

# Report: Sierra Leone Commercial Law Summit 2017

*Supporting Responsible Private Sector Development through improved  
Commercial Law and Justice*

Organised by:



Supported by:



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# SUMMIT PARTNERS

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Sierra Leone Justice Sector  
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Sierra Leone Investment and  
Export Promotion Agency



Government of Ghana



UK Government



Government of Sierra Leone

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## ACKNOWLEDGEMENTS

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The Summit organisers wish to thank all of the Summit delegates (see pages 5 to 7 for a full list) for taking the time to attend the Summit and for their contributions to the discussions.

The organisers would like particularly to thank the following for their support:

- the Master of Ceremonies: Mr Oluniyi Robbin-Coker;
- the Speakers: The Hon. Attorney-General and Minister of Justice Joseph Fitzgerald Kamara, The Hon. Chief Justice Abdulai Hamid Charm, The Rt Hon. the Lord Falconer of Thoroton, The Hon. Mr Justice Blair, the British High Commissioner to Sierra Leone, Mr Guy Warrington, and Chairman of Standard Chartered Bank Sierra Leone, Mr Herbert M'cleod;
- the Workshop Chairpersons: Ms Hannah Ambrose, Mr Andrew Cannon, Mr Sonkita Conteh, Mr Gavin Davies, Mr Idrissa Kamara, Mr Gelaga King, The Hon. Justice Roberts, The Hon. Justice Samba, The Hon. Justice Solomon and The Hon. Justice Thompson;
- the Workshop Sponsor teams from Namati Sierra Leone, Herbert Smith Freehills LLP, Standard Chartered Bank, White & Case LLP and Eversheds Sutherland LLP who assisted in the preparation of the Summit workshop materials; and
- the Commercial Law Summit Co-Leads, Fergus Rourke and Rebecca Perlman.

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## LIST OF DELEGATES

| Delegate  | Organisation  | Role   |
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| <b>The Hon. Abdulai Hamid Charm</b>                   | Sierra Leone Judiciary, Supreme Court                 | <i>Chief Justice of the Supreme Court of Sierra Leone</i>                                |
| <b>Abu Bakarr Sesay</b>                               | Public Private Partnership Unit                       | <i>Senior Financial Analyst</i>  |
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| <b>Her Ladyship Justice Akua Sarpomaa Amoah</b>       | Ghanaian Judiciary, High Court                        | <i>Judge</i>   |
| <b>Alberta Kargbo</b>                                 | Namati Sierra Leone                                   | <i>Consultant</i>  |
| <b>Amie Kandeh</b>                                    | Coffey International                                  | <i>Consultant</i>  |
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| <b>The Hon. Mr Justice Blair</b>                      | Judiciary of England and Wales, High Court            | <i>Judge in Charge of the Commercial Court</i>   |
| <b>Calvin Mantsebo</b>                                | Anti-Corruption Commission                            | <i>Director, Intelligence, Investigations and Prosecutions</i>                           |
| <b>Centus Macauley</b>                                | Macauley, Bangura & Co                                | <i>Managing Partner</i>  |
| <b>The Rt. Hon. Lord Charles Falconer of Thoroton</b> | Gibson, Dunn & Crutcher                               | <i>Partner (and former UK Lord Chancellor and first Secretary for State for Justice)</i> |
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| <b>His Lordship Justice Eric Kyei Baffour</b>         | Ghanaian Judiciary, High Court                        | <i>Judge</i>   |
| <b>The Hon. Justice Emmanuel Ekundayo Roberts</b>     | Sierra Leone Judiciary, Supreme Court                 | <i>Judge</i>   |
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| <b>The Hon. Joseph Fitzgerald Kamara</b>          | Ministry of Justice                                   | <i>Attorney-General and Minister of Justice for Sierra Leone</i> |
| <b>The Hon. Justice Amy Wright</b>                | Sierra Leone Judiciary, High Court                    | <i>Judge</i>   |
| <b>The Hon. Justice Desmond Babatunde Edwards</b> | Sierra Leone Judiciary, High Court                    | <i>Judge</i>   |
| <b>The Hon. Justice Sengu Koroma</b>              | Sierra Leone Judiciary, Court of Appeal               | <i>Judge</i>   |
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| <b>Honourable Justice Solomon</b> | Sierra Leone Judiciary, Supreme Court                   | <i>Judge</i>                                    |
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# INTRODUCTION

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Sierra Leone's inaugural Commercial Law Summit was held at the Radisson Blu Mammy Yoko Hotel in Freetown on Tuesday, 14 March 2017. The Summit was a groundbreaking collaboration of key stakeholders in commercial law and justice in Sierra Leone and leading legal and commercial experts from Ghana and the UK.

In total, over 90 delegates from across the judiciary, the government, diplomatic and development sectors, the business community and the legal professions from Sierra Leone, Ghana and the UK came together to discuss and identify gaps in commercial law and justice that currently hinder private sector development in Sierra Leone.

Foreign direct investment ("FDI") can serve as a key driver of economic growth and sustainable development by encouraging job creation, economic diversification, technological advancement, enterprise development and international trade integration. A robust legal and regulatory framework built on the rule of law and enforced by efficient supporting institutions is essential to attracting FDI. The purpose of the Summit was to map out and formulate practical reform priorities to promote responsible FDI into Sierra Leone.

The Summit was organised by Herbert Smith Freehills LLP, Standard Chartered Bank and the UK-Sierra Leone Pro Bono Network, with support from ROLE UK and the UK Department for International Development. It was chaired by Mr **Oluniyi Robbin-Coker**, and featured keynote speeches from The Hon. Attorney-General and Minister of Justice **Joseph Fitzgerald Kamara**, The Hon. Chief Justice **Abdul Hamid Charm**, The Rt Hon. the **Lord Falconer of Thoroton**, The Hon. Mr **Justice Blair**, the British High Commissioner to Sierra Leone - Mr **Guy Warrington**, and the Chairman of Standard Chartered Bank Sierra Leone - Mr **Herbert M'cleod**.

The Summit also featured workshops, each chaired by a leading expert, on topics that were selected to reinforce the objectives and priorities set out in Sierra Leone's Justice Sector Reform Strategy and Investment Plan III ("**JRSRIP III**").

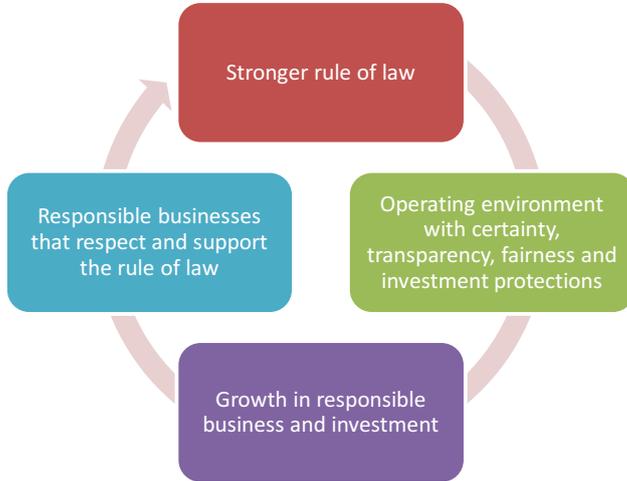
This report summarises the key discussions and outcomes of the Summit, including the priority reform proposals that were identified.

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# EXECUTIVE SUMMARY

## Keynote Speeches

The Summit benefited from a series of excellent keynote speeches delivered by The Hon. Attorney-General and Minister of Justice Joseph Fitzgerald Kamara, The Hon. Chief Justice Abdulai Hamid Charm, The Hon. Mr Justice Blair and The Rt Hon. the Lord Falconer of Thoroton. Each of the keynote speakers emphasised the interdependence between the rule of law and economic prosperity led by responsible businesses.



The speakers highlighted the importance of investor confidence in court processes, the independence of the judiciary and the sanctity of contract. All of these are essential for commerce and investment to flourish. All speakers acknowledged that inclusive growth, based on the certainty provided by the rule of law, will be critical to achieving Sierra Leone's goal of becoming a middle-income country by 2035, as set out in the Government's [Agenda for Prosperity](#).

The speakers noted that positive steps had already been taken, including the establishment of the Fast Track Commercial Court and the passing of one of the toughest anti-corruption laws in Africa. However, they also recognised that more could be done and that a coordinated and collaborative approach would be needed to improve commercial law and justice in the country in the longer term. The Summit, according to the speakers, represented a first decisive step in this direction.

The full texts of these keynote speeches are set out in the Appendix to this Report.

## Summit Workshops

The Summit workshops were the focal point of the day. They provided a rare forum for multi-stakeholder engagement on seven key topics for potential reform: **dealing with foreign investors, court process, arbitration, anti-bribery and corruption, taking and giving legal advice, land tenure and public-private partnerships.**

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Each workshop group spent two hours discussing the issues relevant to its topic and was asked to agree, as an output of the discussions, up to five recommendations for commercial law and justice reform in Sierra Leone.

Common themes across the recommendations included improving access to information (from publishing law reports, to creating a centralised source of information on the investment process); introducing legislative changes (such as amendments to the Anti-Corruption Act, passing a new Arbitration Act and acceding to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards); and building capacity within the legal sector and the judiciary through mentoring and training.

## Conclusions and next steps

By the Summit's conclusion, delegates had proposed 33 potential reforms to support responsible private sector development in Sierra Leone.

These recommendations represent a consensus among the key stakeholders in commercial law and justice in Sierra Leone on the critical reform needs for Sierra Leone. They were endorsed by the GoSL's most senior legal figures, The Hon. Attorney-General and Minister of Justice Joseph Fitzgerald Kamara and The Hon. Chief Justice Abdulai Hamid Charm, who both made a commitment on the day of the Summit to drive the recommendations forward, together with their key partners in GoSL and in the legal, business and development communities.

On Wednesday 15 March 2017, a working group (drawn from delegates from the seven workshops) met at the offices of the Attorney-General to establish a plan for implementing the reform recommendations. The working group assessed the potential impact of each recommendation as well as its ease of implementation to narrow down the potential reforms to seven proposals that it then undertook to take forward as a priority.

Full details of all of the Summit's recommendations are set out in the relevant workshop sections below.

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# THE WORKSHOPS: DISCUSSION PAPERS & RECOMMENDATIONS

## The Justice Sector Reform Strategy and Investment Plan III (2015-2018)

In the JSRSIP III, the GoSL sets out its strategic priorities for the Sierra Leonean justice sector over the course of 2015 to 2018. Sierra Leone's previous justice sector strategies contributed to the restoration of justice services after the civil war. The JSRSIP III attempts to refocus the direction of reforms on strengthening the supply-side of services.

The JSRSIP III draws from the national development agenda of Sierra Leone articulated in the [Agenda for Prosperity](#), which emphasises the nexus between justice sector reform and economic development. The JSRSIP III focuses on improving both access to justice and public perception of the justice sector. The overall goal of the JSRSIP III is "a Sierra Leone with an effective justice sector enabling increased access to justice, expedition of justice, protection of human rights and opportunities for economic development." One of the five key outcomes of JSRSIP III is that commercial law and justice should be improved.

### Workshop Topics

The Summit brought together a wide variety of stakeholders to discuss common issues and challenges in relation to seven key topics. These topics were selected to build upon the objectives and priorities set out in the JSRSIP III.

#### JSRSIP III objectives and priorities

- "Build the capacity of the Law Officers Department, Judiciary and lawyers in private practice strengthened"
- "Improve the public and business perception of judicial independence and impartiality in relation to commercial matters"
- "Improve the performance and image of the justice sector in relation to commercial law and justice and its support to economic development."
- "Strengthen legislative and regulatory reform of commercial law and justice including harmonisation international cooperation and the relevant laws of Sierra Leone with international instruments "
- "Strengthen Alternative Dispute Resolution Mechanisms"
- "Strengthen Anti-Corruption Institutions and Mechanisms"
- "Review of land laws in Sierra Leone"
- "Improve public information, education and communication in the justice sector"

#### Summit workshop topics

- Dealing with foreign investors
- Court process: sharing best practice
- Arbitration
- Anti-bribery and anti-corruption
- Giving and taking legal advice
- Land tenure
- Public private partnerships

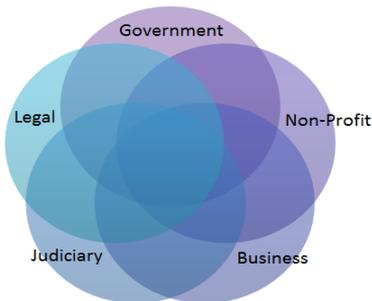
To encourage open discussion and the cross-fertilisation of ideas, and to ensure that each workshop benefited from a variety of perspectives, the delegates were allocated in advance to a particular workshop groups. The Summit organisers assigned a mix of delegates from the public and private sectors to each workshop group, and thereby sought to break down silos and encourage collaboration and coordination in addressing commercial law and justice challenges. This also helped to foster the free and flowing debates that characterised the Summit's workshop sessions on the day. For many of the delegates, this was the first forum that had allowed them to

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share their thoughts and ideas on specific commercial law issues across such a broad range of different sectors.

A short discussion paper was circulated to each delegate prior to the Summit to provide them with a background briefing to their workshop topic, including the current state-of-play and some possible reform ideas. In relation to each of these topics, the substance of the discussion paper and the recommendations agreed by the relevant workshop at the Summit are set out below.

The discussions, guided by chairpersons selected for their expertise in the relevant field, broadly followed the themes and issues identified in the summaries contained in this section of the Report.



