

COUNTRY STATEMENT FOR HIGH-LEVEL SEGMENT: SOUTH AFRICA
DELIVER AT THE 11TH UNITED NATIONS CONGRESS ON CRIME
PREVENTION AND CRIMINAL JUSTICE, BANGKOK, 18 – 25 APRIL 2005

Mr President,

It is an honour for me on behalf of the Government of South Africa to congratulate you on your election as the President of the 11th United Nations Congress on Crime Prevention and Criminal Justice. We wish to express our appreciation to the organisers of this Congress for providing us with an opportunity to participate and make a contribution on this momentous occasion during which the United Nations is celebrating its 50th Anniversary. Our participation is particularly significant as South Africa is celebrating 10 years of democracy where we have reflected on our achievements and how far we still have to go, to achieve the constitutional ideals the South African people have set for themselves.

We also wish to thank the Government and the people of Thailand for their wonderful reception and excellent service.

We reaffirm further our support and commitment to the African position presented at the beginning of the Congress by the representative of Egypt on behalf of the African Group, particularly the call to this Congress to make positive announcements with regard to the drafting and conclusion of the following:

- Convention against Theft of and Trafficking in Cultural Property;
- Convention against Cyber Crime;
- Code of Conduct against Terrorism; and
- A Comprehensive Convention against Terrorism in all its ramifications.

Mr President,

On behalf of the Government of South Africa, I reiterate our commitment to the international community's pursuit for peace, security and justice through its sustained efforts to combat crime.

Whilst it is important to have mechanisms in place to fight crime, we should not lose sight of the underlying causes of crime. Our efforts to combat crime should, therefore, also be aimed at bringing about a developmental state underpinned by good governance, to address the underlying causes of crime such as poverty, unemployment and other socio-economic conditions, and other intolerances having the potential to creating conflict, but always guided by and within the context of the Rule of Law and respect for human rights.

Mr President,

The technical and information revolution and the speed with which knowledge and information are generated, pose new and daunting challenges to all of us. Organised crime groups are able to communicate with relative ease and anonymity across jurisdictional boundaries. This provides organised crime groups, including terrorist groups, with the opportunity to mastermind with military precision any form of criminal attack on States and individuals as we have witnessed in countries such as Kenya, Spain, Indonesia, Tanzania and the United States.

Organised criminal groups have rendered vulnerable the information systems of many institutions and business by using them to generate profits illegally through trafficking in drugs, humans and other goods abusing information technology for these purposes. The increase in internet crimes and the ability of criminals to hack into tightly secured information systems adds new dimensions to crime.

We also acknowledge the diversification of organised crime as an emerging trend, manifesting itself in a new crime environment, which is transnational and global in nature. This is the new reality confronting all countries and posing greater challenges to investigators and prosecutors.

South Africa's response to the threat of transnational organised crime, terrorism and corruption should be seen against the background of our Government's broader social and economic transformation agenda. As part of this agenda, criminal justice and governance reforms have been key focus areas.

Since South Africa became a democratic and Constitutional State just more 10 years ago, we have accelerated our efforts and made significant progress in the area of criminal justice reform and its alignment to international standards.

In the areas of combating organised crime, corruption and terrorism, South Africa has ratified most International Instruments covering these areas including the United Nations Convention against Transnational Organised Crime and the Supplementary Protocols, the UN Convention Against Corruption, and nine of the International Instruments on Terrorism. We are in the process of ratifying the three outstanding International Instruments on terrorism.

These Conventions are supported by a comprehensive legislative framework, and mechanisms and agencies for implementation thereof.

In the area of transnational organized crime we have criminalised money laundering, racketeering and gang related activities, as well as regulated the criminal and civil seizure and forfeiture of assets. We have enacted the Financial Intelligence Centre Act further to bolster the criminalisation of money laundering. The Act establishes a comprehensive anti-money laundering administrative regime with obligations on financial and other institutions to report suspicious and

unusual transactions. South Africa is therefore compliant with the FATF's 40 plus 9 recommendations.

