Introduction

A. Outline, Approach and Possible Significance of the Present Study

1 A survey of recent judicial decisions and scholarly writings in international law brings to light an increasing interest in, and awareness of, the numerous aspects of the interactions and interrelations between customary law and treaties — a problem largely unidentified by some standard monographs even of the 1960's. It is not difficult to discover the causes for this *growing concern with the sources of law*. Both within and outside the United Nations (UN), the last decades have witnessed an impressive number of conventions. In but a few instances, however, have these conventions commanded the numerous ratifications originally hoped for by the drafting bodies. The surprising consequence was that many States nevertheless regarded themselves bound *qua* customary law by some, or even many, of the provisions of otherwise unratified instruments. This phenomenon has assisted in broaching the subject as much as has the concomitant discovery that preparatory drafts, for instance of the UN International Law Commission (ILC), or the Informal Composite Negotiating Text (ICNT) of the Third UN Conference on the Law of the Sea (UNCLOS III) could have an impact on the preexisting *corpus* of international law, or influence the subsequent formation of new customary law. Moreover, in the 1969 *North Sea Cases*,[1] the International Court of Justice (ICJ) dealt extensively, and for the first and hitherto only time, with some aspects of the relationship between customary law and treaties. The same year also marks the adoption of the Vienna Convention on the Law of Treaties which contains a number of provisions dealing with these matters.[2] The *North Sea Cases* and the 1969 Vienna Convention have provided stimulating insights into the interactions of sources,[3] and have also inspired the present study. In particular,

> these new approaches to law-making and to the sources of international law need to be questioned, tested, and generally made part of a structured system. That . . . constitutes a challenge . . . as important, and indeed as urgent, as any in recent times,[4]

as Professor (now Judge Sir Robert) JENNINGS has written in the context of UNCLOS III.

2 As one of the first,[5] this study will attempt to establish a comprehensive picture of the relationship between customary law and treaties and, thereby, constitute a small contribution towards *a modern theory of the sources of international law*.

The present study comprises four main parts. *Part I* establishes the theoretical and factual foundations on which the subsequent chapters will rest. It depicts and evaluates the conditions for the formation of contemporary customary international law, on the one hand, and it assesses critically past and present efforts of the ILC and other drafting bodies, on the other. *Part II* encompasses the various means through which customary law and written rules can interact and influence each other. It begins with a fresh look at codification and progressive development, and with their accomplishment in one of the three methods (codes, resolutions, conventions) provided for by international law. We shall thereafter deal with the generation, or formation, of customary rules with identical contents on the basis of written rules, as well as with the converse process of the modification, or alteration, of the written rules through subsequent non-identical customary rules.

Part III covers the implications of the parallel development of customary law and treaties, beginning with the means of ascertaining this phenomenon. It then explores the particular facets of such an interrelation, for instance the question of reservations to a treaty, or its interpretation or denunciation etc., upon the customary rule. The *Conclusions* evaluate in a broader framework the results achieved in the single chapters of Parts I–III.

Part IV is conceived to be both the continuation of the preceding parts, and their counterpart. It purports to test in a practical manner the results of the previous chapters by application to a selection of single articles of the 1969 Vienna Convention. In particular, it is hoped to establish whether States are bound by these norms *qua* customary law, and, in addition, the way in which these norms have been interpreted by States, both parties and non-parties, in their subsequent practice.

3 "*Methode haben heisst, mit dem Weg der Sache gehen*".[6] The broad scope of our topic will enable us to venture further and to select a special approach for studying the subject-matter. To avoid the danger of an *a priori* conception of the sources of law, the matter has been placed squarely within the *framework of the United Nations*. In particular, the work of the ILC will be considered from 1949 to 1982. The ILC is currently the main permanent body concerned with the codification and progressive development of international law, and its members constitute a body unique for its combination of scholarship and practical experience. The conventions adopted on the basis of ILC drafts provide important examples of the interaction and interrelation of sources. Hence, a second object is to study these conventions and the preceding drafts together with the *reactions of States* thereto in the UN itself, and subsequently at the diplomatic conferences convened by the UN General Assembly.

