



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

336 East 45th Street, New York NY 10017

STATEMENT

by

H.E. DR. MICHAEL IMRAN KANU
Deputy Permanent Representative

to the Sixth Committee of the United Nations General Assembly

Agenda Item 78:
“Report of the United Nations Commission on International Trade
Law on the Work of its fifty-third session”

New York, 10 November 2020

[Please Check Against Delivery]

Mr. Chair,

My delegation is particularly pleased to comment on the work of the United Nations Commission on International Trade Law (UNCITRAL) carried out during its 53rd session, noting the Commission's business continuity strides despite the challenges of the 2019 Coronavirus (COVID-19) pandemic.

At the outset, let me thank the Chair of the Commission for the 53rd session, **Mr. Eric Anderson Machado** of Peru for introducing the report **A/75/17**. We also thank the Secretary, **Ms. Anna Joubin-Bret**, for her leadership; and the Secretariat for the facilitation of the work of the Commission and its Working Groups.

The delegation of Sierra Leone notes with interest the important work done by the Commission as detailed in its report, including the decisions adopted by States members of UNCITRAL in accordance with the procedure for taking decisions during the COVID-19 pandemic adopted on 8 June 2020. We take this opportunity to note the exceptional and temporary nature of the procedure, which should not and does not set a precedent. We also take note of the completion of the Legal Guide to Uniform Legal Instruments in the Area of International Commercial Contracts (with a focus on sales) within the parameters detailed in the report; the decision to commend "*the use of the Incoterms 2020 rules, as appropriate, in international sales transactions*"; and the publication of the various UNCITRAL related texts as contained in the report.

Mr. Chair,

In this statement, Sierra Leone wishes to highlight three important issues:

First: the delegation of Sierra Leone wishes to place on record that the Government of Sierra Leone on the 28 October 2020 deposited the instrument of ratification to the Secretary-General of the United Nations, the depositary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), signifying Sierra Leone's accession to 'the most successful treaty in private international law' adopted in New York on 10 June 1958. Acceding to the New York Convention has been a notable Government reform priority to promote responsible private sector development in Sierra Leone. The Government of Sierra Leone also lodged a declaration and reservation on reciprocity, commercial reservation and non-retroactive application of the Convention. In accordance with its article XII (2), the New York Convention shall enter into force for Sierra Leone on 26 January 2021.

With recognition and enforcement of foreign arbitral awards seen as an important tool to protect investors and to promote foreign direct investments, the accession together with the entry into force on 12 September 2020 of the United Nations Convention on International Settlement Agreements Resulting from Mediation (the “Singapore Convention on Mediation”) will usher in, as a matter of high priority, the establishment of a new legislative framework for domestic and international commercial dispute settlement.

We thank and commend the Secretariat for the assistance in finalizing the New York Convention accession process.

On the second point: Sierra Leone continues to monitor and commend the rate of progress made by Working Group III on possible reform of investor-State dispute settlement (ISDS). We join the Commission in taking note of the project schedule prepared by the Working Group at its 38th session “*aimed at elaborating and developing multiple potential reform solutions simultaneously, to the maximum extent of the Working Group’s capacity and in the light of the tools available*”. We also commend Working Group III for its “*progress on the consideration of the establishment of an advisory centre, a code of conduct for adjudicators, the regulation of third-party funding, the questions of appellate and multilateral court mechanisms and the selection and appointment of members of tribunals for investor-State dispute settlement*”.

With the mandate of the Working Group to ensure that the deliberations, while benefiting from the widest possible breadth of available expertise from all stakeholders, would be government-led, with high-level input from all Governments, consensus-based and fully transparent, Sierra Leone notes with appreciation the contributions made by the European Union, Switzerland (in particular the Swiss Agency for Development) and Germany (in particular Cooperation and that the *Deutsche Gesellschaft für Internationale Zusammenarbeit* by appointment of the Federal Ministry for Economic Cooperation and Development of Germany) to support the participation of developing countries in Working Group III (ISDS Reform) in line with resolution **A/74/182** operative paragraph 14 adopted in the 74th session of the General Assembly.

As Working Group III continues its work, my delegation reiterates its concerns over the problem of lacking diversity in ISDS, and the need for plurality in the deliberation caused by the lack of expertise and/or financial resources. We also note with concern the threat posed by inordinate arbitral awards to the stability of developing States. We further reiterate that ISDS reform is no longer one dimensional economic issue but rather a multi-

dimensional issue with political and social stability implications, especially with regards natural resource governance.

On the third issue: the delegation of Sierra Leone commends the progress made by on Working Group I (Micro-, Small and Medium-sized Enterprises), including the completion of the first review of all sections of the draft legislative guide on an UNCITRAL limited liability organization, which is aimed at reducing the legal obstacles faced by micro-, small and medium-sized enterprises throughout their life cycle and, in particular, those in developing economies. The concern expressed that the Working Group had not paid enough attention to the need to develop a neutral text in the preparation of the draft legislative guide taking into account various legal traditions in a balanced manner is well noted. Much like the International Law Commission efforts must be made for an all embracing, inclusive approach to international law-making within the United Nations system.

With access to credit for micro-, small and medium sized enterprises still a challenge in Sierra Leone, my delegation welcomes the encouragement by the Commission for the Working Group to conclude its deliberations on the guide on an UNCITRAL limited liability organization in order to devote full consideration to the topic of access to credit in 2021.

In concluding, **Mr. Chair**, my delegation notes with concern the steady percentage of members of the Commission not represented in its work during the 53rd session. Although the Covid19 pandemic may have exacerbated the challenge of effective representation, the trend calls for decisive intervention to promote the intended inclusive approach to the formation of rules that will eventually govern our interdependent global economy. Effective representation is necessary not only on the basis of membership but also for non-member State observer in order to facilitate effective domestic implementation.

While thanking those who have made contributions to technical and travel assistances Trust Fund, we join the Commission in reiterating the “*call to all States, the relevant bodies of the United Nations system, organizations, institutions and individuals to consider making contributions to the trust funds, if possible in the form of multi-year contributions or as specific-purpose contributions, in order to facilitate planning and enable the UNCITRAL secretariat to meet the increasing number of requests for technical assistance and cooperation and travel assistance*”.

I thank you.