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**Elections to fill vacancies in subsidiary organs and other
elections: election of 14 members of the Human Rights Council**

Note verbale dated 9 September 2013 from the Permanent Mission of South Africa to the United Nations addressed to the Secretariat

The Permanent Mission of the Republic of South Africa to the United Nations presents its compliments to the Secretariat and, pursuant to General Assembly resolution [60/251](#) of 15 March 2006, has the honour to inform the Secretariat that the Government of the Republic of South Africa has submitted its candidature to the Human Rights Council for the period from 2014 to 2016 at the elections to be held on 12 November 2013 during the sixty-eighth session of the General Assembly in New York.

South Africa's candidature in this regard has been endorsed by the Assembly of the African Union at its twenty-third ordinary session, held in Addis Ababa from 19 to 23 May 2013.

South Africa previously served as a founding member of the Human Rights Council for two consecutive terms from 2006 to 2010. During that period, South Africa played a leading role in all the institution-building processes of the Council, which marked a critical transition from the Commission on Human Rights to the current Human Rights Council.

The Permanent Mission of the Republic of South Africa to the United Nations has the honour to enclose herewith an aide-memoire outlining its voluntary commitments and pledges during its tenure with respect to the promotion, protection and fulfilment of all the universally recognized human rights and fundamental freedoms, in accordance with General Assembly resolution [60/251](#) (see annex).

The Permanent Mission of the Republic of South Africa would greatly appreciate the circulation of the present note verbale and its annex as a document of the sixty-eighth session of the General Assembly under item 115 (c) of the provisional agenda.

* [A/68/150](#).



Explanatory note to the aide-memoire

South Africa was greatly honoured to serve as a founding member of the Human Rights Council for two consecutive terms, from 2006 to 2010. As a procedural requirement for all Member States, South Africa submitted its aide-memoire outlining its voluntary commitments and pledges for the promotion, protection and fulfilment of all the universally recognized human rights and fundamental freedoms during its previous tenure as a member of the Human Rights Council. Admittedly, not all the commitments and pledges made in the original pledge have been fully met. This is attributable to various practical factors and impediments, at the national level occasioned primarily by the lack of resources for the effective implementation of programmes. Notwithstanding this, South Africa remains fully committed to fulfilling its obligations in accordance with the original commitments and pledge.

Additional to the above, the Government of South Africa recently accepted 152 recommendations emanating from its review in terms of the universal periodic review mechanism of the Human Rights Council. Subsequent to its review, the Government is at an advanced stage of finalizing its national programme for implementation and compliance with all its international human rights and humanitarian law obligations (treaty obligations, concluding observations of treaty bodies, recommendations of special procedures, etc.).

In the above context, the Government of South Africa has the honour to submit herewith an updated aide-memoire outlining its voluntary commitments and pledges for its candidature for membership of the United Nations Human Rights Council for the period 2014-2016.

**Annex to the note verbale dated 9 September 2013 from the
Permanent Mission of South Africa to the United Nations
addressed to the Secretariat**

**Aide-memoire in support of the candidature of South Africa
to the Human Rights Council, 2014-2016**

**Voluntary pledges and commitments pursuant to General Assembly
resolution [60/251](#)**

1. Following the first democratic elections in 1994, South Africa returned to the international community in 1995 to assume its rightful place among the community of nations. In 2006, South Africa demonstrated its commitment to the promotion, protection and fulfilment of all human rights and fundamental freedoms when it played an integral role in the transition from the erstwhile Commission on Human Rights to the Human Rights Council. South Africa was successfully elected to the Council as a founding member for two consecutive terms from 2006 to 2010. Since the end of its previous term of membership in the Council, South Africa has remained engaged with the international human rights agenda and has consistently played a key and active role in the development of norms and standards in international human rights and humanitarian law, focusing on the maximum protection for victims of human rights abuses and violations, including the concomitant adequate remedies and the combating of impunity. South Africa remains dedicated to fulfilling its commitments to advance the human rights and fundamental freedoms of all consistent with its constitutional provisions, which embrace broadly cherished values and principles of humanity.

