



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

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Statement

by

H.E. Mr. Alhaji Saadatu Sheriff
Permanent Representative

at the 77th Session of the United Nations General Assembly,

Agenda item 7

**"Report of the International Law Commission on the
work of its seventy-third session"**

Cluster III:

*Chps: VII (Succession of States in respect of
responsibility)*

New York, 2nd November 2022

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Chair,

1. In the Cluster III debate on agenda item "Report of the International Law Commission on the work of its seventy-third session", the delegation of Chile will first address the topic, "**Succession of States in Respect of State Responsibility**".
2. The Commission considered the fifth report of the Special Rapporteur, primarily addressing the problems relating to a plurality of injured States or of responsible successor States, and decided to change the form of output from Draft Articles to Draft Guidelines. This appears to have been in response to State concerns. There will be an opportunity to have a further examination of the change of form with the Working Group and commentaries would be developed on this basis.

3. The deliberations of the Commission on the outcomes remains insightful, as we await greater clarity by the Commission on the effect of the nomenclature of the forms of outcomes. The Working Group understands that the Commission understands the purposes of this topic. Draft Guidelines are intended to provide normative guidance to States. Draft Articles are from a mandatory to States, often suitable for incorporation in a treaty.

4. We therefore note that accordingly, the words "shall be" were replaced by "is in Draft Guidelines" reflecting the descriptive nature of the provision. Likewise, in Draft Guidelines 9, paragraph 2, 10, 10 bis and 11, the imperative verb "shall" was replaced by "should", thus reframing the provisions as guidance to States.

5. We take note of the Draft Guidelines (1, 2, 3, 3 bis and 11, 12, 13, 13 bis, 14, 15 and 15 bis), as well as their commentaries provisionally adopted by the Commission, and we further take note of the Draft Guidelines (1, 2, 3, 3 bis, 4 and 5) for which we wish to be discussed and adopted by the Commission, with their commentaries.

6. Sierra Leone regrets that, for reasons that are unclear to us and may well be internal to the working methods of the Commission, it fell short of completing a first reading on this interesting if sometimes complex topic. Nevertheless, Sierra Leone welcomes the transparency with which the work completed to date was reported in Chapter VII of this year's report. Among other things, consolidating the text and commentaries in one chapter will help delegations make it easier for delegations to understand the status of the work done over the past few years on this topic.

intend to study carefully the proposals of the Commission and the proposals described in the Report along with their accompanying commentaries.

7. As a general matter, partly for reasons of legal certainty and predictability, my delegation considers that it remains vital that the principles proffered by the Commission, especially the general regime of responsibility, for States for internationally wrongful acts as reflected in the now widely used work of the Commission completed in 2001. We further consider that the draft guidelines should remain non-binding, notwithstanding any agreements concluded by the States concerned. Pending our study of the Commission's work on this topic, Sierra Leone reserves its position and looks forward to the opportunity to comment at a later stage, on the substance of the Commission's provisionally adopted draft guidelines.

8. Two final remarks on the topic. First, we wish to thank the Special Rapporteur, **Mr. Paveš Čiurina**, (**Czech Republic**), for leading the work of the Commission on the topic. We thank him for his notable contributions, hard work and dedication for the benefit of the Commission, and ultimately, States and the international legal community as a whole.

9. Second final remark on the topic. As the Commission starts a new quinquennium, next session, the Commission's new composition will have to decide on the future of Succession of States, in respect of State responsibility topic. The Commission has the various options it debated this session, that is, a) appointing a new special rapporteur to continue the topic, b) drafting an interim Convention on the basis of an instrument, and, finally c) convening a new Working Group, with the aim of producing a report on the topic that would be annexed to the

Special Rapporteur's **Mr. Marcelo Vázquez Bermúdez**, (Ecuador) ~~in his report in which the~~
Special Rapporteur ~~discussed the scope of~~
transposition, general principles of law formed within
the international legal system, and the functions of
general principles of law and their relationship with
other sources of international law.

12. We take note that in his ~~report~~
proposed five draft conclusions, and also made
suggestions for the future program of work on this
topic. The proposed draft conclusions have been
adopted, including provisionally Draft Conclusion 7,
"Identification of general principles of law formed
within the international legal system". It is noted that
this ~~subject~~
that is, the general principles of law formed within
the international legal system, has been subjected
to divergent views among Commission members
and States in the Sixth Committee.

13. The provisionally adopted Draft Conclusion reads:

I. "To determine the existence and content of a general principle of law that may have been used within the international legal system, it is necessary to ascertain that the community of nations has accepted that principle as intrinsic to the international legal system."

II. Paragraph 1 is without prejudice to the question of the possible existence of other general principles of law common to the international legal system."

14. Although the summary of the debate on Draft Conclusion has not been included in the report of the Commission, following its usual practice, we, however, take note that, in the Report of the Special Rapporteur on Draft Conclusion No. 1, the following views expressed in relation to the second category,

of general principles of law reflected in United Nations conclusion 7, [...], and clarified certain matters regarding the methodology of the Tribunal.

15. Given the extensive nature in which the issue was addressed in Part II of the Special Rapporteur's 1994 report, and until we have further input from the Commission, we are comforted by the Special Rapporteur's reiteration that there was "no intention of practice and doctrine to subordinate or create a second category of general principles of law, while acknowledging... that modification was required, especially in view of concerns raised that this category should not be confused with customary international law". In other words, like many members of the Commission and the Special Rapporteur, Sierra Leone supports the existence of a second category of general principles of law inherent to the international legal system.

guidelines. We note the brevity of some of the commentaries, and hope that the Commission will consider elaborating further on some of the rationales for the various draft conclusions provisionally adopted by the Commission. We look forward to the outcome of discussions on this topic, and we hope to provide detailed commentaries on the overall substance of the Commission's work on this important topic subsequently.

18. In closing, **Chair**, allow me to thank once more all the Members of the Commission for their valuable contributions, commitment and personal sacrifices to ensure that the Commission's work has progressed in its 72nd session, even with the hybrid format. We repeat our desire to substitute in-person meetings and the usual Commission working methods with uninterrupted interpretation in the future sessions.

19. I thank you.