



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

---

**STATEMENT**

**BY**

**ABASS SALIEU KAMARA**

Minister Counsellor

**At the Sixth Committee of the United Nations General  
Assembly Debate on: “The Report of the International  
Law Commission on the work of its 75<sup>th</sup> Session”  
Cluster I**

**Trusteeship Council Chamber,**

**UNHQ, New York,**

**21 - 30 October 2024**

Check Against Delivery

**Chair,**

1. The delegation of Sierra Leone aligns this statement with the statement delivered on behalf of the African Group by the distinguished representative of Uganda, and wishes to make these additional substantive comments in our national capacity.

2. We thank the **International Law Commission** (ILC) for its report **A/79/10** and recognize the important work that shaped it, as both the ILC and the Sixth Committees assists the General Assembly in the fulfilment of the important United Nations Charter mandate to progressive develop and codify international law.

3. We therefore thank the Chair of the Commission for the **seventy-fifth session, Mr. Marcelo Vazquez Bermudez**, members of the Bureau, the Special Rapporteurs, the chairs of the various working groups, and indeed all members of the Commission for their valuable contributions.

4. We congratulate and extend best wishes to **Ms. Alina Orosan (Romania)** and **Mr. Xinmin Ma (China)** on their elections to fill casual vacancies in the Commission. We equally pay tribute to now **Judge Bogdan Aurescu** and **Mr. Huikang Huang** for their valuable contributions to the work of the Commission.

5. We appreciate the Secretariat's valuable assistance to the Commission as it seeks to advance the legal frameworks underpinning international cooperation. We note that the overall pragmatic approach adopted by the ILC, including adapting its working methods, has allowed for meaningful dialogue and the advancement of international law.

6. My delegation welcomes the solid progress made on the several complex topics during the 2024 session of the Commission. We particularly appreciate the Commission's balanced approach to considering the items on its agenda. Even though,



due to budgetary issues outside its control, the Commission lost two weeks of its General Assembly-approved 12-week session last year, we urge for the restoration of the entire 12-week session next year.

7. We align with the overall direction of the Commission's inquiry into several vital topics but refrain from repeating earlier observations already addressed in previous statements.

**Chair**

8. The Sierra Leone delegation views the two topics in Cluster I of the debate on the agenda item as essential and highly relevant for member States.

9. On the topic of “**Immunity of State officials from foreign criminal jurisdiction,**” we commend the Special Rapporteur, **Mr. Claudio Grossman Guiloff,** and the Commission for their thoughtful approach to the second reading of **Draft Articles 1 to 6** and for refining the text based on States comments, new developments, and national jurisprudence while maintaining a balanced approach.

10. As Commission continues to underscore the promotion of friendly relations between States and the stability of international relations as the main guiding principles and rationale for its work on the topic, we duly acknowledge the imperative to

balance the protection of state sovereignty, on the one hand, with accountability for international crimes on the other.

11. We reiterate the fundamental point that immunity should not be a shield for impunity, particularly in cases of serious violations of international law. We further echo concerns of the inconsistency and selective application of international law in this regard. Incidentally, it is our considered view that the Commission's draft articles on this topic have addressed many concerns, and we make the following specific comments.

## **Draft Article 1 – Scope of the Draft Articles**

12. On **Draft Article 1**, my delegation welcomes the approach taken, particularly the attention given to paragraph 3, which distinguishes the **immunity of state officials** from the special regime applicable to **international criminal courts and tribunals**. This is especially pertinent for Sierra Leone, as a State Party to the **Rome Statute of the International Criminal Court (ICC)**.

13. In line with our previous statements, we reiterate our support for the "**without prejudice clause**" that ensures that the Rome Statute's complementarity regime remains intact.



14. We also acknowledge the Special Rapporteur's openness to addressing concerns over the wording in **subparagraph (a) of paragraph 3**, regarding "**as between the parties to those agreements**" and its possible misinterpretation of state obligations under the Rome Statute. Sierra Leone shares these concerns and would appreciate it if the commentary is strengthened to avoid any ambiguity.

15. We welcome the inclusion of the phrase "or relating to the operation of" as it broadens the scope of the provision to better accommodate the complexity of international criminal law.

## Draft Article 2 – Definitions

16. My delegation notes the position of the Commission to maintain the first reading text of **Draft Article 2** until the rest of the articles are worked on. We further note that this position means that the Commission is open to adding new definitions depending on the needs of the topic. We await the Commission's final version as it is vital for the Commission to clarify this issue when it returns to it next year.

