

**Mandate of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights**

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(Please use this reference in your reply)

7 January 2026

Excellency,

I have the honour to address you in my capacity as Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, pursuant to Human Rights Council resolution 52/17.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the United Kingdom's Double Taxation Arrangement with Sierra Leone, signed on 19 December 1947, which entered into force on 16 February 1948 and was amended by agreement on 18 March 1968.

According to the information received:

This arrangement was concluded during the colonial period and has remained largely unchanged. The instrument's very terminology being an 'arrangement' rather than a 'convention' or 'treaty' reflects its character as an administrative measure within the British colonial system rather than an agreement negotiated between sovereign States on equal terms. Sierra Leone did not consent to this instrument as a sovereign nation. The arrangement's reference in paragraph 1(1)(b) to colonial-era fiscal legislation including the Concessions Ordinance 1931, the diamond industry profit tax, and the Tonkolili Agreement Ordinance 1937 further underscores its origins in an extractive colonial fiscal architecture designed to facilitate the outward flow of mineral wealth. The structure of this arrangement reflects the fiscal priorities of its era: securing favourable tax treatment for British enterprises operating in colonial territories whilst constraining the source jurisdiction's taxing rights. That Sierra Leone has remained bound by these terms for nearly eight decades, including over six decades since independence, raises fundamental questions about the continuing legitimacy of instruments concluded under conditions of colonial subjugation.

The colonial provenance of such arrangements has prompted action by other States. Norway maintained a tax treaty with Sierra Leone that originated from the 1951 Norway-United Kingdom Convention, which was extended by diplomatic exchange in 1955 to cover British colonies including Sierra Leone. By Royal Decree dated 9 June 2023, the Norwegian Government terminated this treaty with effect from 1 January 2024. Norway simultaneously terminated similarly treaties with Barbados, Curaçao, Jamaica and Trinidad and Tobago, all former British colonies whose treaty relationships with Norway derived from colonial-era extensions rather than sovereign negotiations. Norway's decision to terminate these instruments reflects a recognition that treaties concluded without the consent of the affected States as sovereign nations, and never

subsequently renegotiated on contemporary terms, lack continuing legitimacy. It is concerning that the United Kingdom continues to maintain its own version of the UK-Sierra Leone Arrangement whilst Norway has withdrawn from the parallel instrument, albeit several outdated provisions that appear inconsistent with current OECD and UN base erosion and profiting standards.

Paragraph 2(1)(k) of the arrangement defines ‘permanent establishment’ in terms that are now severely outdated. The definition encompasses only ‘a branch, management or other fixed place of business’ and excludes agencies unless the agent ‘has, and habitually exercises, a general authority to negotiate and conclude contracts’ or maintains stock for order fulfilment. This narrow formulation predates by decades the substantial evolution of permanent establishment concepts in international tax law. The definition lacks provisions addressing service permanent establishments, where personnel presence creates taxable nexus even without a fixed place of business; commissionaire arrangements, where intermediaries contract in their own names but on behalf of foreign principals; anti-fragmentation rules, which prevent artificial splitting of functions to avoid PE status; and digital presence, which has become increasingly significant in the modern economy. These omissions substantially limit Sierra Leone’s capacity to assert taxing jurisdiction over economic activities conducted within its territory by UK-resident enterprises.

Paragraph 3(1) provides that the industrial or commercial profits of a UK enterprise shall not be subject to Sierra Leone tax unless the enterprise operates through a permanent establishment situated therein. Given the inadequacy of the permanent establishment definition discussed above, this provision substantially constrains Sierra Leone’s ability to tax profits derived from economic activities within its jurisdiction. The dividend provisions in paragraph 6 are particularly concerning from a source country taxation perspective. Paragraph 6(1) exempts dividends paid by a Sierra Leone-resident company to a UK-resident recipient from any Sierra Leone tax ‘chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.’ This effectively eliminates Sierra Leone’s capacity to impose withholding tax on dividend distributions to UK residents. Paragraph 6(2) further provides that where a UK-resident company derives profits from sources within Sierra Leone, the Sierra Leone Government ‘shall not impose any form of taxation on dividends paid by the company to persons not resident’ in Sierra Leone. This provision prevents Sierra Leone from taxing the outward flow of profits derived from its own economy when those profits are distributed as dividends by UK-resident companies. The cumulative effect is that profits generated through the exploitation of Sierra Leone’s resources may be extracted with minimal taxation at the point of distribution. Although paragraph 6(3) contains a limited anti-abuse provision applicable to dividends paid from pre-acquisition profits to corporate shareholders owning 10 per cent or more of the relevant share class, this provision is narrow in scope and does not address the broader structural issues with the dividend articles.

