



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Check against delivery

Security Council

**The promotion and strengthening of the rule
of law in the maintenance of international
peace and security**

Swiss Statement

presented by
H.E. Mr. Paul Seger
Permanent Representative

Permanent Mission of Switzerland
to the United Nations

New York, 19 January 2012

Mr. President,

I would like to begin by thanking South Africa for organising this debate. I would also like to state that Switzerland associates itself with the statement by Austria on behalf of the Human Security Network. In our national capacity, however, we would like to bring the following three points to the attention of the Council.

First, we welcome the 2011 report by the Secretary General on the rule of law and transitional justice. The report reaffirms that justice and the rule of law are indispensable for international peace and security. These two elements therefore need to remain the focus of attention of the Security Council. An investment by the Council in the rule of law is also a good investment in the maintenance of peace.

The report rightly underlines the need for a holistic approach to conflicts and to post-conflict situations. The *principles on combating impunity*, which were formulated by the sub-commission of Human Rights between 1994 and 2005, are the cornerstone of this approach. These principles state that an effective and lasting dealing with the past must include processes of truth-telling, justice, reparations to victims and institutional reforms aimed at ensuring that past abuses do not recur. More needs to be done so that this coherent approach is pursued systematically across UN activities and is felt in the field.

We believe that it is particularly important to draw the attention of the Security Council to the new mandate of the *Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence* established by the Human Rights Council by consensus in September 2011. This new special procedure was put in place to contribute to the fight against impunity, to enable states to fulfill their obligations and also to give a voice to victims and to ensure that their rights are respected. We invite the Security Council to actively consider the work of the Special Rapporteur and we hope that the Rapporteur will receive the full support of the Council.

Secondly, we wish to draw the attention of the Security Council to the conclusions of the World Bank *World Development Report 2011* on conflicts, security and development. In our view this report highlights several crucial aspects that must be part of discussions on justice and the rule of law. In particular it points to the links between conflict, impunity and the weakening of government structures, while also emphasising the clear links between the economy, development and the rule of law. The World Bank report states that justice and the rule of law are decisive factors in the prevention of conflicts and the consolidation of peace. Thus, an investment by the Council in the rule of law is not only a good investment in the maintenance of peace. It is also a good investment in development. We recommend that the conclusions of this report be carefully considered by the Council. It seems that much remains to be learned about exactly how the rule of law can and must be strengthened in post-conflict situations. By systematically including the strengthening of justice and the rule of law in its mission objectives, the Security Council could itself help to move this issue forward by insisting on regular evaluations of the progress achieved.

Thirdly, the Secretary-General's report calls on the UN to make its measures more predictable, more effective and more transparent. Recourse to international legal

mechanisms should not be exempted from these rules. This is why the Security Council needs to develop a predictable and coherent approach with regard to the situations which it refers to the prosecutor of the International Criminal Court. The ICC is a court of law. As the Court is a judicial body, the principles of equality and of objectivity play an even more important role than elsewhere. The implications for the action of the Security Council are basically twofold. Firstly, if the Security Council refers a case to the Court in a given situation, it must also do so when dealing with other comparable cases. Secondly, once it has referred a case, it must give, and continue to give, its full support, including its financial support, to the work of the Court, while respecting its independence and its decision-making autonomy.

Thank you.