification must be carried out in accordance with the procedure laid down in article 29 (bis).

42. Mr. AGO said he therefore suggested that the passage in the first sentence be amended to read: "the point of time at which the notification by the transmitting State was to be regarded as completed with respect to that State".

*It was so agreed.*

43. Sir Humphrey WALDOCK, Special Rapporteur, said it was important that the commentary should be correct because article 29 (bis) was a progressive provision, given the prevailing uncertainty over the exact position of depositaries in the matter of notifications and communications.

*Paragraph (3), as amended, was approved.*

*Paragraph (4)*

44. Mr. de LUNA said that he was one of a number of members who considered that a depositary was not a mere channel of communication between the parties. That minority view ought to be reflected in paragraph (4).

45. Sir Humphrey WALDOCK, Special Rapporteur, said he would make the necessary change.

46. Mr. ROSENNE proposed the substitution of the word "some" for the words "a few" in the third sentence.

*It was so agreed.*

*Paragraph (4), as amended, was approved.*

*Paragraphs (5) to (8)*

*Paragraphs (5) to (8) were approved.*

*The commentary to article 29 (bis), as amended, was approved.*

COMMENTARY TO ARTICLE 25 (Registration and publication of treaties) (A/CN.4/L.116/Add.9) [75]

47. Mr. ROSENNE suggested that in paragraph (1) the third sentence would be more exact if it were made clear that the Secretariat's practice referred to was in pursuance of article 10 of the regulations for the registration and publication of treaties and international agreements.

48. In paragraph (2) the second sentence should be deleted, because it was the Commission's policy to refrain from interpreting the provisions of the Charter.

49. In paragraph (3) reference should also be made to General Assembly resolution 364 B (IV) of 1 December 1949.

50. Sir Humphrey WALDOCK, Special Rapporteur, said he accepted Mr. Rosenne's amendments.

*The commentary to article 25, as thus amended, was approved.*

<sup>5</sup> 893rd meeting, para. 127.

COMMENTARY TO ARTICLE 2 (International agreements not within the scope of the present articles (A/CN.4/L.116/Add.10) [3]<sup>6</sup>

*The commentary to article 2 was approved.*

COMMENTARY TO ARTICLE 3 (bis) (Treaties which are constituent instruments of international organizations or which are adopted within international organizations) (A/CN.4/L.116/Add.10) [4]

*The commentary to article 3 (bis) was approved.*

## PART II. CONCLUSION AND ENTRY INTO FORCE OF TREATIES

### SECTION 1 — CONCLUSION OF TREATIES

COMMENTARY TO ARTICLE 3 (Capacity of States to conclude treaties) (A/CN.4/L.116/Add.10) [5]

*Paragraphs (1) to (4)*

*Paragraphs (1) to (4) were approved.*

*Paragraph (5)*

51. Mr. BRIGGS asked that the footnote to paragraph (5), which had also appeared in the Commission's report on its fourteenth session, be deleted, because at various stages he had reserved his position or had abstained from voting on a number of other articles. Anyone wishing to ascertain his views could read the summary records.

*It was so agreed.*

52. Sir Humphrey WALDOCK, Special Rapporteur, asked whether members considered that he ought to have laid more stress on the change introduced in paragraph 2 of article 3 where reference was now made to the limitations on the treaty-making power of States members of a federal union.

53. Mr. JIMÉNEZ de ARÉCHAGA suggested that it be indicated in paragraph (5) that several members of the Commission had criticized the previous version of paragraph 2 for not giving enough prominence to the role of international law on the capacity of States members of federal unions to conclude treaties, and that the text had been modified to its present permissive form in consequence.

54. Sir Humphrey WALDOCK, Special Rapporteur, said that it was hardly necessary to go into detail about the precise origin of the text or certain underlying political considerations. He had sought to show what had been the outcome of the discussion in the Commission, and paragraph 2 of the article now provided that the limits of the competence of such States to conclude treaties must be ascertained from the federal constitution.

55. Mr. TUNKIN said that he was strongly opposed to re-opening the discussion on a substantive issue. Paragraph (5) of the commentary as drafted by the Special Rapporteur faithfully reflected the content of the revised paragraph 2, the meaning of which was perfectly clear: the Commission could certainly not discuss issues of interpretation.

56. Mr. JIMÉNEZ de ARÉCHAGA said that the vote on paragraph 2 had been very close and it would have

been more objective at least to record that vote. Perhaps the best solution would be to give a brief history of the article.

57. Mr. TUNKIN said that, while he had no objection to summarizing the history of the article in the commentary, it was important to render accurately the trend of opinion in the Commission and Mr. Jiménez de Aréchaga's interpretation that the new paragraph 2 was a departure from the 1962 text was unacceptable. The agreement reached in the Commission had certainly not been that the capacity of member States of federal unions to conclude treaties depended upon rules of international law or was restricted thereby. The capacity depended solely on the constitution of the federal union and could only be limited by the provisions of that constitution.

58. The CHAIRMAN, speaking as a member of the Commission, said the suggestion to summarize the history of the article in the commentary seemed to him a very sensible one.

59. Sir Humphrey WALDOCK, Special Rapporteur, said that paragraph (3) of the commentary could if necessary be expanded a little in order to explain the view taken by some members, but it would certainly not be appropriate to do so in paragraph (5), in which he had summarized the final agreement reached.

60. The CHAIRMAN suggested that the Special Rapporteur be asked to modify paragraph (3) in that sense.

*It was so agreed.*

61. Mr. AGO proposed the deletion of the words "by the federal government itself, or" in the fourth sentence of paragraph (5). He also proposed the deletion of the word "inherent" in the fourth sentence of paragraph (3).

*It was so agreed.*

*Paragraph (5), as amended, was approved.*

*The commentary to article 3, as amended, was approved.*

COMMENTARY TO ARTICLE 4 (Full powers to represent the State in the conclusion of treaties) (A/CN.4/L.116/Add.10) [6]

*The commentary to article 4 was approved.*

COMMENTARY TO ARTICLE 4 (bis) (Subsequent confirmation of an act performed without authority) (A/CN.4/L.116/Add.10) [7]

*The commentary to article 4 (bis) was approved.*

COMMENTARY TO ARTICLE 6 (Adoption of the text) (A/CN.4/L.116/Add.10) [8]

*Paragraphs (1) to (3)*

*Paragraphs (1) to (3) were approved.*

*Paragraph (4)*

62. Mr. ROSENNE said that the footnote to paragraph (4) was unnecessary and should be deleted, since the practice of the United Nations Secretariat regarding the convening of conferences was well established and the footnote was not quite accurate.

*It was so agreed.*

<sup>6</sup> For amendment of title, see 892nd meeting, para. 75.

63. Mr. TUNKIN said that the phrase "the groups and interests", in the third sentence, was inappropriate and should be changed.

64. Sir Humphrey WALDOCK, Special Rapporteur, said that that phrase had been taken from a United Nations document but it could be replaced by the words "the States".

*It was so agreed.*

*Paragraph (4), as amended, was approved.*

*Paragraphs (5) and (6)*

*Paragraphs (5) and (6) were approved.*

*The commentary to article 6, as amended, was approved.*

COMMENTARY TO ARTICLE 7 (Authentication of the text) (A/CN.4/L.116/Add.10) [9]

*Paragraphs (1) to (3)*

*Paragraphs (1) to (3) were approved.*

*Paragraph (4)*

65. Mr. AGO asked what was the meaning of the phrase in the first sentence, "a corporate act of authentication performed by officials of an organization".

66. Sir Humphrey WALDOCK, Special Rapporteur, said that the act of authentication was often carried out by the executive head or other officer of an international organization.

