

I. PREFACE

1. The present report details progress made in the implementation of Security Council resolution 1595. In that resolution, adopted on 7 April 2005, the Security Council, condemning the 14 February 2005 terrorist attack in Beirut, Lebanon, that killed former Prime Minister Rafik Hariri and twenty two others, reiterating its call for the strict respect of Lebanon's independence, sovereignty, territorial integrity and unity, and noting the conclusions reached by an earlier fact-finding mission (S/2005/203), decided to establish an international independent investigation Commission (hereafter called UNIIC or the Commission) to assist the Lebanese authorities in their investigation of all aspects of this terrorist act, in order to, among other things, help identify its perpetrators, sponsors, organizers and accomplices.

2. Prior to the adoption of resolution 1595, the Security Council had examined the report of the fact-finding mission to Lebanon on the same subject, submitted on 24 March 2005. The report reflected the outcome of a three-week enquiry, including a set of recommendations. The fact-finding mission was of the opinion that, since the credibility of the Lebanese authorities conducting the investigation was questioned, an international independent investigation should be set up to establish the truth. For this purpose, a team with executive authority needed to be created, covering all the fields of expertise needed for such an investigation. Notwithstanding the limited time and manpower the fact finding mission was granted, its conclusions and recommendations have been of considerable value to the Commission.

3. In a letter dated 29 March 2005 (S/2005/208), the Government of Lebanon expressed its approval of the Security Council's decision to establish an international commission of inquiry as well as its readiness to cooperate with the commission within the framework of Lebanese sovereignty and of its legal system.

4. Following the adoption of resolution 1595, intensive consultations took place regarding the establishment of UNIIC, its staffing and its logistical support. On 26 May 2005, a small advance team headed by Commissioner Detlev Mehlis arrived in Beirut. Mindful of the urgency of the matter, from a temporary headquarters, the team endeavored to create the support platform for its future work.

5. On 13 June 2005, after extensive discussions with the Lebanese judicial authorities, a Memorandum of Understanding (MOU) was signed between the Government of Lebanon and the Commission. The MOU detailed the modalities of cooperation between the two parties. Of particular importance to the Commission was the agreement that "the Government of Lebanon shall guarantee that the Commission is free from interference in the conduct of its investigation, and is provided with all necessary assistance to fulfill its mandate." The Commission was to determine its own procedures, collect evidence, both documentary and physical, meet and interview any civilians or/and officials it deemed necessary and have unrestricted access to all premises throughout the Lebanese territory, taking into account Lebanese law and judicial procedures. The

Lebanese authorities, for their part, were to assist the Commission in its work by providing all documentary and material evidence in their possession and by locating witnesses as requested by the Commission.

6. On 16 June 2005, the Secretary-General declared the Commission operational. On 17 June 2005, a press conference was held by the Commissioner to solicit publicly the assistance of the Lebanese authorities and to invite the Lebanese people to help the Commission by relaying any information which might be of interest to the investigation. Two hotlines were set up for this purpose, operated by the Lebanese authorities.

7. Shortly after the signing of the MOU, the Lebanese authorities transmitted to the Commission an 8000 page case docket containing all the information and evidence collected since 14 February 2005. Henceforth, the Commission conducted a thorough criminal and judicial investigation in close cooperation with the relevant Lebanese judicial (State General Prosecutor of the Republic of Lebanon) and police (Internal Security Forces) authorities, in order to avoid duplication, overlapping or contradictory measures.

8. The Commission established close links with the Lebanese security and judicial authorities. Regular discussions were held, particularly with the judicial authorities, to exchange updated information and files, share results and plan for the emerging phases of the investigation. Most of the witnesses interviewed by the Commission were summoned through the Lebanese judicial and security authorities. A case in point was the 30 August 2005 operation, in which Lebanese security forces and UNIIIC investigators closely coordinated the house raid and search of former senior security officials, prior to their transfer under close escort to the Commission's Main Operating Base (MOB) for interviewing.

9. The Lebanese authorities were of great assistance in establishing the MOB, as well as a Forward Operating Base (FOB) for the work of the Commission. Lebanese security teams (police and military) worked hand in hand with the Commission's security team to ensure the safety and security of the staff and premises.

10. Although resolution 1595 gave the Commission executive authority, the Commission to a large extent was supported by the Lebanese judicial and security authorities during search and raid operations. Moreover, although the Commission was qualified to make proposals to the Lebanese authorities regarding the arrest of persons allegedly involved in the assassination, it remained the autonomous decision of the Lebanese authorities to proceed with such actions.

11. From a two-track investigation, one Lebanese, one United Nations, has emerged a complementary and unified investigation carried forward in tandem by the Commission and the Lebanese authorities. The Lebanese authorities have steadily shown the capacity to take increasing responsibility in pursuing the case. This was demonstrated by the fact that they took the initiative of arresting suspects, organizing raids and searches.

