

Informal, Interactive Dialogue of the 66th Session of the General Assembly on the Responsibility to Protect: Timely and Decisive Response

New York, 5 September 2012

PRESIDENT'S SUMMARY

Background

1. The President of the 66th Session of the General Assembly convened an informal, interactive dialogue on the Report of the Secretary-General on the responsibility to protect: "Timely and decisive response" (A/66/874-S/2012/578). The thematic debate commenced with opening remarks by the President of the General Assembly, H.E. Mr. Nassir Abdulaziz Al-Nasser, the Secretary-General, H.E. Mr. Ban Ki-moon, and Mr. Adama Dieng, Special Adviser of the Secretary-General on the Prevention of Genocide.

2. Special Adviser Dieng moderated a panel discussion on the third pillar of the responsibility to protect, which included Mr. Jan Eliasson, Deputy Secretary-General, and Mr. Ivan Simonovic, Assistant Secretary-General for Human Rights, H.E. Gert Rosenthal, Permanent Representative of the Mission of Guatemala to the United Nations; H.E. Youssoufou Bamba, Permanent Representative of the Mission of Côte d'Ivoire to the United Nations; and Mr. Alex Bellamy, Professor of International Security at the Griffith Asia Institute, Australia. Panellists explored the interconnectedness between prevention and response; provided further details on the range of tools available under Chapters VI, VII and VIII of the United Nations Charter for implementing the third pillar of the responsibility to protect; identified partners available for implementation; discussed lessons learned and experiences from across regions to date in implementing the responsibility to protect; reflected on concerns of Member States on the need for responsibility while protect; and offered suggestions for further development of the concept and for strengthening implementation, including through mainstreaming the concept across the United Nations system.

Summary

3. Throughout the dialogue, Member States reaffirmed their commitment to the responsibility to protect and reiterated that the primary responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity lies first and foremost with the State, in line with the first pillar of the concept. A number of speakers recognised that state sovereignty entails responsibility to protect its populations from the four crimes. As set out in the second pillar, participants also emphasised the role of the international community in assisting Member States to exercise this responsibility. Member States generally concurred that the responsibility to protect is not a new idea and is anchored in international humanitarian law, international human rights law and international customary law.

4. A number of Member States highlighted the "narrow but deep approach" captured in the implementation strategy suggested by the Secretary-General, which calls for the applicability of the concept to be limited to the four crimes mentioned in paragraph 138 of the 2005 World Summit Outcome Document (A/RES/60/1), namely genocide, war crimes, ethnic cleansing and crimes against humanity, and their incitement. This approach also underlines the wide range of Charter-based tools that could be employed for preventive and responsive action under the third pillar of the responsibility to protect. Underscoring the multitude of tools available, Member States listed an array of non-coercive tools, including: investigation, fact-finding and commissions of inquiry; diplomatic sanctions; good offices; mediation; negotiation; preventive

diplomacy; conciliation; arbitration; judicial settlement; resort to regional arrangements; personal persuasion; monitoring and observer missions; referrals to the International Criminal Court; suspension of membership from intergovernmental bodies, including regional or sub-regional organisations; and other measures as set out in Chapters VI, VII and VIII of the Charter. In accordance with the 2005 World Summit Outcome Document, if national authorities fail to respond to diplomatic and other peaceful means, coercive measures may be authorised by the Security Council, under Articles 41 and 42 of the Charter. Tools for timely and decisive collective action involving coercive means include targeted sanctions, deployment of United Nations-sanctioned multinational forces, imposition of no-fly zones, or the establishment of a military presence for protection or deterrence purposes.

5. While Member States called for the use of force to be used only as a last resort, after non-coercive tools have been exhausted, some Member States advised that, while Chapter VII measures should be considered as a measure of last resort, there is no need to draw on non-coercive tools if the Security Council decides that other measures are inappropriate or likely to fail, and the use of force is the only viable option. Contending that notion, a number of speakers suggested that the pillars should be interpreted as stages in a chronological sequence. Other Member States emphasized the non-sequential and mutually reinforcing nature of the three pillars, the interconnectedness between prevention and response, and the wide range of preventive tools available within the responsibility to protect toolkit, including within the third pillar. Pointing to the use of force as only one of many tools in the third pillar toolbox, some Member States reasoned that the use of force could still be used as a last resort if the three pillars are non-sequential and mutually re-enforcing.