67. The CHAIRMAN, speaking as a member of the Commission, suggested that the word "corporate" be deleted.

*It was so agreed.*

68. Mr. AGO said he still questioned whether the term "officials" in the same sentence was the appropriate one. Perhaps the expression "the competent authorities" would be better.

69. Sir Humphrey WALDOCK, Special Rapporteur, said that an act of authentication might be performed by the president of an international conference. Perhaps the difficulty could be overcome by using the word "officers".

70. Mr. ROSENNE proposed that the words "a competent authority" be substituted for the words "officials"; that should meet Mr. Ago's objection.

*Mr. Rosenne's amendment was adopted.*

*Paragraph (4), as thus amended, was approved.*

*Paragraph (5)*

*Paragraph (5) was approved.*

*The commentary to article 7, as amended, was approved.*

COMMENTARY TO ARTICLE 11 (Consent to be bound by a treaty expressed by signature) (A/CN.4/L.116/Add.10) [10]

*The commentary to article 11 was approved.*

COMMENTARY TO ARTICLE 18 (Formulation of reservations) AND TO ARTICLE 19 (Acceptance of and objection to reservations) (A/CN.4/L.116/Add.16) [16, 17]

*Introduction—Paragraphs (1) to (16)*

71. Mr. ROSENNE said that there should be some reference in the introduction to the Secretary-General's

report on Depositary Practice in Relation to Reservations (A/5687), which had brought much new practice to the notice of the Commission. Such a reference might be inserted in paragraph (2).

72. Reference was made in paragraph (2) to the General Assembly and to the International Court of Justice; but the Commission itself had also been consulted in the 1950-1951 period. The divergent views referred to in the paragraph were also reflected in the Commission's work at that time. He therefore suggested that the words "and by the Commission" be inserted after the words "Genocide Convention".

73. Sir Humphrey WALDOCK, Special Rapporteur, said that, although there was a reference to the Commission in paragraph (5), he accepted Mr. Rosenne's suggestion. A reference to the Secretary-General's report he had mentioned would also be inserted.

*The introduction, as thus amended, was approved.*

*Paragraphs (17) to (22)*

74. Mr. ROSENNE, referring to footnote 11, suggested that there should also be a reference to the report by the observer for the Commission on the proceedings of the Fourth Meeting of the Inter-American Council of Jurists (A/CN.4/124),<sup>7</sup> as Pan-American documents were not readily available outside the American continent.

*It was so agreed.*

*Paragraphs (17) to (22), as amended, were approved.*

*The commentary to articles 18 and 19, as amended, was approved.*

COMMENTARY TO ARTICLE 20 (Procedure regarding reservations) (A/CN.4/L.116/Add.11) [18]

*The commentary to article 20 was approved.*

COMMENTARY TO ARTICLE 21 (Legal effects of reservations) (A/CN.4/L.116/Add.11) [19]

*Paragraph (1)*

*Paragraph (1) was approved.*

*Paragraph (2)*

75. Mr. CASTRÉN, with regard to the second sentence, said that, since only a few governments had submitted comments in the matter, the reference should be to the comments of "certain" governments.

*It was so agreed.*

*Paragraph (2), as thus amended, was approved.*

*The commentary to article 21, as amended, was approved.*

COMMENTARY TO ARTICLE 22 (Withdrawal of reservations) (A/CN.4/L.116/Add.11) [20]

*The commentary to article 22 was approved.*

COMMENTARY TO ARTICLE 23 (Entry into force)<sup>8</sup> (A/CN.4/L.116/Add.11) [21]

*Paragraphs (1) to (3)*

*Paragraphs (1) to (3) were approved.*

<sup>7</sup> Yearbook of the International Law Commission, 1960, vol. II, p. 20.

<sup>8</sup> For amendment of title, see 892nd meeting, para. 109.

*Paragraph (4)*

76. Mr. ROSENNE suggested that the second sentence of paragraph (4) be deleted as it was both controversial and unnecessary to the development of the argument.

77. Sir Humphrey WALDOCK, Special Rapporteur, suggested that it might be better if the words “used to express this rule is not intended to indicate that the treaty itself undergoes several successive ‘entries into force’ as each new party becomes bound” were dropped. The second and third sentences would then be combined and would read “The phrase ‘enters into force for that State’ is the phrase normally employed . . .”.

*It was so agreed.*

*Paragraph (4), as thus amended, was approved.*

*The commentary to article 23, as thus amended, was approved.*

COMMENTARY TO ARTICLE 24 (Entry into force provisionally)<sup>9</sup> (A/CN.4/L.116/Add.11) [22]

*The commentary to article 24 was approved.*

COMMENTARY TO ARTICLE 16 (Consent relating to a part of a treaty and choice of differing provisions (A/CN.4/L.116/Add.12) [14]

*Paragraphs (1) and (2)*

*Paragraphs (1) and (2) were approved.*

*Paragraph (3)*

78. Mr. ROSENNE said that the example given in paragraph (3) was perhaps unfortunate. It would be better to mention instead the General Act for the Pacific Settlement of International Disputes of 26 September 1928.

79. Sir Humphrey WALDOCK, Special Rapporteur, suggested that the first sentence of paragraph (3) be amended to read “Paragraph 2 takes account of a practice which is not very common but which is sometimes found, e.g. in the General Act for the Pacific Settlement of International Disputes”.

80. Mr. JIMÉNEZ de ARÉCHAGA said that international organizations should not be systematically excluded, even as examples; the draft articles, with certain qualifications, did apply to treaties within international organizations.

81. Mr. ROSENNE said that in that case both examples should be mentioned.

*It was so agreed.*

*Paragraph (3), as amended, was approved.*

*The commentary to article 16, as amended, was approved.*

COMMENTARY TO ARTICLE 17 (Obligation of a State not to frustrate the object of a treaty prior to its entry into force) (A/CN.4/L.116/Add.12) [15]

*Paragraphs (1) and (2)*

*Paragraphs (1) and (2) were approved.*

*Paragraph (3)*

82. Mr. BRIGGS said that it should be made clear to what obligation the words “subject to the obligation” in paragraph (3) referred.

83. Sir Humphrey WALDOCK, Special Rapporteur, said that the point would be clarified.

84. Mr. CASTRÉN said that paragraph (3) referred to “the case considered by the Permanent Court”. Either the case should be specified, or the example should be dropped.

85. Sir Humphrey WALDOCK, Special Rapporteur, said that the case was the case mentioned in paragraph (1)

86. Mr. LACHS said that since such cases were covered by paragraph (3), all that was needed was a general reference to “the case in which”.

*It was so agreed.*

*Paragraph (3), as amended, was approved.*

*Paragraph (4)*

*Paragraph (4) was approved.*

*The commentary to article 17, as amended, was approved.*

COMMENTARY TO ARTICLE 72 (Interpretation of treaties established in two or more languages) (A/CN.4/L.116/Add.14) [29]<sup>10</sup>

*Paragraphs (1) to (5)*

*Paragraphs (1) to (5) were approved.*

*Paragraph (6)*

87. Mr. ROSENNE suggested the omission of the words “or unskilful drafting” in the fifth sentence.

*It was so agreed.*

*Paragraph (6), as thus amended, was approved.*

*Paragraph (7)*

*Paragraph (7) was approved.*

*Paragraph (8)*

88. Mr. AGO said that there was a discrepancy between the English and French texts of the fourth sentence. The English text showed that the Commission was referring to the opinion of “some jurists”, but the French text attributed that opinion to the Commission itself. The French text should be brought into line with the English.

