

REPORT

of the
**Commission of Inquiry
on Lebanon**

pursuant to Human Rights Council Resolution S-2/1

ADVANCED UNEDITED VERSION

Geneva, 10 November 2006

Executive Summary

1. On 11 August 2006, at its second special session, convened to address the ongoing conflict in Lebanon, the Human Rights Council adopted resolution S-2/1, entitled “*The grave situation of human rights in Lebanon caused by Israeli military operations*”, in which it decided to “urgently establish and immediately dispatch a high-level commission of inquiry”. The mandate of the Commission, according to paragraph 7 of resolution S-2/1, is: (a) *to investigate the systematic targeting and killings of civilians by Israel in Lebanon; (b) to examine the types of weapons used by Israel and their conformity with international law; and (c) to assess the extent and deadly impact of Israeli attacks on human life, property, critical infrastructure and the environment.*”
2. On 1 September 2006, the President of the Human Rights Council, Ambassador Luis Alfonso de Alba, announced the nomination of Ambassador João Clemente Baena Soares, Judge Mohamed Chande Othman, and Professor Stelios Perrakis as members of the Commission of Inquiry. The Commission assembled in Geneva, together with its Secretariat, and began its work on 11 September. It agreed to report to the Council within two months.
3. In Geneva, the Commission held meetings with the President of the Human Rights Council, the UN High Commissioner for Human Rights, the Permanent Missions of Lebanon and Israel, UN agencies and NGOs. The Commission visited Lebanon from 23 September through 7 October, and 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 made an extended tour of southern Lebanon.
4. The report describes the terms of reference, methodology, approaches and activities of the Commission. It provides an overview of the 33-day long conflict with an historical background and addresses the qualification of and the law applicable to the conflict. The report then concentrates on the various substantive issues the Commission considered it should address in detail in accordance with its mandate. The report further provides an analysis on the various aspects of the impact of the conflict on life in Lebanon. Finally, the report presents the conclusions of the Commission and its recommendations.
5. It is not for the Commission to comment on the political-legal context of the adoption of resolution S-2/1, nor to make judgment on the content of its mandate. It is clear that the mandate of the Commission has limits *ratione personae* (actions by the Israeli military) and *ratione loci* (on Lebanese territory) and does not allow for a full examination of all of the aspects of the conflict, nor does it permit consideration of the conduct of all parties. The Commission is bound by the mandate given to it by the Human Rights Council (HRC) which it interprets broadly, in the light of the principles and rules of international law, international humanitarian law and international human

rights law, and having in mind the need for the respect for human life and dignity in the face of the complex challenges posed in the context of armed conflict.

6. A fundamental point in relation to the conflict and the Commission's mandate as defined by the HRC is the conduct of Hezbollah. The Commission considers that any independent, impartial and objective investigation into a particular conduct during the course of hostilities must of necessity be with reference to all the belligerents involved. Thus an inquiry into the conformity with international humanitarian law of the specific acts of the IDF in Lebanon requires that account also be taken of the conduct of the opponent.

7. That said, taking into consideration the express limitations of its mandate, the Commission is not entitled, even if it had wished, to construe it as equally authorizing the investigation of the actions by Hezbollah in Israel. To do so would exceed the Commission's interpretative function and would be to usurp the Council's powers.

8. The hostilities that took place from 12 July to 14 August constitute an international armed conflict to which conventional and customary IHL and IHRL are applicable.

9. In analysing the characteristics of the conflict, the Commission highlights its *sui generis* nature in that active hostilities took place only between Israel and Hezbollah fighters. While the Government of Lebanon claimed that it was not responsible for and had no prior knowledge of the operation carried out by Hezbollah inside Israeli territory on 12 July 2006, the Government of Israel has officially stated that responsibility lies with the Government of Lebanon. It is the view of the Commission that hostilities were in fact and in the main only between the IDF and Hezbollah. The fact that the Lebanese Armed Forces did not take an active part in them neither denies the character of the conflict as a legally cognizable international armed conflict, nor does it negate that Israel, Lebanon and Hezbollah were parties to it.

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

Findings

11. The 33-day conflict in Lebanon had a devastating impact, notably in southern Lebanon. It exacted a heavy human toll. According to Lebanese authorities, the conflict resulted in 1,191 deaths and 4,409 injured. More than 900,000 people fled their homes.

12. The hostilities that took place from 12 July to 14 August 2006 constitute an international armed conflict to which conventional and customary IHL and human rights law are applicable.

13. 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.

The Commission was able to verify for itself the circumstances of a number of incidents which occurred during the conflict.

14. 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, and 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, such as those from Marwaheen and Marjayoun, 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.

15. In the same vein, the Commission documented various cases of direct attacks on medical and relief personnel. The Commission received various testimonies regarding the obstacles and difficulties the medical and humanitarian relief personnel had to face in reaching civilians in need of medical care and humanitarian assistance due to IDF-imposed constraints. The concurrence system adopted to satisfy IDF requirements was not adapted for an efficient humanitarian assistance. On a number of occasions the IDF conducted hostilities either directly against relief assistance movements or indirectly.

16. One of the most striking aspects of the conflict was the massive displacement of civilians. According to Government estimates, nearly one quarter of the population was displaced between 12 July and 14 August, with approximately 735,000 seeking shelter within Lebanon and 230,000 abroad. Much of the displacement in Lebanon was the result, either direct or indirect, of indiscriminate attacks on civilians and civilian property and infrastructure, as well as the climate of fear and panic among the civilian population caused by the warnings, threats and attacks by the IDF. 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.

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

18. 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.

19. The Commission considered it important to analyze the attacks on UNIFIL and Observer Group Lebanon (OGL) positions which were either directly hit by IDF fire or were 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, including those which resulted in deaths and injury to protected UN personnel.

20. During the conflict, major damage was inflicted on civilian infrastructure, including critical infrastructure. According to the Lebanese Government, 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, numerous 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. In addition, agriculture and tourism were particularly hit. 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 the highest attainable standard of health, respected.

21. Israel justified its attacks on the civilian infrastructure by arguing its hypothetical use by Hezbollah. The Commission appreciates that some infrastructure may have had “dual use” but this argument cannot be put forward for each individual object directly hit during this conflict. By using this argument, the IDF effectively changed the status of all civilian objects by alleging that they might be used by Hezbollah. Further, the Commission is convinced that damage inflicted on some infrastructure was done for the sake of destruction.

22. From the first days of the armed conflict until early September 2006, Israel imposed a sea and air blockade on Lebanon which had an impact on the humanitarian situation, the civilian population, the environment, and on the economy as a whole.

23. 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.

24. 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 the 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. The Commission finds that these weapons were used deliberately to turn large areas of fertile agricultural land into “no go” areas for the civilian population. Furthermore, 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. The presence of unexploded ordnance continues to act as a major impediment to the return of IDPs and refugees, as

well as threatening the lives and livelihoods of those who have chosen to return. While the use of depleted uranium munitions could not be confirmed, the Commission received a number of reports regarding the use of phosphorous weapons.

25. The Commission considers 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. 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.

26. 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 posts as deliberate shields for the firing of their rockets.

27. The Commission was able to verify that the IDF carried out attacks on a number of medical facilities in Lebanon, despite their protected character. The Commission also noted that the Red Cross Movement was not spared during the conflict, as indicated in several incidents reported by the ICRC and the Lebanese Red Cross (LRC). In some cases, medical personnel were the victim of collateral damage.

28. The widespread and systematic nature of messages relayed and communicated to the Lebanese, the timing and manner in which they were relayed, and the inflammatory language used, bear out that they were intended to incite or otherwise provoke inter-confessional violence and civil disorder in Lebanon. Given the particular political context in Lebanon, these acts amount to undue interference in Lebanese internal affairs.

29. The Commission considers that the conflict gives rise to two pertinent issues. Namely, (a) the international responsibility of Israel under international law, IHL and human rights and (b) the accountability of individuals, for serious IHL and human rights violations.

30. The Commission examined during its inquiry different individual incidents and situations of a general character, taking into account the post-conflict situation in Lebanon. Thus the Commission classifies its legal evaluation on two levels:

(1) in some cases where the attacks against civilians or their property were direct and deliberate, where abductions, transfers and detentions in Israel of civilians occurred, it can be considered that there is a violation of the right to life, the right to property, the interdiction of inhuman, humiliating and degrading treatment. Moreover, these deliberate strikes against civilians amount in fact to summary and extra-judicial executions of persons (suspected or assimilated to terrorists-enemies). It not only violated the fundamental rights of these persons (right to life, right to personal security, fair trial, non-discrimination) but also constitutes a very negative State practice, extremely disturbing

for contemporary legal culture. The particular attention of the international community is drawn to this.

(2) In a general framework, the issues of violation of the right to life, right to education, right to property, right to a healthy environment, right to voluntarily return home in safety (without limitations), right of everyone to an adequate standard of living for himself and her family, including adequate food, clothing and housing and the right of everyone to the enjoyment of just and favourable conditions of work are open.

Recommendations

The Commission submits the following recommendations to the Human Rights Council:

Humanitarian assistance and reconstruction

(1) Considering the consequences of the conflict in Lebanon and its effects on the Lebanese population, notably in the South, the HRC should promote initiatives and call for the mobilization of the international community to assist Lebanon and its people. The HRC should consider the possibility of encouraging organs, agencies and institutions within the UN system to work together in a comprehensive and coordinated programme of cooperation with the Lebanese Government aimed at the improvement of living conditions, particularly in Southern Lebanon, so that the civilian population can fully enjoy their human rights.

(2) The HRC should encourage the United Nations system (UNESCO, UNEP, UNHCR, UNICEF, WHO), and the Bretton Woods Institutions in their multi sectorial programmes and projects to promote and undertake precise and concrete actions, including with professional and technical expertise in the necessary reconstruction efforts (buildings, bridges, cleaning of areas affected by clusters, environment, archaeological sites (Byblos)).

(3) The HRC should call upon the UN Secretary-General to undertake an evaluation of humanitarian assistance provided to civilians by the United Nations System and other humanitarian and relief organizations in Lebanon. The Cargo Movement Notification Procedure and the notification or “concurrence procedure” set up during the conflict with a view to enhancing the right to immediate and unlimited access to humanitarian assistance for civilians in armed conflict could be part of this assessment.

(4) The HRC should call for the mobilization of professional and technical expertise necessary to cope with the ecological disaster on maritime environment on the Lebanese coast and beyond. In this context, it should be useful to engage the Barcelona Convention system covering the Mediterranean Sea and Regional Marine Pollution Emergency Response Centre for the Mediterranean based in Malta.

(5) The HRC should establish a follow-up procedure on the measures to be taken, notably for the recovery of Lebanon and above all the reparations of victims among the Lebanese civilian population.

Vulnerable groups (children)

(6) The HRC should give careful attention to the fate of child victims of the armed conflict. National institutions and specialised international agencies should work together to effectively assist the Lebanese government in the implementation of health programmes, rehabilitation projects and mental health care initiatives for children.

Respect for IHL

(7) The HRC should promote and monitor the obligation to “respect and ensure respect” of IHL by all parties in a conflict, including non-state actors.

(8) In order to establish responsibility for human rights violations, some aspects of the conduct of IDF need more legal inquiry, with full cooperation from both victims and the perpetrator.

(9) The HRC should establish a follow-up procedure to monitor the human rights situation in Lebanon, taking into account the conclusions and recommendations of this report.

Weapons

(10) The HRC should take the initiative to promote urgent action to include cluster munitions to the list of weapons banned under international law. The Council should request the relevant international bodies, including the Meetings of States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, to address the legality of some weapons particularly indiscriminate to the civilian population, including weapons which use depleted uranium.

(11) The scientific research currently under way in Lebanon and abroad on the effects of certain weapons used during the conflict needs to be continued. The results will be decisive in the examination of the lawfulness of certain “new weapons” in the light of IHL. The HRC should encourage these efforts and follow-up developments.

(12) The HRC should strongly call upon Israel to immediately hand over to UNIFIL and the Government of Lebanon full and detailed information on the use, and of all coordinates of cluster munitions launched in Lebanon to enable timely clearance of unexploded ordnance (UXO), avert continued death toll and injury, enable the return of displaced persons to their communities and resumption of normal social and economic life.

Redress violations of IHL and human rights

(13) It is important to address and promote legal means for individuals to redress violations of human rights and humanitarian law during conflicts. This is an urgent issue for particular regions and countries not covered by existing human rights mechanisms. Once more, the issue of individual complaints concerning violations of IHL arises.

(14) The Commission draws the attention of the HRC to the serious lacunae in international law, international humanitarian and human rights law as regards the possibility of victims to seek and obtain reparations and compensation. In this regard, the Commission proposes that the HRC could explore possibilities aimed at the creation of a commission competent to examine individual claims.

(15) A commission of arbitration could be envisaged between the interested parties to examine issues of reparations.

(16) The Commission calls upon the HRC to follow closely, and upon the Office of the High Commissioner for Human Rights to accord whatever assistance it can to the work of the Lebanese Parliamentary Human Rights Committee for it to complete its comprehensive investigation into reported killings and other alleged serious IHL and HR violations.

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A. Introduction

I. The Commission of Inquiry

a. Establishment and role

31. On 11 August 2006, the Human Rights Council convened a second special session, in order to address the ongoing conflict in Lebanon. At this session the Council adopted resolution S-2/1¹, entitled “*The grave situation of human rights in Lebanon caused by Israeli military operations*”, in which it decided to “urgently establish and immediately dispatch a high-level commission of inquiry”.

32. The mandate of the Commission, according to paragraph 7 of resolution S-2/1, is:

“(a) to investigate the systematic targeting and killings of civilians by Israel in Lebanon; (b) to examine the types of weapons used by Israel and their conformity with international law; and (c) to assess the extent and deadly impact of Israeli attacks on human life, property, critical infrastructure and the environment.”

33. The resolution also urged all concerned parties to respect the rules of international humanitarian law, to refrain from violence against the civilian population, and to treat detained combatants and civilians in accordance with the Geneva Conventions of 12 August 1949.

34. On 1 September 2006, the President of the Human Rights Council, Ambassador Luis Alfonso de Alba, announced the nomination of Ambassador João Clemente Baena Soares (from Brazil), Judge Mohamed Chande Othman (from Tanzania), and Professor Stelios Perrakis (from Greece) as members of the Commission of Inquiry. The members were appointed on the basis of their expertise in international humanitarian law and human rights law.

35. In resolution S-2/1 the Council also requested the Secretary-General and the United Nations High Commissioner for Human Rights to provide all administrative, technical and logistical assistance required to enable the Commission of Inquiry to fulfill its mandate promptly and efficiently. By 11 September 2006, the Office of the High Commissioner for Human Rights (OHCHR) completed the establishment of a Secretariat for the Commission headed by a Secretary and including three human rights officers and a military analyst, as well as security, logistical and administrative staff, with offices in Geneva and Beirut.

36. The Commission assembled in Geneva, together with its Secretariat, and began its work on 11 September. It adopted terms of reference on 19 September 2006 and agreed to report to the Council within two months of the commencement of its work.

37. The Commission’s terms of reference² specified, *inter alia*, that the Commission should enjoy the full cooperation of all States Members of the United Nations, and that it may also seek the cooperation of international institutions and other relevant actors, as appropriate. Further, in order to

¹ Annex I.

² Annex II.

enable the Commission to discharge its mandate, the following facilities should in particular be provided:

- a. Freedom of movement throughout the territory of Lebanon, including facilities of transport.
 - b. Unhindered access to all places and establishments, and freedom to meet and interview representatives of Governmental and local authorities, military authorities, community leaders, non-governmental organizations and other institutions, and any such person whose testimony is considered necessary for the fulfilment of its mandate.
 - c. Unhindered access for individuals and organizations wishing to meet with the Commission.
 - d. Free access to all sources of information, including documentary material and physical evidence.
 - e. Security arrangements for the personnel and documents of the Commission to be provided in accordance with the United Nations Host Country Agreements.
 - f. Protection of victims and witnesses and all those who are in contact with the Commission in connection with the inquiry; no such person shall, as a result of such contact, suffer harassment, threats, acts of intimidation, ill-treatment or reprisals.
8. The Commission agreed to carry out its mandate in confidentiality and, in particular, to limit its contacts with the media to factual information about its visits to Lebanon.
9. On 22 September 2006, the Commission provided a progress report on its activities to the President of the Human Rights Council.

b. Mandate and scope

10. It is not for the Commission to comment on the political-legal context of the adoption of resolution S-2/1, nor to make judgment on the content of its mandate. It is clear that the mandate of the Commission has limits *ratione personae* (actions by the Israeli military) and *ratione loci* (on Lebanese territory) and does not allow for a full examination of *all* of the aspects of the conflict, nor does it permit consideration of the conduct of *all* parties. The Commission is bound by the mandate given to it by the Human Rights Council (HRC) which it interprets broadly, in the light of the principles and rules of international law, international humanitarian law and international human rights law, and having in mind the need for the respect for human life and dignity in the face of the complex challenges posed in the context of armed conflict.

11. Paragraph 7 of resolution S-2/1 assigns to the Commission three key responsibilities. The first task requires the Commission to “investigate the systematic targeting and killings of civilians by Israel in Lebanon”. While this first task refers explicitly to the actions “by Israel in Lebanon”, the responsibility of the Commission to investigate nonetheless requires a consideration of *all factors* relevant to *the actions* of Israel in relation to the conflict in Lebanon.

12. The second task requires the Commission to “examine the types of weapons used by Israel and their conformity with international law”. This requires the Commission to evaluate the types of weapons, as well as the manner in which they were used and their impact, through the perspective of international law.

13. The third task is to “assess the extent and deadly impact of Israeli attacks on human life, property, critical infrastructure and the environment.” This task requires the Commission to consider the immediate as well as mid- and longer-term social, cultural, physical, economic and environmental impact of the conflict in Lebanon.

14. A fundamental point in relation to the conflict and the Commission’s mandate as defined by the HRC is the conduct of Hezbollah. The Commission considers that any independent, impartial and objective investigation into a particular conduct during the course of hostilities must of necessity be with reference to all the belligerents involved. Thus an inquiry into the conformity with international humanitarian law of the specific acts of the IDF in Lebanon requires that account also be taken of the conduct of the opponent.

15. That said, taking into consideration the express limitations of its mandate, the Commission is not entitled, even if it had wished, to construe it as equally authorizing the investigation of the actions *by* Hezbollah *in* Israel. To do so would exceed the Commission’s interpretative function and would be to usurp the Council’s powers.

16. In carrying out all three of its tasks the Commission gave due consideration to relevant activities within the United Nations system, including the work of UN human rights special procedures, as well as ongoing initiatives of the UN agencies.

17. Paragraph 7 of resolution S-2/1 is silent with regard to the period of time to be addressed by the Commission. Taking into account the three tasks assigned to it the Commission considered all information relevant to the conflict in Lebanon, focusing in particular on the impact of events in the period from 12 July to 14 August 2006, as well as the subsequent period of occupation.

c. Methodology

18. The Commission is an independent, impartial fact-finding body. It based its work on investigation, first-hand testimonies, evidence and other information it received during the course of its inquiry, including through meetings in Geneva and visits to Lebanon. During its first weeks of work, the Commission met with the President of the Human Rights Council and the High Commissioner for Human Rights. The Commission sent letters requesting information relevant to its mandate to intergovernmental organizations and non-governmental organizations. The Commission also met with officials of relevant UN agencies, including UNESCO, WHO, UNHCR, UNEP, OCHA, UNMAS, as well as the UN Humanitarian Coordinator in Lebanon (via teleconference), three of the Special Rapporteurs who had been on recent mission to Lebanon and Israel, the International Committee of the Red Cross (ICRC) and non-governmental organizations.

19. The Commission sought the cooperation of the Governments of Lebanon and Israel. Lebanon fully cooperated. Israel refused cooperation.

20. Considering the call from the Human Rights Council for the Commission to accomplish its mandate promptly and with necessary dispatch, the time constraint, the intensity and geographical reach of hostilities, the displacement of the affected civilian population, and the preliminary nature of technical, financial, scientific and related studies currently being conducted by the Lebanese

Government and other national institutions, the Commission's report cannot constitute a full and final accounting of all alleged violations. Accordingly, the Commission primarily oriented its inquiry on what within the terms of its mandate representatively stand out and emerge as serious international humanitarian law and human rights violations.

21. The Commission visited Lebanon from 23 September through 7 October, and 17 through 21 October. It met with President Lahoud and Prime Minister Siniora, and held separate meetings with the Minister of Environment; Minister of Electricity and Water Resources; Minister of Culture; Minister of Agriculture; Minister of Social Affairs; Minister of Health; Minister of Foreign Affairs; Minister of Public Works and Transportation; Acting Minister of Interior; Minister of Justice; Minister of Economy and Commerce; Minister of Labour; and the Minister for the Displaced, as well as with Members of Parliament, members of the Parliamentary Human Rights Committee, the Bar Association, the Council of the South, the Council for Scientific Research and the Council for Reconstruction and Development. The Commission held meetings with high rank officials from the Lebanese Armed Forces, as well as municipal authorities, the Prosecutor-General, the Director of the National De-Mining Office, the Director of Civil Defence, the Military Prosecutor, the Director of the Port of Beirut, the Mayor of Beirut and the Director-General of Antiquities.

22. The Commission also met with the Personal Representative of the UN Secretary-General, the UN Resident Coordinator and representatives of United Nations agencies in Lebanon, as well as the Commander and other staff of UNIFIL and UNTSO. The Commission met with representatives of OHCHR, UNESCO, UNHCR, UNICEF, WFP, UNDP the ICRC and of the Lebanese Red Cross (LRC), as well as academic experts in humanitarian and human rights law and social sciences. The Commission held meetings in Beirut and in Tyre, with representatives of local and international non-governmental organizations, hospital authorities, and local and international press with testimony and materials to offer.

23. In Lebanon, basing its work on the specific incidents and locations mentioned in resolution S-2/1, as well as the advice it received from various sources, the Commission visited the suburbs of *South Beirut*, the *Bekaa Valley*, *Byblos*, and in particular *southern Lebanon*, gathering testimonies, evidence and other information directly from municipalities, communities and individuals. In Beirut, the Commission visited the *port of Dalieh Fisherman's Wharf*, and in *South Beirut*, the municipalities of *Ghobeiri*, *Haret Hreik* and *Chiyah*. In the *Bekaa Valley*, the Commission visited *Ali al Nahri* and *Baalbeck*. In southern Lebanon, the Commission visited many villages and towns, in particular between the Litani River and the Blue Line, among those *Aita Ech Chaab*, *Aitarun*, *Bent J'beil*, *Chamaa*, *Chihine*, *Debel*, *El Duweir*, *Qauzah*, *Ghazieh*, *Houla*, *Khiyam*, *Marjayoun*, *Marwaheen*, *Naqoura*, *Qana*, *Saida*, *Siddiqine*, *Taibe*, *Tibnin*, *Tyre*, *Yatar* and *Zabqine*. The Commission also traveled to *Byblos* to address issues related to damage caused by the conflict to the environment and cultural property at the archaeological site.

24. The findings of the Commission are based on investigation and all information available to it, including first-hand accounts. In particular, the Commission considered all information and documentation from Ministries of the Government of Lebanon, members of the Lebanese Parliament, the Lebanese Armed Forces, the Bar Association, as well as representatives of Hezbollah. The Commission considered publicly available written material from the Government of Israel and the Israeli Defense Forces (IDF) relevant to the conflict. The Commission also considered

all information shared by UNIFIL and UNTSO, United Nations agencies and programmes, and international and national non-governmental organizations.

25. The Commission is thankful to the Government of Lebanon for its cooperation, as well as to Members of the Lebanese Parliament, the Parliamentary Human Rights Committee and its rapporteur for sharing information. The Commission would like to thank, in particular, the people of Lebanon and regional and local authorities for sharing their testimonies and experiences in relation to the conflict. The Commission is grateful for the assistance and support it received from the OHCHR and appreciates the cooperation it received from other United Nations agencies and representatives, intergovernmental organizations and non-governmental organizations throughout the course of its mandate

II. The Conflict as addressed by the Commission's mandate

a. Lebanon: Profile and Background

26. Lebanon, Mediterranean and mountainous country of 10,452 km² and a population estimated at 3.8 million, is composed of different groups. No official census has been carried out since 1932. It is estimated that about 40% are Christians, 35% are Shiite Muslims, 23% are Sunni Muslims, 5% are Druze.³

27. About 406,342 Palestinian refugees have registered in Lebanon with the United Nations Relief and Works Agency (UNRWA).

28. Since the end of World War II, Lebanon has experienced international conflict, civil war, security zone and occupation. Lebanon took part in the 1948 Arab-Israeli war providing logistical support to the Arab Liberation Army. In pursuance of Security Council resolution 62 (1948) of 16 November 1948, Lebanon and Israel signed on 23 March 1949 a general armistice agreement. A peace treaty, however, did not follow. The Lebanese-Israeli border remained closed, but quiet, until the 1967 Six Day War.

29. From 1975 to 1990, civil war erupted in Lebanon. It resulted in the deaths of an estimated 120,000 people. Militias that corresponded to Lebanon's different confessional communities carried much of the fighting during the conflict. Over the years, various foreign powers deployed forces in Lebanon at the request of its Government to stabilize the situation.

30. During the 1980s Israel carried out frequent military operations, including shellings and air attacks, and undertook an extended occupation of southern Lebanon. The Hezbollah organization, as will be explained later, was created in the context of the Israeli occupation.

31. Israel remained in control of Southern Lebanon until May 2000, when it withdrew its troops in compliance with UN Security Council resolutions 425 (1978) and 426 (1978).