Paragraph 7(1) grants full exemption from source country taxation for royalties derived from Sierra Leone by UK residents. A royalty paid for the use of intellectual property rights including copyrights, patents, designs, secret

processes, formulae and trademarks is entirely exempt from Sierra Leone tax where the recipient is subject to UK tax and does not operate through a Sierra Leone permanent establishment. I note that paragraph 7(2) excludes from the definition of ‘royalty’ amounts paid ‘in respect of the operation of a mine or quarry or of other extraction of natural resources.’ Whilst this carve-out preserves some source taxation rights over payments directly connected to extractive operations, it does not address the many other payments, such as management fees, technical service fees, equipment rentals, and intellectual property royalties that may be structured to shift profits away from Sierra Leone’s tax base. The absence of any withholding tax on intellectual property royalties is particularly problematic given the increasing significance of intangible assets in modern business structures.

Paragraph 14 contains exchange of information provisions that fall far short of contemporary international standards. The provision permits exchange only of information ‘necessary for carrying out the provisions of this arrangement or for the prevention of fraud or the administration of statutory provisions against legal avoidance.’ This formulation is significantly narrower than article 26 of the OECD Model Tax Convention and the UN Model Double Taxation Convention. The arrangement lacks provisions for automatic exchange of information, which has become a cornerstone of international tax transparency; spontaneous exchange of information, where one jurisdiction proactively shares relevant information with another; exchange of information without regard to domestic tax interest, which modern treaties require; bank secrecy overrides, ensuring that financial institution information can be exchanged; and information exchange for purposes beyond the taxes covered by the arrangement. These deficiencies significantly impair Sierra Leone’s capacity to identify and address tax avoidance and evasion by UK-connected taxpayers.

The Arrangement entirely lacks the anti-abuse provisions that have become standard in contemporary tax treaties following the OECD/G20 Base Erosion and Profit Shifting (BEPS) project. There is no Principal Purpose Test of the kind contained in action 6 of the BEPS minimum standards, which would deny treaty benefits where one of the principal purposes of an arrangement was to obtain such benefits. There is no Limitation on Benefits clause that would restrict treaty access to genuine residents with substantial connections to the contracting states. The arrangement also lacks beneficial ownership requirements for reduced rates on passive income; provisions addressing transparent entities and hybrid mismatches; a mutual agreement procedure for resolving disputes between the tax authorities; and assistance in collection of taxes. These gaps create opportunities for treaty shopping, the use of the UK-Sierra Leone treaty by third-country residents through interposed UK entities, and for aggressive tax planning structures that exploit the Arrangement’s antiquated provisions.

Without wishing to prejudge the accuracy of the information received, I am concerned that this arrangement creates incoherence between the United Kingdom’s tax treaty policy and its international development commitments. The United Kingdom provides substantial assistance to Sierra Leone aimed at strengthening domestic revenue mobilisation and improving tax administration capacity. A treaty that

significantly constrains Sierra Leone's taxing rights particularly over passive income flows and business profits may undermine the effectiveness of these development investments. Revenue foregone due to treaty restrictions reduces the resources available for public services in Sierra Leone, potentially requiring additional development assistance to fill the gap. In this regard, Norway's termination of its Sierra Leone treaty may be understood, at least in part, as reflecting an awareness of this policy incoherence: Norway is a significant provider of development assistance and has long emphasised policy coherence for development across its governmental activities.

I also wish to express my serious concern regarding the reduced domestic revenue mobilisation which directly affects Sierra Leone's capacity to fulfil its human rights obligations. The International Covenant on Economic, Social and Cultural Rights requires States to take steps, to the maximum of their available resources, to progressively realise the rights to health, education, food, adequate housing and an adequate standard of living. When an international tax arrangement constrains a State's ability to mobilise domestic revenue, it may limit the maximum available resources for rights realisation. International human rights law also imposes extraterritorial obligations on States. The Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights provide that States must refrain from conduct which impairs the ability of another State to comply with its human rights obligations. A tax treaty that restricts source country taxation and facilitates profit shifting may constitute such conduct. I note that the Committee on Economic, Social and Cultural Rights has increasingly examined States' tax policies, including their international tax arrangements, as part of its periodic reviews.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please indicate what assessments Sierra Leone has undertaken to evaluate the impact of this arrangement and specifically of paragraphs 3, 6 and 7 on the country's capacity to mobilise domestic revenue for essential public services?
2. Please indicate whether Sierra Leone monitors how UK-resident companies operating in the country utilise the arrangement's provisions, including the permanent establishment definition in paragraph 2(1)(k) and the dividend and royalty exemptions in paragraphs 6 and 7, to minimise or avoid taxes in Sierra Leone? If so, what does this data show?
3. Please indicate what measures has the Government taken to prevent treaty shopping through UK entities by multinational enterprises operating in Sierra Leone, given the absence of limitation on benefits provisions and a principal purpose test in the arrangement?

