

by other rules of general international law or by any special agreements in force between the sending state and the receiving state.

Article 42

A diplomatic agent shall not in the receiving state practise for personal profit in any professional or commercial activity.

Article 43

The function of a diplomatic agent comes to an end, *inter alia*:

- (a) on notification by the sending state to the receiving state that the function of the diplomatic agent has come to an end;
- (b) on notification by the receiving state to the sending state that, in accordance with para 2 of Article 9, it refuses to recognise the diplomatic agent as a member of the mission.

Article 44

The receiving state must, even in case of armed conflict, grant facilities in order to enable persons enjoying privileges and immunities, other than nationals of the receiving state, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible moment. It must, in particular, in case of need, place at their disposal the necessary means of transport for themselves and their property.

Article 45

If diplomatic relations are broken off between two states, or if a mission is permanently or temporarily recalled:

- (a) the receiving state must, even in the case of armed conflict, respect and protect the premises of the mission, together with its property and archives;
- (b) the sending state may entrust the custody of the premises of the mission, together with its property and archives, to a third state acceptable to the receiving state;
- (c) the sending state may entrust the protection of its interests and those of its nationals to a third state acceptable to the receiving state.

Article 46

A sending state may with the prior consent of a receiving state and at the request of a third state not represented in the receiving state, undertake the temporary protection of the interests of the third state and of its nationals.

Article 47

- 1 In the application of the provisions of the present Convention, the receiving state shall not discriminate between states.
- 2 However, discrimination shall not be regarded as taking place:
 - (a) where the receiving state applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its mission in the sending state;
 - (b) where by custom or agreement states extend to each other more favourable treatment than is required by the provisions of the present Convention.

Article 48

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialised agencies or Parties to the Statute of the International Court of Justice, and by any other state invited by the General Assembly of the United Nations to become a Party to the Convention, as follows:

... until 31 October 1961 at the Federal Ministry of Foreign Affairs of Austria and subsequently, until 31 March 1962, at the United Nations Headquarters in New York.

Article 49

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary General of the United Nations.

Article 50

The present Convention shall remain open for accession by any state belonging to any of the four categories mentioned in Article 48. The instruments of accession shall be deposited with the Secretary General of the United Nations.

Article 51

- 1 The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary General of the United Nations.
- 2 For each state ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such state of its instrument of ratification or accession.

Article 52

The Secretary General of the United Nations shall inform all states belonging to any of the four categories mentioned in Article 48:

- (a) of signatures to the present Convention and of the deposit of instruments of ratification and accession, in accordance with Articles 48, 49 and 50.
- (b) of the date on which the present Convention will enter into force in accordance with Article 51.

Article 53

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary General of the United Nations, who shall send certified copies thereof to all states belonging to any of the categories mentioned in Article 48.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, this eighteenth day of April one thousand nine hundred and sixty-one.

The rules concerning diplomatic relations have always been an important aspect of international law and arguably form one of the most accepted areas of the law. In the *US Diplomatic and Consular Staff in Tehran* case (1980) the ICJ confirmed the fundamental nature of the law on diplomatic immunity:

The rules of diplomatic law, in short, constitute a self-contained regime which, on the one hand, lays down the receiving state's obligations regarding the facilities, privileges and immunities to be accorded to diplomatic missions and, on the other, foresees the possible abuse by members of the mission and specifies

the means at the disposal of the receiving state to counter any such abuse. These means are, by their nature, entirely efficacious, for unless the sending state recalls the member of the mission objected to forthwith, the prospect of the almost immediate loss of his privileges and immunities, because of the withdrawal by the receiving state of his recognition as a member of the mission, will in practice compel that person, in his own interest, to depart at once. But, the principle of the inviolability of the persons of diplomatic agents and the premises of diplomatic missions is one of the very foundations of this long-established regime, to the evolution of which the traditions of Islam made a substantial contribution. The fundamental character of the principle of inviolability is, moreover, strongly underlined by the provisions of Articles 44 and 45 of the Convention of 1961. Even in the case of armed conflict or in the case of a breach of diplomatic relations, those provisions require that both the inviolability of the members of a diplomatic mission and of the premises, property and archives of the mission must be respected by the receiving state. Naturally, the observance of this principle does not mean – and this the applicant government expressly acknowledges – that a diplomatic agent caught in the act of committing an assault or other offence may not, on occasion, be briefly arrested by the police of the receiving state in order to prevent the commission of the particular crime. But such eventualities bear no relation at all to what occurred in the present case.⁵²

