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Good Day, it is a pleasure to be here and thank you to UNCITRAL for the kind invitation.

I am the General Counsel at the African Export-Import Bank which is a multilateral development bank established by African governments to support trade and development.

My talk today will focus on the state of insolvency reform in Africa. Africa is a diverse continent of 55 countries so it is difficult to generalise. However, I will endeavour to touch on some key themes at a very high level.

However before we get to Africa specifically, it is important to note that insolvency reform as a general matter is not an easy issue. And as we mark the 25th anniversary of the adoption of UNCITRAL's Model Law on Cross Border Insolvency, we must recognise the incredible contribution that the Model Law has had in this often challenging area.

Insolvency reform tends to be born of financial crisis or market integration. In fact, the harmonisation of such norms globally did not actually begin until the 1990s, a decade where we saw the rapid rise of globalisation and the Asian Financial Crisis.

This combination of more connected markets and the occurrence of economic upheaval is a potential recipe for financial instability, at both national and international levels. Creating a framework to achieve more efficient, cost-effective cross border insolvency processes is seen as a means of mitigating this risk.

In this context, Africa makes an interesting case study. Out of the 51 states which have adopted the Model law globally, a total of 25, almost half, are in Africa.

This is interesting because when we talk of globally integrated markets as a driver for insolvency reform, Africa is actually the only continent that trades the least with itself.

The significant uptake of the Model Law in Africa can instead be attributed to the innovative approach taken by 17, mostly Francophone, countries in West Africa who

created OHADA which is an acronym in French for "the Organisation for the Harmonisation of Commercial Law in Africa".

In 2015, OHADA implemented a uniform insolvency law which replaced the legislation previously in force in its member states. The OHADA approach enacts uniform laws in the domestic legal systems of its member states. This approach is predicated on first creating new insolvency procedures for all jurisdictions concerned and then dealing with the regulation of cross border issues. Significantly, the OHADA uniform law on insolvency adopts the UNCITRAL Model Law.

While member states of the OHADA region generally share a common language and their legal systems tend to have similar historical roots, this is not the rule across the board and membership is open to other African countries. The organisation therefore represents a useful model of what can be done in the law reform space when there is the political will.

The inroads made by OHADA in the adoption of the Model Law are very relevant in the context of the African Continental Free Trade Area ("AfCFTA").

The AfCFTA is a historic pan-African agreement which will eliminate tariffs and other barriers creating the world's largest free trade area with a market of over 1 billion people. There are high hopes for implementation and its success will be critical to building a more prosperous Africa.

Greater intra-Africa trade will lead to more economic integration and greater cross-border activity. Successful implementation of AfCFTA will therefore be greatly enhanced by a harmonised approach to cross border insolvency and business reorganisation.

As mentioned above, Africa has a good record in terms of adopting the Model Law, however a key challenge to further adoption and wider insolvency legal reform is the stigma often associated with insolvency.

Regional integration does not automatically translate into a harmonised approach to cross border insolvency. This can be seen in the case of the East African Community. Established in 1967, it is one of Africa's oldest economic communities and currently has 7 members.

The East African Community has a regional parliament which regularly earmarks sectors for review and harmonisation – for example immigration law, customs law and banking law. Insolvency law is notably absent. This is in large part due to the stigma attached to insolvency.

Insolvency is often equated to liquidation. In many African jurisdictions, the concept of using insolvency for corporate rescue is not common.

As a result, many insolvency regimes, cross border or otherwise, are used only when a company is no longer viable and there is absolutely no alternative. Even then, many stakeholders prefer litigation and enforcement to insolvency.

Conversations around the benefits of a robust insolvency framework are also hampered by the fact there have been very few examples of corporates that have emerged from an insolvency process intact. The examples that come to mind are South African Airways, Kenya Airways and Arik Air – all of which are airlines, all of which were seen as being strategically important and all of which had substantial government support.

The good thing about these examples is that they demonstrate a growing sophistication around how to deal with corporates in distress. They are unfortunately isolated examples. More needs to be done to address the stigma around insolvency and to demonstrate how the process can potentially unlock value in corporates regardless of their size or level of government support.

The African Continental Free Trade Agreement however presents a timely opportunity to reframe the conversation regarding insolvency and business reorganisation and position such discussions within the context of African economic development.

In conclusion, Africa presents a unique example of a continent determined to move towards greater economic integration on a macro level through the creation of the Africa Continental Free Trade Area. Greater economic integration however does not automatically translate into the creation of better insolvency systems. As demonstrated by the OHADA region however, change is possible provided there is the political will.