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GENERAL ASSEMBLY – INFORMAL INTERACTIVE DIALOGUE
RESPONSIBILITY TO PROTECT
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This is an extraordinary time to discuss R2P. Almost ten years ago, our leaders committed at the World Summit to protect civilian populations from genocide, war crimes, crimes against humanity and ethnic cleansing. I don't believe we could have imagined then that in 2014, man-made civilian suffering would be so wide-spread, as evidenced by events in places like Gaza, Syria, Iraq, North Korea, South Sudan, Darfur, and Libya, to mention just some of the most drastic among the current R2P crises. Quite contrary to what we were hoping to achieve back then, civilians find themselves at exceptional risk today, in all parts of the world, to become victim of one of the crimes from which the R2P norm is meant to protect them. Especially in cases where the relevant organs of the United Nations – in particular the Security Council – remain largely silent, conflicts are carried out at the expense of civilians, as evidenced most recently in Gaza and for over three years now in Syria. There is thus an ever widening gap between the standards for the protection of civilians, reflected in the body of international humanitarian and human rights law and their application in practice by States, but very importantly also by non-State actors. And the application of the R2P norm has clearly not been sufficient to address the apparent lack of political will of States.

Clearly, the agreement on the responsibility to protect was one of the big advances in the framework of the 2005 summit. But we have not done very well to ensure the application of the R2P principle in practice and must do much more to ensure its implementation. As far as the second pillar is concerned, greater efforts to assist States in building up their capacities to prevent and to counteract atrocities are certainly needed. Such assistance already takes place in the broader context of development

cooperation, which sometimes encompasses rule of law assistance. These efforts need to be scaled up significantly, and they must specifically target capacity-building to ensure that domestic judicial systems are equipped to deal with complex crimes such as the one covered by the R2P norm and to withstand political pressures.

But even the most effective judicial system will fail in its role to provide protection from the most serious crimes under international law if there is no political will to investigate and prosecute and crimes against civilians and if these are routinely ignored. It is therefore of the essence for States to join the Rome Statute of the International Criminal Court (ICC) – and is essential for all R2P advocates to be supporters of the Court. ICC membership will fill the gap in cases where national judiciaries fail to do their job. This can trigger capacity-building when needed, and most importantly it will send a clear signal to perpetrators that they will not be able to exploit potential weaknesses of the domestic judicial system to their benefit and increase the likelihood that perpetrators are held to account. The support of the ICC is only a logical consequence for all those who advocate for the R2P principle.

While the Rome Statute has been a very successful treaty, it does not yet provide universal coverage. In order to fill the remaining gap, the Security Council was given the competence under the Statute to create jurisdiction in places where it does not exist by virtue of ICC membership. In the last year, the Council was given strong and clear recommendations by UN-established Commissions to refer the situations in Syria and in the DPRK to the International Criminal Court. In the first case, the relevant proposal was blocked by the veto of two Permanent Members of the Council, in spite of overwhelming support in the membership as a whole; in the latter there has so far not even been an attempt to make a referral.

Recent events in a number of conflicts underline the continued relevance of what has been identified as pillar III, measures under Chapter VII of the Charter aimed at ending the commission of atrocities. In this regard, the World Summit Outcome Document unequivocally confirms the Charter rules on the prohibition of the use of force. There is therefore no scope to argue that R2P could give rise to any type of unauthorized humanitarian intervention in contravention of the UN Charter – such interventions would always be in violation of the provisions on which we have agreed with respect to R2P. The

Charter's prohibition of the illegal use of force is further strengthened through the Rome Statute provisions on the crime of aggression. Once activated, the ICC's jurisdiction over the crime of aggression will contribute further clarity to the issue. We hope that as many States as possible will join those who have already ratified the Kampala amendments on the crime of aggression and contribute to their activation in 2017.

For pillar III to be effective, the Security Council must live up to its mandate and to the responsibility conferred onto it by the UN membership as a whole - it is very damaging to the R2P principle, but also to the UN as an organization, that the Council has proven unable to carry out its Charter mandated function so consistently in the recent past. Restoring the central role of the Council is a common challenge for all UN members, as the organization is currently not able to play its role in the area of maintenance of peace and security, one of its core functions. Council members must be prepared to authorize effective international action to prevent or end atrocities. They must refrain from putting their actual or perceived national interest over the lives of innocent civilians - men, women and children. We therefore continue to support efforts aimed at restricting the use of the veto in such situations, for example through a code of conduct or similar tool. We hope that the relevant efforts can be brought to a successful conclusion before the end of the year.

I thank you.