6. Speakers also outlined how effective preventive action may make action under the third pillar unnecessary and how responsive action should have a preventive effect. Effective protection strategies comprise elements of both prevention and response. Member States generally agreed that there could be no template or standard approach to addressing situations of concern. They also generally agreed that collective action, mandated by the Security Council and in line with the Charter, needs to be flexible, tailored to each situation and taken on a case by case basis. The use of certain tools should depend on their appropriateness in a given context.

7. Member States repeatedly emphasised the importance of prevention in saving lives and in avoiding the need to employ more costly tools at a later stage. Speakers also recognized and welcomed the Secretary-General's initiative in calling for 2012 to be the "Year of Prevention". A number of representatives called for early warning, mediation and dialogue, preventive diplomacy and other preventive measures to be further strengthened.

8. Cautioning that military intervention cannot become a default response of the international community, some participants expressed concern that the responsibility to protect could be misused or abused to justify interventions with a political agenda related to resource exploitation or regime change. A number of speakers also expressed concern that the implementation of the responsibility to protect may face some challenges, as the use of force inherently includes a possibility of casualties or unintended destabilisation. Sober judgement and vigilance is required in identifying where such threats exist, they said. Participants cautioned that inconsistent or selective application of the responsibility to protect may foster misperceptions.

9. A number of Member States welcomed the Brazilian initiative on "responsibility while protecting." This initiative calls for greater transparency in decision-making by the Security Council, greater accountability in the implementation of its mandates, including through the

development of enhanced procedures to monitor the manner in which resolutions are interpreted and implemented. Some participants suggested that the issues raised by the “responsibility while protecting” pertain to the greater questions around the working methods of the Council, and therefore go beyond implementation of responsibility to protect situations. While underscoring the importance of protecting responsibly, some speakers reiterated the need for timely and decisive response when a situation so requires. In those cases, concerns about implementation should not constitute an excuse for inaction.

10. Recognising the crucial role of regional and sub-regional organisations, Member States called for greater collaboration and strengthened partnerships between the national, regional and global levels. With their geographical position, knowledge of regional specificities and country contexts, these organisations are well poised to develop vital protection measures. Civil society organisations were also recognised as having the potential to identify early signs of nascent situations related to the responsibility to protect. Civil society and independent media were also cited as fundamental to paving the way for effective and timely warning and action.

11. Throughout the dialogue, representatives raised questions for the expert panellists pertaining to the inter-linkages between the responsibility to protect and the rule of law, the role of transitional justice in the responsibility to protect, justice and accountability as tools for prevention of future violations, ways of strengthening links between the United Nations and civil society, ways to increase the effectiveness of third pillar tools, and options to avoid ambivalence in responding to situations of concern.

12. Citing the timeliness and relevance of the debate, a number of participants repeatedly referred to the situation in the Syrian Arab Republic and called for the Security Council to act with a clear, strong voice to end the violence. Expressing regret for a lack of timely or decisive response, some Member States called for referrals to the International Criminal Court and, more generally, for accountability for those responsible for the continued suffering of the Syrian people.

13. A number of speakers alluded to specific proposals they had presented related to the responsibility to protect. They include a draft resolution tabled by the Small Five Group (S5), consisting of Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland, to prohibit the use of the veto by the P5 at the Security Council to block action on situations related to the responsibility to protect. Initiatives mentioned during the dialogue also included a national focal points initiative, led by Australia, Costa Rica, Denmark and Ghana, which has the dual objective of promoting the responsibility to protect at the national level and supporting international cooperation through a global network. Member States generally called for further operationalisation of the responsibility to protect.

14. Reiterating the appropriateness of holding the informal, interactive dialogue in the General Assembly, Member States welcomed the event and called for future thematic debates on the matter. In terms of specific proposals, a Member State proposed that a future report further explore the various elements of prevention, while another representative suggested examining the relationship between early warning and capacity building for prevention, including reflecting on the role of regional and sub-regional mechanisms. Member States called for a renewed focus on the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity and to make prevention a “living reality”.