9.4.1 *The basis of diplomatic immunity*

There have been three principal theories justifying diplomatic immunity:

- (a) personal representation;
- (b) extra-territoriality; and
- (c) functional necessity

Personal representation

This theory dates back to the time when diplomatic relations involved the sending of personal representatives of the sovereign. Immunity attaching to diplomatic representatives was seen as an extension of sovereign immunity.

Extra-territoriality

This theory was founded on the belief that the offices and homes of the diplomat were to be treated as though they were the territory of the sending state. In 1758 Emmerich de Vattel wrote, 'an ambassador's house is, at least in all common cases of life, like his person, considered as out of the country'. The theory always rested on a fiction and is now no longer respected.

Functional necessity

The preferred rationale for the privileges and immunities attaching to diplomats is that they are necessary to enable them to perform diplomatic functions. Modern diplomats need to be able to move freely and be unhampered as they report to their governments. They need to be able to report in confidence and to negotiate on behalf of their governments without fear of let or hindrance.

52 *United States Diplomatic and Consular Staff in Tehran Case; United States v Iran* [1980] ICJ Rep at p 3.

Diplomatic immunity is not for the benefit of individuals, but to ensure the efficient performance of the functions of diplomatic missions as representing states.

9.4.2 *The international law on diplomatic relations*

Until the end of the 1950s, the source of diplomatic law was customary international law. In 1957 the ILC undertook to produce a draft convention on diplomatic relations. This draft formed the basis for the Vienna Convention on Diplomatic Relations 1961 (referred to in this chapter as the Vienna Convention) which was signed on 18 April 1961 and entered into force on 24 April 1964. The Convention was widely regarded as codifying existing rules of customary law and the vast majority of states are party to it. The Convention emphasises the functional necessity of diplomatic immunity and the main functions of a diplomatic mission are set down in Article 3. These functions include representing the sending state in the receiving state; protecting the interests of the sending state; negotiating with the receiving state; reporting on conditions and developments within the receiving state; and generally promoting and developing friendly relations between sending and receiving states. The Vienna Convention became part of UK law by virtue of the Diplomatic Privileges Act 1964.

The first point to be noted is that there is no right to diplomatic relations. Such relations exist only by consent, and a receiving state may declare any member of a diplomatic mission *persona non grata*, in which case the sending state must withdraw the diplomatic agent or face the withdrawal of immunity. This rule is now to be found in Article 9 of the Vienna Convention 1961. Declaring members of a mission *persona non grata* amounts to a unilateral act on the part of the receiving state. More usually, disputes about diplomatic staff are resolved by agreement, and rather than declaring individuals to be *persona non grata*, the receiving state will ask that the sending state withdraws particular members of its mission. The sending state will normally comply with such a request.

9.4.3 *The diplomatic mission*

The premises of the diplomatic mission, which include the embassy buildings and compound together with the residence of the head of the mission, are inviolable by virtue of Article 22 of the Vienna Convention. This is not to say that the premises of the diplomatic mission constitute part of the territory of the sending state, but does mean that they are inaccessible to agents of the receiving state without the consent of the head of the mission. In observing this rule, the English courts refused to issue a writ of *habeas corpus* with regard to a Chinese dissident who was being held against his will in the Chinese embassy in London in what was known as the Sun Yat Sen incident. Similarly, the inviolability of the diplomatic mission prevented the arrest of those suspected of shooting WPC Fletcher from within the Libyan Embassy in London in 1984.

The inviolability of the diplomatic mission also means that the receiving state is under a duty to afford all reasonable protection to it. It was a failure adequately to protect the US Embassy in Tehran which led to the *US Diplomatic and Consular Staff in Iran* case (1980). On 4 November 1979, following the

revolution in Iran, a number of Iranian nationals seized the US Embassy and took the personnel inside hostage. Although the ICJ found that the initial hostage taking could not be attributed to the Iranian government, it had been aware of the threat posed to the embassy and had the means available to provide adequate protection. The court therefore found that Iran's failure to prevent the seizure of the embassy amounted to a breach of its international obligations.