4. Please indicate whether the Government has undertaken any human rights impact assessment of this arrangement's provisions, with particular reference to the rights to health, education, food, adequate housing and development?
5. Given that paragraph 16 permits either Government to terminate the arrangement upon notice by 30 June in any calendar year, please indicate whether Sierra Leone would consider exercising this termination right if adverse impacts on human rights or domestic resource mobilisation in the country are demonstrated?
6. Please indicate if the Government has considered whether the arrangement, having been concluded during the colonial period without the consent of Sierra Leone as a sovereign State, ought to be subject to renegotiation on terms that reflect contemporary international tax standards and the principle of sovereign equality?

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please be informed that a letter on this subject matter has also been sent to the Government of the United Kingdom and that all countries mentioned will receive a copy of the present communication.

Please accept, Excellency, the assurances of my highest consideration.

Attiya Waris

Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, I would like to draw your attention to the relevant international norms and standards that are applicable to the issues brought forward by the situation described above.

One of the pillars of the protection of economic, social and cultural rights under article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) ratified by Sierra Leone in 1996 is the obligation to progressively realize the rights set out in the Covenant, making use of the maximum of available resources.

I would like to recall that the UN Declaration on the right to development (A/RES/41/128) declares that States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development; that they have the duty to co-operate with each other in ensuring development and eliminating obstacles to development, and that they should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all States, as well as to encourage the observance and realization of human rights (article 3.1 and 3.3).

The Declaration further states that sustained action is required to promote more rapid development of developing countries and that effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development (article 4.2). I would like to refer to the guidelines and recommendations on the practical implementation of the right to development (A/HRC/42/38), which urge states to guarantee social protection floors and welfare, even in times of economic and financial crisis, in line with the Social Protection Floors Recommendation, 2012 (No. 202), of the International Labour Organization (para. 60). The guidelines also request that States should prioritize the use of domestic resources for development over the servicing of debt (para. 63) and to enhance accountability in the private sector, by publishing the taxation rates and revenues generated by major economic actors (para. 65); and recommend that Governments should develop a global and a regional taxation architecture with a view to countering the race to the bottom fuelled by tax policies that are increasingly in favour of capital to the detriment of people's welfare (para. 81).

The UN Guiding Principles Business and Human Rights were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) and have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts. These Guiding Principles are based on three pillars and they recognize:

- a) "The existing obligations of States to respect, protect and fulfil human rights and fundamental freedoms.

- b) The role of business enterprises as specialised bodies or corporations performing specialised functions, which must comply with all applicable laws and respect human rights.
- c) The need for rights and obligations to be matched by appropriate and effective remedies when they are violated".

To meet their responsibility to respect human rights, companies should have in place policies and procedures appropriate to their size and circumstances:

- a) A political commitment to uphold their responsibility to respect human rights.
- b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their human rights impact.
- c) Processes to redress any adverse human rights impacts they have caused or contributed to (guiding principle 15).

According to guiding principles 16-21, human rights due diligence involves:

- a) Identifying and assessing actual or potential adverse human rights impacts that the enterprise has caused or contributed to through its activities, or that are directly related to the operations, products or services provided by its business relationships.
- b) Integrate the results of impact assessments into relevant business functions and processes and take appropriate action in accordance with their involvement in the impact.
- c) Monitor the effectiveness of the measures and processes adopted to address these adverse human rights impacts in order to know whether they are working.
- d) Communicate how adverse effects are addressed and demonstrate to stakeholders - particularly those affected - that appropriate policies and processes are in place to implement respect for human rights in practice.

In its report A/HRC/53/24/Add.4, the Working Group has reiterated that the corporate responsibility to respect human rights under the guiding principles applies to financial institutions (both public and private) and their clients. Further to this, pillar II of the guiding principles requires financial institutions to make a policy commitment to respect human rights, carry out human rights due diligence and provide for, or cooperate in, remediation where the financial institutions identify adverse impacts that it has caused or to which it has contributed.

The right to an effective remedy for human rights abuses is a central tenet of human rights law and is reflected in pillar III of the guiding principles, which focuses on remedy for victims of business-related human rights harms.

Guiding principle 22 provides that where an enterprise causes or is likely to cause an adverse human rights impact, it should take the necessary steps to end or prevent that impact. “The establishment of operational-level grievance mechanisms for those potentially affected by corporate activities can be an effective means of redress provided they meet certain requirements listed in principle 31”.

In its report A/HRC/53/24/Add.4, the Working Group clarifies that the guiding principles require finance institutions to contribute to provide access to remedy if they have contributed to the harm.