17. Regarding **subparagraph (b)**, we see relevance in the decision to preserve the distinction between **immunity for acts performed in an official capacity**

and the rules regarding **state responsibility for internationally wrongful acts**. We are aware of the difficulty in defining what acts are official and will welcome the idea of clarifying the issue further in the revised commentary.

### **Draft Article 3 – Persons Enjoying Immunity Ratione Personae**

18. My delegation aligns with the decision to maintain the **first reading text of Draft Article 3**, as it reflects customary international law regarding the **troika**. This is consistent with our position that **immunity ratione personae** should be limited to these high-

ranking officials representing the state in its most sensitive and sovereign capacities.

19. We also appreciate the commitment to tracking **developments in national jurisprudence** that could further inform the application of this provision. As we have previously stated, it is essential that the commentary remains up to date and reflects **recent legal decisions** that may influence the evolving understanding of **immunity ratione personae** in both international and national contexts.

#### **Draft Article 4 – Scope of Immunity Ratione Personae**



20. We acknowledge the initial reading of **Draft Article 4**, which specifies that **immunity ratione personae** encompasses all actions carried out during an official's term of office, whether public or private. We welcome the Commission's willingness to discuss and amend the terminology used in **para 1 and 2**, especially regarding the phrase "**term of office**," which was replaced with the phrase "**period of office**" used in the ICJ's judgment in the **Arrest Warrant Case**." We agree that the reasons for the terminology change should be explained in the commentary.

21. We also take note of the suggestion to remove the phrase "**the rules of international law concerning**" in

**para 3.** While opinions differ on this issue, Sierra Leone believes that clarity is essential to avoid confusion regarding the **temporal scope of immunity** and the relationship between **immunity ratione personae** and the **ratione materiae**. In this connection, we support further discussions in the Drafting Committee to ensure consistency across the draft articles.

**Draft Articles 5 and 6 – Persons Enjoying Immunity  
Ratione Materiae and Scope of Immunity Ratione  
Materiae**

22. We are also flexible with the proposal to replace the phrase "**acting as such**" with "**in accordance with**

**Draft Article 6"** in **Draft Article 5**. The same goes for the Commission's recommendation to **maintain Draft Articles 5 and 6 as standalone provisions**.

## **Draft Article 6 – Scope of Immunity Ratione Materiae**

23. Also, we acknowledge the broad support expressed for **Draft Article 6**, particularly **paragraphs 1 and 2**. We, however, note the differing views regarding including the term "**ratione materiae**" in **paragraph 3** and share the openness to further discussions on this matter.

**Chair,**

24. On the topic of high interest to Member States, **“Sea level rise in relation to international law,”** we note that during the present session, the Study Group met to discuss the high-quality additional paper to the second issues paper on the topic prepared by **Co-Chairs Ms. Patrícia Galvão Teles (Portugal)** and **Mr. Juan José Ruda Santolaria (Peru)**, including a selected bibliography prepared in consultation with members was issued as an addendum to the additional paper that analyzed two subtopics.

25. **On Statehood and Sovereignty**, we agree that the principle of state continuity, even in partial or total land submergence cases, is foundational. The **Island**



**of Palmas Arbitration (1928)** emphasized that sovereignty and a state's rights are preserved despite physical territorial changes. This principle is crucial for African States, particularly small island and coastal nations threatened by adverse impacts of Climate Change, including rising sea-levels.

26. We appreciate that the ***additional paper to the second issues paper*** builds on the ***2023 Pacific Islands Forum Declaration on the Continuity of Statehood and the Protection of Persons*** in the Face of ***Climate Change-related Sea-Level Rise***, which we fully align with the Declaration. This declaration underscores that the international community must recognize the continuity of statehood, particularly

for States facing the existential threat of losing territory. We also reference the **Montevideo Convention on the Rights and Duties of States (1933)**, which provides that once a State is created, its existence as a subject of international law is presumed to continue unless there is express legal termination.

27. On **Maritime Zones and Jurisdiction**, we emphasize the legal interpretation advanced by the Study Group that maritime zones, **including the Exclusive Economic Zones (EEZ)**, must remain intact even if the baseline changes due to sea-level rise. This is consistent with the **United Nations Convention on the Law of the Sea (UNCLOS)**, notably Article 121,

which allows States to maintain maritime entitlements regardless of the habitability of their land territory. This principle is vital to preserving the economic livelihoods of African coastal and small island States, which depend on maritime resources for survival.

