

**Introductory Statement by the members of the
Commission of Inquiry on Lebanon established pursuant to Human Rights Council resolution S-2/1
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Mr. President,

1. The members of the Commission were honoured by the trust placed in them by the Human Rights Council for this serious task. We were fully conscious of the import of the Council's decision, only months after its creation, to mandate such a Commission, and thus the possible impact of our work for the future of the Council.

2. The Commission members are grateful for the valuable cooperation extended to them by the President of the Council, by the High Commissioner for Human Rights, by the Ambassador of Lebanon, the Government, the Parliamentary Commission on Human Rights and the people of Lebanon, as well as by other UN agencies and institutions. We regret the Government of Israel could not agree to cooperate with the Commission of Inquiry.

3. The Commission convened in Geneva on 11 September 2006, together with a Secretariat provided by the Office of the High Commissioner for Human Rights, and began its work, collecting information from every possible source, in particular the other agencies and institutions of the United Nations. From the outset it was clear that our task was that of a fact-finding Commission.

4. The Commission visited Lebanon twice, first for a period of two weeks, from 23 September through 7 October, and a second time from 17 through 21 October. It met with the President and Prime Minister of Lebanon, members of the government and other senior officials, members of parliament, local authorities, representatives of the private sector and hospitals, victims and witnesses, as well as representatives of NGOs, UN agencies, UN representatives, UNIFIL and UNTSO. The Commission visited the suburbs of South Beirut, the Bekaa Valley, Byblos, and spent four days in southern Lebanon, making an extensive tour of key sites.

5. The Report before you documents the Commission's findings in relation to the three distinct aspects of its mandate. It describes the terms of reference, methodology and approaches we adopted in interpreting our mandate, and the activities we carried out. It provides an overview of the 33-day long conflict and addresses its qualification and the law applicable. The report then concentrates on the various substantive issues the Commission considered it should address in detail, in accordance with its mandate, and provides an analysis of the impact of the conflict on life in Lebanon. Finally, the report presents the Commission's conclusions and recommendations.

I will briefly summarize the key elements:

6. The conflict had a devastating impact, notably in southern Lebanon. It exacted a heavy human toll, with 1,191 people reported dead, 4,409 injured, and 900,000 people fleeing their homes.

7. The Commission stresses that general respect for the principle of humanity and humanitarian considerations (Martens clause) was absent during the conflict.

8. The Commission highlights a significant pattern of excessive, indiscriminate and disproportionate use of force by the IDF against Lebanese civilians and civilian objects, failing to distinguish civilians from combatants and civilian objects from military targets. In particular, treating civilians as legitimate military targets because they were friends, family or sympathizers of Hezbollah goes beyond any legal interpretation of the principle of distinction and constitutes a clear violation of international humanitarian law and international human rights obligations.

9. The Commission concludes that the excessive, indiscriminate and disproportionate use of force by the IDF goes beyond reasonable arguments of military necessity and of proportionality, and clearly failed to distinguish between civilian and military targets, thus constituting a flagrant violation of IHL.

10. There is some evidence that Hezbollah used towns and villages as “shields” for their firings. At the same time, evidence points to such use when most of the civilian population had departed the area. The Commission found no evidence regarding the use of “human shields” by Hezbollah. However, there was evidence of Hezbollah using UNIFIL and Observer Group Lebanon as deliberate shields for the firing of their rockets.

11. With regard to precautions taken by Israel to minimize civilian casualties, the Commission came to the conclusion that the IDF did not give effective warning as required under IHL. Where warnings were given, they often did not allow sufficient time for the population to leave. In any event, civilians were at risk of being attacked if they did leave and did not have access to safe humanitarian exit corridors. The Commission addresses cases of attacks on convoys of civilians, where the IDF clearly must have known that these were not a legitimate military target. Often these warnings contributed to creating a climate of fear and panic among the civilian population.

12. The Commission documented various cases of direct attacks on medical and relief personnel. It received testimonies about the obstacles that such personnel had to face in reaching civilians in need of medical care and humanitarian assistance due to IDF-imposed constraints. The “concurrency system” adopted to satisfy IDF requirements was not adapted for an efficient humanitarian assistance.

13. One striking aspect of the conflict was the massive displacement of civilians which was the result, direct or indirect, of indiscriminate attacks on civilians and civilian property and infrastructure, as well as the climate of fear and panic. The Commission highlights a number of concerns related to the protection of displaced persons, as well as those who were unable to flee, notably the constant and pernicious threat posed by cluster munitions.

14. The Commission met a number of individuals who told of being detained, mistreated and/or abducted and transferred to Israel before being released.

