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by

## H.E. DR. MICHAEL IMRAN KANU & K D U J H G · \$ I I D L U H V D L Deputy Permanent Representative

at the 77 <sup>th</sup> Session of the United Nations General Assembly

Agenda item 77:

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## Chair,

- 6. In this difficult moment, when the multilateral international legal order is under tremendous stress, Sierra Leone takes this opportunity to reaffirm the great value and importance we attach to the mandate of the Commission in assisting the General Assembly in initiating studies and making recommendations for the purpose of promoting the 'progressive development of international law and its codification" as set out in the Commission's 1947 St atute, derived from article 13 (1) (a) of the United Nations Charter.
- 7. We also reiterate and re-echo the view of the African Group in that the process of progressive development and codification of international law must always be inclusive and all-embrac ing in the consideration of law texts, State practice, precedents and doctrines as required by the ILC Statute. Efforts in that regard ought to also draw inspiration from the main principal legal systems of our contemporary and pluralistic world, including African customary law

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- 10. Sierra Leone congratulates and commends the Commission, and its Members, and pays tribute to Special Rapporteur Mr. Dire Tladi, on the adoption, on second reading, of the entire set of draft conclusions on îdentification and legal consequences of peremptory norms of general international law (jus cogens) μ comprising 23 draft conclusions and an annex containing a non exhaustive list of jus cogens norms, together with commentaries thereto.
- 11. Sierra Leone commends the Special Rapporteur and acknowledges the steps taken by the C ommission to consider the statements of delegations in the Sixth Committee with the same or equal value to written submissions, as invited between the First and Second Readings of the topic by the Commission . We had previously made preliminary observations on the topic, and on the adopt ion of the D raft Conclusions, the Annex and commentaries, after the First Reading, and we now wish to highlight the following :
- 12. First, Sierra Leone takes note of the recommendation of the Commission in paragraph 41 of its report, and as we continue to study the adopted draft conclusions, annex and commentaries, my delegation takes this opportunity to state that the conclusion of the work of the Commission, constitutes a significant development and an accomplishment on a very important topic of international law. We note that this was done under the guidance of an African jurist.
- 13. Second, Sierra Leone agrees with the decision to change the title of the topic WR ´'UDIW & RQFOXVLRQV RQ WKH, GHQW Consequences of Peremptory Norms of General International /DZµ ZKLFK FOHDUO\ GHVFULEHV WKH VFRSH DQ Conclusions, as recommended by t he Drafting Committee based on a suggestion made by the Republic of Italy.
- 14. Third, the compromise reached on Draft Conclusion 2, in both placement and the further clarif ication of the meaning, by splitting

the two into two sentences was appropriate . Indeed, we appreciate the first sentence as explain ing

stifling of the emergence of new peremptory norms of general international law, to preclude the emergence of a new rule of customary law that runs contrary to an existing peremptory norm, as well as the further clarifications in the commentaries , are also well noted.

18. Seventh, o n Draft Conclusion 16, my delegation is satisfied with the underlining factor that no State has contest ed the substance of the legal principle that Security Council decisions were also subject to jus cogens norms. We agree that the language  $\hat{l}c$  bligations created by resolutions, decisions or other acts of international organizations conflicting with a jus cogen s norm µis broad enough to cover the United Nations Security Council. The retention of the reference to the UN Security Council in the commentary is helpful to further clarify th is issue, as this is in keeping with State practic Chair,

- 21. Similarly, to the jus cogens topic, Sierra Leone also commend s the Commission, and its Members , and pays tribute to the Special Rapporteur Ms. Marja Lehto of Finland on the adoption on second reading, the entire set of draft principles on protection of the environment in relation to armed conflicts, comprising a draft preamble and 27 draft princip les, together with commentaries thereto. We join the Commission to express our gratitude for the valuable contribution of the previous Special Rapporteur, Ms. Marie Jacobsson of Sweden to the work on the topic.
- 22. Sierra Leone takes note of the recommendatio n of the Commission in paragraph 55 of its report, and as we continue to study the preamble and 27 draft principles, together with the commentaries, we hereby make the following preliminary observations:

environmentally and culturally important in orde r to be protected. We further note that the proposals included deleting the word  $PDMRU\mu$  IURP WKH SKUDVH DUHDV RI PDMRU FXOWXUDO LPSRUWDQFH $\mu$  WDK/HZ\$HOUOD DM DLOOG UQUDD DUPHG FRQIOLFW $\mu$  RU LQ HYHQWe arel, aDtbisPHG FRC stage, content with the reading of the draft principle which states DV IRO CSRatZs/should designate, by agreement or otherwise, areas of environmental importance as protected zones in the event of an armed conflict, including where thos e areas are of cultural importance  $\mu$  <sup>´</sup>DQ DUHD DIIHFWHG E \ DQ is also Helpfuff, Ran 20 Inverse LFW µ note that it is inspired by the terms used in, inter alia, the United Nations Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict -Affected and High -RiskAreas.

