



**PERMANENT MISSION OF THE REPUBLIC OF
SIERRA LEONE TO THE UNITED NATIONS**

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STATEMENT

by

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to the Sixth Committee of the United Nations General Assembly

Agenda Item 77:
“Report of the United Nations Commission on International Trade
Law on the Work of its fifty-session”

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[Please *Check Against Delivery*]

Chair,

My delegation is appreciative of the opportunity to comment on the work of the United Nations Commission on International Trade Law (UNCITRAL) carried out during its fifty-second session.

At the outset, let me thank the Chair of the Commission for the 52nd session, **Wisit Wisitsora-at** of Thailand for introducing the report A/74/17. We also thank the Secretary, **Anna Joubin-Bret**, for her leadership, and the Secretariat for the facilitation of the work of the Commission and its working groups.

We note with interest the important work done by the Commission as detailed in its report, including, the finalization of the legislative texts as contained therein (on public-private partnerships with the accompanying guide, the practice guide to the Model Law on Secured Transactions; Model Law on enterprise group insolvency and guide to enactment, and finally on obligations of directors of enterprise group companies in the period approaching insolvency). In addition, as detailed in the report, the Commission's working groups made progress, significantly on investor-state dispute settlement (ISDS) reform.

This statement will focus on the key aspects that are of high significance to my delegation, namely: finalization of legislative texts; progress reports, in particular, dispute settlement and ISDS reform; full and active engagement with the Commission; and the proposal on increased membership.

Commendation on Finalization of Legislative Texts

Chair,

Sierra Leone commends the Commission and the Secretariat on the finalization and adoption of the legislative texts detailed in the report, and we look forward to a profitable and good faith consideration of the work products in the negotiation of the draft resolutions on the texts. The texts cover important fields of commerce, and having reformed our legal framework on secured transactions in 2014, on the basis of the robust claim that "*an efficient secured transactions regime with a publicly accessible security rights registry [...] is likely to increase access to affordable secured credit and thus promote economic growth*", we recognize that having a practice guide may not only be useful for Member States that have largely adopted the UNCITRAL Model Law, but also States that have adopted similar regimes on secured transactions law.

We further take this opportunity to commend Singapore for the successful signing ceremony in August this year of the United Nations Convention on International Settlement Agreements Resulting from Mediation (the "Singapore Convention on Mediation"). We note, in particular, the good cooperation between Singapore with my delegation under the auspices of the Forum of Small States (FOSS) in the lead to the signing ceremony.

Progress reports: in particular, dispute settlement and ISDS reform

Chair,

Settlement of dispute is critical in cross-border commerce. Sierra Leone notes with interest the mandate given to Working Group II to take up issues relating to expedited arbitration. We agree that the mandate of Working Group II, in this regard, should focus on

improving the efficiency of arbitral proceedings, which would result in the reduction of the cost and duration of the proceedings. At this stage of the work of WGII, it is our view that too much weight must not be attached to the consideration of whether the scope of its work should differentiate between commercial and investment arbitration. It is anticipated that the output by WGII will be reflected in the UNCITRAL Arbitration Rules, which may be used for both commercial and investment arbitration.

On ISDS reform, my delegation notes that Working Group III met last week, and this is after the issuance of the report. WGIII in the meeting deliberated on the reform options, including setting up advisory centre(s), code of conduct, third party funding amongst others. We welcome the extra week of meeting time given to this important issue and the pace of work. We also commend the Member States that made written submission on the reform options. Indeed, the broad mandate of the working group on the possible reform of ISDS is to be led by Governments, in a fully inclusive and transparent manner, and this can only be enhanced with high quality and high number of submissions by States.