In the area of corruption we are compliant with the mandatory requirements of the UN Convention Against Corruption, by virtue of our Prevention and Combating of Corrupt Activities Act of 2004. This is a comprehensive statute, which criminalises corruption in its various manifestations. It also incorporates international best practices by providing, for example, for extraterritorial jurisdiction, the obligatory reporting of corrupt transactions by certain persons holding positions of authority and measures to prevent and combat corruption. South Africa has also participated in the working group that developed the draft legislative guide of the UNODC on the implementation of the Convention.

Our new anti-terrorism legislation, *the Protection of Constitutional Democracy against Terrorist and Related Activities Act*, which takes effect soon, enables us to combat international terrorism by criminalising terrorism in its various manifestations and providing for extraterritorial jurisdiction. The legislation also makes provision for action to be taken against persons resident in South Africa, who are listed on the United Nations' terrorist list.

With regard to the Protocols on Migrants and Human Trafficking, South Africa is currently examining the position with a view to developing legislation in line with the requirements set out in the Protocols.

We consider witness protection a critical tool in the fight against organised crime, especially transnational organised crime and terrorism. In this regard, we have comprehensive witness protection legislation and a witness protection programme in place. We are participating in the Europol Heads of Experts forum and have played a key role in assisting with the harmonisation of witness protection legislation for application across the European Union. To this end, South Africa was one of 8 countries in March 2005 that served on the Europol

Working Committee to draft the relevant legislation. We also have legislation in place to protect whistleblowers as an additional measure.

Our commitment to the implementation of the UN Conventions Against Transnational Organised Crime, Corruption and International Instruments relating to Terrorism, is not only reflected in our domestic legislation, but also in the establishment of various specialist units designed to apply an integrated approach to combating organised crime, terrorism and corruption.

Mr President,

The international nature of organised crime makes international cooperation imperative. With the globalisation of crime, the demand for international cooperation is increasing. We continue to receive from and provide to many countries, legal assistance, through our mutual legal assistance and extradition legislation. Given that different legal systems and related requirements give rise inevitably to delays notwithstanding the mutual legal assistance legislation, the question arises whether the international community should not examine the creation of a more flexible international cooperation regime, by incorporating mutual legal assistance and extradition provisions in a single instrument.

In addition, the possibility of creating an international forum of prosecutors and investigators, under the auspices of the UN to focus on transnational organised crime, including international terrorism as a mechanism to augment closer international cooperation, requires consideration.

Mr President,

Global stability in Africa in particular, is of primary concern to all of us. We are intensifying our efforts to strengthen regional cooperation through joint cross-border operations. This yields positive results in the area of firearms proliferation, drugs and vehicle trafficking.

The question of mercenary activities, including those that organise and fund them, is a problem facing some African States and is a concern since it is often linked to transnational organised crime, corruption and terrorism. We urge therefore those States used as a base from which these activities are launched, to ensure that a legal framework is developed to criminalize such activities and that mercenaries are dealt with severely in their jurisdictions. In our context we are tightening up our legislation in this regard.

We are supporting by means of bilateral and multilateral initiatives the development of our Continent in accordance with the stated aims of our sub-regional and regional instruments and programmes in areas of conflict resolution and management, policing, anti-money laundering, anti-terrorism, anti-corruption and judicial reform.

We therefore urge our international partners to extend, not only legal cooperation, but also technical assistance to developing countries to ensure the effective implementation of the relevant international instruments. We need to align and integrate our responses with greater urgency to achieve our common goal of a secure, stable and peaceful global community.

In conclusion, Mr President the South African Government appreciates the view of the United Nations Secretary General's High-Level Panel that the link between crime and poverty should enjoy more attention in decision-making bodies of the United Nations. South Africa therefore welcomes the opportunity to participate in the assessment of the crime and drug problems in the context of the UN's Millennium Declaration and priorities set by the New Economic Partnership for

Africa's Development (NEPAD) that is being arranged by UNODC in Addis Ababa during May 2005.

I thank you for your attention.