15. The Commission notes with concern the impact of the conflict on vulnerable groups. It was estimated that one third of the casualties and deaths were children. Many of the survivors will have to live with the trauma produced by the conflict. Women and the elderly were also particularly affected, as well as migrant workers.

16. The Commission considered it important to analyze the attacks on UNIFIL and Observer Group Lebanon positions directly hit by IDF fire or the object of firing close to their positions, including the deaths of four unarmed UN observers at the Khiyam base. The Commission has found no justification for the 30 direct attacks by the IDF on UN positions.

17. During the conflict, major damage was inflicted on civilian infrastructure. 32 “vital points” were targeted by the IDF, 109 bridges and 137 roads damaged. The destruction of the land transportation network had a huge impact on humanitarian assistance and on the free movement of displaced civilians. Housing, water facilities, schools, medical facilities, mosques and churches, TV and radio transmission stations, historical, archaeological and cultural sites also suffered massive damage. The economic infrastructure was targeted by aerial bombardment and 127 factories were hit by IDF strikes. Agriculture and tourism were particularly hit.

18. The Commission considers that it will take years for Lebanon, with the help of the international community, to be able to rebuild all the damaged buildings and other facilities. In the meantime, solutions must be found for the civilian population to see their human rights, in particular their right to adequate housing and to health, respected.

19. Israel justified its attacks on civilian infrastructure by arguing that these were used by Hezbollah. While some infrastructure may have had “dual use”, this argument cannot be put forward for each individual object directly hit during this conflict.

20. The Commission considered the devastating effect the oil spill from the bombing of the Jiyeh power plant has had and will continue to have in the years to come. The Commission is convinced that this attack was premeditated. The spill affected two-thirds of Lebanon's coastline. IDF's failure to take

the necessary precautionary measures violated Israel's obligations to protect the natural environment and the right to health. In particular it caused significant damage to the Byblos archaeological site, included in the UNESCO World Heritage list.

21. None of the weapons known to have been used by the IDF are illegal per se under IHL. However, the way in which the weapons were used in some cases transgresses international law. The Commission addressed more specifically the use of cluster munitions, 90% of which were fired by IDF during the last 72 hours of the conflict. The Commission finds that their use was excessive and not justified by any reason of military necessity. In view of the foreseeable high dud rate, their use amounted to a de facto scattering of anti-personnel mines across wide tracts of Lebanese land, turning large areas of fertile agricultural land into "no go" areas for the civilian population and creating a major impediment to the return of IDPs and refugees. While the use of depleted uranium munitions could not be confirmed, the Commission received a number of reports regarding the use of phosphorous weapons.

22. The Commission has formed a clear view that, cumulatively, the deliberate and lethal attacks by the IDF on civilians and civilian objects amounted to collective punishment.

23. IDF actions such as deliberate attacks on civilians and civilian properties, attacks on Red Cross ambulances and other protected objects, and the indiscriminate use of cluster munitions could qualify as serious violations of the laws and customs of war and war crimes.

24. The Commission's report contains many indications of conduct that constitute serious violations of international humanitarian and human rights law for which individual responsibility can be imputed. These entail an obligation on the part of Israel to put to an end to serious breaches and to investigate and prosecute those responsible.

25. Israel infringed its international law, international humanitarian law and international human rights obligations. As a consequence, the question of its international responsibility arises.

26. It is important that continued attention be given and efforts be undertaken by the Human Rights Council to ensure justice for the victims and accountability for violations of international humanitarian and human rights law. If not, the culture of impunity will not be brought to an end.

27. In the light of the importance of its findings, the Commission makes a number of recommendations to the Human Rights Council, including that it should:

- Encourage and assist as far as it can the mobilization of the international community to support Lebanon in its efforts to rebuild the country after this devastating conflict;
- Call on the UN to make an evaluation of humanitarian assistance procedures;
- Promote efforts in relation to the human rights of child victims of the conflict;
- Promote and monitor respect for IHL by all parties;
- Call for further legal inquiry into the conduct of the IDF;
- Establish a follow-up procedure to monitor the human rights situation in Lebanon;
- Promote the inclusion of cluster munitions in the list of weapons banned under international law;
- Encourage research and follow-up on the effects of certain weapons, as well as an examination of the lawfulness of certain "new weapons";
- Call on Israel to hand over full details on the use and location of the cluster bombs dropped on Lebanon;
- Consider the creation of a commission competent to examine individual claims for reparations and compensation, as well as a commission of arbitration to examine issues of reparations;
- Support the work of the Lebanese Parliamentary Human Rights Committee in its in-depth investigations into killings during the conflict;
- Establish a follow-up procedure to monitor the post-conflict human rights situation in Lebanon.