Chair, whilst we note that the working group is the more appropriate forum to deliberate on its work, my delegation however deems it important to comment on the progress report given the significant threat investor-State arbitral awards pose to the economic wellbeing and stability of States. **Firstly**, we appreciate the rationale for the decision to elaborate and develop multiple potential reform solutions simultaneously, and propose solutions in parallel without the distinction between incremental or systemic reforms. My delegation has expressed its preference for systemic or structural reform, but also notes the value in considering ‘the low-hanging fruits’ option preferred by others. **Secondly**, we continue to express concern over the problem of lacking diversity in the ISDS mechanism, and plurality in the deliberation caused by the lack of expertise and/or financial resources. The work being carried out whether on the establishment of advisory centre(s), tribunal members’ selection, development of a code of conduct should not exclude the possibility of achieving diversity and inclusion from non-traditional participants in the process. There must also be a regional approach to any reformed ISDS mechanism. On plurality in the debate, we commend the Government of Guinea, the Secretariat and OIF on the organization of the third regional intersessional meeting on ISDS reform in Conakry this September, which also doubled as a capacity building workshop. **Thirdly**, we note with concern the threat posed by skyrocketing arbitral awards to the stability of developing States. ISDS reform is no longer an economic or commercial issue but one with political and social stability implications, especially with regards natural resource governance.

Participation, Capacity-building (Internships and Technical Assistance)

Chair,

In the report A/74/17 (para 5) we note with regret the absentees in the work of the Commission and call on the Secretariat to seek means to encourage full participation given the importance of cross-border commerce to all Member States of the United Nations especially, developing States. My delegation duly acknowledges that the primary obligation is on Members of the Commission, especially given the competitive process that leads to membership in the Commission. We, however, liken the work and working methods of UNCITRAL to the International Law Commission, where the mandate to progressively develop or codify international trade law should be ‘all-embracing’ to forestall the pursuit of a single doctrinal perspective. Full participation further helps with ready acceptance and use of UNCITRAL work products.

With regards to active participation in the work of WGIII on ISDS reform, the report rightly reflects the germane issue of ensuring effective participation by developing States. The report in paragraph 164 reads: *“Recalling that the process in the Working Group should be Government-led, the Commission welcomed the participation of 90 States and 50 intergovernmental organizations and invited non-governmental organizations in the thirty-sixth session of the Working Group, and of 106 States and 70 organizations in the thirty-seventh session. The Commission expressed its satisfaction regarding the increased participation in the sessions of the Working Group, in particular the participation of developing States, which exemplified the importance of the topic and the continued interest of States in investor-State dispute settlement reform. It was stressed that the enhanced participation in the Working Group depended heavily on the financial resources available to States”*. In order to address the recognized financial constraint, Sierra Leone will put forward a proposal to extend the coverage of the UNCITRAL trust fund for travel assistance to cover participation of non-member observer States in the work of Working Group III on ISDS reform. We look forward to the kind cooperation of the Sixth Committee in this regard. We commend Members States, development agencies and international organizations for their contributions to the trust fund, especially for WGIII sessions.

On UNCITRAL internships, the report notes that *“the majority of applicants came from the regional group of Western Europe and Other States, and the Secretariat’s [experienced] difficulties in attracting candidates from African and Latin American countries, as well as candidates with fluent Arabic language skills”*. My delegation notes that the Commission has requested the Secretariat to “review whether internships of short duration might encourage more candidates from underrepresented regions to apply”. It will be of importance to know the exact nature of the difficulties being experienced by the Secretariat, even before and in the report of the review, so that member States from the underrepresented regions may not only have information on the programme but be in a position to address the difficulties in attracting candidates. The internship programme in our view is critical to capacity development, and must be approached as part of the strategic technical assistance activities of the Commission.

Increased Membership

Chair,

My delegation notes with keen interest the proposal by Israel and Japan on the enlargement of UNCITRAL Membership. The work of the Commission continues to interest member States of the United Nations, including the increased interest in the work of WGIII on ISDS reform. This trend reinforces the need for an inclusive approach to the formation of rules that will eventually govern our interdependent global economy. Effective representation is necessary on the basis of membership instead of non-member State observer as validly argued in the proposal. We look forward to the fruitful intersessional consultations proposed by the Commission in consideration of the recommendation to be made to the General Assembly.

In concluding, **Chair**, the work of the Commission continues to gain significance, with important texts being finalized and adopted. However, the Secretariat has spotlighted the crucial issue of active participation of member States, in particular from developing States. As we strive to deliver on the 2030 Agenda, we call for maximum efforts in ensuring “no one is left behind” in the formation of cross-border commerce rules.

I thank you.