*It was so agreed.*

*Paragraph (8), as thus amended, was approved.*

*Paragraph (9)*

89. Mr. ROSENNE proposed that paragraph (9) be deleted; it was unnecessary and might be confusing.

90. Sir Humphrey WALDOCK, Special Rapporteur, said that the Commission had decided that the article should confine itself to basic principles and not go into details regarding the techniques that could be applied in the case of plurilingual treaties. Paragraph (9) had been inserted with a view to anticipating a suggestion that there should be a kind of residuary rule about the language version in which the treaty was actually drafted.

91. Mr. CASTRÉN said he was in favour of retaining paragraph (9), precisely for the reasons given by the Special Rapporteur. The paragraph showed that the Commission had considered the problem but had not deemed it appropriate to formulate a rule in the matter.

<sup>9</sup> For amendment of title, see 892nd meeting, para. 110.

<sup>10</sup> For amendment of title, see 893rd meeting, para. 43.

92. Mr. LACHS said that he shared the Special Rapporteur's view; the paragraph should be retained, except for its second sentence.

93. Mr. JIMÉNEZ de ARÉCHAGA said that the whole point of the paragraph was in the second sentence.

94. Mr. ROSENNE said he withdrew his proposal.  
*Paragraph (9) was approved.*

*The commentary to article 72, as amended, was approved.*

COMMENTARY TO ARTICLE 12 (Consent to be bound by a treaty expressed by ratification, acceptance or approval) (A/CN.4/L.116/Add.17) [11]

*Paragraphs (1) to (3)*

*Paragraphs (1) to (3) were approved.*

*Paragraph (4)*

95. Mr. JIMÉNEZ de ARÉCHAGA said that the sixth sentence, beginning with the words "This does not mean", seemed to be a survival from a previous report.

96. Sir Humphrey WALDOCK, Special Rapporteur, said he agreed that that was so. The sentence should be omitted.

*It was so agreed.*

*Paragraph (4), as thus amended, was approved.*

*Paragraph (5)*

97. Mr. TUNKIN suggested that the last sentence of paragraph (5) be deleted, as it raised an issue of substance and might be confusing.

98. Sir Humphrey WALDOCK, Special Rapporteur, said that the sentence was an account of what had happened in 1962, when the Commission had stated in the opening paragraph the residuary rule in favour of ratification. It could very well be omitted.

99. Mr. JIMÉNEZ de ARÉCHAGA proposed the deletion of the whole of paragraph (5), since States would be well aware of the matter which it raised.

100. Sir Humphrey WALDOCK, Special Rapporteur, said that, in that event, it would be necessary to omit the word "resulting" at the beginning of paragraph (6).

*Mr. Jiménez de Aréchaga's amendment and the Special Rapporteur's consequential amendment were adopted.*

*Paragraph (5) was deleted.*

*Paragraph (6)*

*Paragraph (6), as amended above, was approved.*

*Paragraphs (7) to (11)*

*Paragraphs (7) to (11) were approved.*

*Paragraph (12)*

101. Mr. ROSENNE proposed that the end of the first sentence be amended to read "... to examine the treaty when it is not necessarily obliged by its domestic law or practice to submit it to the State's constitutional procedure for obtaining ratification", and that the word "parliamentary" be deleted because there were countries where ratification was not a parliamentary procedure.

102. Sir Humphrey WALDOCK, Special Rapporteur, said that he could accept that proposal, except for the

words "by its domestic law or practice" which would make the text too heavy.

*Paragraph (12), as thus amended, was approved.*

*The commentary to article 12, as amended, was approved.*

COMMENTARY TO ARTICLE 13 (Consent to be bound by a treaty expressed by accession) (A/CN.4/L.116/Add.17) [12]

103. The CHAIRMAN said that, since article 9 had been deleted, the words "under the conditions set out in article 9" at the end of paragraph (1) should be deleted.

*It was so agreed.*

*The commentary to article 13, as thus amended, was approved.*

#### ANNEX ON PARTICIPATION IN A TREATY

104. Sir Humphrey WALDOCK, Special Rapporteur, said that the annex on "Participation in a treaty" had been added in order to explain why articles 8 and 9 had been dropped, and it had seemed to him better to include such an explanation after the commentary to article 13 rather than in the introduction to the draft.

105. Mr. BRIGGS said that, although he had no objection to such an explanation being given, he thought that the annex gave undue prominence to the Commission's decision not to include certain articles.

106. Mr. TUNKIN proposed that the first two paragraphs of the annex be deleted since they suggested, incorrectly, that there was no gap in the text. The position of the Commission was stated sufficiently clearly, especially in paragraph (6).

107. Sir Humphrey WALDOCK, Special Rapporteur, said that it had not been his intention in paragraph (1) to suggest that there was no lacuna, but rather to explain that, apart from the question of general multilateral treaties, the subject-matter of article 9 was largely covered elsewhere in the draft. In his first report he had submitted elaborate proposals on the subject of participation in a treaty,<sup>11</sup> but he had not, of course, then known what action the Commission would take on the closely related topic of the amendment of treaties. If, however, the Commission considered that the remainder of the annex was clear, paragraphs (1) and (2) could be deleted.

108. Mr. BRIGGS said that, even if paragraphs (1) and (2) were deleted, he still thought that there was too much reference in the subsequent paragraphs to the concept of general multilateral treaties. The Commission had abandoned its attempt to define that concept, and it did not appear in the draft. Paragraphs (4), (5) and (6) should therefore be shortened. All that was needed was a bare reference to the fact that articles 8 and 9 had been omitted, and that article 13 had been drafted with that omission in mind.

109. Mr. TUNKIN said that he thought it desirable to retain a reference to that question so that the attention of the conference could be drawn to it.

110. Mr. LACHS said he agreed that it was advisable to draw attention to a legal issue which was of such

<sup>11</sup> Yearbook of the International Law Commission, 1962, vol. II, p. 27.

importance in the law of treaties, even though it might not be thought ripe for solution. Certain changes should, however, be made in the text, particularly in the fourth sentence of paragraph (6), which should be reworded to read "At its present session, it concluded that, in the light of the division of opinion, it would not be possible to formulate any general provision regarding the right of States to participate in treaties."

*Mr. Lachs's amendment was adopted.*

111. Mr. ROSENNE said that in his view the annex was in the right place, and he was in favour of retaining paragraphs (4) and (5). It was true that difficulties had been experienced in including the concept of general multilateral treaties in the text of the articles, but some mention of the 1962 definition of "multilateral treaties" should be made in the commentary as an indication of what the Commission had had in mind.

112. In the sixth sentence of paragraph (6), the passage reading "notably in connexion with the extended participation in League of Nations treaties, and recently in the Special Committees on the Principles of International Law concerning friendly relations among States", should be deleted; there was no need to single out the General Assembly and the Special Committees, as the matter had been debated regularly since 1946.

113. Sir Humphrey WALDOCK, Special Rapporteur, pointed out that the discussions in the Special Committees were of recent date.

114. Mr. ROSENNE said that in that case only the first half of the passage in question should be deleted.

*It was so agreed.*

115. Sir Humphrey WALDOCK, Special Rapporteur, said it seemed to be generally agreed that the two opening paragraphs were unnecessary; Mr. Tunkin's proposal could therefore be adopted and the annex would begin with paragraph (3).

116. It was essential to include some reference to general multilateral treaties, as the matter had been the subject of much discussion, and had also been commented on by governments. Moreover, had it not been for the difficulties which the Commission had experienced in connexion with the concept of general multilateral treaties, it would have been thought logical to include an article on participation.