## Recommendations

Each Summit workshop group agreed up to five recommendations for reform addressing the specific challenges they had identified during the course of their discussions.

Planning for the implementation of the recommendations began the day after the Summit, when an implementation working group drawn from across the different workshop topics met to prioritise and identify next steps. Following an assessment of the likely impact and the ease of implementation of each recommendation, the working group shortlisted two reforms for each workshop topic and identified the essential next steps and key stakeholders required to achieve them.

Seven of these reforms were then nominated to be taken forward as a matter of priority.

### The Priority Reforms of the Commercial Law Summit

Pass a new Arbitration Act and accede to the New York Convention

Extend the reach of the Anti-Corruption Act to cover commercial bribery

Introduce courtroom technology to improve justice delivery

Centralise information relating to foreign investment in an online database

Establish teams and pass legislation to implement the National Land Policy

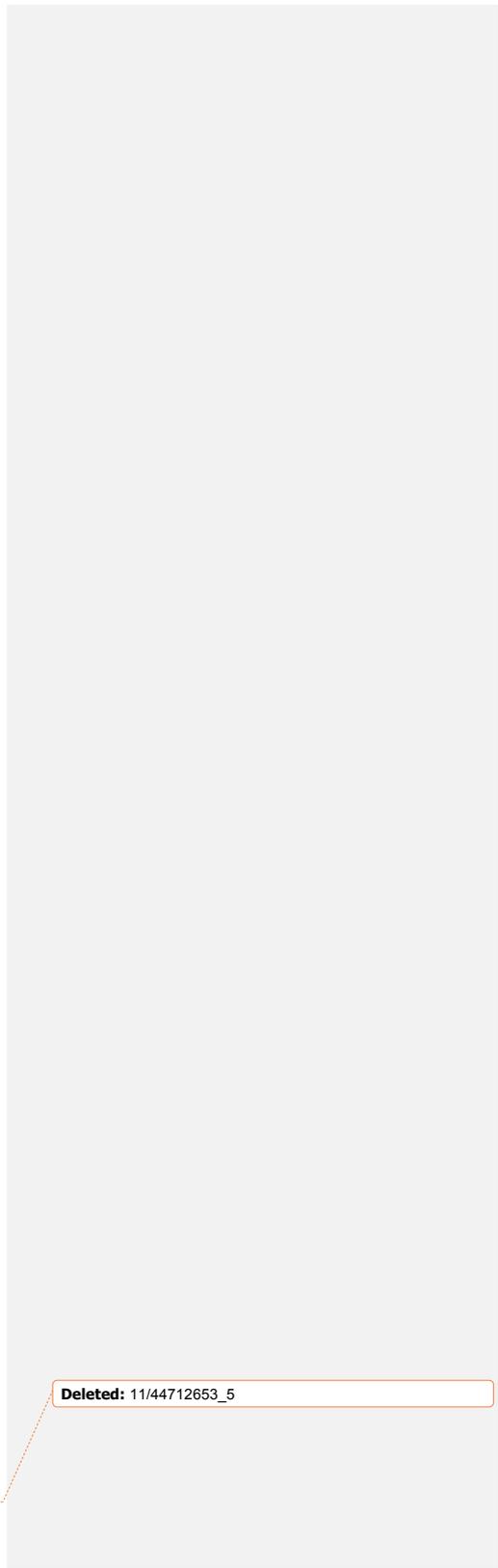
Introduce a CPD training programme for Sierra Leonean lawyers

Identify key MDA contacts to develop a PPP project pipeline with the PPPU

The Priority Reforms will be driven forward by the working group and the GoSL. Further reform proposals deriving from the Summit will also be pursued as part of a second tranche.

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All of the recommendations emanating from the Summit, including the Priority Reforms selected by the working group, have been set out below.



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# Dealing with Foreign Investors

**Chairperson:** Gavin Davies, Partner (Herbert Smith Freehills LLP)

**Author and Workshop Sponsor:** Herbert Smith Freehills LLP

## Background

It is important to start with the context: what is Sierra Leone's current approach to foreign investors, and what are the consequences of this approach? Consider the following statistics:

- Sierra Leone's ranking on the World Economic Forum's Global Competitiveness index is 137 out of 140 countries; and
- Sierra Leone is ranked 148 out of 190 countries in the World Bank's Doing Business Report 2017.

These statistics do not appear to offer much promise – but total FDI in Sierra Leone has actually risen year-on-year since the conclusion of the civil war, except during the Ebola crisis. Before considering any challenges that Sierra Leone faces in dealing with foreign investors, it is important to consider its successes and opportunities.

FDI into Sierra Leone remains concentrated on a few sectors (particularly mining, agriculture and infrastructure), and a significant proportion of FDI into Sierra Leone is represented by overseas sovereign investment or aid. It appears that Sierra Leone faces a challenge in attracting greater foreign private investment. Should Sierra Leone address this issue, and if so how?

## Points for Consideration

It is generally more challenging for foreign private investors to invest in a low-income country than (for example) a G8 or G20 developed economy. However, each country will offer its own challenges - and opportunities - to potential investors.

In the case of Sierra Leone, we have listed below a number of challenges which may be relevant to foreign private investors. For each factor, there is an accompanying example of steps that have been taken to address the issue.

| ISSUE   | COMMENT   |
|---|---|
| <b>1. FINANCE AND BANKING WITHIN SIERRA LEONE</b> | <p>Do foreign investors have ready access to credit and capital, and to the local banking services required to run a business?</p> <p>There has been an increase in the number of commercial banks operating in the country, and many community banks and Financial Services Associations have been established, which has improved rural financial intermediation.</p>     |
| <b>2. INFRASTRUCTURE</b>                          | <p>Do issues such as transport, telecommunications, and healthcare within Sierra Leone cause difficulties for foreign investors who want to send their staff to Sierra Leone?</p> <p>Sierra Leone's road network is continuing to improve, and mobile phone penetration is rapidly increasing. Sierra Leone's response to the Ebola crisis was praised internationally.</p> |

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| <p><b>3. INVESTMENT PROTECTION</b></p>      | <p>Do foreign investors feel that their investment in Sierra Leone is secure against nationalisation or change in law, and that any public or private dispute would be resolved efficiently and in a recognised forum?</p> <p>The Investment Promotion Act 2004 ("<b>IPA</b>"), which serves as the foundation of the private investment regime in Sierra Leone, has as its purpose the promotion and attraction of private investment, both domestic and foreign.</p> |
| <p><b>4. GUIDANCE ON DOING BUSINESS</b></p> | <p>How easily can foreign investors learn about the process for doing business in Sierra Leone? Is commercial and professional advice available locally – for example lawyers, accountants and bankers?</p> <p>The Government has established agencies specifically to facilitate investment (e.g. the Sierra Leone Import-Export Promotion Agency, established in 2007).</p>  |
| <p><b>5. GETTING THE RIGHT STAFF</b></p>    | <p>Can foreign investors easily find the staff they need in Sierra Leone, across a range of skills and roles?</p> <p>Improving human development is one of the key pillars of the Government's Agenda for Prosperity. A key goal is to reduce education-related inequalities and provide high-quality learning opportunities at all educational levels for both men and women.</p>   |
| <p><b>6. LAND AND LEASING</b></p>           | <p>Can investors easily find appropriate office space in Sierra Leone? Can investors which need to acquire land (for example, agribusiness investors) do so reliably?</p>  |

### Shortlisted Recommendations

**1. Shortlisted reform 1: Increase transparency**

Ensuring that international investors have full visibility of how the investment process will run.

To improve transparency, the investment process needs to be centralised in order for investors to know who to approach and how.

In addition, investors need to know how they will be protected in the event of a dispute.

*Essential next steps:*

- a. launch a central investor website which covers all Ministries, Departments and Agencies ("**MDAs**") and provides relevant information on regulation, investment processes and timings, and costs of licences and permits;
- b. create a tracking system on the investor website through which investors can track the progress of any licence or permit application online; and
- c. enhance the role of the Ombudsman to enable him/her to intervene if and when investors encounter problems.

**2. Shortlisted reform 2: Publish case reports**

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Reports of commercial cases in the Sierra Leonean courts should be prepared and made available to the public. This will support the development of precedent in Sierra Leone's commercial jurisprudence and, by publishing decisions, will reduce the scope for anomalous or discretionary judicial decisions.

*Essential next steps:* JSCO to liaise with SierraLII and development partners to explore scope for project funding.

### Additional Recommendations

3. **Arbitration:** modernise Sierra Leone's Arbitration Act to reflect current international best practice. Accede to the New York Convention to provide certainty around the enforcement of foreign arbitral awards.
4. **International best practice:** create a system whereby international best practice on investment promotion and protection is obtained and shared within the country (taking as example the practices of Sierra Leone's neighbours, ECOWAS, the Commonwealth and the UK).
5. **Training:** ensure that international businesses can recruit suitably qualified and experienced staff locally in Sierra Leone by supporting business skills education at university and college level.
6. **Example deal:** deliver a desirable deal with a high-quality, international investor and publicise this deal as an example of how deals can be done with the "right" investors.

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## Court Process - Sharing Best Practice

**Chairpersons:** The Hon. Justice Solomon, Judge (Sierra Leone Supreme Court); The Hon. Justice Roberts, Judge (Sierra Leone Supreme Court); and The Hon. Justice Samba (Sierra Leone High Court)

**Authors and Workshop Sponsors:** Herbert Smith Freehills LLP and Standard Chartered Bank

### Background

The Sierra Leone court system is split into two levels, (i) the superior courts: the High Court (including the Fast Track Commercial Court ("FTCC") established in 2010), the Court of Appeal and the Supreme Court; and (ii) the lower courts: the Magistrates Court and the Local Courts. The legal system in Sierra Leone is built on common law principles. However, judgments are not widely available and, outside the FTCC's online record (which itself is not always fully up-to-date), have not been properly reported since 1973.

The judiciary's budget is sporadic and is controlled by the Executive arm of the state, with the judiciary having no control over the way in which this budget is spent. The court fee in the FTCC to issue a claim is SLL 15,000 (approx. £1.60) and the FTCC offers services such as transcription free of charge.

Public confidence in the judiciary has improved in recent years after being significantly damaged during the civil war. However, many remain reluctant to use the courts due to delays caused by adjournments, lack of judicial resource (and support) and the time it takes for parties to receive a written judgment (judgments are commonly hand-written or copy-typed).

The High Court Rules 2007 set out general procedures, which were then supplemented by the 2010 Rules for the Commercial and Admiralty Division (which is now effectively the FTCC) and a Manual of Operations for the FTCC. The 2007 Rules include provision for directions, summary judgment and general case management powers. Most notably, the FTCC requires parties to attempt to settle their dispute by judge-led Alternative Dispute Resolution ("ADR"), aims for trial within 6 months of issue and seeks to ensure that judge serve their decisions within 2-3 weeks.

There has already been much discussion and work undertaken in relation to the reform of the court process in Sierra Leone, including the Recovery Justice Programme, the Justice Sector Reform Strategy and Investment Plan III 2015-2018, the Sierra Leone Judiciary Strategic Plan 2016 – 2021 and the Judicial Conference of April 2016.

### Current Issues

The Sierra Leone Judiciary Strategic Plan 2016 – 2021 sets out five strategic areas for focus:

- (i) justice should be expedited, fair and accessible,
- (ii) effective and efficient case management,
- (iii) commercial law and justice,
- (iv) judicial training and continuing professional development, and
- (v) justice is delivered with respect for rights and accountability.

In particular, the judiciary's reliance on a potentially insufficient level of government funding can negatively impact both public perception of its impartiality to government interests, and its ability to budget efficiently and recruit the right support staff to meet its needs. In particular, the courts lack judicial, administrative and quasi-legal support. A small number of judges are dealing with a large volume and backlog of cases with limited assistance.

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Although the FTCC provides significantly higher quality commercial justice and is relatively fast, appeals from the FTCC are heard by the Court of Appeal. This process can be far slower. Parties also have a right to appeal FTCC case management orders, which can further slow the process. As the number of cases heard by the FTCC is likely to increase, the speed of hearing of cases will likely be slow unless there is additional judicial and administrative support.

Although the 2007 and 2010 Rules set out various case management and interim remedy powers, there could be scope to improve the use and deployment of these powers.

### Points for Consideration

| ISSUE  | COMMENT   |
|--|---|
| 1. <b>JUDICIAL RESOURCE, TRAINING AND REGULATION</b> | How can the number of full-time judges be increased? What additional court management and administration staff and services are required to assist the judges? Should the court consider hiring judicial assistants (perhaps as internships)? How can one ensure that the highest calibre people are recruited and trained for each job? How could the current Code of Conduct for the judiciary be improved?   |
| 2. <b>THE CURRENT VOLUME AND BACKLOG OF CASES</b>    | Is it detrimental to the competitiveness of the FTCC and access to justice for cases to take longer than 6 months, or even a year, to pass through the FTCC? Are there barriers to the decisions being made effectively or efficiently in the FTCC? If so, what changes might improve decision-making? Would the introduction of an FTCC small claims court assist with disposing of smaller cases efficiently?   |
| 3. <b>FUNDING</b>                                    | Could court fees (particularly those of the FTCC) be increased without creating a barrier to justice? How could the courts ensure they retain any surplus of such fees? Should the courts be given more autonomy over their own budgets? How else could courts improve their funding positions without introducing barriers to justice all the while maintaining their independence? Could this improve the court's independence (or the perception of it)? What barriers might there be to implementing these changes? |
| 4. <b>REPORTED CASES AND FTCC WEBSITE</b>            | Should all judgments be freely available online? How could this be achieved and maintained? Who would be responsible for this? What advantages would this bring? What priority should the updating and maintaining the FTCC website have?   |
| 5. <b>CASE MANAGEMENT AND PROCEDURE</b>              | Would a more comprehensive court guide improve procedural certainty and fairness? Should such reform be targeted at the FTCC first? To what extent could this just codify existing judicial practice in Sierra Leone? Are there lessons to be learned from other jurisdictions? Are the current powers of case management and interim remedies being used appropriately? If not, how could their effectiveness be improved?   |
| 6. <b>APPEALS FROM THE FTCC</b>                      | Should there be a fast-track appeals process? If so, should parties be required to obtain leave to appeal? In particular, should parties be able to appeal case management issues as a right? Should ADR also be compulsory at the appeal stage?  |

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## Shortlisted Recommendations

### 1. Shortlisted reform 1: Improve use of technology in the court process

Large technology projects are expensive and difficult to implement, and the delegates acknowledged that a previous attempt to start recording in the courts had been unsuccessful.

