

PREFACE

This book consists of a photo-reproduction of the reports of the International Law Commission on what it has named Part One of its draft articles on State Responsibility. That Part, consisting of 35 at present self-contained articles, is devoted to the aspect of “the origin of State Responsibility”. The Commission’s special Rapporteur for this phase of its work was Judge (Professor as he then was) Roberto Ago, of the University of Rome. He submitted a total of eight substantive reports with draft articles and commentaries between the years 1969 and 1979. On the basis of those reports, in installments during the period 1973–1980, the Commission adopted Part 1 of its draft articles on State Responsibility.

Following certain preparatory work which was carried out in 1962 and 1963, the Commission decided to divide the topic into two, later three, parts, to be devoted respectively to the origin of international responsibility (Part One), the content, form and degrees of international responsibility (Part Two), and the question of the settlement of disputes, entitled by the Commission the *mise en oeuvre*, that is the discharge, of responsibility (Part Three). Since Part One was completed over ten years ago, the Commission has continued its work on Parts Two and Three, but has not yet been able to submit completed first drafts.

For the practicing international lawyer, the fact that the draft articles of Part One and their heavily documented commentaries are scattered over eight annual reports of the International Law Commission, in eight separate volumes of the Commission’s *Yearbook*, is a matter of great inconvenience. Although the articles have been adopted in first reading only, and the Commission has not yet been able to re-examine them in the light of the observations of governments, they have nevertheless been quite extensively employed whenever questions of State responsibility have had to be considered. Indeed, I found it necessary to prepare for myself a “working paper” of those articles of Part One, and this now constitutes the main content of the present volume. I have reproduced the reports as they appear in their final form, without any further editing by myself. This has unavoidably led to a certain amount of repetition, especially in the introductory parts of each report. However, for each report, that introductory part performs an important function since it indicates to the reader precisely what documentation the Commission had before it at any particular moment during its consideration of the topic. It also records the meetings of the Commission, session by session, at which the topic of State Responsibility was examined. In this connection, it will be noted that the Commission did not find it necessary to go back on itself and revise any of the draft articles adopted in earlier sessions as its work on Part One progressed.

I have added an historical introduction limited to tracing the history of the official codification of the law of State Responsibility, since the topic was first addressed by the Committee for the Progressive Codification of International Law of the League of Nations, starting in the year 1924 and including the Hague Codification Conference of 1930. This introduction also covers the earlier work of the International Law Commission on this topic, all of which forms the background for the present work. State Responsibility is one of the most difficult and delicate questions to be examined by the Commission, and I believe that for a proper under-

standing of this set of draft articles (and of those to follow), a description of the vicissitudes of the history of its official codification is necessary. I have refrained from detailed observations of my own on the Commission's proposals: this would be out of place in what is intended to be a working tool for all those who have to have recourse to the Commission's work on Part One.

Judge Ago's reports were originally written in French. Together with his other writings on the topic these have been conveniently collected together in his 3-volume *Scritti sulla responsabilità degli Stati* (1978, 1983). English versions of his eight reports can be found in the English editions of the Commission's *Yearbook* for the years 1969 to 1972 and 1977 to 1980. The material reproduced here consists of the final, edited, English version of the relevant chapters from the reports of the International Law Commission after it had studied Ago's different reports. Versions in the other official languages of the International Law Commissions and of the General Assembly can be found in the different editions of the Commission's *Yearbook* for the years in question.

The documents included here have been reproduced with permission from Volume II of the *Yearbooks of the International Law Commission* for the years 1973 to 1980, published by the United Nations. For convenience of reference and of citation, the original page numbers of the English edition of the *Yearbook* have been retained in the top outer corner of each page: continuous pagination of the present volume is inserted at the foot of each page.

As on previous occasions, I have pleasure in acknowledging the assistance I have received from the Codification Division of the Office of Legal Affairs of the United Nations in the preparation of this volume. I also wish to record my appreciation of the work of the Publishers in its production.

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