



**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
Seventy-Third Session of the United Nations General Assembly

Agenda Item 80:
“Report of the United Nations Commission on International
Trade Law on the Work of its Fifty-first Session”

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[Please Check Against Delivery]

Mr Chairman,

Sierra Leone thanks the Distinguished Chair of the United Nations Commission on International Trade Law (UNCITRAL) for introducing the report A/73/17 on the work of UNCITRAL in its 51st session; and further congratulates the Commission for the successful completion of the session and the celebration of the 60th anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the 'New York Convention').

Sierra Leone welcomes the report and pays tribute to the Commission, its Secretariat and working groups (WGs), especially WGs I, II and V on the completion of allocated items within their respective mandates as contained in the report. The progress made by the other WGs on other topics is also well noted with appreciation.

Sierra Leone appreciates the working methods of UNCITRAL and notes its appetite to solicit as much diverse views, perspectives and comments, even to the extent of including (as observers) non-state actors in a State led process. In this spirit of begetting the broadest views possible, the limitations on small and developing States are well documented, and paragraph 5 of A/73/17 is a manifestation of those limitations. That said, Sierra Leone, in acknowledging the urgency to add our perspective and context to some aspects of the report, will briefly comment on the following: the finalization of the draft convention on settlement agreements resulting from mediation, the UNCITRAL limited liability organization work plan and the connected cross-cutting or complementary issues, the UNCITRAL technical assistance, cooperation and law reform activities.

Mr. Chairman,

The finalization of the draft convention on international settlement agreements resulting from mediation, and the model law on international commercial mediation 2018 are laudable accomplishments. It cannot be more appropriate for the General Assembly to adopt these two important instruments, given the glaring nexus to the New York Convention and the celebration of its implementation successes. The collective effect of these instruments will certainly be the further enhancement of legal certainty to business operations globally. On our part, Sierra Leone will diligently pursue the ratification of the New York Convention and the signing of the soon to be adopted convention on international settlement agreements resulting from mediation, as we strive to develop a robust business and investment climate. The link, therefore, of these efforts and the implementation of the Sustainable Development Goals is far from being abstract.

Within the context of the Commission's work in the area of micro, small medium-sized enterprises (MSMEs), Sierra Leone congratulates the Commission for the finalization of

the draft legislative guide on key principles of a business registry. We further note that WG I will resume work on the UNCITRAL limited liability organisation. Sierra Leone acknowledges the importance of reducing legal obstacles and barriers in promoting the progressive harmonization of international trade law and wishes to underscore the nexus between need to minimize the barriers faced by MSMEs, in this sense by affording them limited liability protection, and the cross-cutting challenge associated with limited liability in international trade. An issue for consideration by the Commission is the prevalent use of limited liability protection to shield parent entities of multinationals or businesses trading across border from the liabilities of their subsidiaries which they control or manage.

This is the crucial question of corporate 'parental responsibility'. Often, foreign investments are structured to diversify risk in which the equity holding parent entities are separated from the operational subsidiaries. This is not necessarily a problematic structure, since it is often easier for parent entities to accumulate or source capital especially from more developed capital markets in developed economies. Problems associated with this structure, however, are increasingly weighing heavily on developing countries, whether in the area of insolvency of the parent entities and the inadequate protection of creditors of the subsidiaries, environmental liabilities and labour concerns. There is huge uncertainty in domestic jurisdictions on how to tackle this growing international trade law worry, and UNCITRAL, in our view, is best placed to add the needed global drive to address corporate parental responsibility.

Mr. Chairman,

Sierra Leone commends UNCITRAL in the provision of technical assistance to Member States, its engagements on law reform and the rule of law project. Sierra Leone, however, wishes to highlight the growing superfluity and confusion given the creeping proliferation of models, reform approaches on issues being considered by the Commission. For example, Sierra Leone notes the progress made by WG VI on security interests and the model guide on secured transactions, following its completion of the model law. Presently, the UNCITRAL model law on secured transactions competes with a secured transactions toolkit, a borrower and lenders hybrid legislative framework developed or being promoted by other specialised bodies within the United Nations system. Legal reforms have huge quantitative and non-quantitative costs. Indeed, the Commission through General Assembly resolutions only invites States to give favourable considerations to its model instruments. However, the availability of other models from organizations within the UN system creates room for confusion. This is where the reform work of UNICITRAL could be more targeted, in limiting the proliferation through proactive coordination and synchronization. As the Commission noted in its report: the *"development of legislative texts [...is] only the first step in the process of trade law harmonization and that technical cooperation and assistance activities [...are] vital to the further use, adoption and interpretation of [...the] legislative texts"*. Given this

significance, as recognized by the Commission, having competing models within the United Nations systems places a clog in the progressive harmonization drive.

Mr Chairman,

As an outgoing member of the Commission in 2019, Sierra Leone seeks to share experience on the limitations on active engagement in the work of the Commission. The ideal of progressive harmonization and unification of the normative frameworks of States to promote international trade 'in the interests of all peoples', in particular those of developing countries', expressed in General Assembly resolution 2205 (XXI) of 17 December 1966 is underpinned by the commitment to solicit the broadest global view in the negotiation and eventual drafting of model laws, guides and not to acclaim a certain paradigm, perspective or system. The purport of harmonization will be lost if the economics limit participation of States. Tributes must be paid to the Commission for managing the trust fund and to the voluntary contributors to the trust fund to ensure larger State participation in the consideration of the reform of 'Investor-State dispute settlement'. This approach must be systematized and made concrete to ingrain the treasured multilateral approach to the progressive harmonization of international trade law. Some States will continue to be within the bracket of paragraph 5 of A/73/17 if a mainstream financing approach is not taken. As the "true shareholders of UNCITRAL", one State in that bracket is one State too many.

In conclusion, Sierra Leone is encouraged by the commitment of Cameroon to actualize the proposal to host a regional UNCITRAL centre for Africa and hereby express our support. This regional approach is certainly one way of promoting active participation in the work of the Commission.

I thank you.