However, a relatively easy way to use technology in the court process to increase efficiency would be to introduce new procedural rules that allow claims to be filed electronically. This would require a sufficiently powerful internet connection and facilities to create PDF documents.

*Essential next steps:*

- a. determine why the previous court recording project failed and what can be learned from this; and
- b. amend the procedural rules to allow electronic filing.

### 2. Shortlisted reform 2: Increase judicial support

Introducing clerkships or other types of court support would allow judges to spend less time on administrative tasks and more time focusing on decisions. A cost-effective way of implementing this reform could be to make a court clerkship part of the pupillage programme for trainee lawyers.

*Essential next steps:*

- a. further consider how the pupillage programme could be adapted to provide this support at low cost; and
- b. lobby for funding for clerks.

## Additional Recommendations

### 3. Clarify Procedural Rules: review, amend and simplify the Commercial Court Rules to increase accessibility. In addition, a publicly available "Court User Guide" could supplement the rules for the benefit of judges, lawyers and the public to help explain the procedure. This reform will require:

- a) appropriate multi-stakeholder investment in considering the contents of the User Guide;
- b) sufficient time and, potentially, financial resources;
- c) the drafting of rules that are fit-for-purpose, add certainty to the procedure, but are still flexible enough to apply to all cases;
- d) supplementary training for judges, the bar and support staff; and
- e) meetings of users and (separately) of judges to provide feedback on the rules and assist further reform.

### 4. Improved mediation training: for judges, lawyers and potentially clients so that all parties better understand the process, advantages, techniques and approaches that can help ensure that ADR stands the best chance of being as successful as possible. This should include the production of a publicly available guide and a series of training workshops.

### 5. Funding: there should be an increase in funding for the courts, as well as the level of control exercised by the judiciary over the spending of its own funds, granting it the right to

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retain court fees. Potential sources of increased funding that could be legislated for, include:

- a) increasing court fees for larger value commercial cases, all the while being careful not to create a barrier to justice;
- b) allowing the judiciary to retain 1% of all judgment sums; and
- c) ensuring that transcription/court recording services be paid for by the parties (perhaps only where the claim value is above a certain threshold).

6. **Improving the quality of justice:** increasing training for the judges, the bar and judicial support staff, so as to further familiarise them with the code of conduct among other things, improving conditions of judicial service and considering using legal interns, legal officers and clerkships to support the effective functioning of the courts.
7. **FTCC appeals process:** seeking to reduce the burden on the Appeal Courts by requiring the losing party at an FTCC trial to apply for permission to appeal, rather than being able to appeal as a right as is currently the case.
8. **Law reporting:** implementing proper law reporting so that cases are easily accessible to the public.
9. **Minimum claim value for FTCC Claims:** introducing a minimum threshold claim value for allocation of claims to the FTCC. Claims of a value below that threshold should be allocated to the High Court.

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# International Arbitration

**Chairpersons:** Andrew Cannon, Partner, and Hannah Ambrose, Professional Support Consultant (Herbert Smith Freehills LLP)

**Author and Workshop Sponsor:** Herbert Smith Freehills LLP

## Background

Arbitration is a private system of dispute resolution based on agreement by the parties to arbitrate their disputes. The agreement is usually set out in a contract, requiring that disputes be submitted to and resolved by independent and impartial tribunals of individuals, rather than national courts.

It offers a number of potential advantages over litigation before national courts, such as:

- **Neutrality:** international parties can select the "seat" or legal place of the arbitration in a neutral venue rather than having to choose between each other's national courts;
- **Ease of international enforcement of arbitral awards:** the widely ratified New York Convention facilitates the enforcement of awards across jurisdictions;
- **Procedural flexibility:** parties can choose their own procedure, and select their own arbitrators; and
- **Confidentiality:** arbitration proceedings are generally held in private. Parties can also expressly provide for duties of confidentiality in their agreement, or can choose a seat or an applicable set of arbitration rules which require the arbitration process to be kept confidential. This can be an important advantage to parties looking to preserve long-standing commercial relationships.

Arbitration is growing across the world. It is increasingly the dispute resolution method of choice for international commercial parties, and can also be used to settle domestic disputes.

The current arbitration legislation in Sierra Leone dates back to 1960, and is out of date. Importantly, it does not contain provisions which would allow Sierra Leone to comply with the obligations of the New York Convention.

The modernisation of arbitration legislation has been under consideration for a number of years by the Law Reform Commission. Accession to the Convention is a stated national priority in the JSRSIP III. Accession would offer many benefits in terms of promoting economic stability and attracting further foreign direct investment, which in turn is relevant to a number of the Priorities in the Agenda for Prosperity.

## Current Issues

Arbitration as a method of dispute resolution does not appear to have been broadly adopted by the Sierra Leone business community. Anecdotal evidence suggests that arbitration awards – either made in Sierra Leone or foreign awards with a seat outside Sierra Leone – are not regularly brought before the courts in Sierra Leone for enforcement.

There may be a number of reasons for this, including:

- inadequate legislation;
- Sierra Leone not being party to the Convention;
- lack of confidence regarding treatment of arbitration in courts; and
- inadequate training and awareness more generally regarding arbitration as a concept among local business, private practitioners and the judiciary.

Such factors reduce the choices available to commercial parties in terms of the forum in which their disputes may be resolved. The knock-on effect may be to decrease investor confidence, and lead to an over-burdening of the domestic courts.

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A key point for consideration is how to increase in Sierra Leone: (i) awareness of arbitration, its purposes and benefits; and (ii) confidence that a framework exists which can deliver on their dispute resolution needs.

Steps are being taken to address these issues. The Sierra Leonean Cabinet has now approved the country's accession to the New York Convention and a modern Arbitration Law is currently in the final stages of drafting. New arbitration legislation should precede accession to ensure that the international obligations under the New York Convention can be complied with.

Accession to the New York Convention alone will not be sufficient to ensure investor confidence – Sierra Leone will need to demonstrate that it has a framework in place to support its obligations under the New York Convention.

### Points for Consideration

Accession to the New York Convention will promote foreign investment by sending a strong signal to the international investment community that the contracting state will uphold the parties' choice to resolve disputes by arbitration and will recognise and enforce arbitral awards in a consistent and predictable way. Accession can also, in turn, benefit Sierra Leonean parties to international contracts in that it decreases the cost of enforcement risk which is often factored into commercial terms.

| ISSUE   | COMMENT  |
|---|--|
| <b>1. A NEW ARBITRATION LAW</b>                               | <p>The Government is currently working on a new, modern Arbitration Law. Such a law will:</p> <ul style="list-style-type: none"> <li>• recognise and respect the parties' choice of arbitration to settle their disputes;</li> <li>• facilitate arbitration proceedings seated in Sierra Leone by providing a clear, comprehensive legal framework (including specifying the duties and powers of the tribunal), which respects party autonomy;</li> <li>• provide the Sierra Leone courts with powers to support arbitration proceedings seated in Sierra Leone and (where appropriate) arbitration proceedings seated outside Sierra Leone;</li> <li>• clarify the limited grounds on which an arbitration award made in Sierra Leone can be set aside by the Court; and</li> <li>• provide a Convention-compliant framework to facilitate recognition and enforcement of awards made within and outside of Sierra Leone.</li> </ul> |
| <b>2. EFFECTIVE IMPLEMENTATION OF THE NEW YORK CONVENTION</b> | <p>Sierra Leone will need to undertake some practical steps in order effectively to implement the New York Convention. These steps may include:</p> <ul style="list-style-type: none"> <li>• implementation of court rules to ensure appropriate support for arbitration, consistent with the requirements of the Convention;</li> <li>• associated training for the judiciary to ensure understanding of and compliance with those rules;</li> <li>• dialogue with, and appropriate training of, private legal practitioners to develop expertise in arbitration, providing effective negotiation of arbitration clauses in commercial contracts and representation for foreign investors and domestic businesses involved in arbitration concerning Sierra Leone or in related domestic court proceedings and</li> </ul>   |

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- expertise to sit on domestic and international tribunals; and
- engagement with the local and regional business community to increase awareness and understanding of the concept of arbitration and its benefits, as well as the potential economic benefits to Sierra Leone if it were to embrace arbitration.

A plan for practical implementation of the law and training in regards to its enforcement would be positively recognised in the wider international community as signifying Sierra Leone's intent to introduce a sustainable and predictable arbitration framework to support its accession to the Convention.

In the longer term, further consideration may be given to the development of the business of arbitration in Sierra Leone. A market in dispute resolution, particularly arbitration, is a source of economic activity; it can be a driver for growth and prosperity in its own right. Some states have therefore sought to build a market for growth in the sector through the development of their own international arbitration centre. While arbitration in certain African countries, such as Nigeria and Egypt, is relatively well established, more recent examples include the establishment of the Kigali International Arbitration Centre and the Nairobi International Arbitration Centre.

## Shortlisted Recommendations

### 1. Shortlisted reform 1: Accession to the New York Convention

Accession to the New York Convention is a key national priority, as set out in the JSRSIP III.

Many of Sierra Leone's immediate neighbours in West Africa have already acceded to the Convention. Accession is important to ensure that Sierra Leone does not compare unfavourably with the countries surrounding it. There could also be an opportunity for Sierra Leone to give itself a competitive advantage by agreeing to reciprocity in the reservations section where some of its neighbouring countries have not.

*Essential next step:* implement a new, modern Arbitration Act. This will need to be in force before the country's accession to the New York Convention.

*Note:* Following the Commercial Law Summit, the Sierra Leonean Cabinet has approved the country's accession to the New York Convention.

### 2. Shortlisted reform 2: A new Arbitration Act

The Summit's arbitration workshop group highlighted the inadequacy of the current arbitration laws in Sierra Leone. A new legal framework is needed to implement the GoSL's policy, and to comply with the obligations of the New York Convention when ratified.

*Essential next steps:*

- a. collect and input final comments on the arbitration bill, including comments from the Arbitration Bill Sub-Committee led by Justice Roberts; and
- b. secure Cabinet approval.

### 3. Shortlisted reform 3: Effective implementation of legislation and court rules

The biggest challenge in implementing the two reforms outlined above will be ensuring that, once Sierra Leone has implemented a new Arbitration Act and acceded to the Convention, the obligations are adhered to. To overcome this, the implementing legislation

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must be clear, and the judiciary will need to have clarity on their role in relation to enforcement.

The momentum of the accession to the New York Convention and the new Arbitration Act should be used to encourage implementation of court rules and training for the judiciary to ensure the availability of appropriate support for arbitration consistent with the requirements of the Convention.

*Essential next steps:*

- a. identify the provisions in existing domestic legislation that might conflict with the new legislation; and
- b. draft suggested amendments to be included in the "repeal/amendment" section of the draft arbitration bill before it comes into force.

### Additional Recommendations

4. **Training:** ensure that the benefits of arbitration and the rules and processes are properly understood. Training should be aimed broadly so as to include academics, private practitioners, the business community, the judiciary and the State.
5. **Arbitral institution:** a longer term aim for Sierra Leone could be the establishment its own arbitral institution.

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# Anti-Bribery and Corruption

**Chairperson:** Gelaga King, Barrister (2 Bedford Row Chambers)

**Author and Workshop Sponsor:** White & Case LLP

## Background

Kofi Annan, former UN Secretary General, has said that: "Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development."

Sierra Leone has a population of just over 7 million, with 1 million people residing in its capital, Freetown. The country is rich in natural resources and has experienced substantial growth in recent years, driven by its principal exports in iron ore, diamonds and rutile.

Sierra Leone is ranked 123 out of 176 countries on Transparency International's 2016 Corruption Perceptions Index, indicating a serious problem with corruption. Corruption is widespread and deeply rooted, including at a local level, as evidenced separately in the Transparency International's 2015 Global Corruption Barometer survey: 41% of the Sierra Leonean respondents admitted to paying at least one bribe for public services (such as public schools and healthcare) over a 12 month period. This ranks Sierra Leone as 4<sup>th</sup> most likely out of the 28 African countries surveyed for a public user to pay a bribe, indicating high risk of corruption. The same report noted that only 32% of Sierra Leoneans agree that they can make a difference in tackling corruption. Further, based on the World Bank's 2007 assessment report of Sierra Leone's anti-money laundering and combatting the financing of terrorism regimes, Sierra Leone's economy is "entirely cash-based and few modern financial instruments, such as debit or credit cards, are used." The predominant use of cash will likely further encourage corrupt behaviour.