9.4.4 Diplomatic personnel

The Vienna Convention provides for varying degrees of immunity which are dependent on the status of the person concerned. There are five main categories of person each attracting differing degrees of immunity:

- the head of the mission (the ambassador or *charge d'affaires*);
- the members of the diplomatic staff;
- the members of the administrative and technical staff;
- the members of the service staff;
- private servants.

The appointment of the head of the mission requires the consent of the receiving state and details of all other members of the mission must be given to the receiving state if immunity is to be invoked. The receiving state can set limits on the size of a particular mission or refuse, on a non-discriminatory basis, to accept officials of a particular category.

The head of the mission and the members of the diplomatic staff are also referred to as diplomatic agents, and they receive the highest degree of immunity. Article 29 of the Vienna Convention provides that the person of a diplomatic agent shall be inviolable. He or she shall not be subject to any form of arrest or detention, and the receiving state has a duty to ensure his or her protection. Article 31 further provides that diplomatic agents enjoy complete immunity from the criminal jurisdiction of the receiving state and extensive immunity from civil and administrative jurisdiction. These immunities extend to the families of diplomatic agents if they are not nationals of the receiving state.

Members of the administrative and technical staff and their families, provided they are not nationals of the receiving state, enjoy similar immunities to diplomatic agents apart from the fact that their immunity from civil and administrative jurisdiction does not extend to acts performed outside the course of their duties.

Members of the service staff who are not nationals of the receiving state enjoy immunity in respect of acts performed in the course of their duties. Private servants who are not nationals of the receiving state only enjoy exemption from local taxation, unless there is specific agreement which extends their immunities.

The immunities granted to diplomatic personnel can be seen to be quite extensive although Article 41 provides that all persons enjoying such immunities are under a duty to respect the laws and regulations of the receiving state. From time to time a particular instance of law-breaking by a diplomatic

agent receives widespread publicity and there are calls for the immunities to be restricted. It is always possible for immunity to be waived by the sending state under Article 32 of the Vienna Convention. Furthermore, in cases of serious abuse of immunity it is possible for the receiving state to declare the diplomatic agent *persona non grata*.

9.4.5 Diplomatic communications

As has already been indicated, one of the functions of a diplomatic mission is to report on conditions and developments within the receiving state. This function can only be achieved if diplomatic staff enjoy a reasonable freedom of movement and communication. Article 26 of the Vienna Convention provides that all members of the diplomatic mission shall enjoy freedom of movement subject to restrictions imposed on grounds of national security.

Article 24 provides that the archives and documents of the mission shall be inviolable. Perhaps the area of diplomatic law which has led to the greatest amount of debate concerns the diplomatic bag. Article 27 requires the receiving state to allow and protect freedom of communication for the mission and states that the official correspondence of the mission shall be inviolable. Paragraph 3 provides that 'the diplomatic bag shall not be opened or detained'. Apart from the requirement that the bag shall be externally marked and only used for diplomatic documents or articles intended for official use, there is no indication as to what constitutes the diplomatic bag. In practice the 'bag' has ranged from a small package to collection of large crates. There have been allegations of the use of diplomatic bags to smuggle drugs and weapons. In 1964 a crate purporting to be an Egyptian diplomatic bag was opened at Rome airport and inside was found a bound and drugged Israeli. In 1984 a former Nigerian minister was kidnapped in London and placed in a crate. The crate was taken to Stansted Airport by a Nigerian diplomat, but since the crate did not itself contain any external diplomatic markings it was opened and Mr Dikko was released. A number of states have since argued that it is permissible to subject the diplomatic bag to electronic or other similar screening, although this has not been universally accepted. Certainly the Draft Articles on the Diplomatic Courier and Diplomatic Bag 1989 adopted by the ILC provides for the absolute inviolability of the diplomatic bag. In practice it seems that a state has limited scope for protest when its diplomatic bags are opened to reveal weapons, drugs or other non-official articles. The lesson for customs and other officials of the receiving state seems therefore to be that a diplomatic bag should only be opened when there is 100 per cent certainty of finding prohibited items.

