

## STATUTE OF THE SPECIAL TRIBUNAL FOR LEBANON

Pursuant to the statement by the President of the Security Council (S/PRST/2005/4), issued following the bombing in Beirut on 14 February 2005 that killed the former Prime Minister of Lebanon, Rafik Hariri, and 22 others, the Secretary-General dispatched a fact-finding mission to Beirut to inquire into the causes, the circumstances and the consequences of this assassination. Upon the recommendation of the Fact-finding Mission, endorsed by the Secretary-General (S/2005/203), and consistent with the approval of the Lebanese Government (as expressed in a letter from the Chargé d'affaires a.i. of Lebanon dated 29 March 2005 (A/59/757 – S/2005/208)), the Security Council, by its resolution 1595 (2005) of 7 April 2005, decided to establish an international independent investigation commission, based in Lebanon, “to assist the Lebanese authorities in their investigation of all aspects of this terrorist act, including to help identify its perpetrators, sponsors, organizers and accomplices.” In the same resolution, the Security Council requested the Commission to complete its work within three months of the date on which it commenced its full operations and authorized the Secretary-General to extend the Commission’s operation for a further period not exceeding three months, if he deemed it necessary to enable the Commission to complete its investigation.

On 16 June 2005, the Secretary-General declared the United Nations International Independent Investigation Commission operational (S/2005/393). By letter of 9 September 2005, the Secretary-General informed the Security Council of his intention to extend the mandate of the Commission for 40 days, until 25 October 2005 (S/2005/587). By letter of 20 October 2005, the Secretary-General transmitted the report of the Commission to the Security Council and informed the Council of his intention to extend again the mandate of the Commission until 15 December 2005 (S/2005/662), as requested by the Lebanese Government (S/2005/651).

The Secretary-General submitted the second report of the Commission to the Security Council on 12 December 2005 (S/2005/775). On 13 December 2005, the Lebanese Government asked the Security Council to establish a tribunal of an international character to try all those who are found responsible for the terrorist act against Prime Minister Hariri and to expand the mandate of the Commission, or to create another commission, to investigate the assassination attempts and assassinations and explosions that took place in Lebanon as from 1 October 2004 (S/2005/783).

By resolution 1644 (2005) of 15 December 2005, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, as recommended by the Commission and requested by the Lebanese Government, to extend the mandate of the Commission until 15 June 2006 and to authorize it to provide technical assistance to the Lebanese authorities with regard to their investigations on the terrorist attack perpetrated in Lebanon since 1 October 2004. Since that resolution and up to 28 February 2009, the Commission continued its work, submitting periodic reports to the Security Council (see S/2006/161, S/2006/375, S/2006/760, S/2006/962, S/2007/150, S/2007/424, S/2007/684, S/2008/210 and S/2008/752). The Security Council, as requested by the Lebanese Government, extended the mandate of the Commission four times until 28 February 2009 (see resolutions 1686 (2006) of 15 June 2006, 1748 (2007) of 27 March 2007, 1815 (2008) of 2 June 2008 and 1852 (2008) of 16 December 2008).

In resolution 1644 (2005), the Security Council also requested the Secretary-General to help the Lebanese Government identify the nature and scope of the international assistance needed for those eventually charged with involvement in the terrorist attack to

be tried by a tribunal of an international character and to report accordingly. The Secretary-General responded to this request in a report dated 21 March 2005, in which he put forward the general principles of a tribunal of an international character, its personal and subject-matter jurisdiction, composition, location and the question of financing, on the basis of consultations between the United Nations Secretariat and the Lebanese authorities (S/2006/176).

By resolution 1664 (2006) of 29 March 2006, the Security Council welcomed the Secretary-General's report and requested him to negotiate an agreement with the Lebanese Government "aimed at establishing a tribunal of an international character based on the highest international standards of criminal justice, taking into account the recommendations of his report and the views that [had] been expressed by the Council members".