*Mr. Tunkin's amendment was adopted.*

117. Mr. AGO said that the use of the word "Annex" in the title, "Annex on participation in a treaty", could give the impression that there was an annex to the text of article 13, since the Commission always reproduced the text of articles. It would be better to say "Question of participation in a treaty".

*It was so agreed.*

*The annex on participation in a treaty, as amended, was approved.*

COMMENTARY TO ARTICLE 15 (Exchange or deposit of instruments of ratification, accession, acceptance or approval) (A/CN.4/L.116/Add.17). [13]

*Paragraph (1)*

118. Mr. BRIGGS suggested that the words "of the procedure" in the second sentence be deleted.

*It was so agreed.*

*Paragraph (1), as thus amended, was approved.*

*Paragraphs (2) to (4)*

*Paragraphs (2) to (4) were approved.*

*The commentary to article 15, as thus amended, was approved.*

CHAPTER III: SPECIAL MISSIONS (A/CN.4/L.116/Add.13)

119. The CHAIRMAN invited the Commission to consider the chapter on Special Missions, beginning with paragraph 18; paragraphs 1 to 17 had already appeared in the Commission's report on the work of its seventeenth session (A/6009, p. 11).

*Paragraphs 1 to 17 were adopted.*

*Paragraph 18*

120. Mr. ROSENNE said that the reference in paragraph 18 to "only a small number of States", and the similar passage in paragraph 34, were somewhat pejorative and should be either omitted or toned down.

121. Mr. BARTOŠ, Special Rapporteur, said that it was not possible to ignore the fact that only a small number of States had submitted comments, although all the States in the Sixth Committee had undertaken to do so.

122. Mr. AGO suggested that the passage should read "a limited number of States".

*It was so agreed.*

*Paragraph 18, as thus amended, was approved.*

*Paragraphs 19 to 21*

*Paragraphs 19 to 21 were approved.*

*Paragraph 22*

123. Mr. BRIGGS said that he did not understand what the second sentence of paragraph 22 was intended to convey. Surely all the provisions of the articles would be binding? The implication that only some of them would be was questionable.

124. Mr. BARTOŠ, Special Rapporteur, said that the second sentence could be deleted and, in the last sentence, the concluding words "though of a contractual nature were binding on States which accepted the instrument", could be replaced by the words "were not of a residuary nature".

125. Mr. TUNKIN said that the reference to "binding provisions" and "provisions of a residuary nature" was certainly somewhat misleading. It would be better to state simply that the Commission had asked the Special Rapporteur to draft articles on the assumption that if, at a later stage, the Commission came to the conclusion that States would not be allowed to derogate from certain of the provisions by mutual agreement, those provisions would be specified.

126. Sir Humphrey WALDOCK said that he fully supported Mr. Tunkin. It would be unwise even to indicate that the Commission made a distinction between different kinds of obligation.

127. Mr. BARTOŠ, Special Rapporteur, said that the Commission had asked him to formulate the idea that certain rules were not open to derogation by mutual consent and were in principle of a residuary nature. Perhaps the end of the last sentence could be reworded on the following lines: "and indicate which of the provisions were, exceptionally, not of a residuary nature".

128. Mr. TUNKIN said that he agreed in substance, but was strongly opposed to the use of the words "residuary nature" in that context. If those words were omitted, the rest would be acceptable.

129. Mr. AGO proposed that the remainder of paragraph 22, from the words "of the draft articles on special missions" in the first sentence, be replaced by the wording "cannot in principle constitute peremptory norms from which States may not derogate by mutual agreement. The Special Rapporteur was asked to submit to the Commission a draft article conveying that idea and indicating specifically which of the provisions should, in his opinion, constitute exceptions to that principle".

130. Sir Humphrey WALDOCK said that the use of the word "peremptory" would suggest a reference to *jus cogens*, but was the reference really to *jus cogens*? Surely it was intended to refer to the ordinary situation where the parties to a convention considered that certain provisions were so necessary to the essential working of the convention that no derogation could be allowed? Again, Mr. Ago had used the word "States"; but the reference must be to "parties", since otherwise there would again be a suggestion of *jus cogens*.

131. Mr. AGO said that he was prepared to drop the word "peremptory" from his amendment.

132. Mr. BARTOŠ, Special Rapporteur, said that the Commission had agreed in principle not to formulate any *jus cogens* rules in the draft articles but that certain treaty rules would be binding on the parties, so long as the treaty remained in force.

133. Mr. ROSENNE suggested the deletion of the word "thorough" at the beginning of paragraph 22 and of the word "due" at the beginning of paragraph 23. The Commission would naturally have examined the comments thoroughly and given them due attention.

134. Mr. BRIGGS said that the approach in the paragraph was so alien to his thinking that he felt obliged to make his position clear. He thought there was a confusion between peremptory rules and ordinary treaty rules which were binding on States. A treaty was binding on a State which was a party to it and all its rules were obligatory, in the sense that it was not allowed unilaterally to derogate from the principles of that treaty that had become binding on it.

135. There was a second question: whether or not all the rules in the draft articles were regarded as sufficiently important that no derogation by agreement between States could be permitted. That situation was illustrated in a number of conventions where certain rules were regarded as fundamental, although not in the sense that they were more obligatory than the less fundamental rules. Under the Vienna Convention on Diplomatic Relations, for instance, there was no objection to two

States agreeing not to grant diplomatic privileges and immunities to persons below a certain rank.

136. He thought that that confusion in the approach led to the assumption that there were going to be certain peremptory rules of international law. The phraseology should make it clear that what the Commission was dealing with was a future convention and that the Commission would decide which rules States would be allowed to modify by agreement *inter se*. The usual method of doing that was by using the proviso "Unless otherwise agreed by the parties".

137. Mr. TUNKIN said he agreed with Mr. Briggs. In order to make the paragraph clear, and to tone down the language, the second sentence should begin with some such wording as "In his opinion, the rules, if any . . ."

138. Mr. AGO suggested the insertion in his amendment of the words "if any" after the word "provisions".

139. Mr. BARTOŠ, Special Rapporteur, said he could accept Mr. Ago's amendment, since the Commission had agreed that certain provisions, when included in the treaty, would be binding on the parties. He could also accept Mr. Rosenne's amendment to delete the word "thorough" in the first sentence of paragraph 22 and the word "due" in the first sentence of paragraph 23.

140. Mr. TUNKIN said he noted that, not only in paragraph 22, but also in paragraphs 23, 24, 26, 29, 31 and 32, the Special Rapporteur was asked to submit various texts to the Commission "at its next session". But in fact it was "before" or "in time for" the next session that such texts should be submitted.

141. Mr. BARTOŠ, Special Rapporteur, suggested that the words "at its next session" be deleted wherever they occurred in that context.

*It was so agreed.*

*Mr. Ago's, Mr. Rosenne's and the Special Rapporteur's amendments were adopted.*

*Paragraph (22), as amended, was approved.*

*Paragraph 23*

*Paragraph 23, as already amended by Mr. Rosenne and the Special Rapporteur, was approved.*

*Paragraph 24*

*Paragraph 24, as already amended by the Special Rapporteur, was approved.*

*Paragraph 25*

142. Mr. TUNKIN said that, according to the second sentence, reciprocity was a condition governing the provisions of any treaty. But there was no obligation on States to apply the principle of reciprocity; they could apply it if they so wished.

143. Mr. BARTOŠ, Special Rapporteur, said that, in his view, all provisions should be applied on a basis of reciprocity.

144. Mr. TUNKIN said he agreed that the principle of reciprocity was a principle relating to any part of international law, though the actual effect of the principle might be different, depending on whether or not it was explicitly mentioned. In the present context, a State was

not obliged to apply a treaty on the basis of the principle of reciprocity, and might indeed disregard the principle, if it so wished. One State party to the treaty, for instance, while observing that another State party was not abiding by all the provisions of the treaty, might nevertheless decide to continue to abide by all the provisions itself.