9.5 Consular immunity

The primary function of consulates, vice consulates, and consular posts is to represent and deal with nationals of the sending state. They enjoy certain immunities, but not as extensive as those enjoyed by diplomatic agents. The law relating to consular relations is contained in the Vienna Convention on Consular Relations 1963 which entered into force in 1967.

As in the case of diplomatic relations, consular relations can only exist by

agreement between the two states and by virtue of Article 23 of the Convention it is possible for the receiving state to declare a consular official *persona non grata*. The Convention provides for the inviolability of the consular premises and the consular archives and documents. Consular staff are entitled to freedom of movement, subject to the requirements of national security, and to freedom of communication. Consular officials do not, however, enjoy complete immunity from the local criminal jurisdiction. Although they are not liable to arrest or detention, save in the case of a grave crime, they can be subjected to criminal proceedings. Their immunity from civil and administrative jurisdiction only extends to acts performed in the exercise of consular functions. Members of the consular staff's family do not enjoy significant immunities.

9.6 International organisations

International organisations operate in particular states and will often require the same immunities and privileges as diplomatic missions if they are to carry out their functions effectively. Unfortunately there is no general law applicable to the relations between international organisations and host states. Such immunities and privileges as particular international organisations enjoy must therefore be the subject of specific agreement between the organisation and the host state. Very often the privileges and immunities are provided for in the constituent charter of the organisation or in subsequent supplementary agreements. The position of the UN is dealt with in the Convention on the Privileges and Immunities of the UN 1946.

With the growth in the number of international organisations and the consequent increase in the number of agreements dealing with their immunities and privileges there has been some debate as to whether there exist any rules of customary international law governing the matter. The Third Restatement of the Foreign Relations Law of the United States seems to suggest that there is, stating that international organisations are entitled to:

... such privileges and immunities as are necessary for the fulfilment of the purposes of the organisation, including immunity from legal process and from financial controls, taxes and duties.

However, the English courts in the *International Tin Council* cases (1987–89) took the view that customary international law gave no such entitlement to international organisations. The position does not seem to be clear and the subject is currently being examined by the ILC.

CHAPTER 10

STATE RESPONSIBILITY

10.1 Introduction

A corollary of binding legal obligations is legal responsibility for a breach of those obligations. This chapter is concerned with the general rules of international law which determine whether a state is in breach of its international obligations. These rules are often referred to as second-level rules in that, while they seek to determine the consequences of a breach of a legal obligation, they do not concern themselves with the nature and content of that obligation. The obligation will be found in the law of the sea, the law of treaties etc. However, in common with the majority of textbooks, reference will be made in this chapter to the particular content of the rules relating to the treatment of foreign nationals. The rules relating to the settlement of disputes arising from breaches of international obligations are dealt with in Chapter 12.

In recent years, the area of state responsibility has been the subject of much work by the ILC who have produced a set of Draft Articles on State Responsibility. Although these articles have yet to be adopted into a binding international convention, they do form the starting point for most discussions about the topic.

10.2 The Draft Articles on State Responsibility

A Introduction

51 At its first session, in 1949, the Commission selected state responsibility among the topics which it considered suitable for codification. In response to General Assembly Resolution 799 (VIII) of 7 December 1953 requesting the Commission to undertake, as soon as it considered it advisable, the codification of the principles of international law concerning state responsibility, the Commission, at its seventh session in 1955, decided to begin the study of state responsibility and appointed FV Garcia Amador as Special *Rapporteur* for the topic. At the next six sessions of the Commission, from 1956 to 1961, the Special *Rapporteur* presented six successive reports, dealing on the whole with the question of responsibility for injuries to the persons or property of aliens.¹

52 The Commission at its fourteenth session in 1962 set up a sub-committee whose task was to prepare a preliminary report containing suggestions concerning the scope and approach of the future study.

53 At its fifteenth session in 1963, the Commission, after having unanimously approved the report of the sub-committee, appointed Mr Roberto Ago as Special *Rapporteur* for the topic.²

1 (1976) *ILC Yearbook*, Vol II, New York: United Nations at p 229.