32. Since 1978, the Security Council has adopted a number of resolutions calling, *inter alia*, for an end to violence, the protection of civilians, respect for Lebanese sovereignty, the withdrawal of

³ Université de Laval. <http://www.tlfq.ulaval.ca/AXL/asie/liban.htm> (Retrieved on 8 November 2006)

Israeli forces from Lebanese territory and the exercise of Lebanese authority throughout the country.⁴ Pursuant to Council resolutions 425 (1978) and 426 (1978), the United Nations Interim Force in Lebanon (UNIFIL) was deployed, with three purposes as set forth in resolution 425: (a) confirming the withdrawal of Israeli forces; (b) restoring international peace and security; and (c) assisting the Government of Lebanon in ensuring the return of its effective authority in the area. The UNIFIL mandate has been regularly renewed.⁵

33. On 22 October 1989, members of the Lebanese Chamber of Deputies signed the Taif Agreement. This agreement called for national reconciliation and for “spreading the sovereignty of the State of Lebanon over all Lebanese territory” through a one-year plan that included the “disbanding of all Lebanese and non-Lebanese militias”. The militias’ weapons were to “be delivered to the State of Lebanon within a period of six months”.⁶

34. On 16 June 2000, the Secretary General informed the Security Council that Israel had withdrawn its forces in accordance with resolutions 425 (1978) and 426 (1978) and had met the requirements set out by the Secretary General in his 22 May report (S/2000/460) to the Council.⁷

35. Despite the Israeli withdrawal, sporadic armed operations along the Israeli-Lebanese southern border continued to oppose the Israeli armed forces to Hezbollah militia, mainly on the grounds of Israel’s continued occupation of the Shab’a farms. The Shab’a farms area was occupied by Israel in 1967. In 1981, Israel decided to extend the application of Israeli law to the occupied Shab’a region. The Security Council, in resolution 497 (1981) of 17 December 1981, condemned this action and declared it “null and void and without international legal effect”. Lebanon considers the Shab’a farms as part of its territory, as indicated in the Memorandum of 12 May 2000 addressed to the UN Secretary-General on 12 May 2000.⁸ The Hezbollah leadership has pledged to continue opposing Israel as long as it continues its occupation of the Shab’a farms area. As stated by the Secretary-General, representatives of the Syrian government have repeatedly stated that the Shab’a farms area belongs to Lebanon and not to Israeli-occupied Syrian territory. However, the Secretary-General has also recalled that “the determination by the United Nations of the status of the Shab’a farms is without prejudice to any border delineation agreement between the Syrian Arab Republic and Lebanon.”⁹

36. On 2 September 2004, the Security Council adopted resolution 1559 (2004) which reiterated the Council’s strong support for the territorial integrity, sovereignty and political independence of Lebanon. It called upon all parties concerned to cooperate fully and urgently with the Council for the full implementation of that and other relevant Council resolutions. It aimed among other things, at the disarmament of Hezbollah, as well as the retreat of Syrian troops which, according to the

⁴ The Security Council has adopted in relation to the situation in Lebanon, a number of resolutions dealing with the different aspects of the situation, particularly resolutions 425 (1978), 426 (1978), 520 (1982), 1559 (2004), 1655 (2006) 1680 (2006) and 1697 (2006).

⁵ Security Council resolution 1701 (2006) extended UNIFIL’s mandate until 31 August 2007.

⁶ S/2004/777, Report of the Secretary-General pursuant to Security Council Resolution 1559 (2004), 1 October 2004.

⁷ Ibid.

⁸ A/54/870-S/2000/443, Letter date 15 May 2000 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General, 17 May 2000.

⁹ S/2006/730, Report of the Secretary-General on the implementation of Security Council resolution 1701 (2006), 12 September 2006, para. 43. The Secretary General has “called on both governments to urgently take steps in keeping with international law to reach such an agreement.” (para. 43)

Secretary General, were the only significant foreign forces deployed in Lebanon as at 30 September 2004.¹⁰ As reported by the Secretary General, on 26 April 2005, the Syrian government informed that it had completed its full withdrawal of Syrian troops, military assets and the intelligence apparatus from Lebanon, as required by Security Council resolution 1559 (2004).¹¹

37. Hezbollah is a Shiite organization that began to take shape during the Lebanese civil war. It originated as a merger of several groups and associations that opposed and fought against the 1982 Israeli occupation of Lebanon. Hezbollah has grown to an organization active in the Lebanese political system and society, where it is represented in the Lebanese parliament and in the cabinet. It also operates its own armed wing, as well as radio and satellite television stations. It further funds and manages its own social development programmes.

38. Throughout the 1980s, 1990s and after, Hezbollah's *raison d'être* has been the continued occupation by Israel of Lebanese territory and the detention of Lebanese prisoners in Israel. The extent of the destruction and the difficult conditions that the Israeli occupation imposed on the Lebanese population, particularly the Shiite population living in south Lebanon, generated strong popular support for Hezbollah. Furthermore, a number of incidents involving Israeli attacks against the civilian population, the Sabra and Chatila killings in 1982, and the Nabatiyeh incident a year later, as well as the high number of Lebanese and Palestinians held in Israeli detention, further strengthened the commitment to Hezbollah's objective of driving the Israeli occupying forces out of Lebanese territory.

39. Hezbollah has maintained an active armed presence despite Security Council resolution 1559 (2004). While this failure to disarm constitutes a non-compliance with the resolution, Hezbollah's military wing maintains that it is entitled to exercise armed resistance against Israel's unlawful occupation of Lebanese territory.

b. The July-August 2006 hostilities

40. On 12 July 2006, a new incident between Hezbollah military wing and the IDF led to an upward spiral of hostilities in Lebanon and Israel that resulted in a major armed confrontation. The situation began when Hezbollah fighters fired rockets at Israeli military positions and border villages while another Hezbollah unit crossed the Blue Line, killed eight Israeli soldiers and captured two.

41. Israeli Prime Minister Ehud Olmert described this capture as an action by the sovereign country of Lebanon that attacked Israel and promised a "very painful and far-reaching response."¹² Israel

¹⁰ S/2004/777, Report of the Secretary-General pursuant to Security Council resolution 1559 (2004), 1 October 2004. According to the Secretary General, there were about 14,000 Syrian troops in Lebanon, including non-uniformed military intelligence officials.

¹¹ S/2004/777, Report of the Secretary-General pursuant to Security Council resolution 1559 (2004), 1 October 2004. *ibid*

¹² Israeli Ministry of Foreign Affairs. "PM Olmert: Lebanon is responsible and will bear the consequences", press communiqué, 12 July 2006. <http://www.mfa.gov.il/MFA/Government/Communiques/2006/PM+Olmert+-+Lebanon+is+responsible+and+will+bear+the+consequences+12-Jul-2006.htm> (retrieved on 7 November 2006)

blamed the Lebanese government for the raid, as it was carried out from Lebanese territory and Hezbollah was part of the government.¹³

42. In response, Lebanese Prime Minister Fouad Siniora denied any knowledge of the raid and stated that he did not condone it.¹⁴ An emergency meeting of the Lebanese government reaffirmed this position. Furthermore, in a letter dated 13 July 2006 to the Secretary General and the President of the Security Council, the government of Lebanon declared that “[T]he Lebanese Government was not aware of the events that occurred and are occurring on the international Lebanese border” and that “[T]he Lebanese Government is not responsible for these events and does not endorse them.”¹⁵

43. From 13 July 2006, the IDF attacked Lebanon by air, sea and land. Israeli ground forces carried out a number of incursions on Lebanese territory. Israel’s chief of staff Dan Halutz stated that “if the soldiers are not returned, we will turn Lebanon’s clock back 20 years,”¹⁶ while the head of Israel’s Northern Command Udi Adam said, “this affair is between Israel and the state of Lebanon. Where to attack? Once it is inside Lebanon, everything is legitimate –not just southern Lebanon, not just the line of Hezbollah posts.”¹⁷ The Israeli Cabinet authorized “severe and harsh” retaliation on Lebanon.¹⁸

44. The Lebanese government decided on 27 July 2006 that it would extend its authority over its territory in an effort to ensure that there would not be any weapons or authority other than that of the Lebanese state.¹⁹

45. Terms for a ceasefire were drawn and revised several times over the course of the conflict, yet successful agreement between the parties took several weeks. Lebanon frequently pleaded for the Security Council to call for an immediate, unconditional ceasefire between Israel and Hezbollah.

¹³ Israeli Ministry of Foreign Affairs. “PM Olmert: Lebanon is responsible and will bear the consequences”, press communiqué, 12 July 2006. <http://www.mfa.gov.il/MFA/Government/Communiques/2006/PM+Olmert+-+Lebanon+is+responsible+and+will+bear+the+consequences+12-Jul-2006.htm> (retrieved on 7 November 2006). See also Israeli Ministry of Foreign Affairs. “Special Cabinet communiqué – Hizbollah attack”, 12 July 2006. <http://www.mfa.gov.il/MFA/Government/Communiques/2006/Special+Cabinet+Communique+-+Hizbullah+attack+12-Jul-2006.htm> (retrieved on 7 November 2006).

¹⁴ In his “Address to the Lebanese People” of 15 July 2006, Prime Minister Fouad Siniora stated that “[T]he Lebanese government announced from the first instance when the events broke, that it had no prior knowledge of what happened. Nor did it endorse the operation carried out by Hezbollah, which led to the abduction of the two Israeli soldiers.” See full statement at <http://www.lebanonundersiege.gov.lb/english/F/eNews/NewsArticle.asp?CNewsID=17> (retrieved on 7 November 2006).

¹⁵ A/60/938-S/2006/518, Identical letters dated 13 July 2006 from the Chargé d’affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, 13 July 2006.

¹⁶ “Israel authorizes ‘severe’ response to abductions”, CNN, 12 July 2006, <http://www.cnn.com/2006/WORLD/meast/07/12/mideast> (retrieved on 7 November 2006)

¹⁷ “Israel authorizes ‘severe’ response to abductions”, CNN, 12 July 2006, <http://www.cnn.com/2006/WORLD/meast/07/12/mideast> (retrieved on 7 November 2006).

¹⁸ Israeli Ministry of Foreign Affairs. “Special Cabinet communiqué – Hizbollah attack”, 12 July 2006. <http://www.mfa.gov.il/MFA/Government/Communiques/2006/Special+Cabinet+Communique+-+Hizbullah+attack+12-Jul-2006.htm> (retrieved on 7 November 2006).

¹⁹ S/2006/730, Report of the Secretary-General on the implementation of Security Council Resolution 1701 (2006), 12 September 2006, para.14.

46. On 11 August 2006, the Security Council adopted resolution 1701 (2006) calling inter alia for a “full cessation of hostilities based upon, in particular, the immediate cessation by Hezbollah of all attacks and the immediate cessation by Israel of all offensive military operations, and emphasising the need to address urgently the causes that have given rise to the current crisis, including by the unconditional release of the abducted Israeli soldiers.” On the same day, the Human Rights Council, meeting in special session, adopted resolution S-2/1, condemning Israeli violations of human rights and of international humanitarian law and calling for the establishment of the Commission of Inquiry.

47. Both parties to the conflict agreed on a ceasefire, which took effect on 14 August 2006 at 0800 hours.

48. The Lebanese Army began deploying in southern Lebanon on 17 August 2006. As reported by the Secretary General, from an initial deployment of 1,500 troops, they built up to a full strength south of the Litani River of around 10,000-15,000.²⁰ As of 18 August, UNIFIL had some 2,000 personnel in Southern Lebanon; by 13 October, this had increased to over 5,000 – the figure required for the IDF to withdraw fully from Lebanon.

49. The blockade was lifted on 6-7 September 2006. On 1 October, the Israeli army reported that it had completed its withdrawal from southern Lebanon, information that was confirmed by UNIFIL.²¹ UNIFIL confirmed that its forces were still operating near Ghajar, and the situation was still being discussed between UNIFIL, IDF and the Lebanese Army at the time of writing.²² The situation related to Shab’a Farms remained the same.

c. Qualification of the conflict

50. An essential pre-condition for the application of IHL and the establishment of the applicable and governing rules, is a determination on the factual existence of an armed conflict, and its legal classification. Legal obligations under IHL also depend on the very character of a conflict. Accordingly, the two key issues that inherently arise are, (i) whether or not between 12 July and 14 August 2006 an armed conflict took place in Lebanon and in Israel, and if so, (ii) who were the Parties to it.

51. First, it is well established in IHL that for the existence of an armed conflict the decisive element is the factual existence of the use of armed force. That aside, there is authority for the proposition that an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.²³ IHL applies as soon as an armed conflict arises and it binds *all* the parties thereto to fully comply with it. On the basis of the factual circumstances of the conduct of the

²⁰ S/2006/730, Report of the Secretary General on the implementation of Security Council resolution 1701 (2006), 12 September 2006, para. 17.

²¹ UNIFIL Press Release, 1 October 2006, <http://www.un.org/Depts/dpko/missions/unifil/pr060A.pdf> (retrieved on 7 November 2006).

²² UNIFIL Press Release, 26 October 2006, <http://www.un.org/Depts/dpko/missions/unifil/pr068.pdf> (retrieved on 7 November 2006).

²³ *Prosecutor v. D. Tadic*, ICTY, Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction of 2 October 1995, para. 70.

hostilities that took place, including the intensity of the violence and the use of armed force, the Commission is of the view that the existence of an armed conflict during the relevant period has been sufficiently established.

52. Second, neither Security Council resolution 1701 (2006), which called for a full cessation of hostilities, nor HRC resolution S-2/1 contains any reference to the qualification of the armed conflict. The language of the latter, particularly in paragraph 5, urges *all* the parties to respect the rules of IHL, to refrain from violence against the civilian population and to treat under all circumstances detained combatants and civilians in accordance with the Geneva Conventions of 12 August 1949.

53. A particular characteristic and the *sui generis* nature of the conflict is that active hostilities only took place between Israel and Hezbollah fighters. The Commission found no indication that the Lebanese Armed Forces actively participated in the hostilities that ensued. For its part, the IDF attacked the Lebanese Armed Forces and its assets (e.g. military airport at Qliat in Northern Lebanon²⁴, all radar installations along the Lebanese coast, and the army barracks at Djamhour, 100 kilometers from the Southern border with Israel²⁵). A joint Security Force comprising the LAF and the Police offered no resistance to the IDF at Marjayoun on 10 August 2006.

54. On the conflict, the position of the Government of Lebanon is that it was not responsible for and had no prior knowledge of the operation carried out by Hezbollah against an IDF patrol inside Israeli territory on 12 July 2006.²⁶ This was orally confirmed by Prime Minister Siniora to the Commission when they met in Beirut on 25 September 2006. Lebanon has also stated that it disavowed and did not endorse that act.²⁷ Furthermore, the Government of Lebanon has emphasized that it is the sole authority that decides on peace and war and the protection of the Lebanese people.²⁸ It participated effectively in the negotiations leading to the adoption of UNSC resolution 1701 (2006) accepted by both Israel and Lebanon. For its part, the Government of Israel has officially stated that responsibility lies with the Government of Lebanon, from whose territory these acts were launched into Israel,²⁹ and that the belligerent act was the act of a sovereign State, Lebanon.³⁰

55. It is the view of the Commission that hostilities were in actual fact and in the main only between the IDF and Hezbollah. The fact that the Lebanese Armed Forces did not take an active part in them neither denies the character of the conflict as a legally cognizable international armed conflict, nor

²⁴ A/60/939-S/2006/522, Identical letters dated 13 July 2006 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, 13 July 2006.

²⁵ A/60/945-S/2006/537, Identical letters dated 18 July 2006 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security, 18 July 2006.

²⁶ A/60/938 –S/2006/518, *op. cit.* See also UN Doc. A/60/941-S/2006/529, Identical letters dated 17 July 2006 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, 17 July 2006.

²⁷ *Ibid.*, See also Prime Minister Siniora address to the Rome Conference, 28 July 2006 <http://www.lebanonundersiege.gov.lb/english/F/eNews/NewsArticle.asp?CNewsID=21> (retrieved on 7 November 2006)

²⁸ See also, A/60/941-S/2006/529, *op. cit.*

²⁹ A/60/937-S/2006/515, Identical letters dated 12 July 2006 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, 12 July 2006. See also “Special Cabinet communiqué – Hizbollah attack”, *op. cit.*

³⁰ “PM Olmert: Lebanon is responsible and will bear the consequences”, *op. cit.*

does it negate that Israel, Lebanon and Hezbollah were parties to it. Regarding this, the Commission stressed three points.

56. Primo, in Lebanon, Hezbollah is a legally recognized political party, whose members are both nationals and a constituent part of its population.³¹ It has duly elected representatives in the Parliament and is part of the Government. Therefore, it integrates and participates in the constitutional organs of the State.

57. Secundo, for the public in Lebanon, resistance means Israeli occupation of Lebanese territory. The effective behaviour of Hezbollah in South Lebanon suggests an inferred link between the Government of Lebanon and Hezbollah in the latter's assumed role over the years as a resistance movement against Israel's occupation of Lebanese territory.³² In its military expression and in the light of IHL, Hezbollah constitutes an armed group, a militia, whose conduct and operations enter into the field of application of Article 4 paragraph 2 (b) of the Third Geneva Convention of 12 August 1949. Seen from inside Lebanon and in the absence of the regular Lebanese Armed Forces in South Lebanon, Hezbollah constituted and is an expression of the resistance (*'mukawamah'*) for the defence of the territory partly occupied. A government policy statement regarded the Lebanese resistance as a true and natural expression of the right of the Lebanese people in defending its territory and dignity by confronting the Israeli threat and aggression.³³ In his address to the nation, on 18 August 2006, President Emile Lahoud paid tribute to the "National Resistance fighters"³⁴. Hezbollah had also assumed *de facto* State authority and control in South Lebanon in non full implementation of Security Council resolutions 1559 (2004) and 1680 (2006), which, inter alia, had called for and required the disarmament of all armed groups, and had urged the strict respect of the sovereignty, territorial integrity and unity of Lebanon under the sole and exclusive authority of the Government of Lebanon throughout the country.

58. Tercio, the State of Lebanon was the subject of direct hostilities conducted by Israel, consisting of such acts, as an aerial and maritime blockade that commenced on 13 July 2006, until their full lifting on 6 and 8 September 2006, respectively; a widespread and systematic campaign of direct and other attacks throughout its territory against its civilian population and civilian objects, as well as massive destruction of its public infrastructure, utilities, and other economic assets; armed attacks on its Armed Forces; hostile acts of interference with its internal affairs, territorial integrity and unity and acts constituting temporary occupation of Lebanese villages and towns by the IDF.

³¹ Saad-Ghorayeb, A. *Hezbollah Politics and Religion*, Pluto Press, London, 2002; Harik, J.P. *Hezbollah - The Changing Face of Terrorism*, I.B. Taurus & Co. Ltd., London, 2004.

³² Lebanese cabinet's policy statement of May 2005 states: "The government regards the Lebanese resistance a true and natural expression of the natural right of the Lebanese people in defending its territory and dignity by confronting the Israeli threat and aggression and Israeli ambitions (...) to complete the liberation of Lebanese territories. It [the government] affirms its concern for the prisoners' issue (...)" See also "The Shiites return to cabinet ends a period of political deterioration", 4 Feb. 2006; Nasrallah Elias Murr discuss military cooperation, 22 April 2006; Hamade Declaration that Hezbollah is a national resistance annuls 1559, Feb. 2006, in the Daily Star, Beirut.

³³ Cf. Lebanese cabinet's policy statement of May 2005, op.cit.

³⁴ Address of His Excellency General Emile Lahoud, President of the Republic of Lebanon, to the Nation, 18 August 2006 <http://www.presidency.gov.lb/president/presidspeech/speech18-8-06e/18aug06speeche.htm> (retrieved on 7 November 2006).

59. That aside, a number of Lebanese high government authorities informed the Commission that they considered that to the extent that Lebanon was a victim, and suffered the devastating effect of armed hostilities by Israel, it was a party to the conflict. In the words of the Minister of Justice: “un agressé peut être une partie d’un conflit”.³⁵ Insofar as it is relevant and having regard to common Article 2 paragraph 2 of the Geneva Conventions of 1949, IHL applies even in a situation, where for example the armed forces of a State party temporarily occupies the territory of another State, without meeting any resistance from the latter. On the same legal basis, it has been stated that the Geneva Conventions apply even where a State temporarily occupies another State without an exchange of fire having taken place or in a situation where the Occupying State encounters no military opposition whatsoever.³⁶

60. The Commission considers that both Lebanon and Israel were parties to the conflict. They remain bound by the Geneva Conventions of 1949, and customary IHL existing at the time of the conflict. Hezbollah is equally bound by the same laws. For completeness, and as mentioned earlier, both Israel and Lebanon are parties to the main international human rights instruments, and they remain legally obliged to respect them.

61. Moreover, while Hezbollah’s illegal action under international law of 12 July 2006 provoked an immediate violent reaction by Israel, it is clear that albeit the legal justification for the use of armed force (self-defence³⁷), Israel’s military actions very quickly escalated from a riposte to a border incident into a general attack against the entire Lebanese territory. Israel’s response was considered by the Security Council in its resolution 1701(2006) as “offensive military operation”. These actions have the characteristics of an armed aggression, as defined by General Assembly resolution 3314 (XXIX) of 14 December 1974.

62. The fact that Israel considered Hezbollah is a terrorist organisation and their fighter as terrorists does not influence the Commission’s qualification of the conflict. Several official declarations of the Israeli Government addressed Lebanon as assuming responsibility. The IDF views its operations in Lebanon as an international armed conflict.³⁸

³⁵ English translation: “An attacked can be a party to a conflict.”

³⁶ Baxter, R.R. ‘The Duties of Combatants and the conduct of hostilities (Law of the Hague)’ in Henry Dunant Institute/UNESCO/M. Nijhoff, International Dimensions of Humanitarian Law, Paris, 1988 p. 95; David, E. Principes de Droit des Conflits Armés, Troisième Edition Bruylant, Bruxelles, p. 109, 2002; Greenwood, C. “The Concept of War in Modern International Law”, 1987, Vol. 36, I.C.L.Q, p. 295. Cf. “In the end, one essential criterion for the existence of an international armed conflict emerged from the discussions, namely the use of armed force by a State (even if the adversary offers no resistance). The discussions also revealed a number of complementary criteria that might play a role, such as hostile intent (*animus belligerendi*), the duration of the acts of violence, and their intensity, the latter being measured by examining a series of cumulative events”, The International Institute of Humanitarian Law, XVIIth Round Table on Current Problems of International Humanitarian Law: “*International Humanitarian Law and Other Legal Regimes: Interplay in Situations of Violence*” Summary report Prepared by the International Committee of the Red Cross, Nov. 2003.

³⁷ Under International law, the entitlement to resort to self-defence under article 51 of the UN Charter is subject to the conditions of necessity and proportionality. Beyond these conditions, article 51 requires that measures taken by States in the exercise of the right of self-defence shall be immediately reported to the Security Council. See Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, p. 94, para.176; ICJ, *Legality of the Threat or Use of Nuclear Weapons*, advisory opinion of 8 July 1996, I.C.J. Reports 1996 (I), paras. 42 and 44.

³⁸ A/HRC/2/7, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on

d. Applicable law

63. The Commission has carried out its tasks, in accordance with its mandate and terms of reference, through the application of international law, IHL and international human rights law. It was guided essentially by the principles of human dignity which underpins human rights and humanitarian law.

64. While the conduct of armed conflict and military occupation is governed by international humanitarian law, human rights law is applicable at all times, including during states of emergency or armed conflict. The two bodies of law complement and reinforce one another.³⁹

International humanitarian law

65. The basic corpus of IHL is applicable to the conflict, and both Israel and Lebanon are party to key IHL instruments. Israel is party to the four Geneva Conventions of 12 August 1949, but has not ratified Additional Protocol I or II on the protection of victims of armed conflict. In addition, Israel is party to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954 and its First Protocol (1954); the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects of 10 October 1980, as well as its Protocol I on non-detectable fragments (1980), Protocol II on prohibitions or restrictions on the use of mines, booby-traps and other devices (1980 and as amended on 3 May 1996), and Protocol IV on Blinding Laser Weapons (1995). Israel has not ratified Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons (1980), nor Protocol V on Explosive Remnants of War (2003).

66. Lebanon is party to the four Geneva Conventions of 12 August 1949 as well as Additional Protocols I and II relating to the protection of victims of armed conflicts. It is also party to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (1972), and the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954 and its First Protocol. Lebanon is not party to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects of 10 October 1980, nor to any of its Protocols.

67. In addition to the international treaty obligations, rules of customary international human rights and humanitarian law bind States and other actors. In other words, all of the parties to the conflict

adequate housing as a component of the right to an adequate standard of living, Miloon Kothari - Mission to Lebanon and Israel (7-14 September 2006), para. 23.

³⁹ See, for example, ICJ, *Legality of the Threat or Use of Nuclear Weapons*, advisory opinion of 8 July 1996, *I.C.J. Reports 1996 (I)*, p. 226, at p. 240, para. 25; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, advisory opinion of 9 July 2004, *I.C.J. Reports 2004*, para. 106.

are also subject to customary international humanitarian law.⁴⁰ As a party to the conflict, Hezbollah is also bound to respect IHL and human rights.⁴¹

68. Serious violations of international human rights law and international humanitarian law are regulated *inter alia* by the Rome Statute of the International Criminal Court, as well as customary international law. Israel has signed but has not ratified the Statute. Lebanon has neither signed nor ratified the Statute.

International human rights law

69. Israel and Lebanon both are bound by international instruments relating to international human rights law, which requires that they respect, protect and fulfil the human rights of those within their respective jurisdictions. These instruments include the Universal Declaration of Human Rights, as well as major human rights treaties, namely the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC).

70. With regard to the situation of children in armed conflict, States parties to the Convention on the Rights of the Child have specific obligations. Article 38 of the Convention requires States to respect and ensure respect for the rules of international humanitarian law which are relevant to the child. In accordance with their international legal obligations to protect the civilian population in armed conflicts, States parties also must take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

71. While the International Covenant on Civil and Political Rights (ICCPR) allows for the possibility, in circumstances that threaten the life of the nation, to derogate from certain guarantees - provided that the measures are strictly necessary - certain guarantees are non-derogable at any time (article 4). These include, *inter alia*, the right to life (article 6); the prohibition of torture or cruel, inhuman or degrading punishment (article 7); the principle of legality in the field of criminal law (article 15) and the recognition of everyone as a person before the law (article 16). In addition, other non-derogable elements of the Covenant, as defined by the Human Rights Committee, include the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person; the prohibition against taking hostages, abductions or unacknowledged detention; certain elements of the rights of minorities to protection; the prohibition of deportation or forcible transfer of population; and the prohibition of propaganda for war and of

⁴⁰ This includes the provisions reflected in the Hague Regulations and GC Additional Protocol I. See also Jean-Marie Henckaerts and Louise Doswald-Beck (eds.), *Customary International Humanitarian Law*, 3 vols., University Press, Cambridge, 2004 (hereafter "ICRC Study"), as well as case law of the International Criminal Tribunals for Rwanda and Former Yugoslavia.

⁴¹ For a recent global view on international practice concerning international humanitarian law and human rights law obligations of non-state actors, see Clapham, A. *Human Rights Obligations of Non-State Actors*, Oxford: 2006. See also Institute of International Law *The application of international humanitarian law and fundamental human rights in armed conflicts in which non-state entities are parties*, Berlin resolution, Ed. Pedone, Paris, 1999.

advocacy of national, racial or religious hatred that would constitute incitement to discrimination, hostility or violence.⁴² The obligation to provide effective remedies for any violation of the provisions of article 2, paragraph 3, of the Covenant must be always complied with.⁴³ The protection of those rights recognized as non-derogable also requires certain procedural safeguards, including judicial guarantees. Measures derogating from the Covenant must not involve discrimination on the ground of race, colour, sex, language, religion or social origin.