South Africa's Constitution and Bill of Rights

2. The first democratic elections of 1994 placed South Africa firmly on the path of constitutional democracy. South Africa has, since then, held successive national and local government elections which have been declared free and fair by all international monitors. In April 2014, South Africans will elect their fifth democratic Government.

3. The Constitution of the Republic of South Africa Act No. 108 of 1996 is the supreme law of the land and all subsidiary legislation must be compatible with it. The South African Constitution guarantees all the universally recognized human rights and fundamental freedoms and in effect internalizes into the domestic jurisprudence of South Africa, the key tenets of the Universal Declaration of Human Rights adopted by the General Assembly in 1948.

4. Whereas the South African democracy is relatively young, the heroic struggle by South Africans for democracy, social justice and human rights and fundamental freedoms is very old and extends over a period of 350 years. During this period South Africans were subjected to successive repressive regimes ranging from conquests, colonialism and the worst form of institutionalized racism and racial discrimination, namely, apartheid.

5. The political vision of the democratic Government in South Africa is predicated on a fundamental principle which affirms the inextricability of economic,

social and cultural rights on the one hand and the civil and political rights on the other. Also consistent with the fundamental principles of international human rights law, South Africa strongly upholds the notion of respect for and promotion, protection and fulfilment of all human rights and fundamental freedoms. South Africa's human rights values and principles are founded on this notion. South Africa lodged its national action plan for the promotion, protection and fulfilment of human rights at the United Nations on 10 December 1998.

6. The decisions of the South African Constitutional Court have produced significant judgements and adjudications which underline the justiciability of economic, social and cultural rights. South African case law and jurisprudence are used at the international level to give impetus and momentum to the justiciability of such rights in international human rights law.

Institutions supporting South Africa's democracy

7. National institutions, established in terms of the constitutional provisions to support constitutional democracy in the country, are actively involved in the monitoring of South Africa's implementation of its national human rights legislation and the international human rights instruments to which it has acceded.

8. The South African Constitution of 1996 makes provision, through its chapter 9, for the establishment of the following state institutions to strengthen constitutional democracy in South Africa, which are independent and subject only to the Constitution and Parliament: the Public Protector; the South African Human Rights Commission; the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities; the Commission for Gender Equality; the Auditor-General; and the Electoral Commission.

Undertakings/pledges

9. It should be underlined that South Africa is, for obvious political and historical reasons, foremost among the countries within the United Nations that takes the international human rights agenda very seriously. As a member of the Human Rights Council, the Government of South Africa has undertaken and continues to abide by the following principles:

(a) Constantly and progressively receiving the visits of the special procedures and mechanisms of the Human Rights Council in keeping with their various mandates, consistent with the standing invitation to all thematic special procedures issued by the Cabinet on 22 October 2002:

(i) During the period of the erstwhile Commission on Human Rights and the early years of the Human Rights Council, the South African Government received visits from the following special procedures mandate holders: the Special Rapporteur on violence against women, its causes and consequences (1996); the Special Rapporteur on toxic wastes (1997); the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (1998); the Special Rapporteur on the sale of children, child prostitution and child pornography (2002); the Working Group on Arbitrary Detention (2005); the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (2005); the Special Rapporteur on adequate housing (2007); the Special Rapporteur on the

promotion and protection of human rights and fundamental freedoms while countering terrorism (2007); and the Special Rapporteur of the African Commission on Human and Peoples' Rights on Prisons and Conditions of Detention (2004);

(ii) Since its previous membership in the Council, the following mechanisms have visited South Africa without any restrictions or impediments: the Working Group on the Use of Mercenaries; the Special Rapporteur on the human rights of migrants (2011); and the Special Rapporteur on the right to food (2012);

(iii) Additional to the above, the Government of South Africa is currently processing requests for visits by: the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on violence against women, its causes and consequences;

(b) Respect for the integrity and dignity of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The Government of South Africa will work to ensure that the High Commissioner and her personnel are above the manipulation and influences of States;

(c) Continuing to contribute financially to OHCHR. Such contributions shall not be in any way earmarked, as the earmarking of funding to OHCHR has a limiting effect on its operations;