12. Given a deep mistrust that has prevailed among the Lebanese people towards their security and judicial authorities, UNIIC has become a source of great expectation and hope for change, as well as an “interface” between the Lebanese people and their authorities. The two press conferences, particularly the first one, in addition to the interview of the first suspect, and the arrest of the former senior security officials at the Commission’s suggestion, had a catalytic effect. All of this was proof that in the eyes of the Commission, no one was above the law. This boosted Lebanese confidence. More witnesses came forward as the work of the Commission progressed. However, a number of people insisted that their identity not be disclosed to the Lebanese authorities.

13. There are other points worth highlighting. First, a number of witnesses were fearful that they would be harmed if it were known publicly that they were cooperating with the Commission. For this reason, the Commission took great care to ensure that witness interviews were conducted in a confidential manner. Because the Commission credits the concern that these individuals have for their safety, this report will not reveal the identity of those interviewed. Second, as is true in any investigation, witnesses often provide information beyond the scope of the investigation being conducted. The Commission has and will continue to forward to Lebanese authorities all information related to any criminal matter beyond the scope of the Commission’s investigation. Finally, the Commission interviewed people whose agenda was to point the Commission not in the direction to where the evidence would lead it, but in the direction the particular individual(s) wanted the Commission to go. The Commission dealt with these individuals and situations by remaining focused on its single mission – to follow the evidence wherever it might lead and not to follow the agenda of any particular person or entity.

14. Lebanese public opinion reflects a widespread view that, once UNIIC has delivered its report and closed down, Lebanon will be “left alone”. A prevailing fear is that, in the aftermath of the completion of UNIIC’s work, and sooner rather than later, the Syrian security and intelligence services will be back, orchestrating a “revenge campaign” in a society which remains “infiltrated” by pro-Syrian elements. Recent bombings, assassinations, and assassination attempts have been carried out with impunity; deliberate rumors and prophetic media analyses have sustained this state of mind and have deterred potential witnesses from contacting UNIIC.

15. Notwithstanding fears and reluctance to volunteer information as the Commission’s completion of its work seemed imminent (25 October), it is fair to say that the Lebanese people in general terms have been eager to come forward to help the Commission carry out its work.

16. The Commission could not operate in a media vacuum, particularly in Lebanon. It has been the Commission’s steadfast policy not to be drawn directly into a dialogue in the Lebanese media, avoiding any escalation and staying above any challenging or provocative statements. Both press conferences were aimed at countering such speculation and clarifying the status of the investigation. Inevitably, their effect was short-lived.

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17. To enhance transparency and broader cooperation, working with the judicial authorities entailed keeping the highest political authorities abreast of developments in the investigation, to the extent that such action did not call into question the independent nature of the Commission nor have a direct impact on the course of the investigation per se.

18. During the course of its investigation, the Commission had to face major logistical challenges. In this regard, the extensive support and assistance of sister organizations of the United Nations system and Interpol were invaluable in the daily work of the Commission.

19. The international community, for its part, was always prompt, when asked, in coming forward with expertise. This assistance greatly facilitated the work of the Commission and gave added value to its work. However, although resolution 1595 called on all States to provide the Commission with any relevant information pertaining to the Hariri case, it is to be regretted that no Member State relayed useable information to the Commission. A number of contacts led to mere exchanges of views and/or statements of facts. It is the Commission's reading of the resolution that the pertinent information envisaged by the Security Council would have included among other things, intelligence information that could have been submitted without any prior request from the Commission.

20. Despite the human, technical and financial capacities mobilized for the purpose of the investigation, and although considerable progress has been made and significant results achieved in the time allotted, the investigation of such a terrorist act with multi-faceted international dimensions and their ramifications normally needs months (if not years) to be completed so as to be able to establish firm ground for a potential trial of any accused individuals. It is of the utmost importance to continue to pursue the trail both within and outside Lebanon. The Commission's work is only part of a broader process. Even as this report is being written a significant arrest was made just a few days ago; witness interviews are continuing and complex evidence continues to be reviewed.

21. The Commission has established facts and identified suspects on the basis of evidence gathered or available to it. The Commission has checked and examined this evidence to the best of its knowledge. Until the investigation is completed, all new leads and evidence are fully analyzed, and an independent and impartial prosecution mechanism is set up, one cannot know the complete story of what happened, how it happened and who is responsible for the assassination of Rafik Hariri and the murder of 22 other innocent people. Therefore, the presumption of innocence stands.

22. In producing this report the Commission has endeavored to ensure that nothing it does or says undermines the ongoing criminal investigation and any trials that may follow. The Commission, at this juncture cannot disclose all the detailed elements and facts it has in its possession, beyond sharing them with the Lebanese authorities. The Commission has tried to set forth the facts and to present the analysis of those facts in a

way that most accurately explains what happened, how it happened and who is responsible.