28. Fifth, and in Part Three on Principles applicable during armed conflict µ the Commission extensively debated t he use of the terms HQYLURQPHQWµ DQWCe noteQtheURQPH( ´QDWXUDO agreement for the deletion of the ZRUG ´QDWXUDOµ ZKHQ UHI the environment in Draft Principles 13, 14 and 15. This may have been a pragmatic approach, to focus attention on the principles and not on the difference of views on the term s ´HQYLURQPHQWµ D HQYLTbleR On Bleths Can Wolipg in this regard is ´QDWXUDO significant, in that, by the deletion, the Commission did not intend to alter the scope of the existing conventional and customary interna tional humanitarian law, nor the Commission attempting to HISDQG WKH VFRSH RI ZKDW LV PHDQW E\ 'QDW international humanitarian law, with the commentary explaining this understanding.

29. Sixth and finally on this topic, on Draft Principle 13 General Protection of the Environment During Armed Conflict μ and in relation to the n ew paragraph 2 which was proposed by the Special Rapporteur, in response to State comments, appears to be an impo rtant addition. As the paragraph UHDGV

Chair,

- Similar to the African Group, in our statement last session, we 30. noted that a s the Commission has concluded a number of topics on the Commission's current agenda, we recall ed our statement on the issue of equitable geographical representation in the work of the Commission and note d that only one African member was serving as a special rapporteur, and another as co -chair of a study group. We call ed on the Commission, when decid ing to add new topics, to consider a balanced approach to topics in terms of interest as well as in the selection of special rapporteurs. This was to assistenhance the legitimacy of the Commission's work.
- On this note, taking into account the need for n ew topics, Sierra 31. Leone welcomes the decision of the Commission to include the following topics on its programme of work: (a) (6 H W W O H P H Q Winternational disputes to which international organizations are SDUWLHVµ DS/IS RALLIGQUS/LV REQUILISCH of Austria as Special '3UHYHQWLRQ DQG UHSUHVVLF 5 D S S R U W H X U Е UREEHU\ DW VHDµMrDYSacob Roba Qistset QofJ Cote d'Ivoire as 6SHFLDO 5DSSRUWHXU <sup>6</sup>XEVLGLDU DQG F GHWHUPLQDWLRQ RIUXOHV RILQWM/rUCODaDIe/sLRQDO Chernor Jalloh of Sierra Leone as Special Rapporteur. Sierra Leone looks forward to further engagement with the Commission on these topics and urges all delegations to be responsive to the requests for information on specific issues on which commen ts would be of particular interest to the Commission as contained in Chapter III of the report of the Commission to the General Assembly.
- 32. \$OWKRXJK P\ GHOHJDWLRQ DSSUHFLDWHV WKH to add the afore -mentioned topics to its current agenda, and we understand that the process of adding new topics depends on YDULRXV FRQVLGHUDWLRQV ZH QRWH WKDW WKH JXULVGLFWLRQµ L Vtert/nVprtogDat00mle Qf vWrK dtespOt&tQeJ wide support expressed by member States for it to be added to the & RPPLVVLRQ·V FXUUHQW DJHQGD ,W DSSHDUV V being deferential to the Sixth Committee, even though it c an independently exercise its mandate, which could even help end the political impasse by returning our collective focus on clarifying

35. In closing, Chair, Sierra Leone uses this opportunity to highlight and welcome progress on other aspect s

accessibility to the work of the Commission. This innovation is useful for de legations and should be continued. We look forward to the Commission making further progress on the accessibility of its work.

- 39. Finally, Sierra Leone appreciates the dedication of the members of the Commission and the Secretariat, who despite the continuing challenges of COVID -19, made the personal sacrifices which enabled the Commission to resume its work in a hybrid format. That said, as in-person interactions both formally and informally are critical to progress the work, we underline the importance of resuming the usual working methods of the Commission on the normal schedule and in person meetings.
- As this is the end of the current guinguennium, we use this 40. opportunity to thank all the members of the Commission for their devoted service and contributions to the codification and progressive development of international law. For members serving their final term, Sierra Leone extend sher very best wishes in all your other endeavours. We most heartily c ongratulate our returning and newly elected members for the next guinguennium. We certainly join the African Group in expressing our satisfaction with the quality members of the Commission, a of the elected s we celebrate the election of the first African female member . Ms. Phoebe Okowa of Kenya.
- 41. I thank you.