(d) Continuing to support important funds and programmes of OHCHR and other entities aimed at advancing the cause of human rights globally, such as the United Nations Voluntary Fund for Victims of Torture, the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, the recently established United Nations Democracy Fund and the United Nations Development Fund for Women;

(e) Continuing to fund projects related to the trust fund for the permanent memorial at the United Nations to the victims of slavery and the transatlantic slave trade, the Slave Route Project of the United Nations Educational, Scientific and Cultural Organization, the activities of the United Nations Children's Fund and the United Nations Population Fund and the thematic issue of human rights and extreme poverty;

(f) Continuing with its unwavering position of advocating for a balanced sustainable development programme within the human rights framework as underlined in the Vienna Declaration and Programme of Action ([A/CONF.157/24](#) (Part I), chap. III) and General Assembly resolution [48/141](#). In this regard, South Africa will be one of the chief proponents of a balanced agenda of the Human Rights Council which reflects, among others, the primacy of achieving the Millennium Development Goals by 2015 and realizing the right to development as well as according adequate attention to moral human rights issues such as the eradication of poverty and underdevelopment;

(g) Working to ensure that the future sessions of the Human Rights Council will focus on the imperative need to update the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights through an amendment protocol which will seek to place the right to development on a par with all other rights enumerated in those core instruments;

(h) Working to promote, within the Human Rights Council, a common understanding that human rights can only be practically enjoyed through an effective partnership with all the relevant stakeholders at all levels;

(i) Continuing to submit country reports to the United Nations human rights treaty monitoring bodies;

(j) Undertaking to submit, in the near future, a national action plan exclusively covering the area of racism, racial discrimination, xenophobia and related intolerance as required by the Durban Declaration and Programme of Action (A/67/325). It may be recalled that South Africa hosted the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban from 31 August to 8 September 2001.

International instruments to which South Africa is a State party

10. The Government of South Africa signed most of the international human rights instruments on 10 December 1995 and has since ratified and/or acceded to the International Covenant on Civil and Political Rights, the Rome Statute of the International Criminal Court, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

Regional instruments to which South Africa is a State party

11. South Africa is also a party to the following regional (African) human rights instruments: the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa; the African Charter on Human and Peoples' Rights; the African Charter on the Rights and Welfare of the Child; the Protocols to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and on the Rights of Women in Africa; and the African Charter on Democracy, Elections and Governance.

Role of South Africa in the evolution of norms and standards of international human rights and humanitarian law

12. Notwithstanding the fact that South Africa joined the United Nations in the recent past, it has made a significant contribution to the evolution of the norms and standards in the area of international human rights and humanitarian law. The following are some of the major contributions by South Africa:

(a) Chairing the Commission on Human Rights during its fifty-fourth session, in 1998 and 1999;

(b) Serving as coordinator of the African Group on human rights issues in 2002 and 2003;

(c) Service of South African experts on treaty monitoring bodies (Committee on the Elimination of Racial Discrimination, Committee on the Rights of the Child, Committee on the Elimination of Discrimination against Women, Human Rights Committee, African Commission on Human and Peoples' Rights);

(d) Service of South Africans as special procedures mandate holders (Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on violence against women, its causes and consequences, Working Group on Enforced or Involuntary Disappearances, Working Group on the Use of Mercenaries);

(e) South Africa currently chairs the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination and the open-ended intergovernmental working group of the Human Rights Council to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies;

(f) South Africa plays a key role in advocating the agenda for development through intergovernmental structures of the Non-Aligned Movement and the Group of 77 and China.

Instruments in the process of ratification

13. The Government of South Africa is in the process of ratifying the following important human rights instruments:

(a) The International Covenant on Economic, Social and Cultural Rights (ICESCR) (the Cabinet has already taken a decision);

(b) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;

(c) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(d) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(e) The International Convention on the Protection of All Persons from Enforced Disappearance;

(f) The Convention relating to the Status of Stateless Persons;

(g) The Convention on the Reduction of Statelessness.