2 *Ibid*, p 229 *et seq.*

54 The Commission, from its twenty-first (1969) to its thirty-first sessions (1979) received eight reports from the Special *Rapporteur*.³

55 The general plan adopted by the Commission at its twenty-seventh session, in 1975, for the draft articles on the topic 'state responsibility' envisaged the structure of the draft articles as follows: Part One would concern the origin of international responsibility; Part Two would concern the content, forms and degrees of international responsibility; and a possible Part Three, which the Commission might decide to include, could concern the question of the settlement of disputes and the implementation of international responsibility.⁴

56 The Commission at its thirty-second session, in 1980, provisionally adopted on first reading Part One of the draft articles, concerning 'the origin of international responsibility'.⁵

57 At its thirty-first session (1979), the Commission, in view of the election of Mr Ago as a Judge to the International Court of Justice, appointed Mr Willem Riphagen Special *Rapporteur* for the topic.

58 The Commission, from its thirty-second (1980) to its thirty-eighth sessions (1986), received seven reports from Mr Willem Riphagen,⁶ for Parts Two and Three of the topic.⁷

59 At its thirty-ninth session in 1987 the Commission appointed Mr Gaetano Arangio-Ruiz as Special *Rapporteur* to succeed Mr Willem Riphagen, whose term of office as a Member of the Commission expired on 31 December 1986. The Commission, from its fortieth (1988) to its forty-eighth (1996) sessions, received eight reports from Mr Gaetano Arangio-Ruiz.⁸

3 For the eight reports of the Special *Rapporteur* see: 1969, Vol II, doc A/CN4/217 and Add 1, pp 125–156. *Yearbook ...* 1970, Vol II, doc A/CN4/s 33, pp 177–98. *Yearbook* 1971, Vol II, (Part One) doc A/CN4/246 and Adds 1–3, p 199. *Yearbook* 1972, Vol II, doc A/CN4/264 and Add 1, p 71. *Yearbook* 1976, Vol II (Part One) doc A/CN4/291 and Adds 1 and 2 pp 3–55. *Yearbook* 1977, Vol II (Part One) doc A/CN4/302 and Adds 1–3. *Yearbook* 1978 Vol II (Part One) doc A/CN4/318 and Adds 1–4 doc A/CN4/318/Add 5–7.

4 *Yearbook* 1975, Vol II pp 53–59 doc A/CN4/Rev 1 paras 38–51.

5 *Yearbook* 1980, Vol II (Part Two) pp 26–63 doc A/35/10 Chap III.

6 For the seven reports of the Special *Rapporteur*, see: *Yearbook ...* 1980, Vol II (Part One), p 107, doc A/CN4/330; *Yearbook ...* 1981, Vol II (Part One), p 79, doc A/CN4/334; *Yearbook ...* 1982, Vol II (Part One), p 22, doc A/CN4/354; *Yearbook ...* 1983, Vol II (Part One), p 3, doc A/CN4/366; and Add 1; *Yearbook ...* 1984; Vol II (Part One), p 1, doc A/CN4/380; *Yearbook ...* 1985, Vol II (Part One), p 3, doc A/CN4/389; and *Yearbook ...* 1986, Vol II (Part One), p 1, doc A/CN4/397; and Add 1.

7 At its thirty-fourth session (1983) the Commission referred draft articles 1 to 6 of Part Two to the Drafting Committee. At its thirty-seventh session (1985) the Commission decided to refer articles 7 to 16 of Part Two to the Drafting Committee. At its thirty-eighth session (1986) the Commission decided to refer draft articles 1 to 5 of Part Three and its annex to the Drafting Committee.