72. In addition, the rights reflected in the International Covenant on Economic, Social and Cultural Rights (ICESCR) may, in times of armed conflict where resources are constrained, be limited in accordance with articles 4 and 5. However, the primary purpose of article 4 is to protect the rights of individuals rather than to permit the imposition of limitations by States.⁴⁴ Any restrictions must therefore be proportional, in accordance with the law, including international human rights standards, compatible with the nature of the rights protected by the Covenant, in the interest of legitimate aims pursued; and strictly necessary for the promotion of the general welfare in a democratic society.⁴⁵

73. Lebanon has not notified state of emergency in accordance with ICCPR article 4, although it proclaimed a national state of emergency on 12 July 2006. Israel declared a state of public emergency on 19 May 1948 and has remained in this state continuously since then. Upon ratifying the Covenant, Israel made a declaration regarding the existence of this state of emergency and noted a reservation to article 9 (liberty and security of person).⁴⁶

74. The ICCPR article 2 obliges each State party “to respect and to ensure to all individuals within its territory and subject to its jurisdiction” the rights recognized within it. In addition, the International Court of Justice has recognized that the Covenant “is applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory”.⁴⁷

B. The Facts and Legal Analysis

I. General approach

a. On the facts

75. From the outset, the Commission wishes to underline certain characteristics that emerge from the conflict.

⁴² CCPR/C/21/Rev.1/Add.11, General Comment No. 29, State of Emergency (article 4), 31 August 2001, para 13.

⁴³ CCPR/C/21/Rev.1/Add.11, General Comment No. 29, State of Emergency (article 4), 31 August 2001, para 14.

⁴⁴ E/C.12/2000/4, General Comment No. 14, The right to the highest attainable standard of health (article 12), 11 August 2000, paras. 28-29.

⁴⁵ Ibid

⁴⁶ A/58/40, vol. I, Report of the Human Rights Committee, Seventy-six session (14 October-1 November 2002) p. 66, para. 12. The Human Rights Committee has noted that the article 9 reservation is broader than is permissible under article 4 of ICCPR, and that Israeli policies related to the state of emergency appear to have unofficially derogated from additional provisions of ICCPR.

⁴⁷ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories, Advisory Opinion*, ICJ Report, 2004, para. 111. See also Human Rights Committee relevant case law (CCPR/C/21/Rev.1/Add.13, General comment No. 32, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, para 10 and CCPR/C/13/D/52/1979, Communication No. 52/1979, Uruguay, 29 July 1981.

76. The 33-day conflict in Lebanon more than affected the country. It exacted a heavy human toll and damaged economic and social structures, as well as the environment. During the campaign, Israel's Air Force flew more than 12,000 combat missions. Its Navy fired 2,500 shells, and its Army fired over 100,000 shells⁴⁸, destroying as a consequence large parts of the Lebanese civilian infrastructure, including roads, bridges and other 'targets' such as Beirut International Airport, ports, water and sewage treatment plants, electrical facilities, fuel stations, commercial structures, schools and hospitals, as well as private homes.⁴⁹ According to Lebanese government figures, 30,000 homes were destroyed or damaged, 109 bridges and 137 roads (445,000 km²) damaged, and 78 health facilities (dispensaries, health centres and hospitals) were seriously affected, with 2 hospitals destroyed. Furthermore, the Lebanese government indicates that 900 commercial centres and factories were affected, as were 32 other "vital points" (airports, ports, water and sewage treatment, electrical plants). Over 789 cluster bomb sites have been identified in southern Lebanon, and over one million bomblets have littered the region.

77. The conflict resulted in 1,191 deaths and 4,409 injured. More than 900,000 people fled their homes.⁵⁰ It was estimated that one third of the casualties and deaths were children.⁵¹

78. Israel also suffered serious casualties. Reports indicate that 43 civilians were killed, 997 were injured (75 seriously injured, 115 moderately injured, 807 lightly injured), 6,000 homes were affected and 300,000 persons were displaced by Hezbollah's attacks on Israeli towns in northern Israel.

79. The Israeli operations had a devastating impact, notably in southern Lebanon. The effects touched the civilian population, property and infrastructure, cultural objects, mosques and churches, all with tragic results. Since the end of the hostilities, Israel has dropped leaflets in southern Lebanon which refer to "destruction, devastation, and death".

80. The conduct of Israel demonstrates an overall lack of respect for the cardinal principles regulating the conduct of armed conflict, most notably distinction, proportionality and precaution. The particularly tragic impact on civilians and civilian property is certainly due to this deficit.

81. It is significant to observe the IDF actions in terms of their direct and deliberate attacks against the Lebanese population. The obligation to distinguish civilians from combatants, civilian property from military targets, and protected civilian objects was not often respected. Civilians suffered greatly from indiscriminate attacks. The idea of treating Lebanese citizens as members, friends, family or sympathizers of Hezbollah, and therefore as potential enemies and/or combatants susceptible to lawful attack, goes well beyond any legal interpretation of the principle of 'civilians having lost their protected status' and of their 'direct participation in the hostilities'

⁴⁸ "The war in numbers", Jane's Defence Weekly, 23 August 2006.

⁴⁹ Information available on the website of the Presidency of the Council of Ministers – Higher Relief Council, <http://www.lebanonundersiege.gov.lb> (retrieved on 7 November 2006).

⁵⁰ Information available on the website of the Presidency of the Council of Ministers – Higher Relief Council, <http://www.lebanonundersiege.gov.lb> (retrieved on 7 November 2006).

⁵¹ UNICEF Situation Report, Lebanon, 1-8 September 2006.

b. On legal basic principles

82. During an armed conflict, the protection of civilians is a fundamental precept of international humanitarian law, one which includes cardinal principles related to distinction, proportionality and military necessity. Respect for human life and human dignity are at the core of the protection afforded under international human rights law.

83. International law requires States to ensure full respect for the right to life of those within their jurisdiction, including protection against the arbitrary deprivation of life. At the same time, in order to ensure the protection of civilians in armed conflict, international humanitarian law requires that all parties to a conflict must at all times distinguish between civilians and combatants. In essence, this means that attacks may be directed only at military objectives, that is those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.⁵² Civilians may only be targeted for such time as they participate directly in the hostilities.⁵³ Attacks on civilian objects are strictly prohibited unless, at the time of the attack, they were used for military purposes and their destruction offered a definite military advantage.⁵⁴

84. According to the principle of distinction, indiscriminate attacks are strictly prohibited.⁵⁵ This includes attacks which are not directed at a specific military objective, employ a method or means of combat which cannot be directed at a specific military objective, or employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law, and consequently are of a nature to strike military objectives and civilians or civilian objects without distinction. Attacks by bombardment, including with rockets, which treat as a single military objective a number of clearly separated and distinct military objectives located in an urban area or rural village are prohibited.⁵⁶ The prohibition of indiscriminate attacks must not only determine the strategy adopted for a particular military operation but also limit the use of certain weapons in situations where the civilian population will be affected.⁵⁷

85. Attacks on legitimate military objectives which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, are prohibited.⁵⁸

86. All feasible precautions must be taken in order to avoid, or in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.⁵⁹ International humanitarian law prescribes specific precautionary measures in relation to the planning and conduct of attacks,

⁵² GC Additional Protocol I, articles 48 and 52(2); ICRC Study, rules 7, 8, 9, 10; see also ICC Statute, article 8(2)(b)(ii).

⁵³ GC Additional Protocol I, article 51(3); GC Additional Protocol II, article 13(3); see also ICRC Study, rule 6.

⁵⁴ ICC Statute, article 8(2)(b)(ii); see also ICRC Study, rule 10.

⁵⁵ GC Additional Protocol I, article 51(4); see also ICRC Study, rules 11, 12.

⁵⁶ GC Additional Protocol I, article 51(5)(a); see also ICRC Study, rule 13.

⁵⁷ CCW Protocol II, article 3(3)(a), CCW Amended Protocol II, article 3(8)(a). See also ICRC Study, rule 12.

⁵⁸ GC Additional Protocol I, article 51(5)(b) and article 57; CCW Protocol II, article 3(3); and CCW Amended Protocol II, article 3(8). See also ICRC Study, rule 14.

⁵⁹ GC Additional Protocol I, article 57(1); 1907 Hague Convention, article 2(3); ICRC Study, rule 15.

including an obligation to give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit.⁶⁰

87. Ensuring the protection of civilians in armed conflict also requires that civilians be kept away from military targets. In addition, international law prohibits the intentional use by a party to the conflict of civilians to immunize otherwise legitimate military objectives from lawful attack.⁶¹

88. Other fundamental principles of international law related to the protection of civilians in armed conflict should be recalled prior to the Commission's consideration of specific issues. For example, States must exert their influence, to the degree possible, to stop violations of international humanitarian law.⁶² Collective punishment – that is, the punishment of a group of people for the acts committed by one or several – is prohibited.⁶³ Where they are not prohibited by international law, belligerent reprisals are subject to strict conditions.⁶⁴ They are prohibited altogether against persons protected by the Geneva Conventions.⁶⁵ And in addition, reprisals against objects protected under the Geneva Conventions and Hague Convention for the Protection of Cultural Property are strictly prohibited.⁶⁶

89. Forcible displacement of civilians for reasons related to an armed conflict is prohibited, unless the security of the civilians involved or military necessity so requires.⁶⁷ Where displacement occurs, all possible measures must be taken in order that the civilians concerned are received under satisfactory conditions of shelter, hygiene, health, safety and nutrition, and that members of the same family are not separated.⁶⁸

90. Humanitarian access to affected populations is crucial, where the State in question is unable or unwilling to provide for the basic needs of civilians on their territory. According to international law, humanitarian relief personnel must be respected and protected⁶⁹, and all parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need.⁷⁰ The UN Security Council has stressed, in particular, the need for all parties concerned to cooperate fully with the UN Humanitarian Coordinator and UN agencies in providing safe and unimpeded access to civilians in armed conflict.⁷¹

II. Specific approach

a. Attacks on the civilian population and objects

⁶⁰ GC Additional Protocol I, article 57(2); Hague Regulations, article 26; ICRC Study, rules 15-21.

⁶¹ Third Geneva Convention, article 23; Fourth Geneva Convention, article 28; GC Additional Protocol I, article 51(7); ICC Statute, article 8(2)(b)(xxiii); ICRC Study, rule 97.

⁶² ICRC Study, rule 144

⁶³ Fourth Geneva Convention, article 33.

⁶⁴ ICRC Study, rule 145.

⁶⁵ ICRC Study, rule 146.

⁶⁶ ICRC Study, rules 147.

⁶⁷ E/CN.4/1998/53/Add.2, Guiding Principles on Internal Displacement, principle 6; ICRC Study, rule 129.

⁶⁸ E/CN.4/1998/53/Add.2, Guiding Principles on Internal Displacement, principle 7; ICRC Study, rule 131.

⁶⁹ GC Additional Protocol I, article 71(2); see also GC Additional Protocol II, article 18(2).

⁷⁰ Fourth Geneva Convention article 23; GC Additional Protocol I, article 70(2); see also GC Additional Protocol II, article 18(2); and ICRC Study, rules 55 and 56.

⁷¹ Security Council resolutions 1265(1999) and 1296(2000).

91. One of the most tragic facts of the conflict raises the question of direct and indiscriminate attacks on civilians and civilian objects and the violation of the right to life. Due to the time constraints, as well as practical considerations, such as the continued displacement of survivors and the need for a full and careful documentation of individual eye-witness accounts, the Commission was able to examine only a certain number of incidents which occurred during the conflict. Findings based on particular incidents are set out below.

92. The Commission is aware that a comprehensive investigation related to a large number of alleged killings (see Annex VI) is being conducted under the auspices of the Lebanese Parliamentary Human Rights Committee, in cooperation with civil society and concerned individuals. The Commission stresses that violations of international humanitarian law and incidents involving alleged infringement of the right to life and other human rights, justify such investigations, and should be given due support and assistance, including from the Office of the High Commissioner and other UN agencies, as necessary.

i. **Southern Lebanon**

93. Numerous villages throughout southern Lebanon suffered extensive bombing and shelling resulting in killings and massive displacement of civilians. Some villages were occupied by Israeli forces and suffered other kinds of damage. The Bekaa Valley also came under attack.

94. The village of **Al Duweir** is located in South Lebanon a few kilometres North of the Litani River. The three-storey family house of Sheikh Adil Akkash was located outside the village in an isolated spot on a hillside. The Commission visited the site and spoke with the father of Sheikh Adil Akkash, Mr. Mohammed Mustafa Akkash. He told the Commission how on 14 July at 0400 hours, the house was hit by three missiles. The 41-year old cleric, his wife, 7 daughters and 3 sons (aged 6 months to 17 years), and Sri Lankan maid were inside the house. All 13 were killed. The house was completely destroyed.

95. The Sheikh was a religious scholar, his father said, a peaceful man. “Ask anyone in the village, everyone will say the same thing”, he said. He taught in a religious school in Saida, which, the father said, was also hit a few days later. The Sheikh had a huge collection of books, which the Commission saw littered across the hillside amid the rubble. The house was located about 200 meters away from the nearest house, which was untouched, suggesting that the bombing was targeted. There was no indication of any hostilities in or around the vicinities. However, no information could be collected which would explain the motivation for the killing of this family. As a civilian and a cleric, the Sheikh and his family would be clearly protected by IHL.

96. In **Marwaheen**, the Commission interviewed witnesses in relation to the occupation of the village by the IDF, as well as on the attacks on convoys leaving the village on 15 and 16 July (see section II.b). UNIFIL reported that as the IDF advanced into the village they fired at every single house with tanks and machine guns. In addition, numerous houses were vandalized by IDF troops during their period of occupation and one was deliberately set on fire. The fire damage was witnessed by members of the Commission: the beds used in the house by the IDF were stacked

together in one room and had been deliberately set on fire. Towards the end of the conflict, after the IDF had withdrawn, the village was subjected to cluster bomb attacks.

97. The Commission is of the view that these acts, including suppressive fire or the destruction of empty buildings, could not be justified in terms of military necessity, particularly in view of the fact that the IDF had ordered and witnessed the evacuation of the village, and would have known that all civilians had left.

98. On 30 July the IAF bombed a three-storey building in the town of **Qana**. As a result 29 civilians, including 17 children,⁷² were killed. This was the repetition of the tragic event of 18 April 1996, in which 100 Lebanese civilians were killed.⁷³ The incident provoked extraordinary emotion, particularly in view of the number of victims. In a statement on 30 July 2006 to an emergency meeting of the Security Council, the UN Secretary-General urged it “to condemn the Israeli attack on the Qana” and called for an immediate cessation of hostilities⁷⁴. On the same day the Security Council expressed shock and distress at Israeli shellings in Qana, strongly deplored loss of innocent lives in the conflict and requested the Secretary-General to report within one week on the tragic attack.⁷⁵ The Secretary-General’s report of 7 August⁷⁶ outlined events according to the Government of Israel and by the Government of Lebanon.⁷⁷

99. The IAF Chief of Staff held a press conference on the attack on 30 July.⁷⁸ This was followed by an official inquiry by the Israeli authorities published on 2 August 2006, which confirmed that “since July 12 over 150 rockets were launched from within the village and immediate surroundings. Residents had been warned several times to evacuate the area”.⁷⁹ The Israeli Air Force stated that they had photographic evidence of the precision attacks, confirming that this particular building was hit at 0052 hrs by two bombs: the first exploded, while the second was a dud. The report states that “the building was attacked in accordance with their military guidelines regarding the use of fire

⁷² A list of victims was given to the Commission by the Mayor of Qana.

⁷³ UN Documents S/2006/626, dated 9 September 2006

⁷⁴ SG/SM/10580- SC78790UN, Secretary General urges Security Council to condemn Israeli attack on Qana, 30 July 2006.

⁷⁵ SC/8791UN, Security Council expresses shock and distress at Israeli shelling in Qana, 30 July 2006.

⁷⁶ S/2006/626, Letter dated 7 August 2006 from the Secretary-General addressed to the President of the Security Council, 7 August 2006.

⁷⁷ The report referred to data from the Lebanese Government, including casualty figures: “thus far 28 corpses having been recovered, including those of approximately 14 children”, noting that the figure may rise as recovery efforts were ongoing. The Secretary-General observed “I am greatly distressed by the tragic events in Qana and by the overall effect of this conflict on the civilian populations of Lebanon and Israel”. The ICRC also issued a statement on the incident “deploring the recurring lack of respect for international humanitarian law by the warring parties” (“Lebanon/Israel: ICRC alarmed by high number of civilian casualties and disrespect for international humanitarian law”, ICRC Press release, Geneva, 30 July 2006). Human Rights Watch in a preliminary report on the incident stated “The deaths in Qana were the predictable result of Israel’s indiscriminate bombing campaign in Lebanon” (“Israel/Lebanon Qana Death Toll at 28”, HRW Press Release, Beirut, 2 August 2006).

⁷⁸ Israeli Ministry of Foreign Affairs. IDF press conference following the Kafr Qana incident, 30 July 2006, <http://www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Terrorism+from+Lebanon+Hizbullah/IDF+press+conference+following+the+Kafr+Qana+incident+30-Jul-2006.htm> (retrieved on 7 November 2006).

⁷⁹ Israeli Ministry of Foreign Affairs. Completion of inquiry into July 30th incident in Qana, 2 August 2006, <http://www.mfa.gov.il/MFA/Government/Communiques/2006/Completion+of+inquiry+into+July+30+incident+in+Qana+2-Aug-2006.htm> (retrieved on 7 November 2006).

against suspicious structures inside villages whose residents have been warned to evacuate and which were adjacent to areas where rockets are fired towards Israel (...). The IDF operated on information the building was not inhabited by civilians and was being used as a hiding place for terrorists”.⁸⁰

100. The Commission visited Qana and was informed that the members of two families, who normally lived elsewhere in the village, had moved into the building in question that night for shelter because it was one of the larger buildings in the area and had a reinforced basement. According to witnesses, two members of one family were Hezbollah fighters that had been killed in fighting elsewhere and therefore were not in Qana on 30 July. One survivor spoke of the ground swelling up beneath him and the building then collapsing.⁸¹

101. Following the attack, the IDF reportedly continued to attack Qana. As a result, neither Lebanese Red Cross, Civil Defence teams, nor rescue services/UNIFIL were able to reach the house until 0900 hours that morning. The IDF state that they first received reports of the incident around 0800-0830 hours. At the same time, the IDF gave warnings to civilians to evacuate, although it was clear that the local inhabitants were too petrified to leave because of the continuous bombardment in Qana and on the routes leading away from it. In other words, the warnings could not be considered as being “effective” as required by IHL.⁸²

102. The Commission did not receive any information to suggest that the building in question was being used as a Hezbollah missile launch site, either prior to or at the time of the attack, and that it therefore may have been a legitimate military target.⁸³ The precautionary measures taken by the IDF on 30 July just two hours before the strike, warning the civilians to flee Qana, were neither an active nor an effective action. IDF attacks had already seriously limited road access, the town was under intensive and heavy bombardment, and the time for inhabitants to flee was in the circumstances too short.⁸⁴ It is the view of the Commission that the reasons advanced for its targeting are not tenable.⁸⁵

⁸⁰ Israeli Ministry of Foreign Affairs. Completion of inquiry into July 30th incident in Qana, 2 August 2006, <http://www.mfa.gov.il/MFA/Government/Communiques/2006/Completion+of+inquiry+into+July+30+incident+in+Qana+2-Aug-2006.htm> (retrieved on 7 November 2006).

⁸¹ This type of bomb would have a delayed type of fuse. It would slice through the floors of the house and penetrate deep below it before exploding (hence the swelling effect). Press speculation, reports of such bombs being transited through the United Kingdom as well as informed specialist military publications (e.g. Aviation Weekly) point to the use by the IDF of GBU -28 munitions. The house had been hit by a precision-guided bomb delivered from an aircraft, causing little immediate collateral damage to adjoining buildings. The deep crater, together with the witness’s description of the ground swelling up beneath him, points to a deep penetration “Bunker Buster” type bomb quite possibly with a depleted uranium warhead.

⁸² Lieber Code, article 19; Brussels Declaration, article 16; Oxford Manual, article 33; Hague Regulations, article 26; GC Additional Protocol I, article 57(2); CCW Amended Protocol II, article 3(11)

⁸³ None of the Lebanese Red Cross or UNIFIL rescuers who first arrived at the scene, respectively around 6 ½ and 8 ½ hours after the building was attacked and who cleared the debris to evacuate survivors, has made any allusion to the discovery of any destroyed ammunition or arms cache at the site. The information available is that all persons who were killed were in fact civilians, 17 of them children. There is no reason to believe that any Hezbollah fighter was among the dead.

⁸⁴ This is supported by the fact that it took Lebanese Red Cross vehicles from its Tyre Centre some 5 ½ hours to reach the area and, even then, it took them another two hours to arrive at the site.

⁸⁵ These findings are consistent with those reflected also in, Human Rights Watch. Fatal Strikes - Israel’s Indiscriminate Attacks Against Civilians in Lebanon, Vol. 18. No. 3 (E), August 2006, pp. 32-34.

103. In **Taibe**, the Commission gathered information on the occupation of part of the town by the IDF, which set up sniper positions in the castle from which they could dominate the surrounding area. 136 houses and 2 schools were destroyed in Taibe.

104. Witnesses explained to the Commission that most of the men in the village possessed guns. They stressed, however, that a distinction should be made between professional Hezbollah fighters and civilian militia volunteers from Amal and the Lebanese communist party who took up arms during the conflict. The volunteers were welcomed if they obeyed the Hezbollah rules and were otherwise ordered to leave the area. According to witnesses, Hezbollah did not fire rockets and mortars from within the village, or otherwise use it as a shield for its activities. Rather, Hezbollah used adjoining valleys, as well as caves and tunnels in the surrounding area from which to operate, and the surrounding countryside provided ample cover and security for their operations.

105. The Commission heard witness testimony and saw evidence of IDF behaviour in the village, including houses which had been occupied and vandalized, and water containers contaminated with human waste. Similarly, the private school in the village had been vandalized and trashed, a fact witnessed and recorded by Swedish TV.

106. The Commission also was informed that the body of a Hezbollah fighter killed by IDF snipers had been set on fire by the roadside outside the town and mutilated.⁸⁶

107. Several individuals told the Commission of another very serious incident involving the killing of the four members of one family, Nasrallah, as well as of the mutilation of the father's body. One witness reported that IDF snipers had fired on a woman who was returning to her house, having taken refuge in another house in the village. Her daughter, who had gone to check on her, also was shot by the snipers. The same thing happened to the father and his son who also had gone to the house to see what had happened. The villagers later found the four bodies. The father's hands and legs had been cut off, and a note saying "this is what will happen to Nasrallah" was attached to his body. Investigation on these allegations is currently being conducted by the Lebanese Parliamentary Human Rights Committee, Human Rights Watch and local NGOs.

108. The Commission visited the small town of **Ghazieh**, located north of the Litani river, which was attacked by the Israeli Air Force (IAF) on 7 and 8 August 2006. At least 29 people were killed in the attack, and another 56 were wounded. The Commission met with the Mayor and with families that had been affected by the bombings, and was shown two out of four destroyed buildings that had been attacked. The Mayor informed the Commission that there had been no prior hostilities in the town, the houses were not connected to Hezbollah, and the town had not been used to launch attacks against Israel. Apparently no warnings were given prior to the attacks. The houses had been destroyed by precision bombing by aircraft and there was very limited collateral damage. The Commission was informed that a further attack took place nearby when the burial service for the victims of these attacks took place. However, this incident did not result in any casualties

109. In **Yatar**, the Commission was briefed by the Mayor and a number of town officials, who explained that the town had been subjected to heavy bombardment in which around 850 homes were

⁸⁶ According to IHL, the dead must always be respected, their remains should be recovered, and steps should be taken to prevent them from being despoiled or mutilated.

damaged and 230 completely destroyed. The inhabitants had been given warnings to leave but the exit routes were blocked as a result of IDF bombardments. There was no warning before the first attack on the town. On 12 July, an IDF helicopter was shot down by Hezbollah 1,000 meters outside the village. This led to intensified bombardment. A Lebanese Red Cross ambulance was attacked on 13 August. The Commission was informed that cluster bombs were dropped on and around the village. This took place only during the last three days of the conflict. The officials stated that no missiles had been fired from within the village, only from its outskirts. They stated that 80% of the houses were destroyed in the last few days of the war, one 15 minutes before the ceasefire came into effect.

110. It is likely that the town of Yatar was used as a base for Hezbollah fighters. Officials explained that the outskirts had been used as launching sites for missiles, and that six fighters from the town had been killed. The shooting down of the IDF helicopter may have led to retribution in the form of cluster bombs used in the last three days of the conflict. The pattern and manner of attacks is not justifiable in terms of military necessity and was both indiscriminate and disproportionate. The use of cluster bombs suggests a degree of vindictiveness and an effort to punish the population as a whole, including those returning to town. As with so many other cases investigated by the Commission, the IDF actions were indiscriminate and disproportionate. The destruction of so many civilian houses is not justifiable in terms of military necessity.

111. The Commission visited the town of **Aita Ech Chaab**, which was the scene of intense fighting and bombardment throughout the conflict. The Commission was informed by the Mayor that on the first day of the conflict, the population was warned that they had 2 hours to leave. The shelling began 10 minutes later. Most of the civilian population of 12,000 left at this time but about 100 people remained. Around 800 houses were totally destroyed and 400 were partially destroyed. The centre of the town was the most severely damaged.

112. According to witness accounts, the town was defended by Hezbollah fighters who throughout the conflict withstood repeated IDF attempts to take control of the town. Each incursion was preceded by a heavy artillery bombardment and by air strikes. The IDF attempted to demolish buildings with bulldozers, but this strategy failed. In the Commission's view, the widespread destruction of residential buildings and other civilian property was disproportionate and would be difficult to justify on grounds of military necessity.⁸⁷

113. **Bent J'beil**, a thriving town of some 30,000 people, was known as the "capital of resistance". The IDF operations against this town were similar in nature to those in Aita Ech Chaab. The Mayor informed the Commission that 800 houses had been destroyed and that "strange weapons" had been used on the town resulting in some children suffering strange spot marks on their skin⁸⁸. Two hospitals were directly targeted, as well as mosques. Six schools were completely destroyed, and two partially destroyed.

⁸⁷ GC Additional Protocol I, article 52(2). It would be very difficult, for example, for the IDF to claim that the whole town was a military objective and that every house was "by its nature, location, purpose or use making an effective contribution to military action." Nor could the IDF reasonably claim that the total or partial destruction of such buildings, in the circumstances ruling at the time, offered a definite military objective.

⁸⁸ See section B.II.n, Use of weapon

114. The Commission was informed that the IDF had attempted to enter Bent J'beil but had been repeatedly resisted by Hezbollah fighters.⁸⁹ 15 fighters and 27 civilians were killed, and another 100-120 people were injured. As in the case of Aita Ech Chaab, it would appear that the IDF's failed attempts led them to resort to the tactic of bombardment. Yet again, civilian property was targeted indiscriminately.

115. In several attacks on the village of **Sreifa**, about 30 kilometers east of Tyre, at least 25 civilians were killed and 26 others injured while 13 houses were destroyed. According to a report presented by the Parliamentary Human Rights Committee network against Israeli war crimes, after the first bombing on 13 July, which killed four members of a family, villagers began fleeing to neighbouring villages for safety. The IDF started shelling the area around the village from airplanes. The people followed the advice of the Sheikh of the village and sought shelter in the big houses with basements used to dry tobacco in Haret Najdi neighbourhood. Around 0330 hours on 19 July, at least three Israeli planes struck at least 13 homes in Haret Najdi neighbourhood, firing multiple munitions and causing the homes to collapse on their basements, which were packed with sheltering civilians.⁹⁰

ii. South Beirut

116. The Commission visited the South East suburbs of Beirut, which were heavily bombed from the earliest days until the last days of the conflict. This largely Shiite district of high-rise buildings is densely populated and a busy commercial centre, with hundreds of small shops and businesses. It was also a centre for Hezbollah activities in the city, including offices of the political headquarters of the organization, and its associated infrastructure, including *Jihad al Bina*, offices of parliamentarians, and the TV station *Al-Manar*. During the course of the conflict, many displaced persons from the South had sought refuge in the relative safety of this neighbourhood.