4 Within this framework efforts have been concentrated on *one instrument* in order to maintain a consistency of approach, and in view of the fact that the theoretical insight achieved on the subject shall be applied to a specific convention and its rules. Moreover, this approach is believed to be fruitful because it yields a more detailed analysis of all materials, while simultaneouly providing for a clearer overall view of the often heterogeneous aspects of the interrelation of sources.

5 In this respect, special consideration has been given to the *1969 Vienna Convention* and its *travaux préparatoires*. First, the Convention, and its preparatory materials, deal with certain issues of the relationship of sources.[7] Second, the Convention forms the basis for a major part of treaty law and is therefore regarded as one of the most important conventions of the international legal order. Third, the Convention contains a substantial amount of neutral "lawyers' law" and comparatively few disputed points. This enables a certain generalization and the establishment of parametric criteria applicable to other conventions.[8] Fourth, the Convention suggests itself because the formation of new customary law on the basis of its rules is contested only in a few instances. Fifth, the Convention corresponds ideally with the newly emerging international legal order since its preparation involved, for the first time, a large number of newly independent States contributing significantly towards its completion.

6 In addition, this study rests on the many judicial decisions which have a bearing on sources[9] the most important of which are the 1969 *North Sea Cases*.[10] Since the latter analysed as the "problème central"[11] the relationship between customary law and treaties, detailed discussion of these cases underlies the present work. We may recall that the *North Sea Cases* involved the boundary delimitation of the North Sea continental shelf adjacent to the Federal Republic of Germany towards the Netherlands and Denmark, and that the applicability and the scope of Art. 6 para. 2 of the 1958 Geneva Continental Shelf Convention were the contentious issues. Art. 6 has since been paralleled by Art. 83 of the LoS (Law of the Sea) Convention, by the 1982 *Continental Shelf Case (Tunisia/Libya)*,[12] and by the 1977 *Continental Shelf Arbitration (France/UK)*.[13] However, this cannot detract from the fundamental significance of the 1969 judgment with respect to the sources of law in general. To the contrary, such post-1969 developments aptly illustrate that a discussion of customary law and treaties does not depend on any particular subject-matter of law, or on its analysis, since the sources of law provide, as it were, the vehicle for all normative materials.[14]

7 Finally, the study intends to compile comprehensively, and to discuss critically, *doctrinal writings* from various legal systems. The reader will be well aware of a particularly large number of learned studies dealing with two aspects falling within our scope, i.e. on customary law and on codification. However, the majority of these efforts have not accommodated the changes in international society and the in-

ternational legal order; few have dealt with codification as a problem of sources; and even fewer have studied the interactions and interrelations between customary law and treaties.[15]

8 Thus, the 1970 Hague lectures of Professor (later Judge) BAXTER have elucidated the problem by discussing certain conventions and the jurisprudence of the Court.[16] Professor MAREK has drawn attention to the many theoretical implications of the topic.[17] Professor JENNINGS[18] and Ambassador ROSENNE[19] have each analysed numerous single aspects. The relevant sections of Judge (later Professor) JIMÉNEZ de ARÉCHAGA's General Course at the Hague Academy contain a contemporary and lucid introduction into the matter.[20] Mr. (later Sir Ian) SINCLAIR has offered a valuable survey on the relationship between the 1969 Vienna Convention and customary law.[21] Dr. THIRLWAY has submitted an interesting but somewhat complex resumé of some views of the 1950's and 1960's on selected aspects, cases and authors.[22] Dr. AKEHURST has prepared a cogent study on the formation of customary law.[23]

9 The learned authors' efforts have proved to be very helpful by demarcating some of the areas involved, and their conclusions have had a stimulating impact on the present work. Where possible, we have attempted a synthesis of diverging views. However, it is respectfully submitted that a *substantial study* has yet to be completed. The present thesis aspires to fill that gap and to offer the following *innovative approaches:* while dealing comprehensively with as many aspects of the subject as possible, it emphasizes State practice, the work of the ILC and the relevant provisions of the 1969 Vienna Convention as much as the jurisprudence of courts and doctrinal writings. Moreover, it will not only detect but also attempt to explain the various processes and their causes, and to integrate them into a general structured system. In particular, it is hoped to assess consistently and meticulously all the ramifications of the continuing relationship between customary law and treaties, in the light of the general conditions of customary law. Finally, practical use will be made of the theoretical results by applying them to concrete conventional articles.[24] By thus extending the perimeter of the topic, it is hoped to shed fresh light on heretofore allegedly established questions[25] and to draw attention to other, largely unexplored, issues and their solutions.[26]

