

The Launch of the Special Tribunal for Lebanon

1 March 2009

Address by the Legal Counsel, Ms. Patricia O'Brien

Excellencies, Ladies and Gentlemen,

First, I wish say how honored I am to speak on behalf of the Secretary-General on the significant occasion of the launch of the Special Tribunal for Lebanon.

The establishment of the Special Tribunal is a landmark event in the international community's common goal of ending impunity in Lebanon for the terrible crimes that tragically took the life of the former Lebanese Prime Minister Rafiq Hariri and others in the attack of 14 February 2005, and related attacks.

[The STL: the specifics]

The Special Tribunal is a joint endeavor between the Government of Lebanon and the United Nations. My Office and that of my predecessor, Mr. Nicolas Michel, in consultation with the Government of Lebanon, have been working tirelessly over the last two years to establish a tribunal of international character based on the highest international standards of criminal justice, pursuant to Security Council resolution 1757 of 30 May 2007 and the Agreement between the Government of Lebanon and the United Nations annexed thereto.

The Special Tribunal for Lebanon is distinguished from other international criminal tribunals established or assisted by the United Nations in three respects: (a) in the conduct of the trial process, more elements of civil law are evident than of common law; (b) the International Independent Investigation Commission has constituted the core nascent Prosecutor's office; and c) the Defence Office is established as a separate organ of the Tribunal.

The civil law elements include the application of Lebanese Criminal Procedure principles, the enhanced powers of the Tribunal to take measures to ensure expeditious hearings and to prevent any action that may cause unreasonable delay, and also include the possibility of trials in absentia.

The need for a Defence Office to protect the rights of suspects and accused has evolved in the practice of United Nations-based tribunals. The Statute of the Special Tribunal institutionalizes, for the first time, the Defence Office. This reflects the importance of ensuring “equality of arms” where the Prosecutor’s Office is an organ of the tribunal and is financed in its entirety through the budget of the Tribunal. The Head of the Defence Office is appointed by the Secretary-General. However, in carrying out its functions, the Office is independent.

Within its jurisdiction, the Special Tribunal will have primacy over the national courts of Lebanon. The relevant Lebanese criminal law and international criminal law standards will apply to all indictees regardless of their nationality.

[Independence of the Tribunal]

The Tribunal will be an independent and impartial institution. The main goal of the Tribunal is to try those responsible for the attacks because the international community believes that justice is needed for lasting peace.

Several safeguards to guarantee the independence and impartiality of this institution are included in the Tribunal’s Statute which provides, among other safeguards, for a transparent and thorough process for the appointment of the Judges and the Prosecutor and for protection of the rights of the accused. Furthermore, the Chambers of the Tribunal are composed of both Lebanese and international Judges. An international Prosecutor and a Lebanese Deputy-Prosecutor will be heading the investigations and the prosecutions.

The Tribunal is to be funded by voluntary contributions by Member States of the United Nations, of which 49% shall be provided by Lebanon. A Management Committee composed of interested states and main donors has been established to assist the Registrar in obtaining adequate funding and to provide the Tribunal with policy direction and advice on all administrative aspects of its operations, including questions of efficiency. The Management Committee will not have any judicial competence or any role in the judicial activities of the Tribunal.

As the Tribunal is reliant upon voluntary contributions, it is important that the international community continues to finance its work and to advocate support for the Tribunal. I wish to thank Member States for the assistance they have provided to date, which has allowed us to meet the budgetary requirements for the Tribunal's establishment and its first year of operations.

[Important achievements up to now]

Many of you have followed closely the milestone accomplishments that have brought us to this stage of the commencement of operations of the Special Tribunal. Allow me to recall some of them.

The seat of the Tribunal in the Netherlands was determined having due regard to considerations of justice and fairness as well as security and administrative efficiency. The Netherlands, as the host country to several international courts and tribunals plays a unique role in the development of international justice and the rule of law. A Liaison Office of the Tribunal is also in the process of being established in Lebanon.

The appointment of the Judges, Prosecutor, Deputy Prosecutor, Registrar and the selection of the Head of the Defence Office has also been completed. As regards the Judges, four Lebanese Judges and seven international Judges have been appointed by the Secretary-General to serve in the Trial and Appeals Chambers, as Pre-Trial Judge and alternate Judges.

The Pre-Trial Judge and the President will be the first judges to take up their duties upon being sworn in. The Judges of the Trial and Appeals Chambers will take office on a date to be determined by the Secretary-General in consultation with the President of the Special Tribunal, depending on the trial activity. Pending such determination, the Judges shall be convened on an *ad hoc basis* in order to draft the Rules of Procedure and Evidence of the Special Tribunal and to address other organizational matters.

As you will recall, the Security Council, by resolution 1595 (2005), created the Investigation Commission with a full mandate to investigate the circumstances of former Prime Minister Rafiq Hariri's killing and related attacks. In working towards the establishment of the Special Tribunal, appropriate arrangements had to be made to ensure a coordinated transition from the activities of the Commission to the Office of the Prosecutor of the Special Tribunal. This includes the necessary logistical arrangements for the transfer of evidentiary material and the selection and relocation of the Commission's staff to The Hague.

[Outreach]

A key element for the success of the Special Tribunal is not only that justice be done, but also that "justice must be seen to be done". As the Special Tribunal's seat is located outside Lebanon, the development of an effective and comprehensive outreach programme bringing the activities of the Special Tribunal closer to the population of Lebanon and the wider region is a priority.

The creation of the Special Tribunal has already attracted significant interest in both Lebanon and the international community. This interest will only increase now that the Tribunal is operational. The Lebanese people will be kept informed, as appropriate, and will have access to accurate information on the role, activities and proceedings before the Special Tribunal. It is critical that the people of Lebanon see that this Tribunal is an

independent and impartial institution. Its establishment constitutes a strong signal that such assassinations and other terrorist acts will not be tolerated and that impunity cannot be allowed to persist.

[Conclusion]

Finally, I wish to emphasize that the United Nations will continue its endeavors to ensure that the Tribunal will be able to achieve its mandate in the most effective manner. The cooperation of all Member States will remain crucial in this regard.

The Tribunal will exert every effort to bring those responsible for the crimes under its jurisdiction to justice, in accordance with international standards of justice, fairness and due process of law. I am fully confident that the Judges of the Tribunal, the Prosecutor, the Head of the Defence Office, the Registrar, and all those who will be working for the Special Tribunal will measure up to this critical task.

Thank you for your attention.