117. The Commission members were shocked by the utter devastation of large sections of the area. Throughout the period of the conflict, nearly everyday, the IDF attacked and destroyed a handful of unoccupied multi-storey buildings. Nearly all of its 220,000 inhabitants have been forced to evacuate at the commencement of the hostilities. The presence of Hezbollah offices, political headquarters and supporters would not justify the targeting of civilians and civilian property as military objectives.

118. The Commission met with community officials and people and visited the various municipalities affected by the bombing of the South Beirut Dahiyeh area and the adjoining Chiyah district.

119. The devastation in **Dahiyeh** was extensive. The area had been subjected to very heavy aerial bombardment from apparently precision-guided bombs. Whole buildings of 10 or more floors had completely collapsed. The bomb craters witnessed by the Commission were enormous, indicating the use of very heavy ordnance. There were still unexploded bombs in some buildings. There was a

⁸⁹ For example, heavy fighting had taken place in and around the market area. The walls in this part of the town were extensively pot-marked with small and medium caliber weapons. Press reports, as well as IDF statements, suggest attempts by the IDF to take the town using both the Golani and Paratrooper Brigades. The fact that these two regular army units failed to take the town, again points to the strong resistance of the Hezbollah fighters.

⁹⁰ Report prepared by the Lebanese Parliamentary Human Rights Committee Network against Israeli war crimes.

pattern in the bombing and some buildings had been hit several times. 326 residential buildings were either damaged or destroyed in the Southern suburbs⁹¹.

120. During one single bombing, 35 people were killed. 24 hours before the end of the conflict, one building was bombed and six families within it were hit when they came back to clean their apartments. The total figures of those killed or injured were, however, comparatively low in relation to the utter destruction of the area, because after the second day of the conflict a large portion of the population had vacated the area. The total of those killed is estimated at around 110 with another 300 people injured.

121. In **Chiyah**, according to witness reports, on 7 August one building was hit twice within 10 seconds, first by four bombs and second by two bombs. The Commission was given a list of the names of 41 individuals who killed in this incident, including 13 children, one newborn, and 17 women. Many of those killed were IDPs who had fled from the South.

122. In **Roueiss**, the Commission received information about the bombing of 8 eight-storey buildings which were attacked on the afternoon of 13 August, a few hours before the ceasefire. Only two people survived this strike. The bodies of 13 people disintegrated completely. The death toll is now 43 civilians. Witnesses described how the buildings collapsed in less than one minute. One man was trapped in the rubble, the stairs having fallen on him. He stayed there for three days, screaming as he heard the bulldozers removing the rubble around him. In the centre of these buildings was a yard where children were playing at the time of the bombing.

iii. **Beeka Valley**

123. In **Al Qa'a**, in the Bekaa Valley, the Commission saw the wreckage of a metal-roofed building used by Syrian workers employed on a farm to gather peaches during the harvest season. The building housed workers' quarters composed of 12 rooms and a central corridor. According to one witness, the building was bombed on 4 August at 1400 hours in two strikes.⁹² At the time of the bombing, most of the workers were having their lunch in the building. The witness told the Commission that there was an MK drone over that location prior to the bombing and that two hours before the air strike, a truck had come to load fruit. The truck was open and it was possible to see from the air what was inside. One farmer was killed outside on a tractor and another was injured while collecting water from a tank located a few meters away from the building. Figures regarding the total death toll from this incident vary from 25 to 39⁹³.

⁹¹ European Commission; European Union Satellite Centre. Rapid preliminary damage assessment – Beirut and South Lebanon, 31 August 2006, p. 3.

⁹² The building is located in an open space with the peach orchards on one side. The Commission saw a long row of peaches, now rotten, that were outside the building and which had been ready to be loaded at the time of the bombing.

⁹³ This difference can be explained by the fact that some of those injured died later on when already in Syria. All bodies were transferred to the Syrian Arab Red Crescent by the LRC and Civil Defence. [33 dead including 26 Syrians are figures found in: A/60/969-S/2006/622. Identical letters dated 5 August 2006 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, 5 August 2006. The report of the Baalbeck police station (No. 302/160, 4 August 2006) mentioned 25 dead, all Syrians. The death toll of 39 was indicated to the Commission when it visited the site on 19 October 2006]

124. A separate attack destroyed the house of a local farmer a few hundred meters away; however nobody was hurt as the family had left that house before that day and the farmer was outside at the time of the bombing.

125. From the close location of the two buildings, the farming activities carried out in the open and the circumstances of the attacks as described by the farmer, it would appear to the Commission that these strikes were deliberately targeted. The Israeli authorities said they targeted the buildings suspecting they were being used as storage points for weaponry, having followed from the Syrian border to that farm a large truck they suspected of transporting arms.⁹⁴ The Commission considers that the presence of a drone above these locations should have allowed the IDF to identify the nature of agricultural activities taking place and the presence of a large number of farm workers and their families. Even if the truck had been carrying arms, and the farm had a dual use, nothing explains why the strikes took place at a time when all workers and their families were present in the building.

126. In **Rayak**, on 17 July 2006 at 0200 hours, four individuals were killed and five injured (including two children) when Israeli planes raided the main road and hit a house inhabited by two elderly persons. The attack hit a residential area and caused damages to nearby houses and shops. It is not clear whether the Israeli Defense Forces had given any prior warning to Rayak's residents.⁹⁵

b. Attacks on convoys of civilians

127. One particularly disturbing aspect of the conflict was the attacks on civilian convoys. On 15 July 2006 a convoy of three civilian vehicles - one pick-up truck and two cars - was hit by IDF between Chamaa and Bayadda on an exposed section of road on a hillside overlooking the sea, South of Tyre. The people involved had fled **Marwaheen** in the panic following the IDF announcement by loudspeaker that the town had to evacuate within two hours. 16 people were killed and seven more died later. The Commission visited the site of the convoy incident, which appeared to be the result of an attack by a combination of weapons.⁹⁶ In the subsequent recovery operation carried out by UNIFIL, one man and one girl were found dead 200 meters from the road, apparently having been targeted and killed while trying to escape.

128. The Commission is of the view that the attack on the convoy was a target of opportunity, rather than a pre-planned operation.⁹⁷ This attack clearly was disproportionate, violated the principle of distinction, and cannot be justified on the basis of the convoy being a military objective. Moreover, the people of Marwaheen had been ordered by loudspeaker to leave town, although the routes for escaping were obstructed and the warning time given by the IDF was extremely short. The

⁹⁴ Israeli Ministry of Foreign Affairs. Summary of IDF operations against Hezbollah in Lebanon, 4 August 2006. <http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Terrorism+from+Lebanon-+Hizbullah/Summary+of+IDF+operations+against+Hizbullah+in+Lebanon+4-Aug-2006.htm> (retrieved on 7 November 2006)

⁹⁵ Zahle police station report No. 302/1375, 17 July 2006

⁹⁶ The very large crater on the road and surrounding verges points to a much larger weapon than a naval gun, helicopter or drone missile. One of the cars, however, still in place had an obvious missile penetration hole in its roof and it was virtually destroyed by this and subsequent fire.

⁹⁷ The exact circumstances of the attack are known only to the Israeli authorities. However, it no doubt combined initial intelligence information, probably relayed from a drone, some naval gun fire and final strikes from an aircraft or a helicopter. It also clearly involved a separate follow-up strike on the two fleeing civilians.

IDF command headquarters in the area must have known of the warning that had been issued and should then have ensured that orders were given throughout the chain of command to look out for evacuating civilians and ensure their safe passage. This was evidently not done and resulted in the convoy attack. The experience would have been terrifying, especially for the children, and demonstrates blatant disrespect for the civilians. The warning given by the IDF could in no way be considered “effective” as required by IHL.⁹⁸

129. Another example of an attack on a convoy took place on 11 August 2006 when about 600 vehicles left the village of **Marjayoun** for the Bekaa Valley.⁹⁹ The Israeli Defense Forces had entered the city on 10 August and occupied the Lebanese military barracks. They asked the Lebanese military to evacuate the population but did not provide any guarantee for their safety. According to testimonies collected by the Commission, on 11 August at 0800 hours, village inhabitants gathered in the main square. At 1540 hours, the convoy, which included all patients and staff from Marjayoun hospital, left town and reached the Western Bekaa at 2130 hours.¹⁰⁰ On departure from Marjayoun and up to Hasbaya, the convoy was escorted by two Armoured Personnel Carriers (APCs) from UNIFIL, one at the front and one at the end of the convoy.¹⁰¹ At 2215 hours, around 15 vehicles were hit by the shelling.¹⁰² Eight persons were killed, including an engineer from the hospital and a Lebanese Red Cross volunteer trying to reach one of the wounded persons.

130. In a communiqué of 12 August 2006, an IDF spokesman justified the attack on the convoy as follows: “the IDF identified suspicious movement along a route forbidden for travel which had been used by Hezbollah to transport rockets and other weaponry. Acting on the suspicion that these were Hezbollah terrorists transporting weaponry an aerial attack was carried out. Further inquiry into the incident following information from UNIFIL has concluded that the movement was of a convoy that had left Marjayoun earlier. It is important to note that a request for the passage of the convoy was submitted to the IDF coordination apparatuses prior to its departure and was not authorized. Furthermore a curfew¹⁰³ has been placed on any non-authorized vehicular movement south of the Litani River several days ago.”¹⁰⁴

⁹⁸ See section B. II.

⁹⁹ Jeb Jenine Police Station Report No. 2/204/668 noted 535 civilian vehicles and 50 non-civilian.

¹⁰⁰ Their itinerary was as follows: Ebel el Sahi – Blat Valley – Hasbaya – Kfeir – Alfordim – West Bekaa (Rachaya – Rafid - Jib Jenine).

¹⁰¹ The two APCs left the convoy at Hasbaya. There was no truck other than those of the Lebanese Army, which were all in the front of the convoy. Next to the bridge of Kefraya (about two hours after the UNIFIL APCs left the convoy).

¹⁰² Next to the bridge of Kefraya, just before the current checkpoint of the Lebanese Army, the convoy was hit by nine missiles. The first strike hit the first vehicle, the second hit the last vehicle, and other missiles hit vehicles in the middle of the convoy. The Commission was told that the cars had white flags on their roofs and their lights were on. The Israeli authorities knew that it was a convoy as it set out on its way in front of elements of the IDF. The 9 munitions were launched in a short period of time. The 8 people who died were directly hit by the strikes. Once the convoy was attacked, the Lebanese Red Cross was called. However, one of their ambulances was hit while the rescue workers were assisting injured persons, killing one of the LRC volunteers. This happened about 20 minutes after the initial attack.

¹⁰³ Israeli Ministry of Foreign Affairs. Summary of IDF operations against Hizbollah in Lebanon, 7 August 2006 <http://www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Terrorism+from+Lebanon+Hizbullah/Summary+of+IDF+operations+against+Hizbullah+in+Lebanon+7-Aug-2006.htm#travel> (retrieved on 7 November 2006)

¹⁰⁴ Israeli Ministry of Foreign Affairs. IDF response on convoy hit in South Lebanon, 12 July 2006 <http://www.mfa.gov.il/MFA/Government/Communiques/2006/IDF+response+on+convoy+hit+in+south+Lebanon+12-Aug-2006.htm> (retrieved on 7 November 2006)

131. This justification raises major problems. The curfew imposed by the IDF south of the Litani River had the effect of stripping civilians traveling in the south of their protected status and turning them into military targets. The fact that a civilian stayed or moved within that zone did not mean that he was participating directly in hostilities. The precautions taken by the IDF fell far below the requirements as set forth in IHL, which would have required a careful assessment, taking into account the conditions governing this particular situation, as to whether there were sufficient indications to warrant an attack.

132. Again in **Marwaheen**, another convoy faced an IDF attack on 16 July. Further to the request made by the IDF for the population to leave town, on 15 July UNIFIL discussed plans for an evacuation convoy. On 16 July an IDF clearance was obtained and the UNIFIL convoy of 4 buses, 4 or 5 trucks, 2 APCs and two Military Police vehicles left Naqoura at 0715 hours, reaching Marwaheen at 0900 hours. By 1100 hours, the local people who wanted to leave were ready and UNIFIL Naqoura had approved the additional evacuation of people from the village of Um al Tut, near Marwaheen. By 1115, when the UNIFIL convoy had reached the Military Observers patrol base, UNIFIL Operations informed the convoy that IDF clearance had been revoked and the Military Observers suggested that the convoy return to the village. At about 1300 hours, two rockets were launched towards Israel, from a distance from the village.

133. At approximately 1400 hours, UNIFIL Operations informed the convoy that they had obtained new clearance from IDF. The first vehicle had reached a house across the street from the mosque, when a first round hit the roof of the house, ricocheted and fell in front of the vehicle. In all, 6 rounds hit the same house.¹⁰⁵ People then got out of the buses and gathered in the central square for protection. A report was made to UNIFIL Operations to inform the IDF and request immediate cessation of fire. After 10-30 minutes, a second attack took place, including another 6 to 7 smoke shell rounds launched around the same house. Again, a report was sent to UNIFIL Operations. At about 1730 hours, the convoy was able to leave for Tyre. One old man succumbed to a heart attack as a result of the choking smoke. No one else was hurt in the incident.

134. Smoke shells of this type are designed to provide a smoke screen for troops or tanks, rather than to kill. This attack appears to be an attempt to panic the civilians. There is no military justification for such an action.

135. The Commission notes that civilian convoys have repeatedly been the target of military attacks. It is clear that the IDF must have known that these convoys were not a legitimate military target, as they either had asked the civilian population to leave (Marwaheen) or were present when the convoy left (Marjayoun). Even if there were Hezbollah members among the civilians who left the villages in convoys, this does not justify the attacks as they would be utterly disproportionate and beyond any concept of military necessity or the principle of distinction.

c. Attacks on infrastructure and other objects

¹⁰⁵ All rounds were 155 mm artillery smoke shells.

136. During the conflict major damage was inflicted on civilian infrastructure¹⁰⁶. According to the Lebanese Government, 32 “vital points” were targeted by the IDF. These include for example, the Port of Beirut where the radar was hit. The Commission was told by the Managing Director of the Port that the radar was used for ship navigation tracking, and not for military purposes. In addition, the modern lighthouse of Beirut was put out of use by a strike on 15 July. The airport of Beirut also suffered severe damage to its five runways¹⁰⁷ and fuel tanks. This major destruction occurred during the first days of the conflict.

137. 109 bridges and 137 roads (445,000 km²) were damaged during the conflict, including some bridges which had been repaired once already.¹⁰⁸ The Commission heard evidence in Qana of the disproportionate use of weapons by IDF. In one incident, for example, IDF rockets were fired at a small bridge, three times with two rockets at a time, while the bridge was a simple construction used by shepherds.

138. The destruction of the land transportation network had a huge impact on humanitarian assistance and on the free movement of displaced civilians, notably those who had been ordered by the IDF to leave their villages. The Commission was told by humanitarian workers that on many occasions their movement was limited not only because the Israeli authorities did not consent to it but also because the roads and bridges were severely damaged. On many occasions this destruction occurred after humanitarian organizations had obtained a clearance from Israel to use these roads. In the same vein, the Commission was told that the evacuation of civilians was particularly hampered by the destruction of roads and bridges. This was for example the case for the convoy of Marjayoun as part of the road had been heavily bombed and therefore the progress of the convoy was dramatically delayed (the convoy left at about 1600 hours and reached Western Bekaa at 2130 hours).

139. Water facilities were destroyed or damaged during this conflict in many parts of the country. The Commission saw numerous water tanks damaged in Chihine, and on the road between Taibe and Qantara. In Khiyam, the Commission saw evidence of damage to pipes. Numerous water towers had been hit by a direct fire weapon- probably a tank round. Most had a single round through them, sufficient to empty their content. Israeli soldiers were stationed in Froun, in order to control the water source. This led to a decrease of water distribution to the villages located in the Qada of Marjayoun, south of Taibe¹⁰⁹. In fact fears of lack of water were one of the reasons why civilians left

¹⁰⁶ See Annex for a preliminary list established by the Lebanese government. See also, Amnesty International. Israel/Lebanon: deliberate destruction or “collateral damage”? Israeli attacks on civilian infrastructure, August 2006.

¹⁰⁷ European Commission; European Union Satellite Centre. Rapid preliminary damage assessment – Beirut and South Lebanon, 31 August 2006, p. 12.

¹⁰⁸ For example, on 7 August OCHA reported that a temporary bridge over the Litani river had been bombed by the IDF after the original bridge had been destroyed earlier in the conflict. OCHA Situation report 15, 7 August 2006. In addition, according to UNIFIL, the IDF did not reply positively to repeated requests to reopen the road between Tyre and Beirut by putting up another provisional bridge over the Litani River. UNIFIL Press Releases from 7 until 12 August 2006.

¹⁰⁹ Médecins du Monde, Les conséquences du conflit de l’été 2006 sur les conditions de vie et la santé des populations civiles du Sud Liban, 12 octobre 2006, p.8. www.medicinsdumonde.org/publications/rapports/rapport_liban_octobre06 (retrieved on 7 November 2006).

their villages¹¹⁰. In Beirut, in the Christian neighbourhood of Achrafieh, on 19 July, the IDF bombed two engineering vehicles used to drill water¹¹¹.

140. Transmission stations used by Lebanese television and radio were also the targets of bombing. A clear distinction has to be made between the Hezbollah-backed Al-Manar television station and others. While the first is clearly a tool used by Hezbollah in order to broadcast propaganda, nothing similar can be said regarding the others. The IDF repeatedly targeted Al-Manar at the beginning of the conflict, notably its headquarters in the Beirut suburb of Haret-Hreik.

141. In addition to Al-Manar, Future TV, New TV, and the Lebanese Broadcasting Corporation (LBCI) suffered damages to their infrastructure. The transmission and communication towers of Télé Lumière, a Christian television station founded in 1991, were damaged in six different locations¹¹².

142. Regarding the Al-Manar TV station, Israel said that it has for many years served as the main tool for propaganda and incitement by Hezbollah, and has also helped the organization recruit people into its ranks¹¹³. The Commission wishes to recall that the fact that al-Manar television broadcasts propaganda in support of Hezbollah's attacks against Israel does not render it a legitimate military objective, unless it is used in a way that makes an "effective contribution to military action" and its destruction in the circumstances at the time offers "a definite military advantage." The Commission points out that a TV station can be a legitimate target, for instance, if it called upon its audience to commit war crimes, crimes against humanity or genocide¹¹⁴. If it is merely disseminating propaganda to generate support for the war effort, it is not a legitimate target. The Commission was not provided with any evidence of this "effective contribution to military action". The International Federation of Journalists (IFJ) condemned this attack in a press release of 14 July 2006, "warning that the attack follows a pattern of media targeting that threatens the lives of media staff, violates international law and endorses the use of violence to stifle dissident media".¹¹⁵

143. With regard to attacks on other stations, nothing was said by the Israeli authorities and official reports only mention the destruction of the Hezbollah communications infrastructure. For these TV stations, links with Hezbollah could not be documented by the Israeli authorities and the Commission could not find any evidence in that regard. The IFJ released a second communiqué on

¹¹⁰ Médecins du Monde, Les conséquences du conflit de l'été 2006 sur les conditions de vie et la santé des populations civiles du Sud Liban, 12 octobre 2006, p.11. www.medecinsdumonde.org/publications/rapports/rapport_liban_octobre06 (retrieved on 7 November 2006)

¹¹¹ Ministry of Interior, Achrafieh police station, report No. 204/1119, 5 August 2006.

¹¹² See the report at <http://www.telelumiere.com/eng/war.html> (Retrieved on 7 November 2006)

¹¹³ Israeli Ministry of Foreign Affairs. Summary of IDF operations against Hezbollah in Lebanon, 13 July 2006 <http://www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Terrorism+from+Lebanon+Hizbullah/IDF+operations+against+Hizbullah+in+Lebanon+13-Jul-2006.htm> (Retrieved on 7 November 2006).

¹¹⁴ Tomuschat, C.. Human rights between idealism and realism, Oxford, 2003, p. 257. The ICTR considered that hate speech targeting a population on the basis of ethnicity, or other discriminatory grounds, reaches this level of gravity and constitutes persecution under Article 3(h) of its Statute. Prosecutor v *Ferdinand Nahimana, Jean-Bosco Barayagwisa, Hassa Ngeze*, Case No. ICTR-99-52-T, Judgement and Sentence, 3 December 2003, para. 1072. <http://69.94.11.53/ENGLISH/cases/Nahimana/index.htm> (Retrieved on 7 November 2006).

¹¹⁵ International Federation of Journalists. IFJ accuses Israel over pattern of targeting after strike on Beirut broadcaster, 14 July 2006. <http://www.ifj.org/default.asp?Index=4064&Language=EN> (Retrieved on 7 November 2006).

24 July 2006 to condemn Israeli attacks on the media after one media worker of the Lebanese Broadcasting Corporation was killed in a bombing by the IDF in Fatka¹¹⁶ and two others were wounded in a separate strike.¹¹⁷

144. The economic infrastructure was also targeted by aerial bombardment. The Lebanese Minister of Labour provided the Commission with a list of 127 factories hit by IDF strikes. Among them, Liban Lait (dairy products) in Baalbeck; Maliban (glass bottles) in Tanayel; and Plastimed (medical supplies) in Tyre. The Commission witnessed the wreckage of the Liban Lait factory.

145. The agricultural sector was also particularly hit, notably in South Lebanon. Agricultural land was burned, numerous crops were destroyed, and poultry stocks were severely affected. Tourism was severely affected as the season was lost.

146. Israel justified its attacks on the civilian infrastructure by invoking their hypothetical use by Hezbollah. For example, regarding Beirut International Airport, Israel said that it served Hezbollah to re-supply itself with weapons and ammunition. It also said it was a response to reports that it was the intention of Hezbollah to fly the kidnapped Israelis out of Lebanon. However, it underlined that in its operation at Beirut Airport the IDF was careful not to damage the central facilities of the airport, including the radar and control towers, allowing the airport to continue to control international flights over its airspace¹¹⁸. The same arguments were used regarding roads and bridges.¹¹⁹

147. The Commission appreciates that some infrastructure may have had “dual use” but this argument cannot be put forward for each individual object directly hit during this conflict. Even if some claims were true, the collateral harm to the Lebanese population caused by these attacks would have to be weighed against their military advantage, to make sure that the rule on proportionality was being observed. For example, cutting the roads between Tyre and Beirut for several days and preventing UNIFIL from putting up a provisional bridge cannot be justified by IHL. It jeopardized the lives of many civilians and prevented humanitarian assistance from reaching them. Injured persons needing to be transferred to hospitals north of Tyre could not get the medical care needed.

¹¹⁶ Jounieh Police Station Report No. 302/155, 22 July 2006.

¹¹⁷ International Federation of Journalists, IFJ condemns “deplorable” Israeli attack on media in Lebanon and killing of TV employee, 23 July 2006 <http://www.ifj.org/default.asp?index=4077&Language=EN> (Retrieved on 7 November 2006).

¹¹⁸ Israel Ministry of Foreign Affairs. Responding to Hezbollah attacks from Lebanon: issues of proportionality <http://www.mfa.gov.il/MFA/Government/Law/Legal+Issues+and+Rulings/Responding+to+Hizbullah+attacks+from+Lebanon+Issues+of+proportionality+July+2006.htm> (Retrieved on 7 November 2006).

¹¹⁹ See for example: Israeli Ministry of Foreign Affairs. IDF Spokesman: Hezbollah attack on northern border and IDF response, 12 July 2006 <http://www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Terrorism+from+Lebanon+Hizbullah/Hizbullah+attack+on+northern+border+and+IDF+response+12-Jul-2006.htm> (Retrieved on 7 November 2006); Summary of IDF operations against Hezbollah in Lebanon, 21 July 2006, <http://www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Terrorism+from+Lebanon+Hizbullah/Summary+of+IDF+operations+against+Hizbullah+in+Lebanon+21-Jul-2006.htm> (Retrieved on 7 November 2006).

148. By using this argument, the IDF simply changed the status of all civilian objects by making them legitimate targets because they might be used by Hezbollah. The principle of distinction requires the Parties to the conflict to carefully assess the situation of each location they intend to hit to determine whether there is sufficient justification to warrant an attack. Further, the Commission is convinced that damage inflicted to some infrastructure was done for the sake of destruction.

d. Precautionary measures in attacks

i. Warnings: leaflets, phone, text and loudspeaker messages

149. From mid-July the IDF began warning villagers in the south to evacuate their towns and villages. The warnings were given by leaflets dropped by aircraft, through recorded messages to telephones and by loudspeaker. The Commission obtained examples of some of these leaflets (see annex VI).

150. On 25 July 2006 the Israeli Ministry of Foreign Affairs published on its official website¹²⁰ the following example of a warning to Lebanese civilians to leave areas allegedly being used to launch rockets and not to travel by truck:

“To the people of Lebanon
Pay attention to these instructions!!
The IDF will intensify its activities and will heavily bomb the entire area from which rockets are being launched against the State of Israel.
Anyone present in these areas is endangering his life!
In addition, any pickup truck or truck travelling south of the Litani River will be suspected of transporting rockets and weapons and may be bombed.
You must know that anyone travelling in a pickup truck or truck is endangering his life.
The State of Israel.”

151. IHL requires that warring parties give “effective advance warning” of attacks which may affect the civilian population. It is also generally accepted that a warning is not required when circumstances do not permit, such as in cases where the element of surprise is essential.”¹²¹ State practice establishes this rule as a norm of customary international law. Obligations with respect to the principle of distinction and the conduct of hostilities remain applicable even if civilians remain in

¹²⁰ Israeli Ministry of Foreign Affairs. IDF warns Lebanese civilians to leave danger zones, 25 July 2006, available at <http://www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Terrorism+from+Lebanon+-+Hizbullah/IDF+warns+Lebanese+civilians+to+leave+danger+zones+3-Aug-2006>, retrieved on 7 November 2006.

¹²¹ Lieber Code, article 19; Brussels Declaration, article 16; Oxford Manual, article 33; Hague Regulations, article 26; GC Additional Protocol I, article 57(2)(c); CCW Amended Protocol II, article 3(11).

the zone of operations after a warning has been given. Threats in the past, for example that all remaining civilians would be considered liable to attack, have been condemned and withdrawn.¹²²

152. IHL also prohibits “acts or threats of violence the primary purpose of which is to spread terror among the civilian population”.¹²³ Statements calling for the evacuation of areas that are not genuine warnings, but are intended to frighten or cause panic among residents or compel them to leave their homes for reasons other than their safety, could fall under this prohibition.

