

Statement delivered on behalf of the Permanent Mission of South Africa to the United Nations

General Assembly informal, interactive dialogue on the “Responsibility to Protect: Timely and Decisive Response”

5 September 2012

(UNOFFICIAL TRANSCRIPTION)

Thank you very much Chair.

My delegation wishes to extend our appreciation to the outgoing Special Adviser to the Secretary General on the Prevention of Genocide, Mr. Francis Deng, as well as the outgoing Special Adviser on the Responsibility to Protect, Professor Ed Luck. Both gentlemen provided valuable contributions in their respective areas of expertise on the identified crimes constituting RtoP and in helping to shape the discourse and consideration of this important concept.

In the same vein, I also wish to convey our best wishes to the incoming Special Adviser on the Prevention of Genocide, Mr. Adama Dieng, and assure him of our support. We are confident that Mr. Dieng, with his extensive and accomplished legal background including his current term as the Registrar of the International Criminal Tribunal of Rwanda will add significantly to the basis that has been laid by his predecessors.

Mr. Chair, the political consensus of the 2005 World Summit Outcome Document through paragraphs 138 and 139 tell us that there is broad acceptance of the concept of the Responsibility to Protect. It must be borne in mind that this consensus was possible because of what we thought were sufficient checks and balances, qualifications to avoid abuse for political agendas. And it was for this reason that the first two pillars were included, namely one, that governments bear primary responsibility to protect their populations and the second one being the responsibility of states to prevent the four listed crimes; the use of force, of course, being considered as the last resort.

Now, we concur with the observation of the Secretary-General that from the outset, it is critically important for the international community to adopt a narrow and deep approach when invoking a response under responsibility to protect. Narrow is vital for restricting the application to the four identified crimes that comprise the responsibility to protect violations. A deep response is necessary insofar as it offers a wide spectrum of Charter-based tools in the context of the three pillars that constitute the Responsibility to Protect.

The political consensus of the 2005 World Outcome Document was a historic major milestone in the 21st Century insofar as the four crimes are concerned. Therefore, cognizant of these realities, we know that going back on the 2005 consensus is not an option, and as such, inaction against impunity and criminality against the four identified crimes is not an option too. Article 4h of the Constitutive Act of the African Union is clear in its principled stance of non-indifference in this regard. Drawing on the lessons learned as articulated by the Secretary-General, we assert that each situation is distinct and will require an appropriate response. We also concur that there is a need to apply the principles of the Responsibility to Protect consistently and non-selectively especially by the UN leadership. A better understanding of the relationship of the three pillars to each other will be helpful in better implementing Responsibility to Protect as will an effective and integrated strategy that contains both prevention and response to all the three pillars.

We recognize the role of regional and sub-regional organizations as partners to the UN regarding implementation of Responsibility to Protect. It is however not with that we have not seen any mentioning of disturbing trends, which we believe is a complicated response by the international community to Responsibility to Protect. That's the phenomenon of the arming of civilians. I think this is an issue that the

Member States of the UN must frankly and openly confront and deal with because we have seen its consequences, in particular in the aftermath of Resolution 1973. We all know the consequences of what is currently happening in Sahel because of this phenomenon of arming of civilians.

We, therefore, appreciate Responsibility While Protecting, an initiative introduced by the Brazilian government and which we understand to be complimentary rather than competing with RtoP. We do not envisage RWP as in any way contradicting or disrupting the 2005 consensus but actually strengthening it. Responsibility While Protecting introduces an element of accountability for action taken especially when it involves the use of force.

Based on the experience of Resolutions 1973 and 1975, we are opposed to an open-ended authorization of use of force with no accountability, which leads to war mongering and regime change expeditions. There must be accountability for the actions of those who must correctly implement the UN Security Council resolutions. It is also unfortunate to know that the key omission of the regime change has not been a primary outcome of the Responsibility to Protect in the Secretary General's report in regarding lessons learned. The Secretary General's report correctly points that the primary aim of the international community should be to respond early and effectively in a non-coercive way and therefore reduce the need for force to be used whilst advocating that military enforcement must remain a part of the tool box. Therefore, a combination of coercive and non-coercive measures should be considered as part of tool kit of the not one measure exclusively to the detriment of the other as we learned from the recent experience of the implementing of the Responsibility to Protect. Responsibility to Protect must have its primacy the core interest of the safety and well being of the affected civilians and populations. RtoP must not have a narrow national interest of those who seek intervention who implements the Security Council's mandate. Any Security Council's mandate imposing a collective international Responsibility to Protect response must be fully respected and implemented in the later and in the spirit of its provision rather than using the mandate as a pretext for other motives including regime change. Put plainly, Mr. President, the primary objective of Responsibility to Protect is not regime change.

The third pillar is by far the most challenging. Thus, the response of the international community in defense of the inability of the state to protect its civilians within a context of identified crimes; however, in the event of the need to use force, the need for accountability is of premise. The Security Council's mandate that has also authorize the use of force in the name of RtoP must not be interpreted as a means to operated beyond the provision of international law. The Security Council must retain its oversight as authorizing body on the use of force. Such oversight will require regular updates to the Council by the implementing parties on each face on implementation of the mandate. What we have seen from the implementation of the previously mentioned resolutions, that's Resolution 1973 and Resolution 1975, we saw a clear disregard for the need for accountability to the Security Council when non-Member States or other organizations outside of the UN are implementing Security Council resolution. In accordance with the provisions of the Charter, the Security Council is the authorizing organization that provides the legal basis for action that involves the use of force must retain its coordinating role. In so doing, the implementing parties must act in accordance with the UN and not in isolation of it. Initial coordination meetings will take forward that the mandate must be coordinated at the UN headquarters. It is important that the Security Council is not side-lined in undermining in implementation of its own mandates. Such an approach, thus, will give substantive meaning to the Responsibility While Protecting. This will invariably contribute to accountability to the Security Council as authorizing body.

I thank you, Mr. President.