One of the features of 'Sierra Leone 2035', as set out in the Agenda for Prosperity, is for an "independent and accessible judiciary enjoying the confidence of the people." Bribery of the judiciary has been raised in the 2015 Transparency International Global Corruption Barometer survey, with 65% of respondents that had been in contact with the judicial institution in the preceding 12 months reporting that they had paid a bribe to judicial officers. Access to impartial courts is crucial in the fight against corruption.

The recent (September 2016) launch of the 'Pay No Bribe' campaign collates information regarding corruption which is distributed to various MDAs for them to take action. Unfortunately, the Agenda for Prosperity strategy paper indicates that one of the key challenges for anti-corruption is "weak collaboration and political will from the MDAs in implementing the systems review recommendations." The 'Pay No Bribe' campaign's latest report has led to responses from MDAs indicating how they plan to tackle the reports in their respective areas of Health, Police, Electricity supply, Water supply, and Education.

## Current Issues

The anti-bribery and corruption issues facing Sierra Leone can be effectively broken down into two areas, both of which need to be addressed to ensure that Sierra Leone creates a culture of integrity across all sectors. Many significant positive steps have been taken towards addressing the issues, but this workshop is well-placed to consider the following areas:

- Investigation and prosecution of 'grand' bribery – corrupt payments/advantages received (in the public and private sectors) from state aid, corporations, etc.; and
- Combatting 'local' bribery – bribery impacting individuals who are trying to access services to which they are entitled when such access is either denied or delayed until a payment is

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made. An explanation sometimes provided for this is that workers in these areas (healthcare, education, etc.) are under-resourced and not paid salaries at regular intervals.

## Points for Consideration

Solutions to the current issues may take many forms. Some points for consideration are set out below:

| ISSUE   | COMMENT  |
|---|--|
| 1. <b>CROSS-BORDER COOPERATION</b>                | How could Sierra Leone foster international co-operation to ensure its participation in global bribery settlements and to gain cross-border support for investigations (including evidence collection and, if required, extradition requests)?                                   |
| 2. <b>COMMERCIAL BRIBERY</b>                      | Is now the right time to extend existing offences to cover 'commercial' bribery, even where no public official is involved?  |
| 3. <b>REPORTING BRIBERY</b>                       | What incentives could be provided to report bribery and gather witness testimony? Should there be a different style of incentive (such as, but not limited to, an 'amnesty' or specific statutory defence) for those providing an 'advantage' in 'local' bribery cases?          |
| 4. <b>COMBATTING "LOCAL" BRIBERY</b>              | How could the common explanations for 'local' bribery (i.e. lack of resources, infrequent salary payments) be solved? If the explanations are removed and it continues, what sanction should be imposed?   |
| 5. <b>PUBLIC CONFIDENCE</b>                       | How can public confidence in the judiciary and the police (and ultimately, the prosecutions they allow to take place) be restored? How can access to impartial justice be achieved to enable investors to feel confident that disputes in Sierra Leone would be resolved fairly? |
| 6. <b>SEXUAL FAVOURS AS BRIBES?</b>               | Should sexual favours provided for access to education (at all levels, including university) be considered a 'bribe' or are there more appropriate offences for these actions?   |
| 7. <b>THE MOVE AWAY FROM A CASH-BASED ECONOMY</b> | How can Sierra Leone move away from being a predominantly cash-based economy? What impact would this have on bribery and corruption?   |

## Recommendations

### 1. Shortlisted reform 1: A new High Court division for corruption cases

Corruption cases often do not proceed through the court process because judges have a heavy workload and are not always trained on the evidential standard (i.e. beyond all reasonable doubt). The establishment of a specific division of the High Court for corruption cases would mean cases could progress more speedily, and specialist expertise could be developed.

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*Essential next steps:*

- a. obtain funding and/or training;
- b. secure the approval of the Chief Justice; and
- c. consult with the judiciary.

**2. Shortlisted reform 2: Amend the Anti-Corruption Act to include “commercial” bribery**

Extending the existing offences to cover “commercial” bribery (i.e. even where no public official is involved) would bring Sierra Leone in line with international standards.

*Essential next steps:*

- a. obtain sign-off from the President and Parliament; and
- b. draft and submit a White Paper with the conclusions of the Cabinet conclusions.

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# Giving and Taking Legal Advice

**Chairperson:** Idrissa Kamara, CEO, Sierra Leone (Standard Chartered Bank)

**Authors and Workshop Sponsors:** Herbert Smith Freehills LLP and Standard Chartered Bank

## Background and Current Issues

The JSRSIP III recognises the importance of a properly functioning legal profession as it concluded that strengthening lawyers in private practice was one of the key objectives in Sierra Leone. The Plan states that "At present, Sierra Leone is not sufficiently positioned to take advantage of increasing opportunities generated by commercial law in the sub-region due to a general lack of capacity in the legal profession in this area." Similarly, according to the GoSL's "Agenda 4 Prosperity", in order to attract significant foreign direct investment, it is crucial that Sierra Leone becomes internationally competitive, which requires "strengthening the legal and regulatory environment for private sector development."

Effective legal advice is important for private sector development for various reasons. In particular, it assists businesses in managing their operating risks by helping them to better understand their current legal rights and obligations, and how these may change in the future. A strong legal profession in which practitioners have the necessary expertise to advise their clients quickly and efficiently is important for the smooth-running of businesses currently operating within Sierra Leone. It is also important for encouraging investment into Sierra Leone, as foreign investors will consider the efficacy of the legal system in place when deciding whether or not to invest.

The purpose of this session was to discuss the ways in which legal practitioners and clients can better engage with each other and work together more effectively when giving and taking legal advice.

## Points for Consideration

| ISSUE   | COMMENT   |
|---|---|
| <b>1. CHOOSING A LAWYER/LAW FIRM</b>                      | <ul style="list-style-type: none"><li>• What changes could be made to increase the information available to clients when deciding which lawyer or law firm to instruct?</li><li>• Are there specific areas that lack lawyers with the relevant experience and expertise? If so, what can be done to address this shortage and/or to assist clients when identifying lawyers with the appropriate experience and expertise in that area?</li><li>• How can we improve and facilitate the initial process for the formal instruction of lawyers (e.g. who provides instructions and the form in which such instructions are given)?</li><li>• What changes could we implement to reduce the risk of lawyers being conflicted in acting on a matter and/or to ensure that when such conflicts do arise they are dealt with in a professional and efficient manner?</li></ul> |
| <b>2. WORKING WITH LAWYERS AND PROFESSIONAL STANDARDS</b> | <ul style="list-style-type: none"><li>• What improvements could we make to the standard of client care in Sierra Leone (e.g. do law firms clearly outline at the beginning of the matter the expected scope, costs, associated risks, timeframe and persons to contact in the event of a problem)?</li></ul>  |

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- What improvements could be made to: (a) the complaints procedure for clients to follow if and when they are dissatisfied with legal advice received; and (b) any subsequent disciplinary actions following the successful completion of the complaints procedure?
- Are there any changes or improvements which could be made to the process for reporting complaints about lawyers?

### 3. COSTS

- Are there any improvements that could be made with regards to the costs of lawyers in Sierra Leone? For example, could improvements be made to:
  - transparency about the costs;
  - estimates provided and updates on fees; and
  - the ability to negotiate and agree different fee structures.

### 4. PRACTICE MANAGEMENT AND KNOWLEDGE SHARING

- What amendments could we make to improve the systems and procedures lawyers follow in order to identify potential conflicts?
- What improvements could be made to the systems and processes that lawyers use when storing client work in a way which protects professional legal privilege and confidentiality?
- Are there any improvements to be made regarding the way law firms:
  - retain and share knowledge from matters within the firm; or
  - ensure that the quality and style of their work is consistent?

### 5. WORKING WITH CLIENTS AND RELATIONSHIP BUILDING

- How could we improve the working practices of lawyers (e.g. regarding the frequency and clarity of communications, responsiveness etc.)?
- What changes could we implement to encourage and assist law firms to build and maintain relationships with clients, including internationally? In particular, could communication channels between law firms and their clients be improved so as to allow regular feedback between them?
- Are there any changes or improvements to be made to encourage and assist law firms to build and maintain relationships with overseas law firms?

### 6. INTERNATIONAL OUTLOOK AND COMMERCIALITY

- What improvements can be made to increase understanding of cultural differences and diverging perspectives between Sierra Leone and other countries?
- What improvements could be made to increase awareness of nuances in commercial practices between Sierra Leone and other countries?

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## Shortlisted Recommendations

1. **Shortlisted reform 1: Introduce a continuing professional development (CPD) programme for Sierra Leonean lawyers**

A National Continuing Legal Education programme could help to improve standards. Th programme could form part of a requirement for the practising certificate renewal process.

A key challenge to this reform would be ensuring there are sufficient training courses to allow lawyers to meet the requirements. Remote learning could be used, particularly for professional skills courses that are less specific to the jurisdiction. Enforcement is also likely to be an issue.

*Essential next steps:*

- a. speak to the Bar Council, the General Legal Council ("**GLC**") and the Attorney-General's office to further develop the concept; and
- b. draft a concept note covering the purposes, structure and benefits of a CPD programme (drawing from examples such as the UK, Nigeria, Ghana and Kenya).

*Note:* Step a. has been completed and Step b. is underway.

2. **Shortlisted reform 2: Create and maintain an online directory of practising lawyers**

Given that the GLC issues practising certificates on an annual basis, it should be relatively easy to create a list of all practising lawyers in Sierra Leone as part of this process. This list could then be converted into a publicly-accessible online directory.

*Essential next steps:*

- a. engage with the GLC;
- b. secure funding for the website; and
- c. procure the relevant technical expertise to build the website.

## Additional Recommendations

3. **Mentoring:** introduce a mentoring scheme or similar programme with international linkages, training and secondments for Sierra Leonean lawyers.

4. **Letters of engagement:** require certain terms to be included in all letters of engagement. For instance, the following terms should always be defined at the outset: an obligation of full and frank disclosure, specified fee schedule, in-house retained lawyers, internal counsel, service level communications, responsiveness and turn-around time.

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# Land Tenure

**Chairperson:** Sonkita Conteh, Director (Namati Sierra Leone)

**Author and Workshop Sponsor:** Namati Sierra Leone

## Background

In recent years, the GoSL has pursued a policy of promoting large-scale investment by leveraging the country's vast natural land and water-based resources (see Poverty Reform Strategy Paper 2013-2018; and Post Ebola Recovery Strategy 2015). A number of plantation and mining companies have already heeded the call and acquired large pieces of land, and further, even greater investments are planned. Critics have argued that such investments would undermine food security, exacerbate poverty and inequality, and have negative environmental consequences. They called for a moratorium on large-scale land acquisitions (Oakland Institute, 2013). The government on the other hand believes that large-scale agriculture could have a positive impact on small-scale agriculture.

Meanwhile, some large private investments have struggled to cohabit with their host communities, sometimes resulting in tension or even conflicts. Disputes have arisen mainly over land acquisition processes, use of common resources, and impact of company operations on livelihoods and the environment. The absence of corporate accountability and transparency has also been highlighted (Amnesty International, 2013).

Namati deploys grassroots legal advocates and paralegals to work with communities when negotiating with, or seeking to enforce environmental compliance by, investment companies. While most companies could have easy access to legal and other professional assistance when setting up their investments, communities targeted for such investments usually do not have the same means of access. Eight paralegals are currently deployed to help communities understand and negotiate more equitable and socially responsible lease terms, or seek remedies for environmental violations such as groundwater contamination. Paralegals track data on every case and are backstopped by lawyers. We use the information from our cases to advocate, together with our clients, for systemic changes. For example, between 2014 and 2015, Namati helped improve the provisions of the National Land Policy which were approved by cabinet in November 2015.

While a major study of our work is planned for 2017, it is important to highlight here some pressing issues on land negotiation and environmental compliance for consideration and immediate system-level action. They have been selected based on information from our case data and our policy-level interaction, in the context of both the National Land Policy 2015 and the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests ("VGGT").

## Key investment and tenure issues

"The current situation in the land sector is not only chaotic but also becoming increasingly unsustainable." The country's dual land tenure system has for decades been plagued by "...a high degree of out-datedness, technical complexity, unclear managerial hierarchy, operational inefficiency, inadequate resources and corruption", among other challenges. The country's blueprint for land reform, the National Land Policy 2015, pulls no punches in its description of the problems besetting the land tenure system. Importantly, the policy sets out a range of strategies to help combat these deficiencies. However, since the Cabinet approved the policy in 2015, meaningful implementation has yet to take place.

### 1. Funding of land policy implementation

The National Land Policy presents a progressive and ambitious framework for the protection of land rights in Sierra Leone. When implemented, it will strengthen women's access to and control

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over land, increase communities' voice in land management and improve the regulatory framework for major land investments. The policy would lead to significant legislative overhaul, affecting some 80 pieces of legislation, many of which are outdated and problematic. The law reform potential of the land policy is arguably on the same scale as the ongoing constitutional review process.