153. Military planning staff should pay strict attention to the requirement for any warning to be “effective”. The timing of the warning is of importance. In some cases the IDF are reported to have dropped leaflets or given loudspeaker warnings¹²⁴ only two hours before a threatened attack. Having given a warning, the actual physical possibility to react to it must be considered.

154. As the High Commissioner for Human Rights has pointed out, “Many people are simply unable to leave southern Lebanon because they have not transport, because roads have been destroyed, because they are ill or elderly, because they must care for others who are physically unable to make the journey, or because they simply have nowhere to go”.¹²⁵

155. Also of great concern was the physical danger they might face if they heeded the warning and took to the roads. There were number of civilians who when warned by the IDF to evacuate did so only to be attacked on their way out. On 15 July, for example, a number of families fled the southern Lebanese village of Marwaheen after the IDF warned them to evacuate. On the road leading to the coast through Chamaa the convoy was attacked leaving 23 dead (see detailed report earlier). On 7 August, Israeli warplanes dropped leaflets over southern Lebanon with the following wording: “Any vehicle of any kind travelling south of the Litani River will be bombarded, on suspicion of transporting rockets, military equipment and terrorists. Anyone who travels in any vehicle is placing his life in danger”.¹²⁶ This obviously made further evacuation from the area extremely difficult if not impossible.

156. If a military force is really serious in its attempts to warn civilians to evacuate because of impending danger, it should take into account how they expect the civilian population to carry out the instruction and not just drop paper messages from an aircraft.

157. To be truly “effective” the message should also give the civilians clear time slots for the evacuation linked to guaranteed safe humanitarian exit corridors that they should use. Military staff should ensure that civilians obeying evacuation orders are not targeted on their evacuation routes.

¹²² ICRC Study, rule 20, p. 65, note 93.

¹²³ Fourth Geneva Convention, article 33; GC Additional Protocol I, article 51(2); and GC Additional Protocol II, article 13(2)

¹²⁴ For example, at the village of Marwaheen on 15 July.

¹²⁵ UN High Commissioner for Human Rights. High Commissioner for Human Rights condemns killings of civilians in Qana, South Lebanon, 31 July 2006.

¹²⁶ See message in Annex VII.

158. A warning to evacuate does not relieve the military of their ongoing obligation to “take all feasible precautions” to protect civilians who remain behind, and this includes their property. By remaining in place, the people and their property do not suddenly become military objectives which can be attacked. The law requires the cancelling of an attack when it becomes apparent that the target is civilian or that the civilian loss would be disproportionate to the expected military gain¹²⁷. Official statements issued during the conflict by Israeli authorities cast doubt on whether in fact they were fully aware of these obligations. For example, as reported on BBC news on 27 July,¹²⁸ Israeli Justice Minister Haim Raimon said: “that in order to prevent casualties among Israeli soldiers battling Hezbollah militants in southern Lebanon, villages should be flattened by the Israeli air force before ground troops moved in. He added that Israel had given the civilians of southern Lebanon ample time to quit the area and therefore anyone still remaining there could be considered a Hezbollah supporter. “All those now in south Lebanon are terrorists who are related in some way to Hezbollah,” Mr. Ramon said.

ii. Propaganda leaflets and messages

159. In Beirut and other places, leaflets were also dropped but in the main they were of an anti-Hezbollah propaganda nature rather than warnings. The same applies to the computer-generated telephone calls many people received. An example of this type of leaflet is as follows and further examples given in at Annex VI.

The IDF tells the people of Lebanon that they are in conflict with the Hezbollah terrorists, not the people of Lebanon, and that they should not allow themselves to be used as human shields (Aug 3, 2006)¹²⁹:

*“To the people of Lebanon
IDF forces operated with daring and force in Baalbek, the centre of operations of the Hezbollah terror band, in the framework of its defense of the citizens of the State of Israel and the return of the abducted IDF soldiers.
Know that the IDF will continue to send its long arm to wherever Hezbollah terrorists are found, in order to strike at them forcefully and with determination, and to neutralize their options to execute their criminal ideology against the citizens of Israel.
Citizens of Lebanon,
The IDF forces are not acting against the Lebanese people, but against the Hezbollah terrorists, and will continue to act as long as it deems necessary.
Do not allow Hezbollah elements to hold you as prisoners and use you as a human shield for the sake of foreign interests.
The State of Israel.”*

¹²⁷ GC Additional Protocol I, article 57(2)(b); Second Protocol to the Hague Convention for the Protection of Cultural Property, article 7.

¹²⁸ BBC News. Israel says world backs offensive, 27 July 2006 http://news.bbc.co.uk/2/hi/middle_east/5219360.stm (retrieved on 7 November 2006)

¹²⁹ <http://www.mfa.gov.il/mfa/terrorism>

160. It also appears that the IDF dropped propaganda leaflets after the conflict. An example given to the Commission by UNMACC¹³⁰ is as follows:

“To the citizens of South Lebanon
Now that you have returned to your villages, and you are facing a big
crisis: destruction, devastation and death
how did you arrive at this situation?
Nasrallah claims that it is his right to kidnap Israeli soldiers - was this a
worthwhile decision?
Nasrallah claims that he is not serving the interests of Iran and Syria - is
that true?
Nasrallah claims that he is a deterrent for Israel - is that true?
Was all this worth the price you paid?
Be aware that the Israeli Defense Force will come back and act with the
required force any time the terrorist elements carry out their operations
against the citizens of the State of Israel from inside Lebanese territory.
You have the possibility to prevent this by bringing calm, security, and
prosperity in your region.
State of Israel”

161. These leaflets and messages were not warnings. They were of a propaganda nature and constituted undue interference into internal affairs of Lebanon.

e. Attacks on medical facilities

162. The Commission was able to verify that the IDF had carried out attacks on a number of medical facilities in Lebanon, despite their protected character. An assessment by the World Health Organization and the Lebanese Ministry of Public Health on the damage inflicted on primary health care centres and hospitals¹³¹ shows, for example, that 50% of outpatient facilities were either completely destroyed or severely damaged, while one of the region’s three hospitals sustained severe damage. This study also reflects serious shortages of fuel, power supply and drinking water.¹³² The Commission was told in Tyre that hospitals were not short of medication, since they all had stock for a few months. However, hospital authorities informed the Commission that they would not have been able to provide food and blood without the help of Palestinian refugees, who volunteered for blood donations and were a major food provider for the hospitals during the conflict.¹³³

163. In Tibnin, the governmental hospital showed signs of being hit by direct fire weapons, possibly a tank shell or a missile strike from a helicopter. The Commission saw at least five direct hits on the hospital’s infrastructure. According to reports received by the Commission, on 13

¹³⁰ During their clearance operations, UNMACC came across numerous examples of leaflets dropped by the IAF over southern Lebanon. The Commission was given a selection of these.

¹³¹ WHO, MOPH. Lebanon Crisis: Service Availability Assessment, 29 August 2006, 82 p. See Annex VIII, “Physical Damage to Health Facilities”.

¹³² Note: the study does not make a comparison with what existed prior to the conflict, which does not allow for a thorough analysis.

¹³³ The Commission was informed that the hospital in Marjayoun suffered mainly from lack of fuel and electricity.

August, the immediate area of the hospital was the object of a cluster bomb attack - just before the cease fire. According to these reports, the attack took place while some 2,000 civilians were sheltered in the hospital.

164. The IDF would know about the hospital built on a hill and stands out for miles around. Whether it had a Red Cross flag flying on its roof is relatively unimportant. In fact the small flag that the Commission saw flying on the hospital would be indiscernible from the air and possibly from the ground. This is in any case irrelevant because of the facts listed above.

165. According to the information gathered, the Commission finds that from a military perspective there is no justification in either the direct fire on the hospital or the cluster bomb attack. The Commission did not find any evidence that the hospital was being used in any way for military purposes. Furthermore, Israeli intelligence drones, which were extensively used, would have clearly shown that civilians were sheltering in the hospital.

166. In Baalbeck, the Commission saw another example of a hospital that was the target of IDF military operations. The hospital Dar-el-Hekma is a private charitable institution affiliated to the Imam Khomeini Foundation. On 1 August, at around 2130 hours, Israeli troops landed in the close vicinity and entered the hospital after having hit all lights on the surrounding fence. At the time of the attack, the hospital had no hospitalised patients but was functioning with out-patients services. Only ten staff members were present at that time; one was killed and two were injured. Once in the building, the soldiers went into all rooms but one and destroyed doors, windows, computers, furniture, a safe and medical equipment. Some patients' files were taken from the archives, stacked in a room and burned. Deeds related to the hospital were removed from the safe. According to reports received by the Commission, Israeli soldiers stayed for about seven hours in the building.

167. The Commission did not find any information as to whether the hospital was used by Hezbollah fighters. There is no justification for the damage and destruction of medical equipment, furniture, official documents or patient files, each of them being purely civilian objects.. Furthermore, the Commission finds that the origin of the hospital's funding, or the possible links between some staff members and Hezbollah do not, in any way, justify considering this institution as a military target.

168. The Commission came across cases of medical institutions which sustained collateral damage due to military actions that occurred in the close vicinity of their premises. For example, in Marjayoun, while the hospital was not directly hit, its electrical and electronic equipment was damaged due to the destruction of the electricity network.¹³⁴

169. In Tyre, authorities from the Najem and the Jabal Amel Hospitals informed the Commission about two occasions on which Israeli troops landed in the vicinity of the hospitals.¹³⁵ In both cases, patients and staff members were brought to the basement for protection. Physical collateral damage was reported in the Jabal Amel Hospital due to the bombing of two houses located 50 meters away from the hospital. Collateral damage was also reported at the Najem Hospital.

¹³⁴ On 11 August, the hospital was completely evacuated, one day after the IDF entered the city. One staff member of the hospital was killed in the convoy which left the city (see section on civilian convoys).

¹³⁵ These landings occurred on 5 and 9 August.

170. According to IHL, medical units exclusively assigned to medical purposes must be respected in all circumstances. They lose their protection if they are being used, outside their humanitarian function, to commit acts harmful to the enemy.¹³⁶ In this respect, the Commission finds that medical facilities were both the object of unjustified direct attacks and the victim of collateral damage. The Commission did not find any explanation by the Israeli authorities that could justify their military operations that affected, directly or indirectly, protected medical facilities. Israel's general explanation that all infrastructure hit was used by the Hezbollah is insufficient to justify IDF's violation of its obligation to abstain from carrying out attacks against protected medical facilities.

f. Medical personnel and access to medical and humanitarian relief

171. The Commission notes that the Red Cross Movement was not spared during the conflict, as indicated in several incidents reported by the ICRC and the Lebanese Red Cross (LRC).¹³⁷ In some cases, medical personnel were the victim of collateral damage.

172. The Commission took note that the LRC reported nine different incidents involving ambulances and five others involving medical facilities that were targeted. In total, the LRC had one volunteer killed, 14 staff members injured, three ambulances destroyed and four others damaged; one medical facility destroyed and four others damaged. The following three incidents involving LRC ambulances illustrate the Commission's findings.

173. On 23 July, at 2315 hours, two LRC vehicles were hit by munitions in Qana. The two vehicles were clearly marked with the Red Cross emblem on the rooftop. The incident happened while first-aid workers were transferring wounded patients from one ambulance to another. According to LRC reports and witness' accounts, one ambulance left Tibnin with three wounded people and three first-aid workers on board. The second ambulance left Tyre with three first-aid workers on board. Both vehicles met in Qana in order to transfer the patients from one ambulance to the other.¹³⁸ As the Tyre ambulance was about to leave, it was hit by Israeli missiles. A few minutes later, as the personnel of the Tyre ambulance tried to call for assistance, the Tibnin ambulance was also hit by a missile. The missile struck the ambulance in the middle of the Red Cross painted on the roof. The LRC staff succeeded in calling the ICRC, which managed to contact the IDF to request that the attack be stopped. The Red Cross workers hid for around two hours, unable to provide

¹³⁶ First Geneva Convention, article 19; Fourth Geneva Convention, article 18; GC Additional Protocol I, article 12. A violation of this rule is considered a war crime in ICC Statute, article 8(2)(b)(ix), applicable to international armed conflicts. In cases of internal armed conflicts, the applicable rule is contained in article 3 common to the Geneva Conventions and in GC Additional Protocol II, article 11(1). Its violation is considered as a war crime in ICC Statute, article 8(2)(e)(ii).

¹³⁷ See: "Israel and Lebanon: ICRC gravely concerned about the plight of civilians caught up in hostilities", Geneva, ICRC Press Release, 13 July 2006 <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/lebanon-news-130706> (retrieved on 7 November 2006); "Middle East: press briefing with Pierre Krähenbühl, ICRC Director of Operations", Geneva, ICRC Press Briefing, 19 July 2006 <http://www.icrc.org/web/eng/siteeng0.nsf/html/briefing-israel-190706> (Retrieved on 7 November 2006); "Lebanon-Israel: ICRC deplors increasing number of casualties and lack of respect for medical mission", ICRC Press Release, Geneva, 12 August 2006 <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/lebanon-news-120806> (Retrieved on 7 November 2006)

¹³⁸ According to the Red Cross' standard procedure, the transfer was carried out in open space.

assistance to the injured persons who were still in the vehicles. As a result, nine people, including six Red Cross volunteers, were wounded.¹³⁹

174. The Commission received information of another incident, which took place on 11 August, at 1750 hours. An ambulance with medical supplies on board was shelled by the IDF on the road between Ain el Mazrab and Tibnin. A first strike hit the front of the vehicle, while a second shell hit the roof. The ambulance exploded and burned completely. Fortunately, the two LRC staff members were only superficially injured.

175. On the night of 11 August, people fleeing by car the area of Marjayoun came under fire from Israeli aircraft. Six dead and 32 wounded were evacuated by the LRC to nearby hospitals. Among the fatalities was one LRC first-aid volunteer, who was killed while assisting a wounded person. An engineer from the Marjayoun hospital was also killed in the same incident.¹⁴⁰

176. In all three cases described above, the LRC was carrying out protection activities, as defined in the 1949 Geneva Conventions. The vehicles used were clearly marked with the Red Cross emblem and their operations were done in full respect of IHL rules. The Commission did not find any evidence showing that these attacks were linked in any way to Hezbollah military activities. The Commission finds, therefore, that all these incidents constitute a deliberate and unjustified targeting of protected medical vehicles and personnel.

177. The Lebanese Civil Defence was also the target of attacks by the IDF.¹⁴¹ The Commission was informed that, during the armed conflict, one volunteer was killed and 59 other members of the Civil Defence were injured (11 staff and 48 volunteers). A total of 48 stations were damaged, as well as many vehicles.¹⁴²

178. Beside direct attacks on medical and relief personnel, the Commission received various testimonies regarding the obstacles and difficulties the medical and humanitarian relief personnel had to face in carrying out their activities. The Commission received a number of testimonies from humanitarian organizations, hospitals and other medical centre personnel and from civilians confirming that access to civilians who needed medical care and humanitarian assistance was difficult and many times impossible due to IDF imposed constraints.

179. For example, the World Food Programme was confronted early in the conflict by serious movement and deployment limitations, including cases of close firings against its humanitarian convoys.¹⁴³ Although no WFP convoy was directly hit, two security incidents occurred next to the

¹³⁹ The Commission met with one staff member of the Jabal Amal hospital who said that one of the ambulance's patients was originally suffering from a light hip injury. He was hit by shrapnel during this incident and, as a consequence, had to have one leg amputated.

¹⁴⁰ All patients and medical staff of the hospital of Marjayoun were evacuated in this convoy. For a detailed description of this incident see section on attacks against civilian convoys.

¹⁴¹ Civil defence personnel are protected in IHL. See GC Additional Protocol I, article 62.

¹⁴² One ambulance, one jeep and six fire engines were destroyed; 29 vehicles/fire engines, 7 ambulances, and 8 jeeps were damaged.

¹⁴³ WFP was responsible for the UN Humanitarian Cargo Coordination Centre in support of the entire UN system. The cargo Movement procedure can be found at the following link: <http://www.unjlc.org/lebanon/cargo/cargomovproc> (Retrieved on 7 November 2006)

same convoy on 6 August 2006. According to a WFP report “[O]n the way to Tyre, some 15 km north of the city, a van travelling in the opposite direction was hit by a missile, apparently fired from the air. Both occupants of the vehicle were killed. There was no damage or injuries to the UN convoy. As the empty trucks were returning to Beirut, another vehicle, some 30 meters ahead of the convoy, was hit by a missile. The driver, who was apparently alone in the vehicle, was killed.”¹⁴⁴ In view of the difficulties to provide humanitarian assistance to civilians in need, the UN Humanitarian Coordinator called for an end to attacks in Lebanon on civilian infrastructure and to measures which slowed down or hindered the distribution of humanitarian supplies to thousands of displaced persons.¹⁴⁵

180. Further evidence of the difficulties faced by humanitarian agencies can be seen in the humanitarian cargo movement notification procedure.¹⁴⁶ According to this procedure, no humanitarian convoy could move without the Israeli authorities’ express authorization (so-called “concurrence” mechanism). In fact, many convoys were not given authorization by the IDF. In many cases, while authorization was granted, IDF bombed roads which, due to the advance notification process, it knew were to be used by the convoys. Consequently, numerous humanitarian assistance movements had to be cancelled. In a press communiqué released on 10 August, WFP stated that “a combination of 70 bridges destroyed and the denial of “concurrence on safety” by the Israeli Defense Forces for aid convoys is crippling WFP’s efforts, on behalf of the entire humanitarian community, to organize overland transport of relief items, including food for one quarter of the Lebanese population displaced from their homes.”¹⁴⁷

181. Efforts undertaken by humanitarian agencies to ease access for humanitarian relief but were often unsuccessful. On 28 July, the UN Emergency Relief Coordinator, Jan Egeland, called for a 72-hour pause in the fighting to facilitate aid efforts, but Israel rejected the call the following day.¹⁴⁸ On 30 July, the Security Council also urged all parties to grant immediate and unlimited access to humanitarian assistance.¹⁴⁹ Despite the announcement made by a US State Department spokesperson of 30 July 2006 that Israel had agreed to a 48 hour suspension of aerial bombardments,¹⁵⁰ Israel continued with its military operations in the South, thus impeding humanitarian agencies’ access to locations south of the Litani River.¹⁵¹

¹⁴⁴ WFP operational update, Lebanon, 7 August 2006 <http://www.wfp.org/English/?ModuleID=137&Key=2199> (Retrieved on 7 November 2006)

¹⁴⁵ The HC underlined that the targeting of civilians and essential social infrastructure violates international law. OCHA Situation report 15, 7 August 2006.

¹⁴⁶ See Annex IX.

¹⁴⁷ “WFP paralysed in efforts to reach suffering people of south Lebanon”, WFP Press Release, Beirut, 10 August 2006 <http://www.wfp.org/English/?ModuleID=137&Key=2205> (Retrieved on 7 November 2006).

¹⁴⁸ OCHA Situation Report 8, 30 July 2006.

¹⁴⁹ S/PRST/2006/35. Statement by the Presidential of the Security Council, 30 July 2006.

¹⁵⁰ Suspension of aerial activity in Southern Lebanon, Jerusalem, US Department of State Press Statement, 30 July 2006 <http://www.state.gov/r/pa/prs/ps/2006/69725.htm> (Retrieved on 7 November 2006). See also Israeli Ministry of Foreign Affairs. Summary of IDF activity against Hizbollah in Lebanon, 30 July 2006 <http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Terrorism+from+Lebanon-+Hizbullah/Summary+of+IDF+operations+against+Hizbullah+in+Lebanon+31-Jul-2006.htm> (Retrieved on 7 November 2006)

¹⁵¹ See for example Médecins du Monde report concerning its aborted visit to Khiyam, in Médecins du Monde, Les conséquences du conflit de l’été 2006 sur les conditions de vie et la santé des populations civiles du Sud Liban, 12 octobre 2006, p.5. www.medecinsdumonde.org/publications/rapports/rapport_liban_octobre06 (retrieved on 7 November 2006)

182. The difficulties encountered by humanitarian relief organizations applied equally in relation to medical care. All medical staff met by the Commission underlined this aspect. Indeed, many injured persons who could have been brought to hospital or had access to medical care could not do so due to the IDF imposed movement limitations. As a result, many patients who suffered from light injuries had their condition deteriorate as time passed.¹⁵² On various occasions the lack of timely medical assistance resulted in the death of patients. These problems of access to medical care are confirmed in the data provided by the Jabal Amal hospital in Tyre. Indeed, in the two days after the cease fire it received 80 patients. All of them were injured persons who could not be reached during the conflict.

183. In Qana, for example, the Commission was informed that several persons died because of lack of medicines. Among the victims, the brother of the town's mayor died due to the lack of insulin to treat his diabetes. In Chihine, the Commission was informed that on 8 August, one woman was killed and another injured by the IDF when they raided their home. The IDF left the wounded woman in the house, unable to get medical attention due to the intense fighting. She could only be treated after the entry into force of the ceasefire, when the LRC was finally allowed to enter the town.¹⁵³

184. The ICRC reported on several occasions the difficulties faced by the LRC and the ICRC to reach people in need of assistance. In a press briefing on 19 July 2006, Mr. Pierre Krähenbühl, ICRC Director of Operations, stated that the principal medical problem within Lebanon was finding ways to evacuate patients to hospitals.¹⁵⁴ ICRC President, Mr. Jakob Kellenberger, also raised this issue when visiting Lebanon and Israel in August 2006.¹⁵⁵ Christopher Stokes, head of mission for Médecins Sans Frontières (MSF) in Lebanon, said on 1 August 2006 that the "concept of humanitarian corridors has been used as a "kind of alibi" because in effect there is no real access for humanitarian organizations in the south."¹⁵⁶

185. The Commission was also informed that ships loaded with humanitarian assistance that had left the port of Larnaca, Cyprus, were not able to enter Lebanese ports until late in the conflict both

¹⁵² This information was confirmed to the Commission in all hospitals it visited in the South.

¹⁵³ Similarly, the body of the other woman was buried only after the ceasefire, when the LRC reached their home.

¹⁵⁴ "Due to the damage to the road infrastructure and ongoing military action, the ability of the Lebanese Red Cross has been constrained." "Middle East: press briefing with Pierre Krähenbühl, ICRC Director of Operations", Geneva, ICRC Press Briefing, 19 July 2006 <http://www.icrc.org/web/eng/siteeng0.nsf/html/briefing-israel-190706> (Retrieved on 7 November 2006).

¹⁵⁵ "ICRC President insists on improved access to Southern Lebanon", ICRC Press Release, Geneva, 10 August 2006. <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/lebanon-news-100806> (Retrieved on 7 November 2006). The press release also indicates the following: "In his discussion with the Israeli authorities, Mr. Kellenberger urged that access and security for humanitarian aid and personnel be improved. In particular, Mr. Kellenberger was extremely concerned about the insufficient access for the ICRC and the Lebanese Red Cross to areas most affected by the fighting. Since the early days of the conflict, the ICRC has been able to return to those areas only sporadically and always under incredibly difficult security conditions. "The time for improved access is long overdue," insisted Mr. Kellenberger. "Even life-saving, emergency evacuations so desperately needed are, at best, delayed for days. We also face enormous obstacles to bringing in aid convoys loaded with essential foodstuffs, water and medicines for trapped civilians."

¹⁵⁶ MSF. "Humanitarian corridor into South Lebanon is a delusion", says Christopher Stokes, 1 August 2006. http://www.msf.org/msfinternational/invoke.cfm?objectid=C925D74A-5056-AA77-6C9C132FEAF157B1&component=toolkit.article&method=full_html (Retrieved on 7 November 2006)

because of the blockade¹⁵⁷ as well as because of delays in obtaining the required authorization from the Israeli authorities.

186. Under IHL, “humanitarian relief personnel must be respected and protected”.¹⁵⁸ Furthermore, “the parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control”.¹⁵⁹ These rules apply whether the armed conflict is international or non-international. In addition, the Security Council, as it did for this armed conflict, had called on many occasions on all parties to an armed conflict to respect and ensure respect for the security and safety of humanitarian relief personnel. In its resolution 1296 (2000) on protection of civilians in armed conflicts, the Security Council called upon all parties, including non-States actors, “to ensure the safety, security and freedom of movement” of humanitarian relief personnel. The issue of denial or obstruction of access to vulnerable populations by humanitarian missions has been raised in each of the five reports submitted by the Secretary-General to the Security Council further to that resolution. In his last report, the Secretary-General urged “the Council to consider the application of targeted sanctions in situations where access for humanitarian operations is denied as a result of specific attacks on those involved in the provision of humanitarian assistance.”¹⁶⁰

187. The Commission understood from all testimonies it received from a wide range of actors that free access for humanitarian assistance for people in need had not been guaranteed during the conflict. First, the concurrence system adopted to satisfy IDF requirements was not adapted for an efficient humanitarian assistance. Indeed, this procedure required from humanitarian agencies that they adapt their work to the way in which military operations were carried out, instead of giving priority to providing humanitarian assistance. On many occasions this meant that clearance for convoy movements was not granted at all, or was given with such delay that the operation was no longer possible. In addition, on a number of occasions the IDF conducted hostilities either directly against relief assistance movements or indirectly, so that free and safe movement of humanitarian relief personnel was no longer guaranteed.

g. Attacks on religious property and places of worship

188. During its visit to south Lebanon, the Commission saw damage caused by IDF attacks on a number of places of worship. For instance, the Commission found that the village of Qauzah, a Christian village close to the Blue Line, had been occupied by the IDF. Most of the villagers had left during the conflict but 10 persons remained. Of particular note was the damage caused to the Christian Maronite church, which was damaged by bombing in the early days of the conflict and was later occupied by Israeli forces and used as its base. The roof had been badly damaged and there was a large shell hole in the front right corner of the wall. The damage to the church’s roof and wall of the church appeared to have been caused by a tank round. Furthermore, during their 16-day

¹⁵⁷ See section on the blockade, C.I.f.ii

¹⁵⁸ GC Additional Protocol I, article 71(2) (international armed conflict) and implicitly recognized in GC Additional Protocol II, article 18(2) (non-international armed conflict)

¹⁵⁹ This rule is contained in Fourth Geneva Convention IV, article 23; and in GC Additional Protocol I, article 70(2) (international armed conflict). This rule is implicit in GC Additional Protocol II, article 18(2) (non-international armed conflict).

¹⁶⁰ S/2005/740, Report of the Secretary-General on the protection of civilians in armed conflict, 28 November 2005, para. 32.

occupation the IDF vandalized the church, breaking religious statues, leaving behind garbage and other waste. The Commission saw a statue of the Virgin Mary that had been smashed and left in the church grounds. When the villagers returned, they found the church had been wrecked, the church benches and confessional box smashed. Silver items remained but had been deliberately broken. There were sandbagged defensive positions within the church grounds. There was no evidence to suggest fighting in and around the church to capture it. It therefore appears that the IDF simply took it over. The damage was either caused on their occupation of the village or on their departure.