145. Mr. CASTRÉN suggested that, in the second sentence, the phrase “ that reciprocity was a condition governing the provisions of any treaty ” be replaced by the phrase “ that all treaty provisions were subject to the condition of reciprocity ”.

146. Mr. BARTOŠ, Special Rapporteur, said that there could be special favours or unilateral concessions in some cases, but the general rule was that of reciprocity.

147. Mr. BRIGGS said that, unlike the French text, the English text of the second sentence did not contain any suggestion that the principle of reciprocity had to be applied.

148. Sir Humphrey WALDOCK suggested that the word “ governing ” be replaced by the word “ underlying ”.

*It was so agreed.*

*Paragraph 25, as thus amended, was approved.*

#### Paragraph 26

*Paragraph 26, as already amended by the Special Rapporteur, was approved.*

#### Paragraph 27

*Paragraph 27 was approved.*

#### Paragraph 28

149. Mr. ROSENNE proposed that paragraph 28 be deleted because it referred to the final recommendations which the Commission would make when it had completed its work on the draft articles on special missions, and any reference to final recommendation at the present stage was premature.

150. Mr. BARTOŠ, Special Rapporteur, said that a number of governments had made specific proposals; the Israel Government, in particular, had asked the Commission to consider the question. If the Commission were to delete the paragraph, it would appear to have disregarded the comments by governments. The present text, on the other hand, did not prejudice the Commission's position, since the Commission had decided to deal with the matter at its next session.

151. Mr. AGO said that, if paragraph 28 were retained, the word “ body ” would have to be deleted, as it was ambiguous and could give the impression that it meant some existing organ of an international organization, rather than a conference. Perhaps it would be better to refer to the method of adoption of the instrument.

*It was so agreed.*

152. Mr. ROSENNE said that he fully understood the considerations which had led the Special Rapporteur to include paragraph 28 in the draft report. He believed, however, that governments, in making the comments to which the Special Rapporteur had just referred, had been drawing attention to the implications of the Commission's final recommendation and not referring to a matter on which they wished to receive a preliminary report at the present stage.

153. Nevertheless, if the Special Rapporteur attached particular importance to paragraph 28, he would have no objection to its being retained.

154. Mr. TUNKIN proposed that the opening words of the second sentence, “ Owing to the diversity of views on the point ”, be deleted, as there was in fact no diversity of views on the point in question.

155. Mr. BARTOŠ, Special Rapporteur, said that he could agree to that amendment, although different views had in fact been expressed, in particular by Mr. Rosenne.

*Mr. Tunkin's amendment was adopted.*

*Paragraph 28, as amended, was approved.*

#### Paragraph 29

156. Mr. TUNKIN proposed that the second and third sentences be amended to read simply : “ After discussing the matter, the Commission instructed the Special Rapporteur to draft a preamble and submit it to the Commission ”.

*Mr. Tunkin's amendment was adopted.*

*Paragraph 29, as amended, was approved.*

#### Paragraph 30

*Paragraph 30 was approved.*

#### Paragraph 31

*Paragraph 31, as already amended by the Special Rapporteur, was approved.*

#### Paragraph 32

*Paragraph 32, as already amended by the Special Rapporteur, was approved.*

#### Paragraph 33

157. Mr. BARTOŠ, Special Rapporteur, said that paragraph 33 should be deleted, since it already appeared in the general section of the report.

*It was so agreed.*

*Paragraph 33 was deleted.*

#### Paragraph 34

158. Mr. ROSENNE said that the last sentence was redundant and should be deleted.

*It was so agreed.*

*Paragraph 34, as amended, was approved.*

*Chapter III, as amended, was approved.*

### CHAPTER IV: OTHER DECISIONS AND CONCLUSIONS OF THE COMMISSION (A/CN.4/L.116/Add.15)

#### A. Organization of future work

159. Mr. ROSENNE proposed that the second sentence of the first paragraph be amended to read : “ The Commission, while not wishing to prejudice the freedom of action of its membership in 1967, nevertheless recognizes that, since it is a continuing body, it must make arrangements to ensure the continuation of work

on the topics selected for codification and progressive development.”

*It was so agreed.*

*Section A, as thus amended, was approved.*

**B. Date and place of the nineteenth session**

*Section B was approved.*

**C. Co-operation with other bodies**

*Section C was approved.*

**D. Representatives at the twenty-first session of the General Assembly**

*Section D was approved.*

**E. Seminar on International Law**

160. Mr. BARTOŠ, Special Rapporteur, said that it was his understanding that the Commission had recommended that further seminars on international law should be organized.

161. Mr. de LUNA, Rapporteur, said that a suitable sentence could be added at the end of the section.

*It was so agreed.*

*Section E, as amended, was approved.*

*Chapter IV, as amended, was approved.*

**CHAPTER II: LAW OF TREATIES (resumed from paragraph 118)**

**COMMENTARY TO ARTICLE 69 (General rule of interpretation) AND TO ARTICLE 70 (Supplementary means of interpretation) (A/CN.4/L.116/Add.18) [27, 28]**

162. The CHAIRMAN said that, for addenda 18, 19 and 20 to the draft report, the Commission had before it only the English text. The text of article 70 had been inadvertently omitted from the first of those documents and should be inserted immediately after the text of article 69 on page 2.

*Paragraphs (1) to (5)*

163. Mr. RUDA asked whether the Commission adhered to its decision to drop the footnote references to documentation.

164. The CHAIRMAN said it was agreed that all such references should be deleted.

*Paragraphs (1) to (5) were approved.*

*Paragraph (6)*

165. Mr. ROSENNE said that it would be worthwhile to explain somewhere in the commentary exactly what phrases were used in the text of the draft articles to indicate whether, in respect of a given article, the rules of interpretation should or should not be applied. The explanation might be included in paragraph (6) of the commentary on article 69, or, perhaps, better still in the introduction.

166. Sir Humphrey WALDOCK, Special Rapporteur, said that he had been intending to include an explanation of the type suggested by Mr. Rosenne. The Commission had adopted certain phrases for dealing, on the one hand, with cases where what was involved was genuinely an interpretation of the treaty and, on the other hand,

with cases where what was involved was the establishment of an intention on the basis of matters altogether outside the treaty; and an explanation of the phrases used might perhaps be inserted at the end of the commentary to articles 69 and 70.

167. He would like to know whether the Commission as a whole believed that the articles could stand as they were, or whether it favoured some clarification of the relationship between the articles on interpretation and the particular phrases used in the different types of case to which he had referred.

168. Mr. TUNKIN said that he would wish to know the exact text of the clarification which the Special Rapporteur was proposing to make, as the point raised by Mr. Rosenne involved an important question of substance, which had been discussed at length in the Commission.

169. Sir Humphrey WALDOCK, Special Rapporteur, suggested that the clarification, if required, should be very brief. The Commission might merely point out that there were certain articles—for instance, article 11—in which the phrase “the treaty provides” was used; and that that phrase automatically involved the full interpretation of the treaty according to the Commission’s rules. But in the phrase “it is otherwise established”—which was also used in article 11—the word “established” meant established not merely on the basis of an interpretation, but in a general way and on the basis of any relevant evidence.

