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Points 44 et 107 de l'ordre du jour

La mise en œuvre de la responsabilité de protéger

Déclaration de

S.E. M. Peter Maurer
Représentant permanent de la Suisse
auprès des Nations Unies

Check against delivery

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Implementing the responsibility to protect

Statement by

H.E. Mr. Peter Maurer
Permanent Representative of Switzerland
to the United Nations

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Mr President,

Switzerland welcomes the efforts of the Secretary-General to operationalise the responsibility to protect on the basis of the consensus of September 2005. I would like to thank him for the presentation two days ago of the report under review. It is vital that we should continue together to ensure that the notion of "sovereignty as responsibility" is translated into specific action that is measurable on the ground, respects human life and conforms to the decision that we took four years ago to act on behalf of this cause.

As the Secretary-General points out, the concept of responsibility to protect is an ally of that of sovereignty. It therefore needs to be considered in the strict framework of paragraphs 138 and 139 of the Outcome document and on the basis of the narrow but deep approach proposed by the Secretary-General. This approach, which is enshrined in the United Nations Charter, is distinct from the so-called "humanitarian" interventions, and we are committed to ensuring that this distinction will be clearly maintained.

The report under review today is a major instrument of political mobilisation which enables each State and the international community as a whole to familiarise themselves with the instruments available to prevent mass atrocities. This cataloguing should enable us to achieve greater coherence in our undertakings. It should also lead us to consider all the preventive and assistance measures available before, as a last resort, using the measures set out in the Third Pillar to stop mass atrocities against a civilian population.

Mr President,

I would like to mention a number of aspects that may help us continue our discussions about the responsibility to protect.

Firstly, it is important to stress that the obligations of States with regard to international law exist regardless of the emergence of a situation in which the concept of responsibility to protect may come into play. These obligations cannot and must not be diluted. It should also be emphasised that although the concept contains numerous existing international law obligations, it remains a political concept and does not in itself constitute a new norm. Nor

does it have the effect of dispensing States from their conventional and customary law obligations with regard to human rights law, international humanitarian law and refugee law.

Secondly, a clear distinction needs to be maintained between the concept of responsibility to protect and that of the protection of civilians. To do this, it is essential to define proactively the specific features of each concept and their field of application. For example it should be stressed that the protection of civilians deals with the entire set of rights of civilians, not only the international crimes covered by the responsibility to protect. The progress achieved in the area of protection of civilians is very important and is derived from humanitarian principles. It is essential to maintain this and to continue to make improvements within this framework.

Thirdly, as we have said, the instruments presented are for the most part well known. However, what is lacking at this stage is reflection on what did not work when these instruments were used in the past. We know that the problem is not usually the lack of information. It is the absence of political will at the right time that is at the heart of our past failures. One important means of remedying this would be for the permanent members of the Security Council to refrain from using their veto in cases of genocide, crimes against humanity, ethnic cleansing and war crimes. It is also important that they should help to strengthen the acquis in the area of the fight against impunity as part of a general policy of prevention. For its part the General Assembly should continue to work towards the implementation of the responsibility to protect and should mobilise the international community as a whole to implement it.

Finally, paragraph 50 of the report, in accordance with paragraph 139 of the Outcome document, calls on the United Nations to carry out determined collective action and not to follow arbitrary and graduated procedures that prize *form over substance* and *process over results*. In this context, we will need to consider the most effective way of implementing the Third Pillar. Several questions are still pending: what is the threshold of intervention for "timely and decisive" response? Who is responsible for deciding on whether a situation constitutes genocide, a crime against humanity, ethnic cleansing or a war crime? In particular, how can the General Assembly and the Secretary-General offer complementary solutions to those of the Council or in the event of deadlock within the Council? How can the *accountability* of the Council be strengthened? We believe that the follow-up of the recommendation in paragraph 62 of the report – an invitation to review the principles, rules and doctrines which should guide the use of force in the extreme situations concerning this concept – could contribute to this reflection.

Mr President,

We should be actuated not only by the obligation to respect but also to *ensure the respect* of international law, so that humanity can continue to regard the UN as the best guarantor of international peace and security. The responsibility to protect concerns the international community as a whole.

Thank you.