189. The Commission also visited Debel, another Christian village that was partially occupied by the IDF. Tank shell damage was visible on the main Christian church building, as well as on the roof of the mosque. Witnesses informed the Commission that six tank rounds had been fired against these two buildings. They indicated that no fighters were in the buildings and that it was practically impossible for Hezbollah fighters to use these positions for firing rockets.

190. The Commission noticed that in many of the towns or villages it visited or passed through in south Lebanon numerous mosques and churches had been damaged or destroyed. For instance, the mosque in Marwaheen had impacts of shells and artillery. Damage to these places of worship could also be seen in Bent J'Beil, and Aita Ech Chaab, among others.¹⁶¹

191. In most of the incidents the damage to mosques or churches was only partial. Considering the nature of the destruction, the types of damage and vandalism caused and the use of some of these religious buildings and places of worship as temporary bases, it appears to the Commission that while there was clear intent for the IDF to cause unnecessary damage to protected religious property and places of worship, their complete destruction was not aimed for.

192. Under IHL, religious property and places of worship are protected during a conflict.¹⁶² Most of these rules are norms of customary international law,¹⁶³ as confirmed by the ICJ in its advisory opinion on the legality of the threat or use of the nuclear weapons case.¹⁶⁴ It is also important to stress that the Statute of the ICC qualifies as a war crime intentionally directing attacks against buildings dedicated to religion.¹⁶⁵

h. Abduction, transfer and unlawful imprisonment of civilians

193. The Commission received information on persons, who bore the same name as the Hezbollah's leader, arrested on Lebanese territory and then transferred to Israel before being released and, on several occasions, handed over to UNIFIL. The Commission was able to meet with two members of the Nasrallah family who, together with three other men from the town of Baalbeck, had been detained by the IDF. According to their account, they were arrested and taken to Israel, where they were held for 20 days. The two victims told the Commission that they were arrested in

¹⁶¹ In its report Les conséquences du conflit de l'été 2006 sur les conditions de vie et la santé des populations civiles du Sud-Liban of 12 October 2006, Médecins du Monde accounts for an attack against the Christian Orthodox church of Rachaya el Foukhar. According to the report the church, which gave shelter to some 120 civilians, was directly targeted by shelling on two occasions for no apparent reason.

¹⁶² See in particular GC Additional Protocol I, articles 47, 48, 52, and 53.

¹⁶³ See ICRC Study, Vol. 1, p. 25.

¹⁶⁴ ICJ Reports 1996, paras. 78-79.

¹⁶⁵ ICC Statute, article 8(2)(b)(ix) and (e)(iv),

the middle of the night of 1 August by Israeli soldiers. They were tightly handcuffed and blindfolded. They were marched for about two hours. They were then taken at gunpoint on board a helicopter to an Israeli jail. During their detention they were subjected to cruel, degrading and inhuman treatment, before they were finally released and handed over to the ICRC. When the Commission met with them, they still had visible handcuff marks on their ankles and wrists.¹⁶⁶

194. The Commission also received information from the Parliamentary Human Rights Committee regarding a Christian maronite, sympathiser of Aoun party, who was detained in the town of Debel during the IDF's occupation of the village. He stated that he had been subjected to cruel, degrading and inhuman treatment before being released when the IDF left the town. This person is currently under psychological therapy for trauma from the event.

195. The Commission took note of Khiyam Rehabilitation Center for the Victims of Torture (KRC) memorandum¹⁶⁷ that includes a list of people arrested in Lebanon and transferred to Israel prisons. This list also includes cases of arrests which took place after the ceasefire.

196. The Commission also met with two women who belonged to a group of women detained by IDF on 8 August, in the village of Chihine. The group had taken refuge in one house when Israeli soldiers shot dead one of them and injured another. The soldiers stayed about 15 minutes in the house, while they interrogated the women, asking them about their links with the Hezbollah fighters. Then, IDF soldiers forced the women to walk barefoot and with their hands over their heads to another house down in the village. Before entering this house, they were asked to kneel down on the street, a position in which they stayed for over 15 minutes and were then taken inside the house. They heard two soldiers arguing about whether or not they should kill them.

197. Under IHL, civilians must be treated humanely.¹⁶⁸ Corporal punishment,¹⁶⁹ torture,¹⁷⁰ enforced disappearance¹⁷¹ and arbitrary deprivation of liberty¹⁷² are also prohibited under IHL. In addition, these acts constitute human rights violations as regulated in a wide range of human rights

¹⁶⁶ According to the two men's account, a 14 year old child was also arrested by Israeli soldiers, handcuffed and blindfolded. He was forced to walk with the group for 2 hours, but was finally released. Israeli soldiers left him alone in an area where heavy bombing took place. He finally took refuge under a car where he spent several hours before going back to his village.

¹⁶⁷ Kham Rehabilitation Center for the Victims of Torture. Memorandum relevant to the detention of Lebanese citizens as hostages during the war of July 2006. <http://www.khiamcenter.org/MemoJulyWar.html> (Retrieved on 8 November 2006)

¹⁶⁸ Article 3 common to the Geneva Conventions ; First and Second Geneva Conventions, article 12 first paragraph; Third Geneva Convention, article 13; Fourth Geneva Convention, articles 5 and 27 first paragraph; GC Additional Protocol I, article 75(1); and GC Additional Protocol II, article 4(1).

¹⁶⁹ Third Geneva Convention, article 87, third paragraph; Fourth Geneva Convention IV, article 32; GC Additional Protocol I, article 75 (2)(iii); and GC Additional Protocol II, article 4(2)(a).

¹⁷⁰ Article 3 common to the Geneva Conventions ; First and Second Geneva Conventions, article 12 second paragraph; Third Geneva Convention, articles 17, fourth paragraph; 87, third paragraph; and 89; Fourth Geneva Convention, article 32; GC Additional Protocol I, article 75(1); and GC Additional Protocol II, article 4(1).

¹⁷¹ "Enforced disappearance" is not explicitly referred to in IHL instruments but it violates or threatens to violate a range of customary rules of IHL.

¹⁷² The conditions of deprivation of liberty are strictly regulated under the four Geneva Conventions and its Additional Protocol I: ; First Geneva Convention, articles 28, 30 and 32; Second Geneva Convention, articles 36 and 37; Third Geneva Convention, articles 21 and 118; Fourth Geneva Convention, article 42; and GC Additional Protocol I, article 75(3).

provisions¹⁷³. Furthermore, torture and inhuman treatment, unlawful deportation or transfer or unlawful confinement, constitute war crimes under the ICC statute¹⁷⁴.

198. The Commission expresses its utmost concern at civilians being detained on suspicion not backed up by any evidence. If their names, or the fact that those civilians were found in locations where Hezbollah had influence or were once present, were the basis for their detention, it clearly constitutes a violation of the minimum standards laid down in both IHL and international human rights law. In addition, the Commission is concerned about reports of detainees being subjected to cruel, degrading and inhuman treatment. This is even more obvious with regard to children and women, who, given the circumstances of their arrests, could not be suspected of being Hezbollah fighters or of having taken direct part in hostilities in any way.

i. Internal displacement of civilians

199. One of the most striking aspects of this conflict is the massive displacement of civilians which took place during the hostilities. According to Government estimates, 974,184 people – nearly one quarter of the population - were displaced between 12 July and 14 August, with approximately 735,000 seeking shelter within Lebanon and 230,000 abroad.¹⁷⁵ Up to one half of the displaced were children. These figures must be considered against the demographic reality in Lebanon, where many people had already been displaced as a result of previous conflicts and communities still were in the process of recovery and rebuilding. The figures also include the secondary displacement of approximately 16,000 Palestinian refugees.¹⁷⁶

200. During the conflict around 142,397 internally displaced persons were accommodated in schools,¹⁷⁷ while over 600,000 sought shelter with families, friends or in other temporary accommodation and, in some cases, in open spaces such as parks. As a result of the massive destruction of houses and other civilian infrastructure, displaced individuals and families were forced to live in crowded and often insecure conditions with limited access to safe drinking water, food, sanitation, electricity and health services. Other reports suggested an increased incidence of respiratory diseases and diarrhoea in schools and public areas during the period of displacement.¹⁷⁸ It should be noted that the displacement crisis triggered by the conflict, as well as the serious displacement-related protection concerns, may have led additionally to a humanitarian crisis were it not for the families, communities and organizations in Lebanon which hosted and/or supported many of the displaced during and after the conflict.

¹⁷³ Human rights provisions applicable to these cases are notably included in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, articles 7, 9, and 10 of the International Covenant on Civil and Political Rights; arts. 37-40 of the Convention on the Rights of the Child; the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; the United Nations Rules for the Protection of Juveniles Deprived of their Liberty; and the Declaration on the Protection of all Persons from Enforced Disappearance.

¹⁷⁴ ICC Statute, articles 8(2)(a)(ii) and (vii) and article 8 (2)(c)(i).

¹⁷⁵ Information available on the website of the Higher Relief Council, <http://www.lebanonundersiege.gov.lb/> (Retrieved on 8 November 2006).

¹⁷⁶ Of the 406,342 officially registered Palestinian refugees living in twelve refugee camps throughout Lebanon (UNRWA, 30 June 2006).

¹⁷⁷ According to the General Directorate, Internal Security Forces, 22 August 2006, included in the report submitted to the Commission by Bar Association in Beirut.

¹⁷⁸ WFP. Lebanon Crisis: WFP Rapid Food Security Assessment, 27 August – 10 September 2006, page 18.

201. The Commission was not able to carry out a full analysis of the impact of displacement due to a lack of detailed information. It is clear, however, that the greatest impact of the conflict was felt by those living in areas already affected by poverty, including the urban suburbs of south Beirut, villages in the South, and some rural districts.¹⁷⁹ According to UN estimates, up to 70% of the total number of IDPs were housed in temporary accommodation in Beirut. In addition, some individuals who had fled north of the Litani river seeking safe shelter with family or other members of the community were affected a second time by IDF bombardments. The Commission received reliable information and gathered witness testimonies in relation to two such incidents, in Ghazieh and Chiyah districts respectively.

202. Until the last days of the conflict, Ghazieh was seen as a safe haven for displaced civilians coming from the south and, according to the mayor, over ten thousand displaced people arrived in the town over the course of the conflict. According to witness testimonies, on Monday 7 August at around 0800 hours the town was attacked by Israeli air strikes. Several buildings were seriously damaged and at least three houses were completely destroyed by direct hits. Roads and bridges were also badly damaged, resulting in the isolation of Ghazieh from the main points of access into and out of town. According to one witness testimony, eight people were killed in one attack on a residential building, while another victim reported that he had lost his wife and four of his children in the bombardment. In another attack, a house was hit directly and its five inhabitants, including a two-year old, two sisters and their mother, were killed when the structure collapsed. In total, at least twenty-nine civilians died in Ghazieh between 6 and 8 August.

203. In the Chiyah district of south Beirut, civilians had sought shelter with family members after having fled southern Lebanon earlier in the conflict. According to testimonies collected by the Commission, as well as information provided by local non-governmental organisations, civilians had fled the areas of Deir Intar, Majadel and Touleen of Bent J'beil and sought refuge in Chiyah. Others had fled to there from the Ghobeiri neighborhood of southern Beirut, which had been heavily hit by air bombardments. The Commission received information in relation to at least one building in Chiyah occupied by people displaced from the South, which was destroyed by air strikes. On 7 August 2006 at around 1945 hours, at least 39 civilians were killed in their homes when the Israeli air force bombarded the building in the residential neighborhood of Chiyah. One witness from Chiyah explained to the Commission that her family had been hosting displaced people who had fled the conflict in southern Lebanon. She stated that although they felt safe, the house was extremely crowded and the children were constantly fighting as a result. She confirmed other reports received by the Commission that no warning had been given prior to the air strike on the evening of 7 August, which destroyed the building next door and caused significant damage to neighbouring buildings. The witness's 16-year old son was killed when the building collapsed. Her 13-year old son was seriously injured and her youngest son, a five-year old, suffers from serious post-traumatic stress disorder as a result of the incident.

204. While a great many Lebanese were displaced during the conflict, many others were unable to flee either due to fear related to the ongoing attacks and insecurity; destroyed or damaged roads, bridges and other basic infrastructure; lack of means to secure transport; difficulties related to age or

¹⁷⁹ According to UNDP (2005), the geographic distribution of extreme poverty indicates that the highest concentration is in the North (41.5%), followed by Mount Lebanon (20%) – including the southern and northern suburbs of Beirut, followed by the Beqaa (17%), Nabatieh (9.3%), the South (7.7%) and Beirut (4.4 %). For details see <http://www.undp.org/lebanon/mdgs/discussionsessions/Eradication.doc> (Retrieved on 8 November 2006).

disability; or unwillingness to leave relatives or friends, who were themselves unable to leave. Those who did not leave – in particular, women who stayed behind to care for the elderly and/or young children – were vulnerable to the ongoing violence and were further at risk due to limited access to water, electricity, food and medical care, as well as restricted humanitarian access. Pregnant women suffered due to limited access to reproductive health services, for example, and the majority of women who gave birth immediately prior to or during the conflict could not ensure basic necessary items and supplies for the newborns.¹⁸⁰

205. Following the cessation of hostilities on 14 August, massive numbers of internally displaced persons and refugees returned to their areas of origin, particularly in southern Lebanon and the southern suburbs of Beirut. According to UNHCR, approximately 90 per cent of those displaced in Lebanon during the hostilities returned to their homes, or were staying nearby, within days of the ceasefire. Some, however, were displaced for a second time, having returned home to find their homes uninhabitable and their livelihoods destroyed. At the time of writing an estimated 255,000 people were believed still to be displaced within Lebanon and abroad.¹⁸¹ A paramount concern for the protection of the displaced returning to their homes, as well as to the lives of humanitarian and reconstruction workers, peacekeeping personnel, and others, is the constant and pernicious threat posed by unexploded ordnance, in particular cluster munitions.

206. International law prohibits forced displacement in situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand.¹⁸² As set out in the Guiding Principles on Internal Displacement, before any decision is made requiring the displacement of persons, the authorities concerned must ensure that all feasible alternatives are explored in order to avoid displacement altogether.¹⁸³ In particular, authorities and other actors must respect and ensure respect for their obligations under international law, including human rights and humanitarian law “so as to prevent and avoid conditions that might lead to displacement of persons.”¹⁸⁴ Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.¹⁸⁵

207. Much of the displacement in Lebanon was the result, either direct or indirect, of indiscriminate attacks on civilians and civilian property and infrastructure, as well as the climate of fear and panic among the civilian population caused by the warnings, threats and attacks by the IDF. Furthermore, in many cases, the attacks were disproportionate in nature and could not be justified on the basis of military necessity. Taking into account all of these facts, the Commission notes that the displacement itself constitutes a violation of international law.

¹⁸⁰ OCHA. Lebanon Crisis 2006 - UN Interim Report: Humanitarian Response in Lebanon, 12 July to 30 August 2006, p. 20 <http://www.reliefweb.int/library/documents/2006/ocha-lbn-14sep.pdf> (Retrieved on 8 November 2006). See also A/HRC/2/7, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari - Mission to Lebanon and Israel (7-14 September 2006), para 67: “While maternal mortality and morbidity rates did not deteriorate among the IDPs, the mission was informed that maternal health and the health of newborns were compromised.” See also E/C.12/2000/4, General Comment No. 14, The right to the highest attainable standard of health (article 12), 11 August 2000.

¹⁸¹ Information available on the website of the Higher Relief Council, <http://www.lebanonundersiege.gov.lb/> (Retrieved on 8 November 2006).

¹⁸² E/CN.4/1998/53/Add.2, Guiding Principles on Internal Displacement, principle 6(2).

¹⁸³ E/CN.4/1998/53/Add.2, Guiding Principles on Internal Displacement, principle 7.

¹⁸⁴ E/CN.4/1998/53/Add.2, Guiding Principles on Internal Displacement, principle 5.

¹⁸⁵ E/CN.4/1991/Sub.2/55 or E/CN.4/1996/80, Declaration of Minimum Humanitarian Standards, article 7(1).

208. The Commission further recalls that displaced persons are entitled to the full protection afforded under international human rights and humanitarian law. At the same time, they have specific needs distinct from those of the non-displaced population which must be addressed by specific protection and assistance measures.¹⁸⁶ The Commission notes that throughout the period of the conflict, IDPs often did not have access to humanitarian assistance to meet their needs.¹⁸⁷

j. Environment

209. Already in the early stages of the conflict, IDF attacks on Lebanese infrastructure created large-scale environmental damage. The Commission considered the devastating effect the oil spill from the Jiyeh power plant has had and will continue to have in the years to come over the flora and fauna on the Lebanese coast. This very serious event took place when the Israeli Air Force bombed the fuel storage tanks of the Jiyeh electrical power station, situated 30 km south of Beirut. Due to its location by the sea, the attack resulted in an environmental disaster. The plant's damaged storage tanks gave way. According to the Lebanese Ministry of Environment, between 10,000 and 15,000 tons of oil spilled into the eastern Mediterranean Sea.¹⁸⁸ A 10 km-wide oil slick covered 170 km of the Lebanese coastline.

210. The Commission was informed by the Director of the Jiyeh power plant that the compound had been subject to two different attacks. The first strike took place on 13 July and was directed at one storage tank with a capacity of 10,000 tons of oil. Oil flowed from the tank but was held by the external retainer wall of the power plant building, which was some 4 meters high. Firefighters were able to put out the fire that ensued. The second attack, on 15 July, was directed at another storage tank, with a capacity of 15,000 tons of oil. The explosion and subsequent fire caused the explosion of another tank, with a capacity of 25,000 tons. The explosion and the very high temperature caused by the fire destroyed the retaining wall, thus leading to the massive flow of oil into the sea.¹⁸⁹

211. The Commission is convinced that the attack was premeditated and was not a target of opportunity. Indeed, the strike was directly aimed at those tanks that had been filled in the days preceding the attacks. No missile was directed at empty tanks, nor at the main generator and machinery, which are just a few meters away from the storage tanks.

212. The spill affected two thirds of Lebanon's coastline. Beaches and rocks were covered in a black sludge up to Byblos, north of Beirut and extended into the southern parts of Syria. According to the Lebanon Marine and Coastal Oil Pollution International Assistance Action Plan prepared by the Expert Working Group for Lebanon,¹⁹⁰ winds and surface sea currents caused the oil slick to move north, some 150 km from the source in a matter of a few days. This rapid movement of the

¹⁸⁶ See A/HRC/2/7, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari - Mission to Lebanon and Israel (7-14 September 2006).

¹⁸⁷ For details, see section B.II.i.

¹⁸⁸ Letter of the Ministry of Environment of 4 August 2006, copy of it was submitted to the Commission.

¹⁸⁹ It is worth noting that the Jiyeh power plant supplied around 30% of Lebanon's total electricity output.

¹⁹⁰ Lebanon marine and coastal oil pollution international assistance action plan, prepared by the experts working group for Lebanon, 25 August 2006 http://www.unep.org/PDF/lebanon/LebanonOilSpill_ActionPlan20060825.pdf (Retrieved on 8 November 2006)

slick caused significant damages on the Lebanese coastline, as well as the Syrian coast. Furthermore, due to the air blockade no air surveillance and assessment actions were possible. The only possibility left was to use satellite remote-sensing images. While cleaning up measures were undertaken a few days before the end of the conflict, under the authority of the Lebanese Ministry of Environment and the Lebanese Army, weeks after the ceasefire there were reports of oil slicks still floating in different areas.¹⁹¹

213. The Commission found that the environmental damage caused by the intensive Israeli bombing goes beyond the Jiyeh oil spill. Damaged power transformers, collapsed buildings, attacks on fuel stations, and the destruction of chemical plants and other industries may have leaked or discharged hazardous substances and materials to the ground, such as asbestos and chlorinated compounds. These hazardous materials may gravely affect underground and surface water supplies, as well as the health and fertility of arable land.

214. Similarly, the large destruction of buildings and other civilian infrastructure may pose a threat to public health in view of the massive amount of debris that needs to be disposed of. In this respect, the UNEP Environmental Update of 24 August indicates, for example, that in the southern suburb of Haret Hreik the destruction of buildings in an area of about 200 by 240 meters generated approximately 1 million m³ of rubble, which amounts to the total equals waste that the whole Lebanese population generates in one year.

215. Furthermore, the Commission has also considered that direct attacks on fuel storage tanks and petrol stations, as well as on factories such as the Maliban glass factory, the Sai El-Deen plastics facility and the Liban Lait dairy plant, among others, have created increased risks of pollution by chemical agents that may have contaminated water sources, arable land and the air, posing a direct threat to the health of the Lebanese population.

216. Article 35(3) of Additional Protocol I to the 1949 Geneva conventions establishes a general prohibition on employing methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment. Similarly, article 55(1) of the Protocol further indicates that special care shall be taken during armed conflict to protect the natural environment against widespread, long-term and severe damage.

217. Furthermore, as indicated by the ICJ¹⁹² and reiterated in the legal literature,¹⁹³ the principle that parties to a conflict shall take all necessary measures to avoid serious damage to the natural environment constitutes a norm of customary international law.¹⁹⁴ In this respect, the ICJ has stated the following:

“(...) States must take environmental considerations into account when assessing what is necessary and proportionate in the pursuit of legitimate military objectives. Respect for the

¹⁹¹ European Commission’s Marine Pollution Co-ordination and Assessment (MPCA), Situation report 4, 11 August 2006.

¹⁹² ICJ, *Legality of the Threat or Use of Nuclear Weapons*, advisory opinion of 8 July 1996, *I.C.J. Reports 1996 (I)*, p. 226.

¹⁹³ ICRC Study, Vol. 1, p. 143.

¹⁹⁴ GC Additional Protocol I, article 35, third paragraph; A/CONF.151/26/Rev.1, Rio Declaration on Environment and Development, principle 24; and A/RES/47/37 Protection of the Environment in Times of Armed Conflict, 25 November 1992.

*environment is one of the elements that go to assessing whether an action is in conformity with the principles of necessity and proportionality.”*¹⁹⁵

218. Moreover, under article 8(2)(b)(iv) of the ICC Statute, the intentional launching of an attack in the knowledge that such attack will cause widespread, long-term and severe damage to the natural environment is considered a war crime.

219. The Commission finds that while Israel may argue that attacks on these facilities were justified under military necessity, the fact is that it clearly ignored or chose to ignore the potential threats these attacks posed to the well-being of the civilian population. While Israel may have attained its military objective, it did so by putting the health of part of the population at risk. The Commission does not see how this potential threat can be outweighed by considerations of military necessity. It thus finds that Israel violated its international legal obligations to adequately take into consideration environmental and health minimum standards when evaluating the legitimacy of the attacks against the above-mentioned facilities.

220. Furthermore, the Commission holds the view that Israel should have taken into account the possibility that the attacks on the Jiyeh power plant could lead to a massive oil spill into the sea. Despite the risks, the IDF went ahead and attacked the site, with the consequences already explained. Whether the attack was justified or not by military necessity, the fact remains that the consequences went far beyond whatever military objective Israel may have had.

k. Attacks on cultural and historical property

221. The Commission witnessed the damage on the Byblos archaeological site caused by the oil spill originating from the IDF attack on the Jiyeh thermo-electrical plant in Saida. The site, listed on the UNESCO World Heritage List, suffered substantially from the oil pollution. In this respect, for example, the UNESCO Mission to assess the effects of the war on Lebanon’s Cultural Heritage indicated in its September 2006 report the following on this exceptional archaeological site:

*“La mission a constaté que le port ancien avait été nettoyé rapidement par la marine libanaise tout d’abord, puis avec une assistance du Danemark et de la France. En revanche, les blocs de pierre qui constituent les soubassements des deux tours médiévales nord et sud à l’entrée du port restent recouverts d’une épaisse couche d’hydrocarbure. Les vestiges de l’époque antique (phénicienne, hellénistique et romaine) situés en contrebas du tell, sont également recouverts de la même nappe d’hydrocarbure.”*¹⁹⁶

222. The Commission was able to verify the impact of the spill on the site’s coastal archaeological foundations. The Commission saw the damage to rocks and foundations caused by the oil, which according to the Ministry of Culture’s experts, has permeated the surface of the rock. The same phenomenon is visible in the site’s Hellenic greenhouse, whose porous characteristic makes it particularly vulnerable to this type of water pollution. In its report, the Directorate General of Antiquities of the Ministry of Culture indicates:

¹⁹⁵ ICJ, *Legality of the Threat or Use of Nuclear Weapons*, advisory opinion of 8 July 1996, *I.C.J. Reports 1996 (I)*, p. 226, para. 30.

¹⁹⁶ UNESCO, *Rapport de la mission d’évaluation du patrimoine culturel au Liban à la suite du conflit de Juillet-Aout 2006 (10-16 Septembre 2006)*

“Le fioul a souillé toutes les fondations des tours est et ouest datant de la période Médiévale ainsi que le part antique, le mur jonchant la côte nord-ouest de la tour ouest, la baie de Chamiyeh et de Skhiné, l’île de Yasmine ainsi que le vivier archéologique datant de la période Hellénistique.

(...) Les rochers et structures archéologiques, notamment les tours médiévales ainsi que le vivier hellénistique sont poreux de nature. En conséquence, le fioul y est déjà profondément ancré.”

223. Furthermore, the Commission obtained credible information from the Lebanese Ministry of Culture, as well as from UNESCO, concerning further damage to other historical, archaeological and cultural sites. In the case of the Baalbeck archaeological site, the UNESCO mission established the following:

“L’examen minutieux des différentes parties du temple de Jupiter a montré qu’au niveau de la cour hexagonale, où un bloc de pierre s’est détaché et brisé, des fissures nombreuses sont visibles sur les linteaux. Selon le professeur Croci qui avait examiné le site en 2001, dans le cadre du projet CHUD, ces fissures pourraient avoir été aggravées par les vibrations des bombardements. Il faut noter à cet égard que le souk ancien de Baalbek, endommagé par les bombardements, se situe à environ deux cents mètres des monuments. Un rapport détaillé sera fourni par les deux experts spécialistes des structures et de la conservation de la pierre dans les jours qui viennent.”

224. The UNESCO mission reported also on the destruction of part of the frescos contained in a tomb dating from the Roman era in Tyre.

225. The Commission received reliable information from the Lebanese Ministry of Culture concerning the damage and destruction of further Lebanese archaeological and historical sites not included in the UNESCO World Heritage List. The Commission visited some of these sites and was able to see the damage caused by IDF military operations.

226. Among these sites, the Chamaa citadel, built in the 12th century, suffered substantial damage. The Chamaa mausoleum, its minaret and part of its mosque were completely demolished. The four domes topping the building were partially destroyed. Inside the citadel fence, dwellings and stores were destroyed. In Bent J’Beil, most of the constructions dating from the 18th century were completely destroyed, including the town’s old souks. In the town of Khiyam, the regional museum built by the Mercy Corps Association in an underground hospital located in the al-Dardara region suffered massive damage from the intensive bombing in the area. The Khiyam former prison building was subject to intensive bombing. The Castle of Toron, in the Tibnin citadel, was directly targeted causing the destruction of important parts of the castle. In-depth damage assessment has yet to be carried out, due to the unexploded ordnance still surrounding the premises of the castle.