170. Mr. TUNKIN said he feared it would be very dangerous for the Commission to try to explain in the commentary a relationship to which it had not directly referred in the articles themselves. It seemed that the assumption underlying Mr. Rosenne’s proposal was that treaties would have to be interpreted in any case. He could not accept that assumption, since, if the text of a treaty was clear, no interpretation was required at all; if it was ambiguous, that was another matter.

171. Sir Humphrey WALDOCK, Special Rapporteur, said he agreed that the question raised by Mr. Rosenne was an extremely delicate one. He did not think that he would be prepared to draft an explanation on the lines proposed by Mr. Rosenne without submitting it to the approval of members of the Commission, and it would be impossible to have a sufficient discussion of the question at the present stage of the session. Moreover, as the draft articles would in any case have to stand on their own, he thought it would be wiser not to take up Mr. Rosenne’s proposal at all.

*It was so agreed.*

*Paragraph (6) was approved.*

*Paragraphs (7) to (15)*

*Paragraphs (7) to (15) were approved.*

*Paragraph (16)*

172. Mr. TUNKIN proposed that the eighth, ninth, tenth and eleventh sentences of paragraph (16), beginning with the words “The practice of an individual State . . .” and ending with the words “analogous to an interpretative agreement” be deleted, as the problem of the relevance of the practice of individual States was no

longer referred to in any other part of the draft articles or the commentaries.

173. Sir Humphrey WALDOCK, Special Rapporteur, said he agreed with Mr. Tunkin. A reference to the practice of individual States as a supplementary means of interpretation, which was not in any way authentic, had originally been included in the commentary to article 70, but had since been deleted. It would only be logical therefore also to delete from the commentary to article 69 the three sentences to which Mr. Tunkin had referred.

*Mr. Tunkin's amendment was adopted.*

*Paragraph (16), as thus amended, was approved.*

*Paragraph (17)*

174. Mr. TUNKIN proposed that paragraph (17) be deleted, as it referred to a very complicated question of substance which was not dealt with in the articles on interpretation and had little bearing on the text of the articles concerned.

175. Sir Humphrey WALDOCK, Special Rapporteur, said he thought that paragraph (17) did have a certain usefulness, first because the problem of the effect of the practice of organs of an international organization on the interpretation of its constituent instruments was a matter which was being widely discussed at the present time, and secondly, because the paragraph explained why the Commission had decided not to refer to that problem in its draft articles.

176. Mr. de LUNA said he agreed with Mr. Tunkin that paragraph (17) should be deleted. The problem it referred to had serious political implications, and it would be better for the Commission not to mention it at all.

*Mr. Tunkin's amendment was adopted.*

*Paragraph (17) was deleted.*

*Paragraph (18)*

*Paragraph (18) was approved.*

*Paragraph (19)*

177. Mr. LACHS suggested that the last sentence of paragraph (19) be deleted, as the *Admissions to the UN Opinion* of the International Court of Justice was irrelevant to the arguments advanced in that paragraph, and the reference to the *Legal Status of Eastern Greenland* case was sufficient.

178. Sir Humphrey WALDOCK, Special Rapporteur, said he did not altogether agree that the reference to the *Admissions to the UN Opinion* was irrelevant, but he had no strong objection to its being dropped.

*Mr. Lachs's amendment was adopted.*

*Paragraph (19), as thus amended, was approved.*

*Paragraph (20)*

179. Mr. BRIGGS proposed that the fourth sentence, beginning with the words "The Commission accordingly considered whether...", which was redundant, be deleted.

*Mr. Briggs's amendment was adopted.*

180. Mr. ROSENNE said he thought it was wrong, in the first sentence, to refer only to the International

Court of Justice and the Permanent Court, and he proposed that the first line of the first sentence be re-worded to read: "There are many dicta in the jurisprudence of international tribunals stating".

*Mr. Rosenne's amendment was adopted.*

*Paragraph (20), as amended, was approved.*

*Paragraph (21)*

181. Mr. ROSENNE suggested that the reference to the *South-West Africa* case be deleted, as it had nothing to do with supplementary means of interpretation or *travaux préparatoires* and had been included merely to demonstrate that interpretations which were manifestly absurd or unreasonable were inadmissible.

*Mr. Rosenne's amendment was adopted.*

*Paragraph (21), as thus amended, was approved.*

*Paragraph (22)*

*Paragraph (22) was approved.*

*The commentary to articles 69 and 70 (A/CN.4/L.116/Add.18), as amended, were approved.*

COMMENTARY TO ARTICLE 63 (Application of successive treaties relating to the same subject-matter) (A/CN.4/L.116/Add.19) [26]

*Paragraphs (1) to (6)*

*Paragraphs (1) to (6) were approved.*

*Paragraph (7)*

182. Mr. ROSENNE said he thought it would be useful to re-introduce, either in paragraph (7) or in one of the following paragraphs, footnote 71 from the Commission's report on its sixteenth session, which contained definitions of the terms "integral treaties" and "interdependent treaties", taken from Sir Gerald Fitzmaurice's earlier report.<sup>12</sup>

183. Sir Humphrey WALDOCK, Special Rapporteur, said the footnote had been omitted in error, and would be restored in the final text of the report.

*Paragraph (7) was approved.*

*Paragraphs (8) to (13)*

*Paragraphs (8) to (13) were approved.*

*The commentary to article 63 was approved.*

COMMENTARY TO ARTICLE 64 (Severance of diplomatic relations) (A/CN.4/L.116/Add.19) [60]

*Paragraph (1)*

*Paragraph (1) was approved.*

*Paragraphs (2) and (3)*

184. Mr. ROSENNE pointed out that, while the second sentence of paragraph (2) stated that the Commission itself in 1963 had been "disinclined to deal with the severance of diplomatic relations in the context of the termination of treaties", the Commission had at its present session put the matter back into the context of the termination of treaties. There should accordingly be some adjustment either in the text of paragraph (2) or

<sup>12</sup> *Yearbook of the International Law Commission, 1964, vol. II, p. 188.*

at the end of paragraph (3) to deal with that particular point.

185. Sir Humphrey WALDOCK, Special Rapporteur, said that an appropriate adjustment would be made.

*Mr. Rosenne's amendment was adopted.*

*Paragraphs (2) and (3), as thus amended, were approved.*

*Paragraphs (4) and (5)*

*Paragraphs (4) and (5) were approved.*

*The commentary to article 64, as amended, was approved.*

#### PART I. INTRODUCTION

COMMENTARY TO ARTICLE 0 (The scope of the present articles) (A/CN.4/L.116/Add. 20) [1]

*The commentary to article 0 was approved.*

COMMENTARY TO ARTICLE 1 (Use of terms) (A/CN.4/L.116/Add. 20) [2]

*The commentary to article 1 was approved.*

#### PART VI. MISCELLANEOUS PROVISIONS

COMMENTARY TO ARTICLE Z (Case of an aggressor State) (A/CN.4/L.116/Add. 20) [70]

*The commentary to article Z was approved.*

COMMENTARY TO ARTICLE Y (Cases of State succession and State responsibility) (A/CN.4/L.116/Add. 20) [69]

*The commentary to article Y was approved.*

#### CHAPTER I: ORGANIZATION OF THE SESSION (A/CN.4/L.116)

186. Mr. ROSENNE said that chapter I should contain some reference to the fact that, at the invitation of the Legal Counsel of the United Nations, the Commission had devoted one meeting to a discussion on the role of the Commission at the present stage in codifying international law relating to trade.