10 In the light of the preceding considerations we hope that this study will enjoy a certain *practical significance*. The problems of conventions commanding few ratifications have already been mentioned.[27] In addition, questions of sources are of basic importance, since most disputed matters of international law raise at some stage the issue of the validity, and applicability, of law. Consequently, it is hoped to furnish the practising lawyer with novel arguments and methods by which to assess and establish the case in favour or against the validity of a legal norm.[28] Our study hopes to substantiate the manner in which,

and the extent to which, States may become bound by rules of a convention to which they are not parties. Moreover, the general approach of this thesis confronts issues arising from any convention, declaration or code.[29] Thus, it can be predicted that the 1982 LoS Convention will present problems of sources which, if evaluated on the basis of the present study, should easily fall into place.[30] Last but not least, by arguing the case *for* the utility and adequacy of customary international law in the context of the modern international legal order, the present study hopes to be of value to jurists of newly independent countries. Indeed, as Professor de VISSCHER has pointed out, "la pression des Etats nouveaux . . . a contribué à rajeunir la coutume."[31] We intend to establish the manner in which contemporary customary law — far from superimposing unwanted or outdated concepts of law — by definition provides for a constantly modern, flexible set of legal norms in the formation of which all States may participate as equals.

B. Delimitations

11 The present topic could be discussed *ad infinitum* and, hence, requires certain delimitations *vis-à-vis* marginal subjects so as to enhance the consistency and clarity of argument. Firstly, this study will only concern *binding* legal norms which create, alter, or terminate, rights or duties for States, i.e. *law*. Such legal norms differ, *ex hypothesi,* from programmes of law, or "soft law", the "rules" of which are applied solely for reasons of utility or persuasiveness.[32] While not treating these matters, our study does, of course, elaborate upon the early — or "soft" — stages of the formation of customary law. On the other hand, this binding force must also be distinguished from peremptory norms from which, in addition, "no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character" (VCT Art. 53). *Jus cogens* is not primarily a problem of sources, "but (of) the particular nature of the subject-matter with which it deals."[33] The vast majority of legal norms, however, are non-peremptory and can regularly be derogated from, or modified by, any legal norm, though not unilaterally.[34]

12 Secondly, this study will concentrate on general and abstract legal norms. A norm is general, if it is potentially applicable to an unlimited — rather than individualized — number of addressees. The norm is abstract, if it is potentially regulatory of an unspecified number of recurring situations. Hence, our scope comprises *general customary law* and so-called "law-making" conventions (*traités-lois*), that is, *general multilateral conventions,* since it is here that such general and abstract norms are often (though by no means invariably) to be found.[35] In the present study, the term "convention" is thus loosely distinguished from the term "treaty", a term more indicative of the contractual

nature of the instrument. As a corollary, this scope not only excludes special customary law,[36] but also such individual and concrete treaty norms as objective (territorial) régimes, and the organizational rules of international institutions.[37] Individual concrete rules may, without doubt, influence the formation of law, but on account of their restricted applicability, the law-creating process raises different issues.

13 Third, our thesis has been placed within the *traditional framework of sources* as defined by Art. 38 of the ICJ-Statute. There is some doctrinal disagreement as to the concept of a "source",[38] and there has even been a tendency to bar the term altogether.[39] Moreover, Art. 38 is technically speaking, only a "standing directive" for the judges of the Court as to the applicable law.[40] Nevertheless, in view of the fact that the Statute enjoys quasi-universal membership,[41] it can be said that Art. 38 has been accepted in the *practice of States* as an abstract and authoritative — though neither unflawed[42] nor definitive —[43] statement on the sources of law.[44] Art. 38 provides:

> 1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:
>
> a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting States;
>
> b. international custom, as evidence of a general practice accepted as law;
>
> c. the general principles of law recognized by civilized nations;
>
> d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.
>
> 2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

It would exceed the scope of this study to elaborate upon a fundamentally new approach to the sources of law, *a fortiori* because the traditional framework appears to be sufficiently broad and flexible to accommodate modern developments in the international community. As Professor JENNINGS pointed out in his General Course at the Hague Academy:

> (w)e have indeed little choice but to work within the traditional framework. Continuity is of the essence of law, and its development comes about almost always by modification of the old . . . If we seem therefore to be working for the most part in the old quarries it is because it is here that the richest seams are still to be found.[45]

For the same reasons, this study cannot discuss other approaches to international law, in particular the so-called *New Haven School* of thought, of which Professor McDOUGAL is a prominent exponent.[46] This school regards international law as a constant process of decision-making in which law is defined as a certain policy expectation favourable

to subjectively chosen world community interests and which is shared by both a communicator and a communicatee.[47]

14 Finally, although the study deals with codification, customary law, and the sources of law, it cannot discourse upon such questions as the codification of private international law,[48] the source of general principles of international law,[49] or the application of customary international law by municipal courts.[50]

Notes

1. ICJ Reports 1969 3ff.

2. I.e., the seventh and eighth preambular paras.; Arts. 3(b), 4, 31 subpara. 3(c), 38, 43; Art. 68(c) of the 1964 ILC Draft; possibly Art. 38 of the 1966 ILC Draft.

3. Cf. Scott/Carr, Texas ILJ 16 (1981) 347.

4. Mélanges Reuter 355; cf. the examples given in SJIR 37 (1981) 80.

5. Cf. *infra* paras 7ff.

6. Simma, Das Reziprozitätselement im Zustandekommen völkerrechtlicher Verträge 38; cf. on the question of methodology also Bleckmann, Aufgaben 19f; *infra* para 558.

7. *Supra* para 1n.; at one stage, for instance, the ILC considered casting the law of treaties in a (non-contractual) code of principles.

8. The 1982 Law of the Sea (LoS) Convention, and its preparatory work, for instance, would hardly permit generalization to the same degree.

9. Recently for instance, the 1974 *Fisheries Jurisdiction Cases (UK/Iceland; Federal Republic of Germany/Iceland)*. ICJ Reports 1974 3ff, 175ff; the 1977 *Continental Shelf Arbitration (France/UK)*, ILR 54 (1979) 6ff; the *Continental Shelf Case (Tunisia/Libya)*, ICJ Reports 1982 3ff.

10. ICJ Reports 1969 3ff; Jiménez de Aréchaga, RC 159 (1978 I) 9, speaks of "the richness of its analysis of custom"; differently Simma, Das Reziprozitätselement im Zustandekommen völkerrechtlicher Verträge 25 n. 29, that the *Cases* have further contributed to the doubts on the utility of Art. 38 of the ICJ-Statute; Lang, Plateau continental 157 ("de nouvelles confusions"); Mueller, Vertrauensschutz 89, regards the *Fisheries Case (UK/Norway)*, ICJ Reports 1951 116ff, as the most important case on customary law.

11. Marek, Revue Belge 6 (1970) 72.

12. ICJ Reports 1982 paras 49f; while the Court required, for the delimitation, an "agreement on the basis of international law . . . in order to achieve an equitable solution", *ibid.*, Art. 6 para. 2 of the 1958 Convention provided for determination of the boundary, *inter alia*, "by application of the principle of equidistance."

13. ILR 54 (1979) 75 para 75.

14. Cf. similarly Skubiszewski, ZaöRV 31 (1971) 814 with respect to the *Lotus Case*, PCIJ (1927) Series A No. 10 at 28; Simma, Die Vereinten Nationen im Wandel 80; differently Schreuer, GYBIL 20 (1977) 113, for whom the developments in the law of reservations (VCT Arts. 19–23) since 1951 cannot be accommodated by any of the traditional sources.

15. Gamble, Texas ILJ 16 (1981) 305ff; for an early study which identifies the problems, cf. de Visscher, RC 6 (1925 I) 329ff; also Ago, Recueil Guggenheim 128.

16. RC 129 (1970 I) 25ff; also in BYBIL 41 (1968) 275ff and in Recueil Guggenheim 146ff.

17. Relations internationales 376ff; ZaöRV 31 (1971) 489ff; Revue Belge 6 (1970) 45ff.

18. International Law 3ff; SJIR 37 (1981) 59ff; Mélanges Reuter 347ff; Essays Friedmann 159ff; ILA 57 (1976) 620ff; RC 121 (1967 II) 323ff; ICLQ 13 (1964) 385ff; BYBIL 34 (1958) 334ff; and 24 (1947) 301ff.

