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**DIPLOMATIC PROTECTION**

**Titles and texts of the draft articles 8 [10], 9 [11] and 10 [14]  
adopted by the Drafting Committee**

**Article 8 [10]<sup>1</sup>**

**Exhaustion of local remedies**

1. A State may not bring an international claim in respect of an injury to a national or other person referred to in article 7 [8]<sup>2</sup> before the injured person has, subject to article 10 [14], exhausted all local remedies.
2. “Local remedies” means the remedies which are as of right open to the injured person before the judicial or administrative courts or bodies, whether ordinary or special, of the State alleged to be responsible for the injury.

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<sup>1</sup> Articles 8 [10], 9 [11] and 10 [14] are to be included in a future Part Four to be entitled “Local remedies”, and will be renumbered.

<sup>2</sup> The cross-reference to article 7 [8] will be considered further if other exceptions to the nationality rule are included in the draft articles.

## **Article 9 [11]<sup>1</sup>**

### **Classification of claims**

Local remedies shall be exhausted where an international claim, or request for a declaratory judgement related to the claim, is brought preponderantly on the basis of an injury to a national or other person referred to in article 7 [8].<sup>2</sup>

## **Article 10 [14]<sup>1</sup>**

### **Exceptions to the local remedies rule**

Local remedies do not need to be exhausted where:

- (a) The local remedies provide no reasonable possibility of effective redress;
- (b) There is undue delay in the remedial process which is attributable to the State alleged to be responsible;
- (c) There is no relevant connection between the injured person and the State alleged to be responsible or the circumstances of the case otherwise make the exhaustion of local remedies unreasonable;
- (d) The State alleged to be responsible has waived the requirement that local remedies be exhausted.<sup>3</sup>

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<sup>3</sup> Paragraph (d) may be reconsidered in the future with a view to being placed in a separate provision entitled "Waiver".