In its 2016 Budget, the government allocated the equivalent of half a million dollars to the Ministry of Lands to "support land planning and management....[and] the execution of the National Land Policy." The ministry had developed a costed, ten-year implementation plan, valued at sixty million dollars. The entire allocation represented less than 10% of the yearly funding required for land policy implementation, creating a significant shortfall. Unfortunately, even this paltry budgetary commitment was not met as the ministry received no money from the ministry of finance in 2016 for land policy implementation. For 2017, the financing prospects look even bleaker. Slightly under \$50,000 has been allocated for land policy reform. While the government may not have the ability at the moment to fully fund the 10 year implementation plan given the prevailing economic situation, it should however commit to a realistic minimum of not less than 20% and aim to raise the rest from other sources. In its various development strategies, the government has touted land and natural resources as the country's passport to middle-income status. However its failure to commit resources to reform implementation may undermine its promise. Development partners may also be reluctant to support land policy implementation if the government does not "put its money where its mouth is."

## 2. Proactive enforcement of regulations

Sierra Leone's environmental protection laws require any company seeking to undertake certain projects like mining or large-scale agriculture to first obtain an environmental license. As a precondition for the license, the company should carry out an environmental impact assessment (EIA). The assessment should set out, among other things, the potential environmental and social harm the project might cause, as well as mitigation measures. It is an offence for a company to undertake such a project without holding a valid environmental license. It is quite common in our work to come across companies either operating without environmental licenses or breaching one or more environmental or other regulations. In June 2016 the Environment Protection Agency (EPA) attempted to shut down the joint operations of two agriculture companies, African Lion Agriculture and Carmanor Ltd in Bon the District for failing to obtain an environmental license. The Agency was stymied by the police. The companies had been operating since 2013.

The practice of investors commencing operations without an environmental license is illegal and any attempt by regulators to babysit an errant investor amounts to complicity. The implications of such practice on the environment are immense and negative. The objectives of an EIA are undermined if companies carry them out several years after commencing operations. To ensure an effective environmental protection regime, the EPA needs to adopt a proactive approach to enforcement and companies should tailor their expectations and operations accordingly. For example, the EPA could establish mandatory, periodic site inspection of company operations with allowance for community interaction during each visit. The EPA could develop simple tools for documenting grievances or complaints from communities and integrate a feedback loop to the communities. The agency could also set out clear remedies for breaches that affect communities, such as compensation and not just administrative fines which go directly to the agency. Other regulators like National Minerals Agency could do likewise. In addition, impact assessment processes could be made more rigorous and outcomes turned into binding conditions, the breach of which should attract consequences.

## 3. Operational-level grievance redress mechanisms

While many companies establish community liaison offices, only a few have established grievance redress mechanisms (GRMs) in their areas of operations. Section 61 of the Environment Protection (Mines and Minerals) Regulation 2013 makes it mandatory for mining companies to designate a grievance officer "early in the project cycle" and establish a legitimate, accessible and transparent GRM to handle complaints about its operations. There is however no corresponding requirement for large-scale agriculture investments. Operational-level GRMs could help reduce tension between

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communities and investors and provide a platform for problem-solving. Some agriculture companies like Miro Forestry have taken the lead in setting up internal GRMs. The National Minerals Agency, the EPA and other relevant agencies should work with investors to have GRMs in place before commencing operations.

#### 4. Curated agreement templates for investments

Community/investor relationships are affected by huge power asymmetries. Corporations are wealthy, often politically connected and able to access the best legal and other professional services available.

This imbalance is reflected in the agreements that are signed with communities - heavily skewed in favour of companies. Sometimes companies try to address the imbalance by paying directly for "independent" legal representation for communities they negotiate with, oblivious at times to the palpable conflict of interest of their action. Further, many of the community/investor agreements such as leases and memorandums of understanding are generic- mere replications of normal residential lease agreements, offering little or no context-specific protection for communities. To correct these, several actions would be needed. First, the basket fund for community justice set out in the land policy should be set up. This would guarantee access by communities to truly independent legal, paralegal and other professional services. Second, there is a need to develop a customised investment agreement template to reflect the specific risks of the different types of investments to be undertaken. There should be different standards for mining and agriculture investments that reflect their respective impacts on the environment. Similarly, nuanced standards for agriculture investments should reflect the specific risks associated with the crop type.

#### Points for Consideration

Some possible recommendations in relation to the issues discussed above are as follows:

| ISSUE                                   | COMMENT   |
|---|---|
| 1. LAND POLICY IMPLEMENTATION           | A minimum commitment of public funding of not less than 20% of implementation cost with a realistic plan and commitment to raise additional funding from other sources to plug the gap.                             |
| 2. PROACTIVE ENFORCEMENT OF REGULATIONS | (i) EIA to be conducted before commencement of operations: no quarters given;<br>(ii) mandatory site inspections with community outreach component; and<br>(iii) other remedies for breaches, such as compensation. |
| 3. OPERATION-LEVEL GRMS                 | Mandatory GRMs for all companies to be in place before commencement of operations.  |
| 4. CURATED TEMPLATES FOR INVESTMENTS    | (i) Establish community justice fund; and<br>(ii) develop context specific agreements to address unique risks of investments.   |

#### Shortlisted Recommendations

##### 1. Shortlisted reform 1: National Land Policy implementation

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The National Land Policy is a progressive and ambitious framework for the protection of land rights in Sierra Leone, an area requiring significant legislative overhaul. When implemented, it will strengthen women's access to and control over land, increase communities' voices in land management and improve the regulatory framework for major land investments.

*Essential next steps:*

- a. the President to launch the National Land Policy (this has happened since the Summit);
- b. set up and fund a unit to implement the National Land Policy;
- c. develop the policy provisions into new laws protecting land rights; and
- d. produce and distribute copies of the National Land Policy and work with CSOs to undertake community education.

**2. Shortlisted reform 2: Establish a Community Justice Fund**

Most communities negotiating with investors do not have access to legal assistance and end up signing one-sided agreements that they do not understand. Establishing the Community Justice Fund, as set out in the National Land Policy, would guarantee communities access to independent legal services, encourage responsible investment and provide fair processes for resolving disputes.

*Essential next steps:*

- a. determine who will manage the fund;
- b. set out the fund's legal and procedural landscape; and
- c. raise awareness of the fund's existence.

**Additional Recommendation**

3. **Transparency:** all investment agreements relating to land should be made publicly available and easily accessible.

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# Public Private Partnerships

**Chairperson:** Glenna Thomson, Judge (Supreme Court of Sierra Leone)

**Author and Workshop Sponsor:** Eversheds Sutherland LLP

## Background

In broad terms, Public Private Partnerships ("PPPs") are generally understood to cover differing arrangements where the private sector takes responsibility for the development or refurbishment and operation of facilities which traditionally would have been carried out by public sector entities. The types of facilities which have been subject to PPPs world-wide is very broad and includes roads, railways, power stations, water treatment plants, schools, hospital and prisons.

Key differences from traditional public sector projects are that a private company finances through a mixture of equity and debt finance the construction and other costs of the project until the project reaches the operating phase; and for projects where the public sector is using and paying for the assets in the operating phase, payments are reduced for under-performance. Consequently, the project company is in effect incentivised to ensure the project becomes operational on time and to budget, and to maintain the asset so that it continues to operate to the required standard throughout the project period. In contrast public sector projects worldwide often suffer from significant time and cost overruns, inadequate budgets allocated for maintenance, and sometimes even monies allocated for the project being applied elsewhere. Multilateral agencies, such as the World Bank and the African Development Bank are strong supporters of PPPs because of the advantages they have in this regard.

While PPPs have sometimes been marketed as enabling governments to achieve new infrastructure assets without them needing to be paid for by through the use of public funds, the reality is more complex. Even where the public are to pay directly for the services to be provided by the project, the extent of demand and the ability and willingness to pay expected prices must be perceived to be sufficiently strong and resilient. In emerging markets, this is often not the case, so investors will require governments to guarantee in some way minimum revenues that will be achieved. Where Government creditworthiness is not very strong, external credit enhancement (such as a World Bank Partial Risk Guarantee ("PRG")) will also be demanded as back-up.

The GoSL has recognised the potential benefits of PPPs in its Agenda for Prosperity 2013-18. "To achieve the sustainable growth and transformation underscored in the Agenda for Prosperity, adequate financing will be needed for the projects and programmes identified. The Government will explore traditional and non-traditional sources of funding, including: "... (d) Government will seek public private partnership support, particularly in infrastructure sectors.....".

In 2014, Sierra Leone passed a Public-Private Partnership Act "to promote and facilitate the implementation of public-private partnership transactions for infrastructure projects and social sector service projects". Nevertheless, the approach has been slow to develop and there remain challenges.

## Current Issues and Points for Consideration

| ISSUE                                   | COMMENT  |
|---|--|
| 1. INCREASING THE CURRENT LEVEL OF PPPs | "Public-private partnerships (PPPs)—long-term contractual agreements for the delivery of infrastructure or provision of services in which the private sector bears a significant amount of risk and management responsibility—can play an important role in closing the infrastructure gap. But PPPs can be complex to procure and |

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*manage. Governments need proper frameworks and capacity to identify the projects that are best done as PPPs, to procure them transparently and efficiently, and to undertake contract management and regulation so as to achieve the expected value-for-money for government and consumers and sustain investment." (Benchmarking Public-Private Procurement 2017 – Assessing Government Capability to Prepare, Procure and Manage PPPs, World Bank and PPIAF)*

What are the factors driving the current level of closed PPPs in Sierra Leone? What reforms could increase the number achieving financial close in Sierra Leone?

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## **2. THE PPP STRUCTURE IN SIERRA LEONE**

While the Sierra Leone PPP Act has well developed requirements and structures for the procurement of PPP Projects, the process requires the PPP Council, comprising various Ministers to carry out certain key sign-off functions. Different African countries have found that having similar structures such as this does not create an optimal balance between the procuring ministry initiative and central control

Is the required procurement structure appropriate or does it encourage efforts to by-pass the structure? Is there another structure that would work better for Sierra Leone?

Do Sierra Leone's ministries currently have the capacity to support the structuring and feasibility assessments required under the Act? If not, how should this situation be improved?

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## **3. SHOULD THERE BE A GOVERNMENT-LED PROCUREMENT PROGRAMME?**

Whether to procure PPPs on the basis of unsolicited proposals rather than a government-led procurement programme is controversial internationally. This is notwithstanding that, in 2014, more countries were formally allowing unsolicited proposals than in 2007 (Unsolicited Proposals – An Exception to Public Initiation of Infrastructure PPPs An Analysis of Global Trends and Lessons Learned, PPIAF).

The same report recognises that lack of capacity to identify, prioritize, prepare and procure projects is a key driver for allowing unsolicited proposals. Sierra Leone's PPP Act does permit unsolicited bids to progress, even without any market testing of its competitiveness in particular circumstances, such as if the Cabinet considers there is a compelling reason of national or public interest.

Is Sierra Leone's approach to unsolicited bids appropriate? Would the national interest be better served by the Government developing feasibility studies for designated priority projects and for them to be publicly procured?

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## **4. ENSURING BANKABILITY**

Various emerging market countries have struggled to structure bankable PPP projects based on the ultimate public users paying for the goods or services of the project. This is because of the uncertainty of demand, in particular, around what users are willing to pay. Some countries have successfully introduced a so-called Viability Funding Gap (VFG) mechanism where public sector funds can bridge the gap between the amount of external debt needed to fund the capital expenditure for the Project and what is available from external funding sources.

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Would a VFG mechanism be a better alternative to investor calls for Government guarantees to be supported by a World Bank PRG, and enhance Sierra Leone's ability to procure PPP projects, and if so, how should the mechanism fund itself be funded?

**5. RESOLVING DISPUTES WITH THE GOVERNMENT**

International investors want to ensure that the project company has an effective mechanism for resolving any dispute that may arise with the Government regarding the PPP Agreement. Sierra Leone remains a relatively rare country which is not a party to the New York Convention so currently there cannot be certainty that a foreign arbitral award would be recognised and enforced in Sierra Leone

Would Sierra Leone becoming a party to the New York Convention increase the attractiveness of PPPs to foreign investors?

**Shortlisted Recommendations**

**1. Shortlisted Reform 1: Establish a National Development Agency**

A new National Development Agency could work with MDAs to identify significant development projects (e.g. in transport, education, healthcare, water, sanitation and hygiene infrastructure, housing and other areas).

The agency would work with (rather than replace) the existing PPP Unit to progress the projects identified as having PPP potential, in accordance with clear guidelines. It would encourage a coordinated approach to development and planning of PPP projects, and boost private sector confidence in Sierra Leone.

For this to work, the GoSL leadership would need to understand and articulate internally the principle that the creation of a development agency is not intended to dilute ministerial powers and ownership of development projects.

*Essential next step:* commission a white paper to evaluate the concept of a National Development Agency (drawing on comparative examples of national development bodies in Sierra Leone's peer countries).

**2. Shortlisted Reform 2: Identify focal government personnel for PPPs**

Identifying focal individuals in MDAs for developing specific PPPs would improve coordination between key stakeholders. A Cabinet directive would provide the necessary high-level authority.

One of the challenges to this reform will be the absence of personnel within Sierra Leone with experience in developing PPP projects.

*Essential next steps:*

- a. PPP Unit to draft a note outlining the value of a central list of key individuals for PPPs, including any adjustments to current lines of reporting or authority for relevant personnel;
- b. PPP Unit to present the note to the Office of the President; and
- c. PPP Unit to work with MDAs to identify key individuals (and any gaps in experience).

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### Additional Recommendations

3. **Ratify the New York Convention:** this will ensure that Sierra Leone continues to be viewed as a welcoming place for international investment. Relevant domestic laws will need to be enacted once accession is ratified to bring the Convention into effect.
4. **Improve access to capital:** in particular, the Government should proactively initiate access to upfront capital to develop bankable proposals, as opposed to reacting to unsolicited proposals.