227. Cultural, historical and archaeological sites are clearly protected by IHL. While international humanitarian law and public international law principles applicable to cultural, historical and archaeological property admit that if they are used for military purposes they may lose their protection and can be attacked, belligerent parties need to take the necessary precautions to limit the impact of its attack on the sites.

228. After reviewing the material received and based on its visits to some of these sites, the Commission finds that Israeli attacks caused considerable and disproportionate damage to cultural, archaeological and historical property in Lebanon, which cannot be justified under military necessity. These unjustified attacks include, firstly, sites that, while not listed in the UNESCO World Heritage List, constitute nevertheless sites of extreme historical importance to the Lebanese population. That is the case of the destruction of sites in Chamaa, Khiyam, Tibnin, and Bent J'Beil. Second, Israel's attacks in the vicinity of sites listed in the UNESCO World Heritage List, such as in the case of Baalbeck's Jupiter's temple, Byblos archaeological site and Tyre's archaeological property, while not constituting a direct attack, caused important damage to specially protected property. The Commission finds that Israel could have and should have employed the necessary precautionary measures to avoid direct or indirect damage to especially protected cultural, historical and archaeological sites in Lebanese territory.

229. Taking into account the number and gravity of incidents affecting protected cultural property, the Commission finds that these attacks constitute a violation of existing norms of international law and international humanitarian law requiring the special protection of cultural, historical and archaeological sites.

I. Schools

230. The conflict took place at a time when children were on summer holidays. According to statistics issued by the Ministry of Education¹⁹⁷, some 16 schools were directly hit, causing major destruction of the building. Another 157 were seriously damaged, either following direct hits or in collateral damage from attacks on adjacent buildings. Some 3 others were in need of repair having been using as shelter for as many as 128,760 internally displaced. In Bent J'beil six schools were completely destroyed and another two partially. Two private schools and two public schools had been totally destroyed in the town of Khiyam, with another two, including a vocational (agricultural) school, badly damaged.

231. In Bent J'beil the Commission saw one school that had been destroyed completely but for the ground floor. It was later learned that pupils would return on 16 October, using only this ground floor as the rest of the building was being restored. In one school in the town, the Commission was informed, 37 civilians had taken shelter and the building came down around them; injuries were suffered and one old man and one old woman were found under the rubble at the end of the war. In Yatar, the Mayor recounted how the school had been attacked and the Lebanese Army found one unexploded missile there shortly before the school year began again. In Al Duweir, the members of the Commission were told how the religious school in Saida, at which Sheikh Adil Akash (see earlier, "Attacks on civilians") taught, had been targeted. In Taibe, they were told how Israeli soldiers had occupied the private school and despoiled the teachers' kitchen and left urine in bottles around the classrooms. In Khiyam, the Commission visited one of the schools that had been very badly damaged, a school that UNESCO had helped build. One school in the town had already been renovated with help from Qatar; that and the agricultural school would be used to accommodate pupils from all four destroyed schools when the school year began again.

¹⁹⁷ Ministry of Education and Higher Education, Preliminary Assessment of July 12 2006 War Damages: Public Schools, September 2006.

232. Little has been said of the reasons for the targeting of schools specifically. As is the case with other civilian objects, school buildings are protected under IHL¹⁹⁸. In case of doubt whether a school is being used to make an effective contribution to military action, it shall be presumed not to be so used.¹⁹⁹ According to the ICC Statute, intentionally directing attacks against buildings dedicated to education is a war crime, provided they are not military objectives.²⁰⁰ Without any clear indication as to the military importance of these buildings, such attacks would constitute a grave violation of international humanitarian law, which may amount to war crimes.

m. UN Peacekeepers - UNIFIL/Observer Group Lebanon

233. During the conflict a number of UNIFIL and Observer Group Lebanon (OGL) positions were either directly hit by IDF fire or were the subject of firing close to their positions. All these UN positions are clearly marked, most are on prominent hill tops to aid observation. Their positions were notified in 12 figure grid references to the IDF. On 12 July, the IDF issued a warning to UNIFIL that “any person -including United Nations personnel- moving close to the Blue Line would be shot at”.²⁰¹ On 15 July, UNIFIL was informed by the IDF that Israel would establish a “special security zone” between 21 villages along the Blue Line and the Israeli technical fence. The IDF informed UNIFIL that any vehicle entering the area would be shot at. This security zone was directly within the UNIFIL area of operation, which made it impossible to support (or evacuate, if necessary) many UNIFIL positions located in the zone. In effect, these warnings prevented UNIFIL from discharging its mandate conferred upon it by Security Council resolution 1655(2006) of 31 January 2006.²⁰²

234. The Commission found that there were 30 recorded direct attacks by the IDF on UNIFIL and Observer Group Lebanon positions during the conflict. These attacks resulted, among others, in the death of four unarmed UN observers at the Khiyam base. A staff member and his wife died in an air strike on their apartment in Tyre. In addition, five Ghanaian, three Chinese and one French soldier of UNIFIL were injured together with one officer from Observer Group Lebanon.

235. It is significant that towards the end of the conflict, after the cease fire had been announced, there was a dramatic increase in IDF direct attacks on UNIFIL positions. For example on 13 August there were five direct hits, on positions at Tiri, Bayt Yahun, and Tibnin (on three occasions during the reporting period). There was extensive material damage in all these locations. On 14 August there were nine direct hits, on positions at Tibnin (four times), Haris (twice), Tiri (twice), and Marun al Ras (once).

236. A total of 85 artillery rounds impacted inside these UNIFIL bases on these two days alone, 35 in Tibnin. These attacks caused “massive material damage” to all the positions. All UNIFIL personnel were forced into shelters, which prevented casualties.

237. The attack on the UNIFIL Khiyam base of 25 July 2006 was a major incident during the conflict and is the subject of a separate UN report. For completeness, it was necessary for the Commission to review certain relevant facts relating to the incident. The Khiyam base was built 34

¹⁹⁸ GC Additional Protocol I, articles 52 and 57.

¹⁹⁹ GC Additional Protocol I, article 52(3).

²⁰⁰ ICC Statute, article 8(2)(b)(ix) and e(iv)

²⁰¹ S/2006/560, Report of the Secretary-General on the United Nations Interim Force in Lebanon, 21 July 2006, para. 3.

²⁰² S/RES/2006/1655, Situation in Middle East, 31 January 2006

years ago and was one of four observation sites used by Observer Group Lebanon. UNIFIL records show that during the conflict a total of 36 IDF air strikes occurred within 500 meters of the base, 12 of these within 100 meters. In addition there had been 12 artillery bombardments within 100 meters of the base; four of these hit the base directly. While Hezbollah had a base 150 meters away, as well as some form of operational base in a nearby prison, UNIFIL reported that there was no Hezbollah firing taking place within the immediate vicinity of the base that day. Throughout 25 July, UNIFIL had protested directly to the IDF after each of the incidents of close firing to the base.

238. At 1925 hours on 25 July 2006 the base was struck by a 500 kilogramme precision-guided aerial bomb and destroyed. The UN Board of Inquiry noted that the Israeli authorities accepted full responsibility for the incident and apologized to the United Nations for what they say was an “operational level” mistake. The Board did not have access to operational or tactical level IDF commanders involved in the incident, and was, therefore, unable to determine why the attacks on the UN position were not halted, despite repeated demarches to the Israeli authorities from UN personnel, both in the field and at Headquarters. The report concluded that all standard operating procedures were followed and no additional actions could have been taken by UN personnel that would have changed the outcome.²⁰³

239. Furthermore, UNIFIL has listed, by distance, all so called “close firings” to their positions that took place during the conflict.²⁰⁴ The total number of such incidents was 208. Regarding the breakdown, it is worth noting that 71 of these close firings were between 10 and 50 meters; 61 aerial bombs are included in these close firings; 530 artillery shells were listed as close firings; and 162 tank rounds.²⁰⁵

240. It is worthy of note that, as with direct attacks, there was a marked increase in these incidents of “close firing” on the last two days of the conflict, during which 10 aerial rockets and 108 artillery shells impacted in the vicinity of UN bases including the UNIFIL Headquarters.

241. State practice treats UN peacekeeping forces as civilians because they are not members of a party to the conflict and are deemed to be entitled to the same protection against attack as that accorded to civilians, as long as they are not taking a direct part in hostilities. By the same token, objects involved in a peacekeeping operation are considered to be civilian objects, protected against attack.²⁰⁶ Under the ICC Statute, intentionally directing attacks against personnel and objects involved in a peacekeeping mission in accordance with the Charter of the United Nations constitutes a war crime as long as they are entitled to the protection given to civilians and civilian objects under IHL.²⁰⁷

²⁰³ SG/SM/10666, Secretary-General receives report on attack that killed observers at Khiam, Lebanon, 29 September 2006.

²⁰⁴ For example close for small arms fire is 25 meters, for artillery and rockets 200 meters and for aerial bombs 1000 meters. UNIFIL operations staff figures.

²⁰⁵ Out of these 162, 55 rounds were between 0 and 25 meters from the position or were fired low over it. In one particular incident, 26 tank rounds were fired low over UN position 4-31 (UTM 7520) by Israeli tanks at UTM (7516-6878).

²⁰⁶ ICRC Study, rule 33.

²⁰⁷ ICC Statute, articles 8(2)(b)(iii) and (e)(iii).

242. The Commission has found no justification for the attacks on UN positions by the IDF. Each UN position was clearly notified to the IDF. In any case the locations have been in place for many years; they are easily recognized and built on prominent hill top positions. There can be no doubt that both ground and air forces of the IDF would have been fully aware of their locations. Firing of rockets by Hezbollah from the vicinity of these bases might explain the large number of “close firings” described above. However, from an IHL perspective of military necessity and bearing in mind the principle of distinction, the Commission does not see how the IDF can possibly justify the 30 direct attacks on UN positions and the deaths and injury to protected UN personnel.²⁰⁸

243. Furthermore, the significant increase in the bombardment of UN positions on 13 and 14 August cannot be described as being of imperative or even of vague necessity from a military perspective.

244. With regard to Hezbollah firings from and into the immediate vicinity of UN positions, the Commission finds, based on the daily UNIFIL press releases, that there were 6 incidents of direct fire against UNIFIL positions and 62 incidents where Hezbollah fired their rockets from the close proximity of UN positions towards Israel.

245. The Commission finds that Hezbollah fighters were using the vicinity of UN positions as shields for the launching of their rockets. This is an obvious violation of IHL²⁰⁹ and also put the UN forces in danger. However, “the vicinity” does not mean from within the bases as mentioned above. The direct targeting by the IDF, when they have the advantage of modern precision weapons, remains inexcusable.

246. The direct firing on UN positions by Hezbollah is equally illegal and inexcusable and would appear to be an attempt by them to blame the IDF for such incidents.

n. Use of weapons

247. Israeli armed forces are equipped with state of the art equipment in terms of surveillance, intelligence gathering and precision targeting.²¹⁰ During the Commission’s investigations allegations were made concerning the use by the IDF of a range of weapons or, more accurately, ammunition which might be considered illegal. Such allegations were made in relation to the use of depleted uranium, white phosphorous and fuel air explosives. Some witnesses also brought to the Commission’s attention injuries they described as abnormal, e.g. completely charred but intact corpses, or human bodies that apparently simply vaporized.

248. The Commission investigated the use of weapons as best it could through on site visits, witness statements, discussions with the Lebanese Army, hospital officials and Lebanese Red Cross authorities who had treated the casualties; also with UNIFIL and Observer Group Lebanon sources that had first hand observation of actions on the ground.

²⁰⁸ St Petersburg Declaration, preamble. Hague Regulations, article 25; GC Additional Protocol I, articles 48 and 49; CCW Protocol II, articles 3(2) and 3(7); GC Additional Protocol II, article 13(2).

²⁰⁹ Third Geneva Convention, article 23; Fourth Geneva Convention, article 28; GC Additional Protocol I, articles 12, 51 (7) and (8), 57 and 58.

²¹⁰ An overview of the weapons used by IDF during the conflict is at Annex XI.

i. Cluster munitions

249. Cluster munitions were used extensively by the IDF throughout Lebanon. These consisted of both ground-based (M483A1 155mm artillery shells, M 395 and M 396 155 mm artillery shells and the Multiple Launch Rocket System (MLRS)) and air-dropped (CBU-58 munitions).²¹¹ There is ample evidence pointing to a significant increase in the intensity of the overall bombardment including cluster munitions in the last 72 hours of the conflict, including the period after the adoption of Security Council resolution 1701 (2006). OCHA affirms that 90 per cent of all cluster bombs and their sub-munitions were fired by the IDF into south Lebanon during these last 72 hours of the conflict.²¹² For example, cluster bombardments were particularly heavy in and around the Tibnin hospital grounds, especially on 13 August when 2,000 civilians were seeking shelter there.

250. UNMACC, in cooperation with the Lebanese armed forces (National De-mining Office), has identified a total of 789 cluster strike locations throughout Lebanon. As of 31 October 2006, the estimate is that over one million cluster bombs had been fired in Lebanon. The reported dud rate of cluster munitions is as high as 40%.²¹³ In other words, many of the bomblets did not explode but, rather like anti-personnel mines, they littered the ground with the potential to explode at any time later.

251. This wide use of cluster bombs has been admitted by Israeli forces. On 12 September, the Haaretz newspaper quoted an IDF unit commander stating that “[I]n order to compensate for the rockets’ imprecision, the order was to “flood” the area with them. (...) We have no option of striking an isolated target, and the commanders know this very well”. He also stated that the reserve soldiers were surprised by the use of MLRS rockets, because during their regular army service, they were told these are the IDF’s ‘judgment day weapons’ and intended for use in a full-scale war²¹⁴. An Israeli reservist soldier interviewed by the same newspaper also stated that “[I]n the last 72 hours we fired all the munitions we had, all at the same spot, we didn’t even alter the direction of the gun. Friends of mine in the battalion told me they also fired everything in the last three days – ordinary shells, clusters, whatever they had.”²¹⁵ With regard to the exact timing of the launching of the cluster rockets, a unit commander said “[T]hey told us that this is a good time because people are coming out of the mosques and the rockets would deter them.”²¹⁶ The commander also said that at least in one case, they were asked to fire cluster rockets toward ‘a village’s outskirts’ in the early morning.

²¹¹ See Annex XI on Cluster munitions

²¹² OCHA. A lasting Legacy - The deadly impact of cluster bombs in Southern Lebanon. 19 September 2006. The UN’s humanitarian coordinator for Lebanon, David Shearer noted: “In the three last days, a tremendous amount of them were fired. It’s also hard to know where they were aimed. The dispersion of the bombs is so wide that even if the original target were outside a populated area, many bombs fell amid the houses.”, in Meron Rapoport. “What lies beneath”, Haaretz, 8 September 2006 <http://www.haaretz.com/hasen/spages/760246.html> (Retrieved on 8 November 2006).

²¹³ Discussions with UN MACC, 18 October 2006.

²¹⁴ Meron Rapoport. “When rockets and phosphorous cluster”, Haaretz, 17 September 2006 <http://www.haaretz.com/hasen/spages/761910.html> (Retrieved on 8 November 2006).

²¹⁵ Meron Rapoport. “What lies beneath”, Haaretz, 8 September 2006 <http://www.haaretz.com/hasen/spages/760246.html> (Retrieved on 8 November 2006).

²¹⁶ Meron Rappoport. “When rockets and phosphorous cluster”, Haaretz, 17 September 2006 <http://www.haaretz.com/hasen/spages/761781.html> (Retrieved on 8 November 2006).

252. During the conflict, including the last 72 hours, the IDF cluster strikes were concentrated on three main areas of southern Lebanon. First, in the areas immediately to the east and south east of Tyre, a heavy populated area. The locality was possibly targeted because of its very rich agricultural area specializing in banana and citrus orchards, but more probably because it was used by Hezbollah to fire missiles using the orchards as cover.²¹⁷ Second, in the Tibnin area, which is a Hezbollah stronghold. Lastly, in the area north of the Litani; this is more difficult to explain as it is known to be outside the range of Hezbollah rockets into Israel. The argument for using cluster bombs to interdict rocket firings therefore does not apply.

253. There is also ample evidence that cluster bombs were used in an indiscriminate manner and that many towns and villages were littered with the bomblets as well as large tracts of agricultural land. In addition to Tibnin, Nabatiyeh, Yahmor, Ain Ibel, Yaroun, Bent J'beil, Qfar Tibnit and Swane were also deliberate targets of cluster bombings.

254. The particular military use of these munitions lies in the wide area the munitions can cover. It provides the military with a very effective weapon against targets such as troops in the open or in defensive positions, artillery batteries, and concentrations of vehicles or tanks. However, the inherent area coverage of cluster munitions calls for clear separation between military targets and civilians or their property otherwise the latter will suffer the indiscriminate consequences of their use. Account must also be taken of the known failure rates of such ammunition which can result in excessive and disproportionate harm to civilians after the conflict.

255. Although there are ongoing efforts to ban cluster munitions, for example under the umbrella of the Conventional Weapons Convention, unfortunately there is no prohibition under IHL on their use at present. The key issue in relation to the law and their use by the military rests on the known wide dispersal pattern of the cluster munitions on the ground and hence the fact that they cannot be targeted precisely. As a result it is often difficult, if not impossible, for the military to discriminate between military and civilian objects when the weapons are used in or near populated areas. The pertinent issue therefore is how the munitions are used.

256. Considering the indiscriminate manner in which cluster munitions were used, in the absence of any reasonable explanation from the IDF, the Commission finds that their use was excessive and not justified by any reason of military necessity. When all is considered, the Commission finds that these weapons were used deliberately to turn large areas of fertile agricultural land into "no go" areas for the civilian population. Furthermore, 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.

ii. Depleted uranium

257. The IDF has within its arsenal of weapons munitions that can be equipped with depleted uranium warheads. It is therefore possible that depleted uranium (DU) munitions were used by the IDF during the conflict.²¹⁸ However, the preliminary findings of the Lebanese National Council for

²¹⁷ According to UNIFIL and UNMACC sources.

²¹⁸ DU gives a shell or bomb far greater penetration of armour or of hardened bunkers. It could have been utilized in tank ammunition. However, this capability was probably not required by the IDF as their opponents did not possess the sophisticated armour capability to warrant its use. It is possible that aircraft dropping precision bunker busting bombs of

Scientific Research, which carried out a detailed field survey of several bomb sites, concluded that there was no indication of depleted uranium having been used in the conflict, with the caveat that some additional field work was still necessary to draw a final conclusion.²¹⁹

iii. **White phosphorous/incendiary weapons**

258. White phosphorous is designed for use by artillery, mortars or tanks to put down an instant smoke screen to cover movement in, for example, an attack or flanking manoeuvre. The phosphorous ignites on contact with air and gives off a thick smoke. If the chemical touches skin it will continue to burn until it reaches the bone unless deprived of oxygen. It is not designed as an incendiary weapon per se, for example in the same way as a flame thrower or the petroleum jelly substance used in napalm.

259. The Commission received a number of reports concerning the use of this type of ammunition. On 16 July, Lebanese President Emile Lahoud and Lebanese military sources stated that the IDF had “used white phosphorous incendiary bombs against civilian targets on villages in the Arqoub area” in Southern Lebanon. In addition, the Commission was told about and witnessed a number of sites where the possible use of white phosphorous had occurred, among others, at Marwaheen on 16 July during the form up of the civilians in the village prior to their evacuation under UNIFIL supervision. This was witnessed by civilians concerned and interviewed by the Commission. It was also confirmed by UNIFIL officers on the scene that 12 white phosphorous rounds were fired directly at the civilians.²²⁰

260. Another report mentioned an incident that took place at Aita ech Chaab. The Commission visited two houses that had been badly burnt. The Commission did not find evidence of the use of incendiary weapons on the outside of the house. It is possible that smoke shells from a tank were fired into it to ignite the fires inside but this could not be confirmed.

261. On 23 October it was reported in the Guardian newspaper²²¹ that the Israeli government had “admitted that it used (...) phosphorous weapons in its attacks against targets during its month long war in Lebanon this summer”. The Israeli admission was made by Minister Jacob Edery, who was questioned on the subject by Zahava Gal-On, a member of the Knesset. Mr. Edery said that “[T]he IDF holds phosphorous munitions in different forms. The IDF made use of phosphorous shells during the war against Hezbollah in attacks against military targets in open ground.”²²²

262. The Commission did not find evidence concerning the use of incendiary weapons, such as flame throwers or napalm.

the Guided Bomb Unit -28 varieties (GBU-28) might have utilized depleted uranium in their warheads. There was a great deal of circumstantial evidence that such aerial bombs were used.

²¹⁹ Lebanese Atomic Energy Commission- National Council for Scientific Research. Preliminary Findings- Depleted Uranium Post Conflict Assessment Mission [no date on the document]

²²⁰ Document submitted to the Commission by UNIFIL.

²²¹ Conal Urquhart. “Israeli admits it used phosphorus weapons” The Guardian, 23 October 2006 <http://www.guardian.co.uk/israel/Story/0,,1929007,00.html> (Retrieved on 8 November 2006).

²²² The newspaper Haaretz quotes Israeli soldiers as saying the army used phosphorous shells. Meron Rapoport “When rockets and phosphorous cluster, Haaretz, 17 September 2006 <http://www.haaretz.com/hasen/spages/761910.html> (Retrieved on 8 November 2006).

iv. Dense inert metal explosives (DIME)

263. Various media²²³ have reported on the possible use by IDF of DIME, a new weapon, in Lebanon. It was reported that Israeli Air Force Major General Yitzhak Ben-Israel had described the weapon as being designed “to allow those targeted to be hit without causing damage to bystanders or other persons”.²²⁴ It was brought to the Commission’s attention by a number of expert medical witnesses²²⁵ that some of the casualties had suffered from inexplicable burn injuries not witnessed before. These witnesses had extensive experience of war wounds from previous conflicts; their testimony is therefore of some relevance. The IDF have strongly denied the use of such weapons. If they were effectively used, the Commission finds that they would be illegal under IHL. Protocol I of the Conventional Weapons Convention, to which Israel is a signatory, prohibits the use of any weapon the primary effect of which is to injure by fragments which cannot be detected by X-rays. The Commission was unable in the time available to thoroughly investigate the claims. However, in drawing attention to this weapon and in particular to the expert witnesses’ testimonies, it finds that the possible use of such weapons in Lebanon should be the subject of further investigation.

v. Fuel air explosives

264. There were some allegations from witnesses that the IDF used fuel air explosives during the conflict. This was particularly the case in relation to the destruction of property in South Beirut.²²⁶ The weapon is designed for targets such as minefields, armour, and aircraft parked in the open and vehicles. Its vacuum effect is particularly useful against hardened bunkers. The Commission found no evidence of its use for such purposes.

265. There were some reports that Israel employed fuel-air explosives to clear areas suspected to be planted with IEDs and mines placed by Hezbollah in South Lebanon. The fuel-air countermine called “carpet” is employed by the Israeli corps of engineers. The carpet uses small rockets fired from a stand-off range, deploying highly explosive aerosol over the suspected area. The explosion of this mixture develops high pressure impulse which effectively 'kills' fuses or sets off explosive devices in the affected area.

vi. Booby traps and improvised explosive devices (IEDs)

266. The Commission was informed IEDs may have been left behind by the IDF as they withdrew. The Lebanese newspaper Annahar in October 2006 showed a picture of two children examining a so-called “chocolate bar” booby trap. It was a silver-wrapped rectangular piece of material. In fact, this was nothing more than a piece of the “chaff” discarded by a passing IDF fighter jet, i.e. the magnesium flares ejected by such aircraft to act as a heat source decoy to deflect a

²²³ Meron Rapoport. “Italian probe: Israel used new weapon prototype in Gaza Strip”, Haaretz, 11 October 2006 <http://www.haaretz.com/hasen/spages/772933.html> (Retrieved on 8 November 2006).

²²⁴ The weapon can be launched from drones and is said to produce microscopic particles which cannot be seen by x-ray machines. It is reputed to comprise a carbon-fiber casing filled with tungsten powder and explosives. In the explosion, tungsten particles are spread at very high temperature causing death.

²²⁵ The Commission was told at the Najem hospital in Tyre that the most significant injuries were burns that had never been seen before and could not be explained. The same was told to the Commission at the Tyre Governmental Hospital and at the Hiram Hospital in Tyre.

²²⁶ These are weapons that disperse an aerosol cloud of fuel which is ignited by an embedded detonator to produce an explosion. The overpressure so produced flattens all objects within close proximity of the centre of the explosion.

missile attack. The Commission in fact found no evidence of booby traps having been left in place by the IDF.

267. 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 the law. The use of cluster munitions has already been addressed. The Commission's findings, detailed earlier in this report in relation to the direct targeting of civilian objects, infrastructure and protected property is at odds with the IDF's apparent interpretation and application of the principle of distinction. The vast destruction of civilian objects throughout the Lebanon, but especially in the south where some villages were virtually completely destroyed indicates that weapons systems were not used in a professional manner, despite assurances from the IDF that legal advice was being taken in the planning process. The record shows this: 1,191 persons killed; 30,000 houses destroyed; 30 UNIFIL and Observer Group Lebanon positions directly targeted with 6 dead and 10 injured; and 789 cluster munitions strike locations.

o. Blockade

268. On 13 July 2006 Israeli naval ships entered Lebanese waters to impose a comprehensive blockade of Lebanese ports and harbours. The next day, on 14 July, Israel's air force imposed an air blockade and proceeded to hit runways and fuel tanks at Rafik Hariri International Airport, Lebanon's only international airport.

269. Israel justified the sea blockade with the argument that "[T]he ports and harbours of Lebanon are used to transfer terrorists and weapons by the terrorist organizations operating against the citizens of Israel from within Lebanon, mainly Hezbollah."²²⁷ The IDF further stated that "The Lebanese government is openly violating the decisions of the UN Security Council by doing nothing to remove the Hezbollah threat on the Lebanese border, and is therefore fully responsible for the current aggression."²²⁸

270. In his 12 September 2006 report on the implementation of Security Council 1701 (2006) the Secretary General informed the Council that he had undertaken discussions with all concerned parties and that Israel had lifted the aerial blockade on 6 September and the maritime blockade on 7 September.²²⁹

271. In the view of the Commission, the blockade imposed by Israel against Lebanon needs to be analyzed from three different perspectives. The first is related to the impact of the blockade on the

²²⁷ Israeli Defense Forces. "IDF naval vessels enforce blockade on Lebanon waters", 13 July 2006 <http://www1.idf.il/DOVER/site/mainpage.asp?sl=EN&id=7&docid=54287&Pos=26&last=0&bScope=False> (Retrieved on 8 November 2006). A similar argument was made to justify the disabling of the Rafik Hariri International Airport: "Beirut's airport is used as a central hub for the transfer of weapons and supplies to Hezbollah. The Hezbollah terrorist organization operates undisturbed from within Lebanon, and constitutes a severe terrorist threat to Israeli civilians and IDF soldiers, as was proved in yesterday's attack." Israeli Defense Forces. "IDF targets runways and fuel tanks at the Beirut airport" 14 July 2006 <http://www1.idf.il/DOVER/site/mainpage.asp?sl=EN&id=7&docid=54362&Pos=13&last=0&bScope=False> (Retrieved on 8 November 2006).