19. Law of Treaties; Homenaje Miaja de la Muela I 441ff; Essays Friedmann 202ff;

Mélanges Rousseau 229ff; Cornell ILJ 4 (1970) 1ff; PASIL 64 (1970) 24ff; Annuaire IDI (1967 I) 5ff; YBWA 19 (1965) 183ff; BYBIL 36 (1960) 104ff.

20. RC 159 (1978 I) 1ff.

21. Vienna Convention 6ff.

22. International Customary Law.

23. BYBIL 47 (1974/75) 1ff.

24. For an interesting analysis of some provisions of the 1958 Geneva Conventional law, cf. Visser 'T Hooft H.P., Les Nations Unies et la conservation des ressources de la mer. Etude des rapports entre le codificateur et le milieu politique, The Hague 1958.

25. For instance, the question of a "freezing" effect of codification; the (generally rejected) distinction between codification and progressive development; the value of treaty texts as State practice; or even the alleged unpopularity of customary law.

26. For instance, the modification of treaties *via* subsequent customary law; the effects of the interrelation of sources; the merits and demerits of conventions as compared with customary law etc.

27. *Supra* para 1.

28. For example, the "potential" of a reservation to rules of a convention as an instance of persistent objection.

29. For instance, the recent 1978 ILC Draft on the Most-Favoured-Nation Clause which may be accomplished in a UN General Assembly (GA) Resolution or in a (non-contractual) code of principles.

30. For instance, the influence upon the formation of customary law of an agreement by consensus, of draft texts, and of the conventional text itself; "package deals" and their consequences; questions of clauses on reservations, amendments, and denunciation; modification of the 1958 Geneva Conventional law; question of persistent objections.

31. RC 136 (1972 II) 63.

32. Dupuy, RC 165 (1979 IV) 170; Seidl-Hohenveldern, RC 163 (1979 II) 194: "(o)bviously rules cannot, on the one hand, claim to be law, i.e. legal rules, while on the other they would not impose any obligations whatsoever on their addressees" (footnotes omitted). On this topic also Bothe M., Legal and Non-Legal Norms — A Meaningful Distinction in International Relations? NYBIL 11 (1980) 65ff, 75; Schweisfurth, ZaöRV 36 (1976) 707ff.

33. Commentary to Art. 50 (later VCT Art. 53) of the 1966 ILC Draft, YBILC 1966 II 248.

34. *Per contra* the delegation of Afghanistan at the 1978 Vienna Conference, OR 1978 CoW 166 para 19: "multilateral treaties of universal character, or law-making treaties . . . established rules of *jus cogens*"; the delegation of Venezuela at the 1969 Vienna Conference, OR 1969 Plenary 66 para 3, that in the *North Sea Cases* the ICJ had "defined customary law as a *jus cogens*"; similarly Lang, Plateau continental 156. It is also doubtful whether the Court, in the *Reservations to Genocide Advisory Opinion*, ICJ Reports 1951 23, was referring to *jus cogens* (cf. *ibid.*: "principles . . . recognized by civilized nations as binding on States, even without any conventional obligation"), as McDougal/Lasswell/Chen 346, suggest, since the Court was clearly not *a priori* ruling out reservations to (and, hence, a derogation from) such "principles". Cf. on this also Mann F.A., The Doctrine of Jus Cogens in International Law, in Festschrift Scheuner 399ff.

35. *Infra* paras 220, 273. Cf. also Fitzmaurice, Symbolae Verzijl 157 n. 2; Guggenheim, Traité I 93; Brierly, Law of Nations 58; Strebel, ZaöRV 36 (1976) 309ff; Bleckmann, Aufgaben 14; also the first preambular para. of the 1969 Declaration of the Vienna Conference on Universal Participation in the Vienna Convention on the Law of Treaties.