Following initial consultations with the Lebanese authorities in January and February 2006, negotiations on the legal framework for the establishment of the special tribunal for Lebanon proceeded at the expert level between members of the Office of Legal Affairs of the United Nations Secretariat and the Government of Lebanon, represented by Lebanese judges. The two delegations met between 31 May and 1 June 2006 at United Nations Headquarters and between 3 and 7 July 2006 in The Hague, the Netherlands. On 6 September 2006, the Legal Counsel of the United Nations traveled to Beirut and presented the initial draft agreement and statute to the Prime Minister and to the Minister of Justice of Lebanon for their consideration. On 15 November 2006, the Secretary-General presented a report to the Security Council, in which he outlined the main features of the statute of a Special Tribunal for Lebanon (S/2006/893). A draft agreement between the United Nations and the Lebanese Republic, including the draft statute of the Special Tribunal, was annexed to the report. On 20 November 2006 and 2 May 2007, the Legal Counsel briefed the Security Council on the Lebanese constitutional process for the conclusion of the agreement, noting that the establishment of the Tribunal through the Lebanese constitutional process was facing serious obstacles (see S/2006/893/Add.1 and Security Council resolution 1757 (2007) of 30 May 2007, respectively).

In a letter dated 14 May 2007, addressed to the Secretary-General, the Prime Minister of Lebanon confirmed that "(a) for all practical purposes the domestic route to ratification had reached a dead end, with no prospect for a meeting of parliament to complete formal ratification; and that (b) despite their stated support for the establishment of a Tribunal, the opposition ha[d] declined to discuss with Mr. Michel [The Legal Counsel] any reservations they may have on any of the agreed statutes." He therefore asked the Secretary-General, as a matter of urgency, to put before the Security Council its Government's request that the Special Tribunal be put into effect. He observed in this regard that "[a] binding decision regarding the Tribunal on the part of the Security Council will be fully consistent with the importance the United Nations has attached to this matter from the outset, when the investigation commission was established" and that "[f]urther delays in setting up the Tribunal would be most detrimental to Lebanon's stability, to the cause of justice, to the credibility of the United Nations itself and to peace and security in the region" (S/2007/281).

By its resolution 1757 (2007), the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that the provisions of the Agreement between the United Nations and the Lebanese Republic on the establishment of the Special Tribunal for Lebanon (annexed to the resolution), including the Statute of the Special Tribunal attached to it, shall enter into force on

10 June 2007, unless the Government of Lebanon had notified the United Nations in writing that the legal requirements for entry into force had been complied with before that date. The resolution also contained provisions on the seat of the Special Tribunal and its financing and requested the Secretary-General, in coordination, when appropriate, with the Government of Lebanon, to undertake the steps and measures necessary to establish the Special Tribunal in a timely manner and to report to the Council periodically on the implementation of the resolution.

In his first progress report submitted pursuant to resolution 1757 (2007), the Secretary-General informed the Security Council that, as no notification had been received from the Lebanese Government prior to 10 June 2007, the provision of the Agreement and the Statute had entered into force on that date (S/2007/525). He also reported on various matters relating to the implementation of the resolution, including arrangements on the location of the seat, the appointment of high officials of the Special Tribunal, staffing requirements, funding, etc.

On 14 December 2007, the Secretary-General informed the President of the Security Council of the agreement between the United Nations and the Government of Lebanon that the United Nations should pursue a bilateral headquarters agreement with the Government of the Netherlands, instead of tripartite headquarters agreement envisioned under article 8 of the annex of resolution 1757 (2007) (S/2007/737). On 21 December 2007, representatives of the United Nations and the Netherlands signed the Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the Special Tribunal for Lebanon.

On 12 March 2008, the Secretary-General submitted a second report pursuant to resolution 1757 (2007), describing the progress achieved on several issues and providing an outline of the next steps for the establishment of the Special Tribunal (S/2008/173). On 17 December 2008, the Secretary-General announced that the Special Tribunal would commence functioning on 1 March 2009 (see SG/SM/12015-L/3133).