*Mr. Rosenne's amendment was adopted.*

*Chapter I, as thus amended, was approved.*

187. The CHAIRMAN put the draft report as a whole to the vote.

*The draft report of the Commission on the work of its eighteenth session (A/CN.4/L.116 and Add.1-20, A/CN.4/L.117 and Add.1), as approved, was adopted unanimously.*

188. Mr. TUNKIN said that, although he had voted for the report, he wished to place on record his regret that the draft articles on the law of treaties did not include any provisions on the general participation of States in general multilateral treaties, and that, although the commentaries on the draft articles were in general excellent, they did not adequately reflect the practice of States, and placed undue emphasis on pronouncements by the International Court of Justice.

189. Mr. BARTOŠ explained that he had voted for the report in the same spirit as Mr. Tunkin.

190. The CHAIRMAN, speaking as a member of the Commission, said that his vote in favour of the report did not mean the abandonment of the views expressed by him on various questions during the discussions.

191. Mr. LACHS said he was gratified to observe that many of his views had been reflected in the decisions of the Commission, though not all of them had been accepted. In particular, he regretted that the report contained no rule as to the open and universal character of some multilateral treaties, a subject on which opinion in the Commission was, unfortunately, seriously divided. Although, in the interests of unanimity, he had subscribed to the report as a whole, he still maintained his views on that and other issues, views which, like every other member of the Commission, he had expressed fully and freely.

#### Closure of the session

192. Mr. AGO said he hoped those expressions of regret would not detract in any way from the enthusiasm with which all the members of the Commission had adopted the report; everyone, in the past five years, had had to sacrifice some of his opinions.

193. The Commission owed a debt of gratitude to its Chairman. When the members had elected Mr. Yasseen, they had done so in the belief that he was the man they needed to accomplish the delicate mission of directing the Commission's work in its most difficult stage, the adoption of the draft articles on the law of treaties. Experience had shown that their belief was justified. The Chairman, with skill, wisdom and firmness, combined with courtesy and tact, had piloted the Commission through a long session safely to its final destination, the unprecedented achievement represented by the draft articles on the law of treaties.

194. Mr. Yasseen had had the good fortune to preside over a Commission in a state of grace. It was very rare to encounter such a striking example of friendly co-operation and mutual understanding, and he questioned whether the new Commission would encounter the same spirit. That question must be present in many minds, since some of the ablest and most active members of the Commission would, for one reason or another, not be returning, and the Commission could not but regret their departure.

195. Mr. LACHS said that as the present session, at which the International Law Commission was concluding an important chapter in its life, would be the last for some members, including himself, he wished not only to endorse what had been said by Mr. Ago, but also to express his gratitude for the privilege of having been able to share with men of learning and wisdom a common task of such magnitude and importance.

196. Throughout those months and weeks, the Commission had been engaged in the important task of codifying and developing first and foremost the Law of Treaties. What had been achieved was of no mean value. It was sometimes said that the work of lawyers was done on the fringes of life and that they identified themselves with the past. But the proceedings in the Commission and in its Drafting Committee had demonstrated how misleading was that judgment in the case of the International Law Commission. Lawyers from different parts of the world, representing different cultures, different philosophies and backgrounds, different thoughts, had managed to find common ground. That was the explana-

tion of the achievements of the Commission. It had been able to create something durable by helping to evolve or develop rules to fit the changing needs of life and by adjusting the law to the impact of the dynamic developments of the present age.

197. That work must go on, for only if law corresponded to the needs of life would it be able to play its part as an essential factor in inter-State relations, as a major element in civilization. On leaving the International Law Commission, he wished once again to reassert his belief in the power of law and in its civilizing influence in a world where it was so frequently disregarded and violated.

198. Mr. TUNKIN said that members had reason to be satisfied with the work done during the Commission's term of office. The draft articles on the law of treaties which the Commission had adopted dealt with a very important branch of international law and undoubtedly constituted the most complicated draft it had ever produced.

199. He subscribed to every word that Mr. Amado had said about their Special Rapporteur, Sir Humphrey Waldock, at the previous meeting. He also wished to associate himself with Mr. Ago's tribute to the Chairman, to whom the Commission could be grateful for the skill and impartiality with which he had conducted its debates, and to pay his own tribute to the officers of the Commission and to the Secretariat. Lastly, he wished to thank the Commission for the spirit of collaboration and the goodwill which he had found there during the ten years of his membership.

200. Mr. JIMÉNEZ de ARÉCHAGA said he too wished to associate himself with all that had been said about the Chairman, the officers of the Commission and the Special Rapporteur on the law of treaties. Sir Humphrey Waldock had set an example of how a Special Rapporteur should do his work; he had sought not to convince but to illustrate, and had produced well-balanced reports in which careful attention was paid to the opinions expressed in the Commission; he had acted as the mouthpiece of the Commission with complete good faith, while forcefully maintaining his own views.

201. Mr. Briggs had placed his wide learning at the disposal of the Commission and had served it well as Chairman of the Drafting Committee. Mr. Tunkin had earned the deep respect of his colleagues for his outstanding capacity as a jurist, the precision of his mind and his strength of character. Through him his country had contributed much to the progressive development of international law.

202. Mr. de LUNA said that the Commission, the world of scholarship and practising lawyers all owed much to Sir Humphrey Waldock, whose selfless dedication to his task had enabled the Commission to complete its draft on the law of treaties, a task in which he had been ably seconded by their admirable Chairman.

203. As he himself would not be a candidate for the new Commission, he wished to take that opportunity to express his feelings of friendship and esteem for his colleagues. The members of the Commission had shown that men from different continents and with different

ideologies could, if they combined scholarship and objectivity with good faith, work together on a task of outstanding importance, so much so that it was already a part of the history of international law.

204. Mr. BRIGGS said he associated himself with everything that had been said by other members in their tributes to Sir Humphrey Waldock, for whom he had great admiration and respect. He also wished to thank the Secretariat for the particularly arduous work it had so ably performed throughout the session, during which he was proud to have served on the Drafting Committee.

205. Mr. AMADO, Mr. BARTOŠ, Mr. CASTRÉN, Mr. PESSOU, Mr. ROSENNE, Mr. RUDA and Mr. TSURUOKA also paid tributes to the Chairman, the Special Rapporteur for the law of treaties, and the Secretariat.

206. Sir Humphrey WALDOCK thanked the Chairman for the support he had given him as Special Rapporteur during the session; Mr. Yasseen had discharged his functions with learning and skill.

207. During the past five years he had come to appreciate the different intellectual qualities of members, and the confidence that had grown up between them in the course of the work had been a heartening experience. It was invidious to single out the contribution made by individual members but he nevertheless wished to thank Mr. Briggs for the tact and firmness with which he had presided over the long and difficult meetings of the Drafting Committee throughout the session, and to express his admiration for the clarity of mind and lucidity of expression shown by Mr. Tunkin throughout the work on the law of treaties. He regretted that Mr. Pal had been prevented by ill-health from attending the session. It was a privilege to have served as Special Rapporteur for the law of treaties because, whatever the future might bring, it had been a piece of work eminently worth doing.

208. The CHAIRMAN thanked the Special Rapporteur, who had done everything in his power to make possible the formulation of a draft convention on the law of treaties. He also thanked the members of the Commission for their friendly words; their co-operativeness and esprit de corps had greatly facilitated his task as Chairman.

209. The Commission was to be congratulated on having completed its work on the law of treaties, a task which would be a milestone in the history of the Commission and of international law. It was sad to reflect that, for its next session, the Commission would be losing some of the most eminent jurists in the world.

210. Finally, he expressed his gratitude to the other officers, the Chairmen of the Drafting Committee and the Secretariat. He was proud to have belonged to a Commission which, quietly but in no uncertain manner, served the cause of peace.

211. He declared the eighteenth session of the International Law Commission closed.

The meeting rose at 2.10 p.m.