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## NEXT STEPS

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The Summit was the first event of its kind in Sierra Leone. The individuals and organisations convened by the Summit have for a long time shared a common exposure to the challenges presented by commercial law and justice in Sierra Leone. Until now however, there has been no single forum in which they can discuss these issues and identify solutions together.

The Hon. Attorney-General expressed that the Summit brought a renewed focus to the critical matter of commercial law and justice in the country. The organisers are deeply encouraged by this and by the commitments made by The Hon. Chief Justice and The Hon. Attorney-General to drive forward the Summit's key reform recommendations.

Some of the recommendations agreed at the Summit reflect efforts that were already in motion and further progress has already been made since the Summit. In particular, we are delighted that the Attorney-General's Office has announced its commitment to passing a new Arbitration Act and that the Cabinet has approved Sierra Leone's accession to the New York Convention.

Progress on other recommendations is also underway, including the design of a national CPD training programme for Sierra Leonean lawyers.

Over the next year, the implementation working group will collaborate with the current government, the future government and their key development partners to progress these and the other Summit Priority Reforms, and to track and evaluate the broader impact of the Summit in the short, medium and longer term.

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## GLOSSARY

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**ACC** means the Anti-Corruption Commission

**ADR** means Alternative Dispute Resolution

**Convention** (or **New York Convention**) means the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958

**CPD** means continuing professional development

**DFID** means the Department for International Development

**ECOWAS** means the Economic Community of West African States

**EIA** means an environmental impact assessment

**EPA** means the Environment Protection Agency

**FDI** means foreign direct investment

**FTCC** means the Fast Track Commercial Court

**GLC** means General Legal Council

**GoSL** means the Government of Sierra Leone

**GRMs** means grievance redress mechanisms

**IAB** means Investing Across Borders

**IPA** means the Investment Promotion Act 2004

**JRSRIP III** means Sierra Leone's Justice Sector Reform Strategy and Investment Plan III

**MDAs** means ministries, departments and agencies

**PPPs** means Public Private Partnerships

**PRG** means Partial Risk Guarantee

**ROLE UK** means Rule of Law Expertise UK

**SLIEPA** means the Sierra Leone Investment and Export Promotion Agency

**Summit** means the Sierra Leone Commercial Law Summit 2017

**UKSLPBN** means the UK-Sierra Leone Pro Bono Network

**UNDP** means the United Nations Development Programme

**VFG** means Viability Funding Gap

**VGGT** means the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests

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## SUMMIT ORGANISERS AND SUPPORTERS

### Herbert Smith Freehills LLP

Herbert Smith Freehills LLP is a leading global law firm with over 2,500 lawyers, including 485 partners, across 26 offices worldwide.

Herbert Smith Freehills LLP's Fair Deal Sierra Leone initiative was established in 2010 to deliver free, expert legal advice to the Government of Sierra Leone to support the management of growing volumes of foreign direct investment.



HERBERT  
SMITH  
FREEHILLS

Over 150 lawyers across our firm have provided more than £4 million worth of assistance to the GoSL to date. The Fair Deal programme has grown to offer policy and legislative advice, training programmes, document drafting, contract review, deal negotiation support, and assistance on disputes. Support is provided at all levels, across all disciplines, and from offices across our global network.

A number of our associates have spent time on secondment to the Attorney-General's Office and the Public Private Partnership Unit of the President's Office in Freetown. Herbert Smith Freehills LLP continued to provide pro bono legal advice to the GoSL throughout the Ebola crisis, including on the commercial implications of the outbreak.

In addition to its pro bono work with the Government, Herbert Smith Freehills LLP has advised in relation to a number of significant investments into the country in recent years, witnessing at first hand the gradually increasing levels of foreign investment as the Agendas for Change and Prosperity have been rolled out.

### Standard Chartered Bank

Standard Chartered Bank is a leading international banking group, with a 150-year history in some of the world's most dynamic markets.



We bank the people and companies driving investment, trade and the creation of wealth across Asia, Africa and the Middle East, where we earn around 90 per cent of our income and profits. Standard Chartered Bank has operated in Sierra Leone since 1894 and today, are the only commercial international financial institution in the country.

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## UK Sierra Leone Pro Bono Network

The UK Sierra Leone Pro Bono Network (UKSLPBN) is an umbrella network for UK legal professionals and organisations interested in providing pro bono legal assistance to Sierra Leone.



**UK Sierra Leone**  
pro bono network

The objectives of the UKSLPBN are to act as a focus for demand from Sierra Leone for assistance in legal matters, from both the Government of Sierra Leone and legal professionals and bodies, to set out a long-term rolling programme of work aimed at meeting that demand in collaboration with partners in Sierra Leone, and to co-ordinate UK lawyers to deliver that programme.

Its members include firms such as Hebert Smith Freehills LLP, Eversheds Sutherland LLP and Hogan Lovells International LLP, as well as barristers and judges.

## ROLE UK

The Rule of Law Expertise Programme (ROLE UK) is a DFID funded initiative that works to strengthen the rule of law in developing countries through supporting the provision of pro bono legal and judicial expertise.



ROLE receives applications for technical legal assistance from governments, professional bodies and civil society organisations. We source and fund this technical expertise, at no cost to the applicant, to support assignments that address rule of law and poverty reduction goals.

ROLE is a flexible and responsive resource. Through our network, we are able to respond quickly to source high quality, specialised experts, including private practice solicitors, barristers, government lawyers, academics and other relevant professional experts as well as sitting and retired judges.

Alongside our active deployments, ROLE also seeks to strengthen the broader UK legal pro bono contribution in developing countries. We do this by emphasising knowledge sharing, improving coordination, and disseminating evidence and learning through publications and events.

## DFID

The Department for International Development leads the UK's work to end extreme poverty.

We are tackling the global challenges of our time including poverty and disease, mass migration, insecurity and conflict. Our work is building a safer, healthier, more prosperous world for people in developing countries and in the UK too.



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# APPENDIX 1: SUMMIT AGENDA

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## Arrival, registration and breakfast

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### Opening session

- **Introduction of MC** – by Momo Turay, Secretary of UK Sierra Leone Pro Bono Network
  - **Welcome** – Mr Oluniyi Robbin-Coker (MC)
  - **Prayers** – Reginald Fynn and Osman Kanu
  - **Keynote address** – The Hon. Attorney-General Joseph Fitzgerald Kamara on behalf of His Excellency the President Dr Ernest Bai Koroma
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### Summit Workshops

- **Workshop group discussion** – led by the workshop chairpersons
  - **Break**
  - **Workshop group discussion**
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## Lunch and networking

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### Speeches from judiciary

- The Hon. Mr Justice Blair
  - Chief Justice Abdulai Hamid Charm
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### Plenary session

- **Workshop feedback** - Each of the seven workshop chairs reported two recommendations including implementation suggestions
  - **Response to feedback** – MC summed-up feedback and explained implementation steps
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### Speeches from politicians

- The Rt Hon. the Lord Falconer of Thoroton
  - The Hon. Attorney-General and Minister of Justice Joseph Fitzgerald Kamara
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### Closing remarks

- Idrissa Kamara, CEO of Standard Chartered Bank Sierra Leone
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## Launch of the Sierra Leone Investor Guide Microsite - Drinks reception hosted by Herbert Smith Freehills LLP and Standard Chartered Bank

- **Remarks** from the British High Commissioner to Sierra Leone, Guy Warrington; Herbert M'cleod, Chairman of Standard Chartered Bank Sierra Leone; and Gavin Davies, Partner at Herbert Smith Freehills LLP
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## APPENDIX 2: KEYNOTE REMARKS

### His Excellency the President Dr Ernest Bai Koroma

**President of the Republic of Sierra Leone (delivered on His Excellency's behalf by The Hon. Attorney-General and Minister of Justice Joseph Fitzgerald Kamara)**

Sierra Leone's current national development programme, the Agenda for Prosperity, presents a vision for the country to become an inclusive, green middle-income country by 2035. Our vision is one of a country with 80% of the population above the poverty line, a well-educated and healthy population, gender equality, well developed infrastructure and macro-economic stability.

Since our election in 2007, my government has remained committed to this vision; rolling out the biggest transformation in virtually every sector in the history of this country. In roads, in energy, in health, in agriculture, in education, in the water sector and in governance; we have implemented programmes and projects that have positioned this country on the path of extraordinary economic growth. From about 7 megawatts, my government commissioned the 50 Megawatt Bumbuna hydroelectric dam in 2009, which had been dormant for 12 years. We renewed several large-scale mining licences between 2010 and 2012. In 2013, GDP growth reached 20% and Sierra Leone was one of the fastest growing economies in the world.

But in 2014, our progress was upended by two shocks – the terrible tragedy of the Ebola outbreak and a sharp fall in commodity prices. Normal activities came to a halt, most mines and factories shut, schools and universities closed and our export earnings collapsed. Nonetheless, our determination that Sierra Leone be transformed into a prosperous country never changed. For the past year and a half we have implemented a post-Ebola recovery strategy with commitment and zeal and have shown strong signs of a rebound.

Distinguished ladies and gentlemen, while we acknowledge that commodity prices are recovering; we note that natural resource extraction cannot create employment opportunities for all and the sector will always be liable to shocks. Our emphasis now is in partnering with the private sector.

That is why my government has implemented initiatives aimed at creating an enabling environment for business. We have created a public credit registry, and the procedures for new electricity connections have been streamlined. The World Bank's 2017 report shows that Sierra Leone is ahead of the Sub-Saharan average for Ease of Doing Business; we are in the top half of the world's nations for ease of starting a business, protection for minority investors and for ease of paying taxes. These reforms are doing much to stimulate small business growth and thus diversify our economy.

But the traditional approach to developing infrastructure and institutions in Sierra Leone has been for government to use budgetary resources to award contracts. There are deficits in funding and gaps in expertise that cannot be met if we rely solely on this approach. That is why in 2015, I launched Sierra Leone's Public Private Partnership ("PPP") Unit. PPPs will allow Sierra Leoneans to benefit from the capital and know-how of private sector partners. In return, investors are offered the potential for huge returns.

These have been important steps in our national development but they can only do so much to build investor confidence in Sierra Leone. Investors will not come to our shores unless they know that sanctity of contract will be honoured by their counterparties, that the court system will enforce their contracts if they are breached, and that the courts can resolve commercial disputes with impartiality and efficiency. We have therefore established the Fast Track Commercial Court in 2010 to speedily handle commercial disputes using electronic case management and rules with mandatory Alternative Dispute Resolution.

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Distinguished ladies and gentlemen, delivering commercial justice also requires a continued effort in the national fight against corruption. We have revised and launched the National Anti-Corruption Strategy and passed one of the toughest anti-corruption Acts in Africa. In 2016, the Anti-Corruption Commission launched the "Pay No Bribe" online platform. This is an innovative reporting tool that ordinary Sierra Leoneans can use anonymously to report any bribery. The payment of bribes to public officials diverts desperately needed funds from public hands into private pockets. Bribery rewards irresponsible businesses with contracts and other favours, thereby depriving responsible businesses of opportunities to succeed. We must therefore work harder together in dealing with the menace of corruption.

Sierra Leone is currently a party to international instruments and organisations such as the World Intellectual Property Organisation and the Multilateral Investment Guarantee Agency, but to enhance investor confidence, we must continue the hard work of harmonising our laws with international instruments and best practice.

We must also build the capacity of Sierra Leone's lawyers to capitalise on our progress in the ease of doing business and recovering investor confidence. Sierra Leonean lawyers, whether in private practice, in house or advising Government, need training and experience in foreign investment negotiations that are typically complex and specialised. My Government has increased the resources available to the Ministry of Justice to ensure that the contracts signed by the Government are in the best interests of the people of Sierra Leone.

This urgency is perhaps most acute in relation to land ownership and leasehold laws which stand as a major barrier to investment in agribusiness. In 2015, five years of consultation and policy development by the National Land Reform Project culminated in a comprehensive National Land Policy document to work in the direction of a modern, digitized system of managing land instruments.

There is much still to be done, but through the hard work and commitment of Sierra Leoneans and our private sector partners, our economy is on the path to recovery and investments into Sierra Leone are rebounding. Together we will make this country a prosperous nation.

Distinguished ladies and gentlemen, it is my honour to open Sierra Leone's inaugural Commercial Law Summit.

Thank you.

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## The Hon. Mr Justice Blair

### Judge in Charge of the UK Commercial Court

It is a pleasure and honour to participate in the 2017 Sierra Leone Commercial Law Summit. This is the first time such an event has been held, and its importance for the country and the business and legal community was shown by the opening address on behalf of His Excellency, the President this morning. The Summit comes at an auspicious moment as the country decisively puts recent problems behind it.

I would like to thank the organisers, Herbert Smith Freehills LLP, Standard Chartered Bank, the Sierra Leonean and UK governments, and the Sierra Leone Pro Bono Network. I would also like to thank ROLE UK for its sponsorship, and UK Aid.

It is a particular honour to speak alongside Chief Justice Abdulai Hamid Charm, and in the presence of other members of the judiciary. With his permission, a valuable exchange took place yesterday between judges from England and Wales and judges from Sierra Leone chaired by Justice Roberts. This built on earlier work carried out by His Honour Judge David Mackie QC.

A theme of the Summit has been the interdependence between the rule of law and economic prosperity led by responsible business. My subject is judicial independence, and in describing how this fits into the theme, I speak as a commercial judge myself.

