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### **DIPLOMATIC PROTECTION**

**Titles and texts of draft articles adopted by the Drafting Committee**

#### **Part One**

#### **GENERAL PROVISIONS**

#### **Article 1**

#### **Definition and scope**

1. Diplomatic protection consists of resort to diplomatic action or other means of peaceful settlement by a State adopting in its own right the cause of its national in respect of an injury to that national arising from an internationally wrongful act of another State.
2. Diplomatic protection may be exercised in respect of a non-national in accordance with article 7 [8].<sup>1</sup>

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<sup>1</sup> This paragraph will be reconsidered if other exceptions are included in the draft articles.

## **Article 2 [3]<sup>2</sup>**

### **Right to exercise diplomatic protection**

A State has the right to exercise diplomatic protection in accordance with these articles.

#### **Part Two**

### **NATURAL PERSONS**

#### **Article 3 [5]**

##### **State of nationality**

1. The State entitled to exercise diplomatic protection is the State of nationality.
2. For the purposes of diplomatic protection of natural persons, a State of nationality means a State whose nationality the individual sought to be protected has acquired by birth, descent, succession of States, naturalization or in any other manner, not inconsistent with international law.

#### **Article 4 [9]**

##### **Continuous nationality**

1. A State is entitled to exercise diplomatic protection in respect of a person who was its national at the time of the injury and is a national at the date of the official presentation of the claim.
2. Notwithstanding paragraph 1, a State may exercise diplomatic protection in respect of a person who is its national at the date of the official presentation of the claim but was not a national at the time of the injury, provided that the person has lost his or her former nationality and has acquired, for a reason unrelated to the bringing of the claim, the nationality of that State in a manner not inconsistent with international law.
3. Diplomatic protection shall not be exercised by the present State of nationality in respect of a person against a former State of nationality of that person for an injury incurred when that person was a national of the former State of nationality and not of the present State of nationality.

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<sup>2</sup> The numbers in square brackets are the numbers of the articles as proposed by the Special Rapporteur.

**Article 5 [7]**

**Multiple nationality and claim against a third State**

1. Any State of which a dual or multiple national is a national may exercise diplomatic protection in respect of that national against a State of which that individual is not a national.
2. Two or more States of nationality may jointly exercise diplomatic protection in respect of a dual or multiple national.

**Article 6**

**Multiple nationality and claim against a State of nationality**

A State of nationality may not exercise diplomatic protection in respect of a person against a State of which that person is also a national unless the nationality of the former State is predominant, both at the time of the injury and at the date of the official presentation of the claim.

**Article 7 [8]**

**Stateless persons and refugees**

1. A State may exercise diplomatic protection in respect of a stateless person who, at the time of the injury and at the date of the official presentation of the claim, is lawfully and habitually resident in that State.
2. A State may exercise diplomatic protection in respect of a person who is recognized as a refugee by that State when that person, at the time of the injury and at the date of the official presentation of the claim, is lawfully and habitually resident in that State.
3. Paragraph 2 does not apply in respect of an injury caused by an internationally wrongful act of the State of nationality of the refugee.

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