36. Cf. *infra* paras 82ff.

37. Cf. *infra* paras 274f.

38. Sources have been equated with the basis of obligation of international law; cf. for instance, Brierly J.L., Le fondement du caractère obligatoire du droit international, RC 23 (1928 III) 467ff; Verdross A., Le fondement du droit international, RC 16 (1927

I) 251ff; other authors equate sources with the underlying philosophical, sociological or psychological causes of law; cf. Verzijl, International Law I 1ff.

39. O'Connell, International Law I 8, for instance, distinguishes "between the impulses which crystallise into rules of law and the institutional agencies which perform the process of crystallisation"; similarly Schwarzenberger, International Law I 25f; Bos, GYBIL 20 (1977) 9ff: "recognized manifestations of law are the phenomena which in a given legal order one is allowed to invoke in order to legitimize a reasoning alleged to be a legal one."

40. Fitzmaurice, Symbolae Verzijl 176.

41. According to para. 1 of Art. 93 of the UN Charter, "(a)ll Members of the United Nations are *ipso facto* parties to the Statute." According to para. 2, non-members may also become parties.

42. Extensively Fitzmaurice, Symbolae Verzijl *passim; infra* para 16.

43. Cf. Fitzmaurice *ibid.;* Jennings, SJIR 37 (1981) 71; on *informal consent* as a further original source of law cf. Verdross/Simma 259; Simma, Die Vereinten Nationen im Wandel 97, and the replies thereto by Steiger *ibid.* 122ff; Randelzhofer 124; Simma 127ff.

44. Brownlie, Principles 3; Verdross/Simma 257; Rousseau, Droit international public I 58f; cf. the 1979 message of the Swiss Federal Council, SJIR 36 (1980) 190; the decision of 17.1.1977 of the Rotterdam District Court, NYBIL 9 (1978) 325. Accordingly, the formulation of Art. 38 has been taken over by many treaties and other texts, e.g., Art. 10 of the ILC Draft Model Rules on Arbital Procedure; Art. 5 of the 1921 German-Swiss Arbitration Treaty (for further references cf. Schlochauer H.-J., Arbitration, EPIL 1 [1981] 24); Art. 83 para. 1 of the LoS Convention defines an "agreement . . . as referred to in Article 38 of the (ICJ) Statute."

45. RC 121 (1967 II) 327.

46. Of course, we shall refer to any conclusions regarding our topic. Cf. in particular McDougal/Lasswell/Chen; McDougal/Lasswell/Vlasic; Venkata Raman, Essays McDougal 365ff; McDougal/Lasswell/Miller; McDougal M.S. and Associates, Studies in World Public Order 1960; McDougal M.S./Burke W.T., The Public Order of the Oceans: A Contemporary International Law of the Sea 1962; McDougal M.S., International Law, Power and Policy: A Contemporary Conception, RC 82 (1953 I) 133ff.

47. Johnson, Georgia JICL 11 (1981) 336; for a discussion of this approach, cf. Allot P., Language, Method and the Nature of International Law, BYBIL 45 (1971) 79ff (*versus* Higgins, International Law 41ff).

48. Cf. on the common denominators with our topic, for instance, Neuhaus P.N., Der Beitrag des Völkerrechts zum internationalen Privatrecht, GYBIL 21 (1978) 60ff; Vitta, International Conventions and National Conflict Systems, RC 126 (1969 I) 111ff; *per contra* Thirlway, International Customary Law 16, for whom "wholly different considerations" apply to treaties codificatory of private international law.

49. ICJ-Statute Art. 38 para. 1(c); the difference lies therein that customary law is based on State practice and *opinio juris*, whereas general principles rest on common attitudes and approaches of different municipal legal systems, Scheuner, Festschrift Mann 419.

50. Apart from the difficulties of ascertaining customary law, there should not be any *a priori* or inherent problem of a municipal court applying customary international law; but cf. the US Supreme Court in *Banco Nacional de Cuba v. Sabbatino*, 376 US 398 (1964), where, "in the absence of a treaty or other unambiguous agreement regarding controlling legal principles", it did not rule on the validity of an act of a foreign government under customary international law. On this topic also Gordon E./Crawford J. *et al.*, Application of Customary International Law by National Tribunals, PASIL 76 (1982); Dubouis M.L., L'application du droit international coutumier par le juge français, in Reuter *et al.*, L'application du droit international par le juge français, Paris 1972 at 75ff (with further references).