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RESPONSIBILITY WHILE PROTECTING

Statement by H.E. Mr Gary Quinlan, Ambassador and Permanent Representative of Australia to the United Nations

(Check against delivery)

We thank Ambassador Patriota and Brazil for holding this event and for encouraging further dialogue on R2P through its concept paper. It is a timely discussion since the next Secretary-General's report on R2P and the subsequent General Assembly interactive dialogue in July will focus on Pillar 3 and how the UN can best employ the tools available to it under the Chapters VI, VII and VIII of the Charter to prevent atrocity.

The principle of R2P is now widely accepted. Nevertheless debates about appropriate implementation remain. This is as it should be. It is right that the international community should vigorously debate the most effective actions to prevent and respond to mass atrocity. The challenge is to do so in a manner which does not lead to paralysis and inaction. We cannot, as the Secretary-General said in most recent speech, 'make the best the enemy of the good'.

The Brazilian concept of 'Responsibility While Protecting' is a response to specific concerns about how the Security Council mandate was carried out in Libya. Australia was a strong supporter of decisive action by the Security Council to prevent the impending atrocity in Benghazi. We believe that action saved thousands of lives. However, we also think there is room for improvement in how the UN carries out its

collective responsibilities. This includes room for exploring ways to promote fuller, transparent debate in the Security Council.

We understand that Brazil's proposals are focused on one example of military action. But it is important that our discussion today be placed in the broader context of R2P's three pillars as a whole and grounded in the consensus of the 2005 World Summit Outcome. R2P should not become simply synonymous with military action. The three pillars of R2P were not intended to be rigidly sequenced in implementation, but as the Secretary-General said the focus should be on an early and flexible response tailored to each situation and aimed to save lives.

We fully agree with Brazil that prevention is the best option. Overall, prevention must lie at the heart of R2P. As the Secretary-General has said this means "proactive, decisive and early action to stop violence before it has begun". Building the capacity of national governments to protect their populations remains an essential component of making R2P a reality on the ground. Australia has joined Ghana, Denmark, Costa Rica as co-facilitators of the National Focal Point initiative because of the importance we place on implementing and coordinating policies to institutionalise R2P at the national level.

Turning to Brazil's proposals. Broadly speaking, some of the concerns underpinning them relate to Security Council process.

To address these concerns, Brazil has proposed the use of prudential criteria before the Council agrees to the use of military force – for example, last resort, proportionality and balance of consequences (reasonable prospects of success in averting a greater harm). The concept paper also calls for some form of monitoring mechanism by which all Security Council members can be properly informed about, and maintain scrutiny of, use of force mandates.

On the criteria, Brazil's proposals invoke similar ideas to those contained the 'Precautionary Principles on military intervention' contained in the *Report of the International Commission on Intervention and State Sovereignty* (2001). Australia is of the view that such criteria may be a useful policy tool to frame Security Council

discussions and encourage transparent identification of reasons for the decisions taken by the Council.

The application of any such criteria or guidelines must remain flexible so as to not tie the hands of the Council in cases where action is needed. The criteria of force as a last resort should not be a requirement to rigidly and physically test and exhaust all lesser options before resorting to military force, but rather a matter of making a reasonable, objective judgement based on all the available evidence that no lesser measures could succeed in halting or averting the harm in question.

On a possible monitoring mechanism, we are open to exploring how the Security Council can ensure its members are properly informed about and able to debate all relevant issues regarding a military mandate. We see this as crucial to maintain the ongoing legitimacy of any Council authorised action. Existing reporting mechanisms in the Council may need to be strengthened, for example through the availability of more detailed military briefing to members. The Council should not, of course, be in the business of micromanaging military operations, but if there are sound answers to concerns of Council members, they should be made available.

We look forward to the upcoming Secretary-General's report and continuing to engage in this important discussion. One possibility is that when the report is released an Arria-Formula meeting could be convened with current and some previous members of the Security Council to discuss R2P broadly, including the issues discussed here today.