The Commercial Court in London, of which I am Judge in Charge, is a long established court. We are a busy court, but we face the challenge of all bodies that specialise in commercial dispute resolution, that is, meeting the changing needs of business. Judicial skills, efficient procedures and competent administration are an important part of this, but these would count for little without judicial independence.

The basic point is a straightforward one. A sound legal basis forms the foundation for building a sustainable economy. Business wants to know the rules under which it has to operate. It wants to know that these rules will apply to everyone. It particularly wants to know that contracts, once made, will be treated as binding, enforced by the courts if necessary, and not just used as a starting point for a renegotiation if it happens to suit one of the parties.

So from the point of view of business, the rule of law is a very practical matter. In Africa, you know better than most that not everyone sees this issue from precisely the same perspective.

But every state would, I think, agree with the views expressed by the World Bank and many others for many years that without an effective legal framework, business is unlikely to be sustainable in the long run and, frankly, is unlikely to have the room to develop with a sense of responsibility to wider society.

So where does judicial independence come into this? Ultimately, rules themselves are of little significance unless they are observed, and that means enforced where necessary.

Here, a degree of specialisation can be of value. In Sierra Leone you have the Fast Track Commercial Court, which is specifically intended for business. It will take time I am sure to build this up so that it can realise its full potential, but it is rightly seen by the outside world as a sign of commitment to the idea of modern dispute resolution, including, importantly, mediation and arbitration.

I know that many people here are well aware of the central role of arbitration in international commercial disputes, and I can say that a significant part of the work of the London Commercial Court is to provide a firm basis of support where the seat of the arbitration is in England.

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More generally, and I am not talking about Sierra Leone specifically because this is an international problem: without judicial independence the idea of a sound legal foundation breaks down.

A judge who does what a power broker tells him to do is not independent, and neither is a judge who takes a bribe. Decisions made on such a basis undermine the rule of law, and ultimately undermine responsible business.

But let me add something which is very important. Sometimes discussions of this subject proceed as though the only people responsible for maintaining judicial independence are the judges themselves.

Of course we must try to reach our decisions conscientiously – to use the words of the ancient judicial oath – without fear or favour, affection or ill will.

But we need the support of others in this. This includes the government, and let me say how valuable it is to have contributions later this afternoon from Lord Falconer and Attorney-General Kamara.

We also need the support of the legal profession, which is one of the bulwarks of judicial independence the world over. In that regard, it is good to see Herbert Smith Freehills putting so much effort and resource into this event.

We also need the support of the business community. This support has to be principled, and it has to be long term, because it has to allow for the fact that a judicial decision, however conscientious, is going to disappoint somebody. There is always a losing side. Business has to see beyond individual cases to the wider prize that a stronger rule of law can bring.

I know we have colleagues from the Ghana judiciary here today. It was some time since I last visited, but I understand that last year saw the inauguration of a New Users' Committee for Ghana's Commercial Court.

We have a similar committee in London, and so long as users respect the judges' independence, which they have in our case, this can be a useful bridge to the business community.

There is another important aspect to this question, and this is the support which judiciaries in one state can give to their colleagues elsewhere. This is also significant for today's commercial theme.

Speaking on 2 March 2017, Lord Thomas, the Chief Justice of England and Wales, emphasised the importance of looking at the rule of law in its economic context transnationally.

He said, "Economic development depends on more than the rule of law in one or a number of states. It depends upon its development and adherence to it across the world. Businesses depend upon it as a means to ensure that they can invest and trade confidently knowing that assets are not likely to suffer State appropriation; that they are not to be subject to corrupt practices. It is a basis for sound investment."

Over the last two years, we have been developing a structure to bring together the experiences of different jurisdictions in how we handle commercial cases. The first meeting of the Standing International Forum of Commercial Courts will be held in London in May. We will concentrate on practical issues such as case management and enforcement.

The jurisdictions of over twenty states will be represented, including New York, Germany, Australia and China.

In April, a delegation of English judges led by the Chief Justice will visit China as part of a continuing dialogue between the judiciaries of the two countries.

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A meeting in London last year led to the setting up of an expert working group of judges on commercial dispute resolution. We held a first, and productive, meeting in Beijing in January.

I am delighted to say that Sierra Leone is one of four African countries that have agreed to attend the Forum. I take the opportunity to thank Chief Justice Charm for the interest he has taken, and it will be good to see your country participate in a project that we hope will continue in future years.

So to summarise – what we are seeking is a kind of virtuous circle that looks for the certainty and transparency that comes with a stronger rule of law, supported and respected by responsible business, helping to create the environment for the kind of sustainable growth that all countries need.

Of course, it is difficult, and requires commitment over the long term, and no country can claim perfection. But it is possible, and the prize is well worth the commitment.

Let me end by saying that on my first visit to Sierra Leone, I realise that what I was told as a child really is true – you have a fabulously beautiful country.

It is a privilege to be here. Thank you for listening to me this afternoon.

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## The Hon. Chief Justice Abdulai Hamid Charm

### Chief Justice of the Supreme Court of Sierra Leone

My theme for these remarks is the rule of law. The rule of law is central to commerce and economic development. That is why this Commercial Law Summit is being held. We recognise that law and commerce go hand-in-hand.

This link between commerce and the law is as old as trading itself. Commerce depends on being able to enter into binding contracts, and then to enforce those contracts if it proves necessary to do so. Commerce depends on being able to lend and borrow money to oil the wheels of trade. And commerce depends on the fair resolution of the differences that will inevitably arise from time-to-time between trading partners.

All that is underpinned by the law. The law provides the certainty which is necessary for commerce and economic development to flourish. The law provides the means to secure fairness in transactions. And the law provides not only the protections for those engaged in commerce, but also the means to enforce those protections.

Without the effective rule of law in Sierra Leone there could not be growth in responsible business and investment. The Agenda for Prosperity was right to recognise that the desire to promote inclusive growth will not be achieved if an equivalent emphasis is not placed on promoting the rule of law. To further help the recovery of Sierra Leone after Ebola, commerce needs a helping hand today as much as ever. That applies from the smallest transactions in the markets of this country, all the way through to the largest investments by overseas companies.

If the rule of law prevails, there is a level playing field. No one can use bribes to load the dice in their favour. Corruption gives way to competition. People are held to account for the bargains they make. The law makes sure that obligations cannot be shirked. Businesses can compete as equals, allowing the best to rise within Sierra Leone – and attracting the most reputable international companies to invest in Sierra Leone.

The rule of law leads to responsible private sector development. It is this which will be sustainable, and will create jobs and prosperity for Sierra Leone in the long-term. So, the rule of law is central to commerce and economic development. But central to the rule of law is an independent and effective Judiciary.

If international investors do not have confidence in the Judiciary of Sierra Leone to impartially and effectively resolve their disputes if and when they arise, they will not look to invest here. They will go to another country which can give them that certainty. If business people do not have confidence in the Judiciary of Sierra Leone to impartially and effectively resolve their disputes when they arise, they may take resolving their disputes into their own hands. Nobody would wish to see that.

In the Fast Track Commercial Court, we have a Court and Judges of which we can rightfully be proud. When His Honour David Mackie QC – the former Judge in charge of the Mercantile Court in London – spent two weeks at the Commercial Court in late 2015, he recognised that the Court provided significantly higher quality commercial justice than the courts of many countries he had seen.

But we must recognise that more can be done. As Chief Justice I have undertaken work to ensure that the Judiciary of Sierra Leone takes steps forward.

At the Judicial Conference last year we resolved to review the rules of the Commercial Court and to expand the jurisdiction of Magistrates' Courts to handle more commercial matters. We are also taking steps to improve both court and case management, across all courts. We are seeking, through the Judicial and Legal Training Institute, to provide judicial training aimed at improving

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performance and judicial service delivery. We are also seeking to improve the availability of judgments, so that everyone can see the nature and the quality of the decisions reached by the Judiciary of Sierra Leone.

Following the Judicial Conference, I published a strategic plan for the Judiciary up to 2021. Commercial law and justice is one of five priorities in that plan. The plan includes a series of steps to be taken to improve the rules, processes and systems of the Commercial Court. I want to see the Commercial Court remain a specialised court, with dedicated judges trained in commercial and mercantile law, providing the highest possible quality of commercial justice. The strategic plan sets out how that will be achieved.

This Summit is a first. It is unique in the history of the Republic of Sierra Leone. It is the first time that all the main participants in commercial law and justice have been brought together to discuss the problems we face. We have here today representatives of the business community, the legal community, the Judiciary, and the Government. All must work together to make commercial law and justice work. As important as each of those four elements is, no one element could achieve fundamental improvements while working in isolation from the others.

Real and long-lasting change will only happen if a common view of the future for commercial law emerges. There should be no seeking to protect any special interests. All the participants must approach the task with an open mind.

The participation of colleagues from Ghana and the United Kingdom is to be welcomed. We are very grateful that they have travelled to Sierra Leone, giving up their time to help organise and/or attend this Summit. They will provide ideas and the benefit of their experience. That will be of great help. But we must ourselves take responsibility for deciding what should happen in Sierra Leone in the future. The workshop sessions at this Summit should lead to practical and sensible recommendations for improvements and reforms in commercial law and justice.

One of the workshops deals with sharing best practice in court processes. That is, of course, the area in which I as Chief Justice have the greatest interest. But the Judiciary is also fundamental to ensuring bribery and corruption is eradicated. And the Judiciary is fundamental to resolving disputes which arise in areas such as land tenure and public/private contracts.

The Judiciary also has a particular interest in ensuring that Sierra Leone has a modern and effective system of arbitration. The Courts play an important role in supporting arbitration. But that can only be done to the fullest extent possible if the law of arbitration in this country is brought up-to-date, in a form the world recognises as being robust.

Some might say that arbitration would lead to cases being taken away from the Courts. But the truth is more complex than that. An improved and more effective system of arbitration will lead new investors to Sierra Leone, instead of other countries. It will mean that the economy of this nation will grow, so there will be no shortage of work for the Judges in our Courts.

This Summit must lead to practical recommendations for improvements in the foreseeable future. Anything less would amount to failure. Aspirations for the far-off future are not good enough.

And those practical recommendations need to be seen through by implementation groups. After today, we need to ensure that the recommendations are followed-up and made real.

Like today, that implementation must be done as a partnership between business, lawyers, Judges and the Government. Like today, it must be co-ordinated and focused. And like today, it must harness the great energy and innovation that Sierra Leone has to offer.

Thank you.

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## The Right Hon. the Lord Falconer of Thoroton

### Former UK Lord Chancellor and first Secretary of State for Justice

I am delighted to be in Freetown today, speaking at the Inaugural Sierra Leone Commercial law Summit. Delighted, because my son Rocco has devoted the whole of his working life, nearly 9 years since graduating from university, and even before that, to Sierra Leone. He has prospered, suffered and stayed with Sierra Leone through both the good times and the bad times. He loves Sierra Leone, and wants so much for Sierra Leone to prosper. We are delighted to stand with him and support Sierra Leone in every way.

And delighted because this Summit, the first of its kind in Sierra Leone, heralds the government of Sierra Leone's commitment to creating an environment which demonstrates SL is truly open for business.

Let me pay special thanks to those who have made this happen: Herbert Smith Freehills LLP – and in particular Gavin Davies, Rebecca Perlman, Fergus Rourke, and Oliver Elgie, the governments of Sierra Leone and the UK, Standard Chartered bank, the Sierra Leone Pro Bono Unit, and ROLE UK – in particular Shailesh Kataria, and UK AID.

The Attorney-General and Minister of Justice of Sierra Leone by his presence here today and by his personal commitment to the aims of the Summit demonstrates the determination of the Sierra Leone government to make the change. It is obvious that change is needed. The legal environment of Sierra Leone must become more congenial to investors. The very holding of this Summit accepts the need for change. That change must be sustained. Foreign investors have to believe it will last and is real.

Sierra Leone has been through mighty travails over these last 20 years: the civil war and the Ebola crisis stand out.

The President has shown real leadership in taking Sierra Leone through the grim and dark period of Ebola, holding the country together, seeking and mobilising international support, and setting national goals for the future. Before Ebola, Sierra Leone was one of the fastest growing countries in the world. I can see it with my own eyes. Standing at the top of Lester Peak, the highest point in Freetown, looking over what in 2008 was a rainforest is now a network of homes and institutions. All around Freetown are new roads frequently built by the Chinese.

Currently Sierra Leone is an economy heavily dependent on aid and commodities. It exports commodities such as iron, ore and diamonds, and imports practically everything else. The cost of almost all goods is high, and wages are low. The pre-Ebola boom was brought to an abrupt end by the collapse of the iron ore price which drove big iron ore mining companies to collapse. As one iron ore mine closed, and the other became owned and financed by a state-owned Chinese entity, many other possible investors ultimately decided the sector too risky to invest in. The challenge, as the president acknowledges, is to create an economy which is less dependent on aid, and which moves Sierra Leone away from a poverty economy towards a middle income one over the next decade.

The measures a country enacts, and more crucially enforces and sticks by with, will determine its attraction to investors worldwide. Every country in the world can mouth the words. Private sector Investors are hard-nosed, and they will pay closer attention to actions than they will to words. If Sierra Leone is consistent in its dealings with investors, provides a settled legal environment in which to do business, and perseveres in these endeavours in the long-term, it will become an attractive place to invest.

As the President recognises, Sierra Leone needs to diversify and attract private sector investment to turn the economy around. The role of the law in attracting private sector jobs and investment is crucially important. Sir William Blair has explained that so clearly just a few moments ago.