APPENDIX

Table of references indicating the correspondence between the numbers allocated to the articles, sections and parts of the draft articles on the law of treaties in the reports of the Commission since 1962

1962 Draft (A/5209)			1963 Draft (A/5509)			1964 Draft (A/5809)			1965 Draft (A/6009)			1966 Final Draft (A/6309)		
Article	Section	Part	Article	Section	Part	Article	Section	Part	Article	Section	Part	Article	Section	Part
1	I	I	—	—	—	—	—	—	1	I	I	2	Introduction	I
2	I	I	—	—	—	—	—	—	2	I	I	3	Introduction	I
3	I	I	—	—	—	—	—	—	3	I	I	5	I	II
4	II	I	—	—	—	—	—	—	4	II	I	6	I	II
5	II	I	—	—	—	—	—	—		Deleted			Deleted	
6	II	I	—	—	—	—	—	—	6	II	I	8	I	II
7	II	I	—	—	—	—	—	—	7	II	I	9	I	II
8	II	I	—	—	—	—	—	—		Decision postponed			Deleted	
9	II	I	—	—	—	—	—	—		Decision postponed			Deleted	
10	II	I	—	—	—	—	—	—		Substance incorporated in article 11			Substance incorporated in article 10	
11	II	I	—	—	—	—	—	—	11	II	I	10	I	II
12	II	I	—	—	—	—	—	—	12	II	I	11	I	II
13	II	I	—	—	—	—	—	—		Decision postponed		12	I	II
14	II	I	—	—	—	—	—	—		Substance incorporated in article 12			Substance incorporated in article 11	
15	II	I	—	—	—	—	—	—	15	II	I	13	I	II
15, 1 (b) and (c)	II	I	—	—	—	—	—	—	16	II	I	14	I	II
16	II	I	—	—	—	—	—	—	15	II	I	13	I	II
17	II	I	—	—	—	—	—	—	17	II	I	15	I	II
18, 19 and 20	III	I	—	—	—	—	—	—	18, 19 and 20	III	I	16, 17 and 18	II	II
21	III	I	—	—	—	—	—	—	21	III	I	19	II	II
22	III	I	—	—	—	—	—	—	22	III	I	20	II	II
23	IV	I	—	—	—	—	—	—	23	IV	I	21	III	II
24	IV	I	—	—	—	—	—	—	24	IV	I	22	III	II
25	IV	I	—	—	—	—	—	—	25	IV	I	75	—	VII
26	V	I	—	—	—	—	—	—	26	IV	I	74	—	VII
27	V	I	—	—	—	—	—	—		Substance incorporated in article 26			Substance incorporated in article 74	
28 and 29 (1)	V	I	—	—	—	—	—	—	28	IV	I	71	—	VII
29 (2) to (8)	V	I	—	—	—	—	—	—	29	IV	I	72	—	VII
—	—	—	30	I	II	—	—	—	—	—	—	39	I	V
—	—	—	31	II	II	—	—	—	—	—	—	43	II	V
—	—	—	32 (1)	II	II	—	—	—	—	—	—	7	I	II
—	—	—	32 (2)	II	II	—	—	—	—	—	—	44	II	V
—	—	—	33	II	II	—	—	—	—	—	—	46	II	V
—	—	—	34	II	II	—	—	—	—	—	—	45	II	V
—	—	—	35	II	II	—	—	—	—	—	—	48	II	V

—	—	—	36	II	II	—	—	—	—	—	—	49	II	V
—	—	—	37	II	II	—	—	—	—	—	—	50	II	V
—	—	—	38	III	II	—	—	—	—	—	—	51	III	V
—	—	—	38 (3) (b)	III	II	—	—	—	—	—	—	52	III	V
—	—	—	39	III	II	—	—	—	—	—	—	53	III	V
—	—	—	40	III	II	—	—	—	—	—	—	54	III	V
—	—	—	41	III	II	—	—	—	—	—	—	56	III	V
—	—	—	42	III	II	—	—	—	—	—	—	57	III	V
—	—	—	43	III	II	—	—	—	—	—	—	58	III	V
—	—	—	44	III	II	—	—	—	—	—	—	59	III	V
—	—	—	45	III	II	—	—	—	—	—	—	61	III	V
—	—	—	46	IV	II	—	—	—	—	—	—	41	I	V
—	—	—	47	IV	II	—	—	—	—	—	—	42	I	V
—	—	—	48	IV	II	—	—	—	—	—	—	4	Introduction	I
—	—	—	49 and 50 (1)	V	II	—	—	—	3 (bis)	I	I	63	IV	V
—	—	—	50 (2)	V	II	—	—	—	—	—	—	64	IV	V
—	—	—	51	V	II	—	—	—	—	—	—	62	IV	V
—	—	—	52	VI	II	—	—	—	—	—	—	65	V	V
—	—	—	53	VI	II	—	—	—	—	—	—	66	V	V
—	—	—	53 (4)	VI	II	—	—	—	—	—	—	Substance incorporated in article 40		
—	—	—	54	VI	II	—	—	—	—	—	—	68	V	V
—	—	—	—	—	—	55	I	III	—	—	—	23	I	III
—	—	—	—	—	—	56	I	III	—	—	—	24	II	III
—	—	—	—	—	—	57	I	III	—	—	—	25	II	III
—	—	—	—	—	—	58	I	III	—	—	—	30	IV	III
—	—	—	—	—	—	59	I	III	—	—	—	31	IV	III
—	—	—	—	—	—	60	I	III	—	—	—	32	IV	III
—	—	—	—	—	—	61	I	III	—	—	—	33	IV	III
—	—	—	—	—	—	62	I	III	—	—	—	34	IV	III
—	—	—	—	—	—	63	I	III	—	—	—	26	II	III
—	—	—	—	—	—	64	I	III	—	—	—	60	III	V
—	—	—	—	—	—	65	II	III	—	—	—	35	—	IV
—	—	—	—	—	—	66	II	III	—	—	—	36	—	IV
—	—	—	—	—	—	67	II	III	—	—	—	37	—	IV
—	—	—	—	—	—	68	II	III	—	—	—	38	—	IV
—	—	—	—	—	—	69	III	III	—	—	—	27	III	III
—	—	—	—	—	—	70	III	III	—	—	—	28	III	III
—	—	—	—	—	—	71	III	III	—	—	—	27 (4)	III	III
—	—	—	—	—	—	72	III	III	—	—	—	29	III	III
—	—	—	—	—	—	73	III	III	—	—	—	29	III	III
—	—	—	—	—	—	—	—	—	0	I	I	1	Introduction	I
—	—	—	—	—	—	—	—	—	29 (bis)	IV	I	73	—	VII
—	—	—	—	—	—	—	—	—	—	—	—	40 <sup>a</sup>	I	V
—	—	—	—	—	—	—	—	—	—	—	—	47 <sup>b</sup>	II	V
—	—	—	—	—	—	—	—	—	—	—	—	55 <sup>c</sup>	III	V
—	—	—	—	—	—	—	—	—	—	—	—	67 <sup>d</sup>	V	V
—	—	—	—	—	—	—	—	—	—	—	—	69 <sup>e</sup>	—	VI
—	—	—	—	—	—	—	—	—	—	—	—	70 <sup>f</sup>	—	VI

<sup>a</sup> Second part of the seventeenth session and eighteenth session, article 30 bis.

<sup>b</sup> Eighteenth session, article 34 bis.

<sup>c</sup> Eighteenth session, article 40 bis.

<sup>d</sup> Eighteenth session, article 53 bis.

<sup>e</sup> Eighteenth session, article Y.

<sup>f</sup> Eighteenth session, article Z.