28. We also note the International Court of Justice (ICJ) Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004), which affirmed the importance of self-determination and territorial integrity. This precedent should guide our approach to protecting the sovereignty and rights of nations

whose physical territories are threatened by rising seas.

29. **On the Protection of Persons Affected by Sea-Level Rise**, we agree that current international legal frameworks, including those related to displacement, are fragmented and insufficient to address the unique challenges posed by climate-induced migration. We call for expanding the **Global Compact for Safe, Orderly, and Regular Migration (2018)** to address migration related to sea-level rise specifically. In this context, the **Human Rights Committee's decision in Teitiota v. New Zealand (2020)** may be instructive.



30. On **International Cooperation and Equity**, we echo the conclusions of the Security Council's February 2023 debate on Sea-Level Rise and its Implications for International Peace and Security, which recognized the security risks posed by the loss of habitable land due to climate change. These risks are environmental and socio-political for Africa, threatening food security, livelihoods, and governance stability. We call for continued global cooperation, guided by the principles of equity and common but differentiated responsibilities, as emphasized in the Paris Agreement.

31. On **Other Decisions and Conclusions**, my delegation congratulates **Mr. Louis Savadogo** as the

new Special Rapporteur on “Prevention and Repression of Piracy and Armed Robbery at Sea” following **Mr. Yacouba Cissé's** resignation. The scourge of piracy remains a significant issue for Africa, particularly in the Gulf of Guinea, where it threatens maritime security and regional stability. We fully support the Commission’s ongoing efforts to address this critical issue.

32. My delegation appreciates the solid progress of the Working Group on Methods of Work and Procedures of the Commission despite the limited number of meetings allocated to that important effort. In this regard, we note that the three standing agenda items of the working group adopted last

year were discussed, with a stress on the improvement of the working methods and the need to strengthen the relationship between the Commission and the Sixth Committee. In particular, we welcome the Commission's decision to prepare a handbook to guide the work going forward. We consider that proposals by individual members in the previous quinquennium of the Commission should be addressed in such handbook. To make meaningful progress, we call on the Secretariat to allocate the resources needed to assist the working group in timeously preparing such a handbook to increase the predictability and transparency of the work of the Commission.

33. We welcome the Commission's inclusion of the topics ***Compensation for Damage Caused by Internationally Wrongful Acts*** and ***Due Diligence in International Law***.

34. On the compensation topic, we thank **Mr. Mārtiņš Pāparinskis** for his synopsis, Annex I of A/79/10, and see merit in the bifurcation of the consideration of the scope covering both secondary rules on compensation, and primary rules on compensation. Importantly, should the primary rules of responsibility be subject of consideration by the Commission, Sierra Leone will strongly urge that compensation for historical injustices such as the trans-Atlantic slavery trade and other colonial era wrongs be addressed



by the Commission. This may require the Commission to reexamine the doctrine of inter-temporal law.

35. As regards the final form for the topic, Sierra Leone considers that the Commission should be consistent with its work on prior related topics, such as the articles on State responsibility and other topics on responsibility. This topic can be very useful to States particularly in the context of investor-State dispute settlement (ISDS) to crystalize the current reform work that is ongoing but limited to mainly procedural issues.

36. On **Due Diligence in International Law**, we wish to thank Ms. Penelope Ridings for her synopsis, Annex II

of A/79/10, and to also note that Sierra Leone invoked the due diligence principle in the context of our recent participation in the advisory opinion process before the International Tribunal for the Law of the Sea. We, therefore, see merit in the principle in its specific application in various regimes of international law. If addressed carefully at a general level of abstraction, we believe this topic could prove helpful for States. A key challenge for the topic would be delineating its scope, especially the need to focus on the due diligence obligations of States only. In this topic, Sierra Leone could support preparing a set of draft principles but underline those that must be rooted in State practice from all regions of the world.

37. **Chair**, my delegation notes that the Commission's role in promoting the rule of law at national and international levels is central to its mandate. Sierra Leone aligns with the emphasis on the interrelationship between the rule of law and the three pillars of the United Nations: peace and security, development, and human rights. Furthermore, we underscore the importance of technological advancements in addressing modern legal challenges, including piracy and climate change.

38. My delegation once more expresses appreciation for this important work and calls on the Commission

to be responsive to the views of States, particularly African States, to ensure the draft articles do not enable politicisation, which is already evidenced in international affairs.

**I thank you.**