8 For the eight reports of the Special *Rapporteur*, see *Yearbook ...* 1986, Vol II (Part One), p 6, doc A/CN4/416 and Add 1; *Yearbook ...* 1990, Vol II (Part One), doc A/CN4/425 and Add 1; *Yearbook ...* 1991, Vol II (Part One), doc A/CN4/440 and Add 1; doc A/CN4/444 and Adds 1–3; doc A/CN4/453 and Add 1 and Corr 1, 2, 3 and Adds 2 and 3; doc A/CN4/461 and Adds 1 and 2; doc A/C.4/469 and Corr 1 (English only) and Adds 1 and 2 and A/CN4/476 and Corr 1 (English only) and Add 1. At its forty-first session (1989) the Commission referred to the Drafting Committee draft articles 6 and 7 of Chapter Two (legal consequences deriving from an international delict) of Part Two of the draft articles. At its forty-second session (1990) the Commission referred draft articles 8, 9 and 10 of Part Two to the Drafting Committee. At its forty-fourth session (1992) the Commission referred to the the Drafting Committee draft articles 11 to 14 and 5 *bis* for inclusion in Part Two of the draft articles. At ...

60 At the conclusion of its forty-seventh session, the Commission had provisionally adopted for inclusion in Part Two, draft Articles 1 to 5⁹ and Articles 6 (Cessation of wrongful conduct), 6 *bis* (Reparation), 7 (Restitution in kind), 8 (Compensation), 10 (Satisfaction), 10 *bis* (Guarantees of non-repetition),¹⁰ 11 (Countermeasures) by an injured state), 13 (Proportionality) and 14 (Prohibited countermeasures).¹¹ It had furthermore received from the Drafting Committee a text for Article 12 (Conditions relating to resort to countermeasures), on which it deferred action.¹² At its forty-seventh session the Commission had also provisionally adopted for inclusion in Part Three, Article 1 (Negotiation), Article 2 (Good offices and mediation), Article 3 (Conciliation), Article 4 (Task of the Conciliation Commission), Article 5 (Arbitration), Article 6 (Terms of reference of the Arbitral Tribunal), Article 7 (Validity of an arbitral award) and Annex, Article 1 (The Conciliation Commission) and Article 2 (The Arbitral Tribunal).

B Consideration of the topic at the present session

61 At its present session the Commission had before it the eighth report of the Special *Rapporteur*, Mr Arangio-Ruiz.¹³ The report dealt with problems relating to the regime of internationally wrongful acts singled out as 'crimes' based on Article 19 of Part One as well as some other issues to which he deemed it necessary to call the attention of the Commission. The Commission considered the report at its 2436th meeting on 5 June 1996.

62 At the 2438th meeting of the Commission on 7 June 1996, Mr Arangio-Ruiz announced his resignation as Special *Rapporteur*.

63 The Drafting Committee completed the first reading of draft articles of Parts Two and Three on state responsibility. The Commission considered the Report of the Drafting Committee at its 2452nd to 2459th meetings from 3 to 12 July 1996.¹⁴

64 At its 2473rd meeting, on 26 July 1996 the International Law Commission decided, in accordance with Articles 16 and 21 of its Statute, to transmit the draft articles set out in Section D of the present chapter, through the Secretary General, to governments for comments and observations, with the request that such comments and observations be submitted to the Secretary General by 1 January 1998.¹⁵

8 [cont] its forty-fifth session (1993) the Commission referred to the Drafting Committee draft articles 1 to 6 of Part Three and Annex thereto. At its forty-seventh session (1995) the Commission referred to the Drafting Committee articles 15 to 20 of Part One dealing with the legal consequences of internationally wrongful acts characterised as crimes under article 19 of Part One of the draft articles and new draft article 7 to be included in Part Three of the draft.

9 For the text of Articles 1 to 5 (para 1) with commentaries see *Yearbook* 1985 Vol II (Part Two) p 24 *et seq.*

10 For the text of Article 5, para 2 and articles 6, 6 *bis*, 7, 8, 10 and 10 *bis*, with commentaries, see *Official Records of the General Assembly, Forty-eighth Session, Supplement No 10 (A/48/10)*, p 132 *et seq.*

11 For the text of articles 11, 13 and 14, see *ibid*, Forty-ninth Session, Supplement No 10 (A/49/10), footnote 362. Article 11 was adopted by the Commission on the understanding that it might have to be reviewed in the light of the text that would eventually be adopted for article 12 (see *ibid*, para 352).

12 See *ibid*, para 352.

13 A/CN.4/476 and A/CN.4/476/Add 1 and Corr 1 (English only) and Add 1.

14 For the report of the Drafting Committee see document A/CN.4/L.524.

15 *ILC Report* 1996.