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International private sector companies will make judgments about whether to invest in certain countries on the basis of how safe their investment will be. A crucial part of that judgment will be the extent to which the government of the country is committed to providing a certain and reliable legal framework for dealings with investors and in commercial activities. All too often, governments are unwilling to allow for a truly independent justice system for fear of the restrictions that it may impose on what they, the government, can do. Such reticence is often motivated by a desire to do what they believe is best for the public.

That impulse invariably costs the country jobs and investment capital: fear for their investment deters investors and borrowers from investing in the country. Sierra Leone can signal that it does not share that impulse by a few well-judged measures which show they understand the importance of the rule of law and an accountable government. A government can send clear signals that it is determined that those who engage in commercial activities will be able to rely on the country's legal protections. The government of Sierra Leone can, starting now and over the long term, make the commitment to uphold the rule of law. Investors will accurately assess how real that commitment is. They will also focus on that commitment in the commercial field.

Corruption, and the extent to which a country is perceived to be corrupt, are two absolutely key factors to whether people will invest. The extent to which government leaders confront corruption demonstrates to the nation, the region and beyond, that the country is genuinely open for business.

A willingness to accept the constraints of bilateral investment treaties, which Sierra Leone has done with the governments of China, the UK and Germany, shows the country's willingness to create an environment congenial to investment. Strategically judged additional BITs would underline that willingness. As the Attorney-General has said, ratifying the New York Convention would give confidence that the government of Sierra Leone respects the choice of arbitration by contracting parties, and supports the enforcement of arbitration awards within Sierra Leone.

Establishing certainty about aspects of the law material to investment is important. Two areas can be mentioned in the Sierra Leone context - land tenure and the granting of security against loans. If investors cannot have secure land tenure they will be loath to set up offices and factories in Sierra Leone. If lenders cannot be sure that they will be able to enforce their loans against the assets of a company with priority over others, then they will not lend money to that company.

In a given jurisdiction, judges can only do that which the law of the country, and the attitude of the executive, allow. The judges of Sierra Leone are independently minded and are plainly guided by the principles of independence that determine how judges discharge their judicial functions. However, judges can only truly be as independent as they are allowed to be by the government of their country. They must also be properly resourced in doing their job.

This Summit is a crucial opportunity to identify the things which need to be done to create the investor-friendly environment sought. Committing to a few crucial measures that evidence a commitment to legal certainty, and demonstrating how the country's leaders understand and value the creation of a long-term, reliable legal environment where corruption is fought, defines the landscape in which this beautiful country will prosper.

This Summit is a brilliant start. It is now for the government, the business sector, and the legal system to implement the changes and provide the landscape for prosperity. They then need to pursue those changes in the long run.

Sierra Leone can become a more attractive place in which to invest. Let the words of this day be translated into action in the months and years to come, and the investment which Sierra Leone so profoundly deserves will start to come.

Thank you.

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## The Hon. Joseph Fitzgerald Kamara

### Attorney-General and Minister of Justice of Sierra Leone

Your excellencies, distinguished guests, my lords, ladies and gentlemen, I am delighted to be here to speak to you today at Sierra Leone's inaugural Commercial Law Summit.

I should begin by thanking His Excellency, the President Dr Ernest Bai Koroma, for his endorsement of this event. I would also like to thank my fellow speakers: The Honourable Chief Justice Charm, The Honourable Mr Justice Blair and The Rt Honourable Lord Falconer. And also let me thank the Summit organisers and supporters: Herbert Smith Freehills LLP, Standard Chartered Bank, the UK Sierra Leone Pro Bono Network, the British High Commission to Sierra Leone, ROLE UK, UK Aid, and all those who made the journey here today.

Today's Summit is an important event, bringing together people from a variety of sectors to identify and explore the challenges in commercial law and justice in our beloved country.

In this room, we have representatives from business, the legal profession, government and the judiciary; from the UK, Ghana and, of course, Sierra Leone. These three countries – as members of the Commonwealth and as common law jurisdictions - are bound by the ties of shared history and a shared legal system. In fact, as I drew to the attention of the Chairman of the Bar Council on my recent trip to London, the common law and statutes of England pre-dating 1880 automatically form part of the laws of Sierra Leone.

I hope that the Summit, and other events taking place this week, will help to grow and strengthen the partnerships between the legal sectors in our three countries.

### Commercial Law and Justice in Sierra Leone

Addressing the challenges in commercial law and justice - and thereby increasing the ease of doing business in Sierra Leone - is a Government priority, so I am very pleased to be here today to talk about these issues and about how we can deal with them.

As has already been said today, a robust legal system, underpinned by the rule of law, goes hand-in-hand with economic prosperity. A justice system that delivers the rule of law produces a business operating environment characterised by certainty, transparency and fairness. Such an environment, in turn, encourages responsible business. It encourages investors to invest in Sierra Leone for the long-term, to take more of our talented people onto their payrolls and to invest in their education, and to manage our abundant natural resources sustainably. Sierra Leone is open for business, but we should not open ourselves up to companies whose success is dependent on bribing our public officials, on skirting our environmental and social regulations and dishonouring their agreements with our government and their private sector counterparties, rather than their merit and reputation.

We should strive to make Sierra Leone an attractive place for responsible investors who respect and support the rule of law, thereby creating a virtuous circle in which a strong and resilient economy can be built. These priorities are reflected in our current Justice Sector Reform Strategy and Investment Plan for 2015-2017 - our first justice sector programme to acknowledge the critical role of commercial law and justice to economic development and to set goals for Sierra Leone's development in this regard.

I'd like to expand on two issues that form part of this Justice Sector Strategy, and which have also featured heavily in today's discussions: Anti-Bribery and Corruption, and Arbitration.

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## Anti-Bribery and Corruption

The true extent of the cost of corruption lies not in the number of bribes paid but in the misallocation of resources, the distortions created by discretionary incentives and the erosion of public trust in government.

Corruption suppresses economic growth by driving up costs, and undermines the sustainable management of the environment and natural resources. It breaches fundamental human rights and exacerbates poverty.

As many of you know, before I took office as Attorney-General and Minister of Justice, I held the post of Anti-Corruption Commissioner. In this role, I launched the "Pay No Bribe" campaign, which was mentioned in His Excellency's speech earlier today. The campaign was generously supported by **DFID** and other partners. With support from the European Union, the Anti-Corruption Commission ("**ACC**") has also developed an online asset disclosure system. This system will make it easier for public officers to comply with the declaration process, and ease the storage and verification of declarations.

Corruption is a complex issue. It cannot be solved by governments or businesses alone. One of the issues that I discussed with the Director of the Serious Fraud Office, David Green QC, while I was in London last month, has also been picked up in the discussions today: introducing offences specifically aimed at companies in addition to the "public" offences of the current Anti-Corruption Act. I think this will be critical. However we must remember that businesses are also victims of extortion with a shared stake in reform - we must work together to fight corruption.

Corruption flourishes when it is possible to hide corrupt practices and where one can operate with impunity if they are discovered. Transparency and accountability will be essential to tackling corruption in Sierra Leone. That is why I am dedicated to protecting freedom of expression – shielding whistle-blowers and enabling our journalists to expose wrongdoing wherever it may occur in Sierra Leone, including in our halls of power. That is why I am committed to reforming the laws on criminal and seditious libel. Such reform would undoubtedly enhance the country's reputation as a stable democracy.

## Arbitration

The second issue I wish to address is arbitration.

The New York Convention provides a set of well-established and internationally familiar principles for international arbitration. So widely accepted are these principles that the Convention is heralded as "the most successful, multilateral instrument in the field of international trade law". The Convention now has 157 contracting states, including the UK, Ghana, and our closest neighbours, Guinea and Liberia. Given the extent of acceptance, states are noted by their absence from the list of those who have acceded to or ratified the Convention.

Accession to the Convention promotes foreign investment by sending a strong signal to the international investment community that the state joining the Convention will uphold contractual parties' choices to resolve disputes by arbitration and will recognise and enforce arbitral awards in a consistent and predictable way. It can also in turn benefit Sierra Leonean parties to international contracts in that it decreases the cost of enforcement risk which is often factored into commercial terms.

However, accession to the Convention alone is not sufficient to ensure investor confidence that a contracting state will be in a position to uphold its international obligations. Amongst other things (including support for arbitration from the judiciary), the domestic statutory regime must provide a stable and supportive framework for arbitration proceedings.

The existing Sierra Leonean arbitration law, contained predominantly in Chapter 25 of the Laws of Sierra Leone 1960 (the "**1960 Act**"), is based on the English Arbitration Act 1950 (the "**1950 Act**").

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The 1950 Act has been amended twice subsequently, including comprehensively in 1996, while Sierra Leonean law has remained unchanged. This law is deficient for Sierra Leone's ambitions with regard to international arbitration.

My offices, together with the Law Reform Commission, have been working on a new, modern arbitration bill for the past year with the international law firm, Herbert Smith Freehills, which you'll recognise as one of today's Summit co-organisers. As I speak, Sierra Leone has arrived where it should be – we have a draft bill that is ready for Cabinet consideration.

As a key indicator in a number of international benchmark indices, accession to the Convention will send a clear signal that Sierra Leone is open for business. It will improve our country's performance in the World Bank Indices, including the Ease of Doing Business rankings, and Investing Across Borders ("IAB"), a World Bank Group initiative comparing regulation of foreign direct investment ("FDI") around the world. Established in 2010 and updated in 2012, IAB aims to help the countries of the 87 economies it covers develop more competitive business environments by identifying good practices in investment policy design and implementation. It measures FDI regulation in 4 topics, one of which is "Arbitrating Commercial Disputes". The methodology considers strength of laws, ease of process, and extent of judicial assistance. All three of these indicators will be positively influenced by accession to the Convention and the passing of modern arbitration legislation.

Preparing and implementing an effective training programme regarding the application and implementation of the new Act will also be very important. We are delighted to be working with Herbert Smith Freehills to develop a training programme for the judiciary, arbitrators (and potential arbitrators), academics and practitioners in the dispute resolution sector. Some of this will be rolled out in training sessions this week.

I am proud to be officially announcing this landmark reform to commercial law in Sierra Leone at today's Summit. It is a salutary example of a reform in commercial law and justice that will ultimately drive growth and prosperity for all Sierra Leoneans, not only big businesses. And there exist so many other similar possible reforms – some revolutionary for Sierra Leone and others merely incremental. It is up to all of us in this room to identify and pursue those reforms with passion and energy.

#### Concluding remarks

As Attorney-General and Minister of Justice, it has been a pleasure to host Sierra Leone's first Commercial Law Summit. Our work today has firmly placed strengthening commercial law and justice in this country right at the top of our broader development agenda. On behalf of the Government of Sierra Leone, may I thank everyone in this hall for their contributions today to the future possibilities for commercial law in this country. I look forward greatly to receiving the report to government on the recommendations coming out of today's workshops and carrying forward your ideas from within government.

Thank you.

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# APPENDIX 3: INVESTING IN SIERRA LEONE: LAUNCH OF THE INVESTORS GUIDE MICROSITE

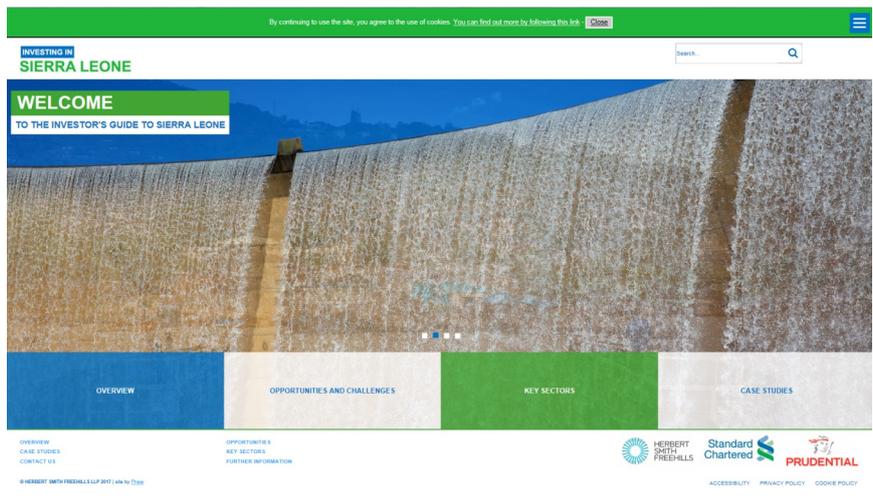
In 2014, Herbert Smith Freehills LLP joined forces with other UK financial and professional services firms to form the City Ebola Taskforce.

Improving investor confidence in Sierra Leone was a key focus area for the Taskforce. To this end, Herbert Smith Freehills LLP produced a new Investor's Guide to Sierra Leone on a pro bono basis together with Standard Chartered Bank and Prudential, in collaboration with the UK and Sierra Leonean governments.

The Investor Guide, which was launched by His Excellency the President Ernest Bai Koroma of Sierra Leone at the United Nations International Ebola Recovery Conference in July 2015, presents an independent, private sector perspective on Sierra Leone's investment landscape. It outlines the opportunities the country has to offer, provides context for potential investors and showcases the resources that they can draw on. It also features case studies on current foreign investment in Sierra Leone.

At a drinks reception following the Summit the second edition of *Sierra Leone: An Investor's Guide* was launched as an online, mobile-responsive microsite to increase ease of access for those looking to deploy capital the region.

For more information please see [www.investinginsierraleone.com](http://www.investinginsierraleone.com).



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