²²⁸ Israeli Defense Forces. "IDF naval vessels enforce blockade on Lebanon waters", 13 July 2006 <http://www1.idf.il/DOVER/site/mainpage.asp?sl=EN&id=7&docid=54287&Pos=26&last=0&bScope=False> (Retrieved on 8 November 2006).

²²⁹ S/2006/730, Report of the Secretary-General on the implementation of Security Council resolution 1701 (2006), 12 September 2006, para. 53.

humanitarian situation in Lebanon during and after the conflict. From a second perspective, the blockade needs to be analyzed in the light of the Commission's findings of the environmental damage. Finally, the Commission addressed the question of the crippling effects the blockade had on the Lebanese economy.

272. Parties to a conflict need to take into consideration the impact of the conflict on the civilian population. One of the most important aspects to consider is that of access to humanitarian assistance. Yet, as indicated by the UN Office for the Coordination of Humanitarian Affairs (OCHA) at the outset of the conflict, the Israeli imposed blockade limited tremendously the work of humanitarian agencies by leaving only one entry point, by land, through Damascus.²³⁰ It was not until the second week of the conflict that Israel began considering expanding humanitarian entry points for relief aid to be sent into Lebanon. In this respect, for example, OCHA reported on 25 July that it was still seeking authorization for two ships arriving from Cyprus with aid cargo to be allowed to land in Beirut.²³¹ On 30 July, OCHA indicated that "the road between Aarida, on the Lebanon-Syria border, and Beirut is currently the only road open continuously".²³² Yet, on 4 August this road was also bombarded by the IDF, thus seriously disrupting the overall provision of humanitarian aid.²³³ In general, access to ports in Beirut, Tripoli and Tyre was, at best, sporadic, thus forcing humanitarian agencies to continue using ground transportation through Damascus as the sole means for the transfer of aid supplies to the entire country. For instance, two WFP tankers carrying 87,000 tons of fuel and food supplies could not enter into Lebanese waters due to the lack of adequate security guarantees by the Israeli navy.²³⁴ The two ships were not allowed to dock until 13 August.²³⁵ Similarly, the Commission received reports of other cargo ships being unnecessarily held off the Lebanese coasts, thus delaying the distribution of urgent humanitarian supplies to the civilian population.²³⁶

273. The Commission also considered the impact of the blockade on the environmental catastrophe that followed the Israeli attacks on the Jiyeh power station. The Commission finds that the blockade unnecessarily obstructed the deployment of immediate measures to clean or contain the oil spill. It was not until shortly before the end of the conflict that initial clean up operations along the coast could actually be initiated under the authority of the Lebanese Ministry of Environment and the Lebanese Army. By then, the oil slick had moved north and had already contaminated a large extent of the Lebanese coast, including its archaeological sites, as well as parts of the Syrian

²³⁰ OCHA Situation Report 1, 20 July 2006.

²³¹ OCHA Situation Report 4, 25 July 2006.

²³² OCHA Situation Report 8, 30 July 2006.

²³³ OCHA Situation Report 12, 4 August 2006.

²³⁴ OCHA Situation Report 13, 5 August 2006. See also OCHA Situation Report 16, 8 August 2006, in which OCHA warns of the direct impact of the lack of fuel on humanitarian activities, including the closing down of some hospitals.

²³⁵ OCHA Situation Report 21, 13 August 2006.

²³⁶ OCHA Situation Report 12, 4 August 2006. OCHA also states that "[O]f all the planned convoys, 20% did not go ahead due to problems of coordination with the IDF – no reply, late reply to notification or advisories not to travel to specific locations." See also section B.I.4 of this report on the effects civilian population of the movement limitations imposed on humanitarian convoys, in OCHA. Lebanon Crisis 2006 - UN Interim Report: Humanitarian Response in Lebanon, 12 July to 30 August 2006, p. 20 <http://www.reliefweb.int/library/documents/2006/ocha-lbn-14sep.pdf> (Retrieved on 8 November 2006).

coast.²³⁷ The Commission finds that the Israeli government should have ordered an immediate relaxation of the blockade to allow the necessary urgent evaluation to be made, assessment measures to be adopted and the necessary cleanup measures to be carried out. In the view of the Commission there is no reason that justifies a failure to do so. Israel's engagement in an armed conflict does not exempt it from its general obligation to protect the environment and to react to an environmental catastrophe such as that which took place on the Lebanese coasts.

274. Finally, there is no doubt that the blockade had tremendous negative effects on the Lebanese economy. The Lebanese government has estimated the loss in public finance due to the conflict at around 1.6 billion dollars, with the blockade having a very high impact on the loss of revenue.²³⁸

275. The Commission believes that the impact of the blockade on human life, on the environment and on the Lebanese economy seems to outweigh any military advantage Israel wished to obtain through this action. The Commission finds that the blockade should have been adapted to the situation on the ground, instead of being carried out in a comprehensive and inflexible manner that resulted in great suffering to the civilian population, damage to the environment, and substantial economic loss.

C. Findings

I. The consequences of the conflict

a. Displacement and displaced persons

276. While the longer term consequences of displacement are difficult to measure, it is clear that the displacement of nearly one-quarter of the country's population will have lasting social and economic repercussions, both for host communities and for communities of origin. Routine health services, including child immunization, were severely disrupted during the displacement period and, as many IDPs continue to live with relatives and friends, efforts to re-launch these services are complicated. Economic activity was severely disrupted during the conflict and even after due to the continuation of the blockade; at the same time, displaced persons were forced to rely on family and extended social networks for their survival and deplete their savings, placing a strain on both displaced and host families. The presence of unexploded ordnance continues to act as a major impediment to the return of IDPs and refugees, as well as threatening the lives and livelihoods of those who have chosen to return, and will further exacerbate the social and economic impact of displacement.²³⁹

277. Other challenges may include problems associated with the breakdown of communities, such as increased violence – in particular gender-based violence; difficulties linked to family reunification

²³⁷ "Oil spill reaches Syrian coastline", UNEP Press release, Nairobi/Athens, 2 August 2006, <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=484&ArticleID=5320&l=en> (Retrieved on 8 November 2006).

²³⁸ Ministry of Finance. Impact of the July Offensive on the Public Finances in 2006 – Brief preliminary report, 30 August 2006 <http://www.lebanonundersiege.gov.lb/documents/ImpactonfinanceReport-Englishversion-06.pdf> (Retrieved on 8 November 2006).

²³⁹ As of 31 October 2006, 789 cluster strike locations had been identified throughout Lebanon. An estimated 1,000,000 cluster bombs had been fired. See B.II.n.i.

and tracing of family members; legal and financial issues related to property, as well as access to compensation and restitution for victims. These problems may be particularly acute for female heads of household and other women, who may be marginalized or isolated from social support networks²⁴⁰.

278. Serious human rights concerns for the medium and longer term recovery for displaced and returning populations include the urgent need for clearance of all unexploded ordnance; rebuilding of civilian homes and other infrastructure, as well as resolution of property-related legal issues in South Beirut and southern Lebanon;²⁴¹ restoration of economic activities and infrastructures; and restoring and strengthening health systems in Lebanon, which have been affected by the displacement of medical staff and damage to health facilities.²⁴² Longer-term rehabilitation and recovery also will require the development and implementation of a strategy, through proper consultation with those affected by the displacement, for redressing the social and economic inequalities with regard to the South.

b. Women and elderly

279. The Commissioners learned first hand of the sufferings of women and children and of the elderly in this, as in other conflicts. As the Representative of the Secretary General on the Internally Displaced has pointed out, women and children represent the overwhelming majority of internally displaced persons. In addition to the general suffering of civilians, women have been the victims of more specific human rights violations such as arbitrary detention or cruel and inhuman treatment²⁴³. In addition, due to the armed conflict there will be an increase in women-headed households with all the human rights problems that implies, such as limited access to social benefits and housing rights.

280. As the conflict becomes more distant and life resumes, it is feared that other problems will arise. There is concern about an increase in domestic violence and sexual abuse due to the fact people again have to live together in very close proximity having lost their homes, creating distress

²⁴⁰ The views of one young woman in the town of Chihine are illustrative of the impact of the conflict-related displacement on family and community life: "I was happy before, my family was all here. Now I am very depressed, there is no point to life. No one is left here, all of the young people are gone. If someone gets sick, no one will be here to take them to the doctor."

²⁴¹ A/HRC/2/7, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari - Mission to Lebanon and Israel (7-14 September 2006), para. 88.

²⁴² A/HRC/2/7, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari - Mission to Lebanon and Israel (7-14 September 2006), para 89: "Damage to medical facilities combined with shortages of fuel, power, water and supplies have had a major impact on service delivery throughout the districts affected by the conflict. There is a serious gap, for example, in maternal and child care services. Just one in four primary health care facilities are able to provide pre-natal care, and just one in 10 can support proper delivery and emergency obstetric care. One third are able to store vaccines and just 13 per cent are able to provide some mental health services."

²⁴³ The Commissioners heard from the women of Chihine, for example, how they remained in their village when the men had left whilst it was the target of bomb attacks; a number of them were held and threatened by IDF; two were shot, one killed and one injured. They said they had stayed in their village, along with the elderly, in order to take care of the tobacco plantations and olive groves.

and stress. Domestic violence and sexual abuse are known to rise in such circumstances. Intergovernmental and non-governmental organizations told the Commission that they are trying to collect data. In the meantime, projects are being developed with local associations in areas such as South Beirut to sensitize mothers and community leaders. In Southern Lebanon women's community centres are being created.

281. The conflict also brought to light the specific problems of the many unskilled foreign workers in Lebanon. Agricultural workers were mentioned earlier (see Al Qaa). At the time of the conflict, it was reported that more than 200,000 migrants were living and working in Lebanon, many from poor countries. Among them were more than 90,000 documented Sri Lankan women working as cheap domestic help and child minders²⁴⁴. One, it will be recalled, perished together with the family of Sheikh Akkash in Al Duweir. The Commission came across another person in the streets of Khiyam: the family had left when the bombing began, but she had nowhere to go. One spoke of how the family with whom she worked had fled when the bombing began, taking her passport and leaving her locked in the house. Other families either dropped off their employee in the street in front of their embassy or simply left them to fend for themselves when the bombing began. Charitable organizations tried to find them shelter and food, and to help them return home²⁴⁵. It was clear that the situation of migrant workers in Lebanon needs to be monitored, to ensure that their human rights are fully respected. Lebanon should seriously consider become a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

282. The Commission also heard of several other cases of how the elderly were often unable to leave their communities, after warnings were given, and got caught in the bombings, their bodies later found under rubble of the buildings in which they sheltered. Others died from heart attacks or inability to obtain medication for serious health conditions.

c. Children

283. Children have been disproportionately affected by the armed conflict in Lebanon. As in all recent armed conflicts, children have numbered too many among casualties. Children continue to be victims of cluster bombs in the south of the country. This represents a clear violation of the basic rules of IHL, as indicated earlier in this report, and is also a blatant violation of one of the core principles of the Convention on the Rights of the Child, the right to life (art. 6 of the CRC). Consequently, more special awareness sessions need to be provided to children regarding the danger of cluster munitions and other UXOs.

284. The right to life also requires for the State party to undertake all efforts to provide health care for all children, including the wounded. Access to health (art. 24 of the CRC) is an important issue, because of the disruption of the health system during the conflict and the damage caused to many medical facilities²⁴⁶. In addition, as a result of the conflict, many children will be disabled for life.

²⁴⁴ There are also reportedly some 20,000 Filipinos, and many thousand Indians and Bangladeshis.

²⁴⁵ See, e.g. "Caritas helps poor migrants in Lebanon to get home", Caritas Internationalis press release, Vatican City, 27 July 2006 <http://www.caritas.org/jumpNews.asp?idChannel=4&idLang=FR&idUser=0&idNews=4306> (Retrieved on 8 November 2006)

²⁴⁶ Ministry of Public Health. National Strategy for early recovery of the health sector in Lebanon, 31 August 2006.

This will require the government of Lebanon to take all necessary measures to ensure physical rehabilitation for the wounded (art. 39 of the CRC) and to grant special measures of protection to disabled children (art. 23 of the CRC).

285. Mental health and psychological recovery (art. 39 of the CRC) are also key issues to be addressed as indicated in the Statement adopted by the Committee on the Rights of the Child on 3 August 2006²⁴⁷. Projections made by WHO show that a large percentage of the population²⁴⁸ suffer from moderate or severe mental psychological stress, which obviously includes children²⁴⁹. WHO in collaboration with the Ministry of Public Health and the professional societies (psychiatrists, psychologists, social workers and nurses) launched the Mental Health and Psychosocial Support in Emergencies workshops in Saida, Tyre and Nabatyieh for primary health care personnel and physicians with a view to organizing further trainings on a national basis is being contemplated. NGOs are also involved in this matter, such as Save the Children²⁵⁰, Terre des Hommes²⁵¹ and Samidoun.²⁵²

286. Many children became orphans as a result of this armed conflict and the Lebanese government will have to undertake all necessary efforts in order to ensure that these children are given special protection and assistance (art. 20 of the CRC). Finally, as already mentioned earlier, the Commission is also afraid that due to the trauma witnessed by many families, domestic violence may increase. To fully implement article 19 of the CRC, the Lebanese government will have to pay particular attention to this issue.

d. Education

287. The extent of destruction and damage to schools and other educational establishments, in particular throughout Southern Lebanon, gave rise to fears that education would be substantially at risk when the school year began again after the summer months. The mixed system of education in Lebanon – public and private – meant that the families of many pupils now needed help in finding school fees. Among those families who could afford it, it was mentioned to the Commission, a

²⁴⁷ Statement by the Committee on the Rights of the Child, 3 August 2006. <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/6E0E2CD4614B60A7C12571C000249579?opendocument> (Retrieved on 8 November 2006).

²⁴⁸ Médecins sans Frontières did mention in its activity report for July-August 2006 that more than 20% of all consultations in Beirut were related to mental health problems: Médecins sans Frontières. Emergency response in Lebanon – July-August 2006 – Activity report [http://www.msf.ch/fileadmin/user_upload/uploads/articles/2006/pdf/MSF_in_Lebanon - activity report reactive .pdf](http://www.msf.ch/fileadmin/user_upload/uploads/articles/2006/pdf/MSF_in_Lebanon_-_activity_report_reactive_.pdf) (Retrieved on 8 November 2006).

²⁴⁹ The Commission witnessed on various occasions that children were particularly traumatised by the armed conflict. For example, in Ghobeiri, it met with a family whose one of the children, who were injured during the bombing, expressed obvious post traumatic disorder. In Aita ech Chaab, the Commission noted the same among children playing together.

²⁵⁰ Save the Children was planning the establishment of a Classroom-Based Psychosocial Program, a professionally designed program to help children and youth deal with traumatic experience. Save the Children. Alliance Lebanon Emergency Response Team (ALERT), 23 September 2006.

²⁵¹ Terre Des Hommes (TDH) in collaboration with UNICEF worked on a mental health and psychosocial support program in psychosocial centers, in schools, and municipality in Alklayleh, Zebkin, Jbal Albottom, Srifa, Naqoura, and Deir Kanoun Naher. WHO. Health Cluster Bulletin, No. 7, 13 October 2006.

²⁵² Samidoun notably organized theatrical performance for children living in the Beirut suburb. <http://www.samidoun.org/?q=node/941> (Retrieved on 8 November 2006).

number made the decision thenceforward to send their children to school out of the country for reasons of security.

288. In the circumstances, the start of the school year was delayed by some three weeks, until 16-18 October 2006, to allow time for repair, restoration, disinfection, clearance of debris and refurbishment of school buildings. The costs of this were estimated at US\$44,000,000. Major support came quickly for early recovery efforts, in particular from the United Arab Emirates,²⁵³ focusing on rehabilitation of schools and provision of basic equipment. This was accompanied by a Back to School campaign led by UNICEF and the Ministry of Education.

289. Thus it was reported that 85% of children in primary education were able to return to school by 18 October²⁵⁴. Of the other 15%, it is still not clear how they will continue with their education. Specific problems were encountered in those areas worst hit, particularly along the Blue Line, where children were attending school in neighbouring villages, using double shifts when necessary, as their own schools had been completely destroyed. The issue of displacement continued to contribute to the problem, as there were still an unknown number of children, and teachers, living far from their family homes; thus, some schools were more empty than usual, while others were overcrowded and still others were missing teaching staff. The full picture would only be known as the year progressed.

290. The more serious impact would be in relation to the effects of this sudden and major conflict on children and young people, and how they would cope with the trauma and feelings of insecurity. Thus attention was being given to the quality of education in the aftermath of the conflict, the management of classrooms in these circumstances and the psychosocial needs of children and young people²⁵⁵. The Commission considers it essential to reinforce, notably in schools (art. 29 of the CRC) programmes to prepare children for responsible life in a free society, in the spirit of understanding, peace, and tolerance.

e. Environment

291. The consequences of the conflict on the environment are too visible to be ignored. Among other things, Lebanon is still struggling with the very damaging effects of the Jiyeh oil spill on the marine biodiversity of its coast. While it is too soon to be able to establish with a certain degree of clarity the medium- and long-term impact of the spill on the ecosystem, there seems to be a general agreement among specialized scientific circles about the magnitude of the ecological catastrophe.

292. Without attempting to be exhaustive, the Commission finds that the consequences of the oil spill are manifold. For instance, according to a Ministry of Environment survey carried out between 18 July and 3 August, 21 sites were identified as having been polluted. They cover 19.2 km. of the Lebanese coastline and an area of 123,520 m². On 13 October, the IMO/REMPEC update to the International Assistance Action Plan indicated that there were still more than 7,000 m³ of polluted

²⁵³ Under its Programme to Support and Rebuild Lebanon, the UAE delivered 166 entirely renovated schools (108 public and 58 private) to the Ministry of Education on 18 October 2006. They were still working on the rebuilding of 34 public and 5 private schools for 18 November and another 9 by 18 December 2006.

²⁵⁴ IRIN. "Lebanon: New school year gets underway with few hitches", 24 October 2006.

²⁵⁵ Organizations such as Save the Children worked with teachers and local organizations to promote an environment that promotes inclusiveness and supports the mental, emotional and physical well-being of the young.

sediments, around 500 m³ of oil, and almost 600 m³ of sunken oil needing to be cleaned up. The update also stated that significant accumulations of free floating oil were found in the Dalieh Fisherman's Wharf and its adjacent area in Beirut. Furthermore, in addition to the oil already fixed in sand and pebble beaches, changing weather conditions were revealing oil not observed earlier on. It was estimated that more than 1,000 m³ of oil-contaminated debris was still scattered along the Lebanese coast. The Lebanese Ministry of Environment estimated the costs of cleaning up in a range of US\$ 137-205 million.²⁵⁶

293. In sum, the Commission finds that the following effects, identified by the Lebanese Ministry of Environment, may become evident in the medium term: "physical and chemical alteration of natural habitats due to oil incorporated into sediments; physical smothering effect on the marine life; lethal or sub-lethal toxic effects on the marine life; changes in the marine ecosystem resulting from oil effects on key organisms e.g. increased abundance of intertidal algae following the death of limpets which normally eat the algae."²⁵⁷

294. The Commission holds the view that the environmental damage in Lebanon could have a serious adverse effect on public health. The spread of diseases,, a possible increase in respiratory illnesses due to air pollution, water contamination and the potential contamination of crops due to chemical spills, pose a serious threat.

f. Economy

i. The impact on industry, agriculture, fisheries, tourism and other sectors

295. The Lebanese economy was severely affected by the conflict, with every sector concerned, notably, the industrial, agriculture, and fishery sectors but also the employment situation and public finance as a whole. The effects of the war on the economy were even accentuated as it took place at the peak of the tourist, fishing and harvest season.

296. Regarding the damage to the critical infrastructure, the damage to the land transportation network has been provisionally estimated by the Lebanese government at US\$ 337 million for bridges and US\$ 92 million for roads²⁵⁸. The cost of the damage to water facilities was estimated by

²⁵⁶ See Lebanon marine and coastal oil pollution international assistance action plan, prepared by the experts working group for Lebanon, 25 August 2006 http://www.unep.org/PDF/lebanon/LebanonOilSpill_ActionPlan20060825.pdf (Retrieved on 8 November 2006). The Commission received reliable information from the Ministry of Environment, as well as from experts in the Lebanese Council for Scientific Research, that large quantities of sunken oil had affected algae and plankton that nourish migratory fish banks along the Lebanese coast. Variations in the quantity of fish and in the variety of fish species will also affect migratory birds. Furthermore, as indicated by the Director of the Lebanese National Centre of Marine Sciences, certain turtle species, typical to the Lebanese waters, were adversely affected and their survival may be endangered. Moreover, a large percentage of the oil spilled had emulsified and solidified along the Lebanese shore, thus polluting sand, rock and stone and, therefore, constituting a permanent threat to the ecosystem.

²⁵⁷ Ministry of Environment Ministerial Brief on the Oil Spill Crisis [no date indicated]

²⁵⁸ The Government of Lebanon. Setting the stage for long term reconstruction: the national early recovery process, Stockholm conference for Lebanon's early recovery, 31 August 2006, p. 13.

the Council for Development and Reconstruction at US\$ 81 million²⁵⁹. The damage to TV and radio stations is also massive²⁶⁰.

297. In its document prepared for the Stockholm conference, the Lebanese government estimated losses in the industrial sector at US\$220 million. This figure does not take into consideration the revenue losses incurred as a result of significant under-utilization of remaining capacity due to electricity shortages, immobility of workers²⁶¹, and the lack of raw materials and export possibilities caused by the sea and air blockade. These losses were estimated at up to US\$30 million a day²⁶². The Chamber of Commerce, Industry and Agriculture estimated the direct physical damage to the manufacturing activity at some US\$300 million²⁶³

298. The agricultural sector has been just as severely affected. Damage to the agriculture sector has been estimated at more than US\$215 million²⁶⁴. The Lebanese government made reference to a rough estimate which showed that no one in the South and Nabatiye Mohafazas, which represent 30% of the country's agricultural holders, was spared the effects while 60% of farmers were affected to varying degrees in the Bekaa and 25% affected in the Mohafazas of North and Mount Lebanon²⁶⁵. This is particularly worrying considering that, across Lebanon, FAO estimates that agriculture provides direct employment for 9 per cent of the Lebanese population, but another 40 per cent of the population is involved in work that is indirectly related to agriculture.²⁶⁶ Major losses occurred during the conflict as farmers could not access their fields as they fled their village and left the crops unattended. Mostly cited losses were in relation to tobacco, fruits and vegetables²⁶⁷.

299. In addition to these immediate effects, a long-term effect in the agricultural sector is that caused by the launch of cluster bombs²⁶⁸. UNMACC expects the percentage of agricultural land contaminated to rise as new cluster bomb strike locations are identified. Unexploded ordnance keeps farmers out of their fields and unable to prune their trees in preparation for next year's harvest. More

²⁵⁹ The Government of Lebanon. Setting the stage for long term reconstruction: the national early recovery process, Stockholm conference for Lebanon's early recovery, 31 August 2006, p. 16.

²⁶⁰ For example, for Télé Lumière, primary damage assessment was estimated to be US\$1.5 million in broadcasting equipment, installations and materials <http://www.telelumiere.com/eng/war.html> (Retrieved on 8 November 2006).

²⁶¹ According to WFP, "salaried employees continued receiving their salaries with minor alterations. [...] Some big private companies accounted half of the days lost to war as annual leave and the rest as loss to the company. [...] Small private businesses down-sized or completely stopped their activities.": WFP. Lebanon crisis: WFP rapid food security assessment, 27 August-10 September 2006, p. 13 <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp104989.pdf> (Retrieved on 8 November 2006).

²⁶² The Government of Lebanon. Setting the stage for long term reconstruction: the national early recovery process, Stockholm conference for Lebanon's early recovery, 31 August 2006, p.19.

²⁶³ Chamber of Commerce, Industry and Agriculture. An overview of the economic impact of Israel's war on Lebanon, 20 October 2006.

²⁶⁴ Chamber of Commerce, Industry and Agriculture. An overview of the economic impact of Israel's war on Lebanon, 20 October 2006.

²⁶⁵ The Government of Lebanon. Setting the stage for long term reconstruction: the national early recovery process, Stockholm conference for Lebanon's early recovery, 31 August 2006, p.20.

²⁶⁶ A/HRC/2/8. Report of the Special Rapporteur on the right to food on his mission to Lebanon, 29 September 2006, para. 21.

²⁶⁷ According to WFP, "direct losses such as the damage to the fields during the bombing and the destruction of greenhouses account for a minor share of the agriculture loss." WFP. Lebanon crisis: WFP rapid food security assessment, 27 August-10 September 2006, September 2006, p. 12.

²⁶⁸ At least 6 per cent (94km²) of land used to cultivate citrus fruits and bananas - the highest-value crops - and 10 per cent (74km²) of land for field crops are contaminated.

than 7% (35km²) of grasslands, used for animal grazing, is contaminated. The banks and beds of 173 streams and rivers in south Lebanon are contaminated, putting shepherds and farmers at risk. It was reported to the Commission that some farmers desperate to get their land back into use are demining themselves by setting fires around UXO with the obvious danger that this brings with it. The reference made earlier by the Special Rapporteur on food, clearing the land of these unexploded bombs is essential to enable the reconstruction of livelihoods.²⁶⁹

300. The Commission was told that the tourism sector was at its record peak prior to the war, with 1.6 million tourists expected over the year, and with the number of tourists increasing by 50% over the first 6 months of the year. Losses in revenues are estimated to exceed US\$2 billion. Around 15% of the workers in the restaurant sector (i.e. 7,500 employees) have already lost their jobs because of the shut-downs, and total losses in this sector were estimated at around US\$ 230 million²⁷⁰.

301. Fishing was also heavily disrupted. In addition to the damage to the ports of Tyre, Saida, and Ouzai (with 400 boats destroyed in addition to fishing nets and accessories) fishing activity ground to a halt (with an estimated 5,000 fishermen unable to work) due to insecurity, the oil spill following the destruction of the tanks of Jiyeh, the absence of fuel, transportation and export channels, and the sea blockade imposed by Israel²⁷¹.

302. More generally, preliminary estimates indicate an increase in national unemployment rates from 8-10% prior to the war to 25%. Furthermore people working in the informal sector and those engaged in seasonal and temporary jobs (tourism, agriculture and services), estimated at around 11% (more than 122,000 persons) of total workers, have been out of work since the beginning of the war.²⁷²

303. While, prior to the war, the main public finance indicators were showing improvements in the one-year period spanning from June 2005 to June 2006, the loss in public finance due to the Israeli offensive against Lebanon is estimated at around US\$1.6 billion until the end of 2006, taking into consideration the Israeli blockade.²⁷³ The Council for Development and Reconstruction told the

²⁶⁹ A/HRC/2/7, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari - Mission to Lebanon and Israel (7-14 September 2006), para. 23.

²⁷⁰ The Commission was given these estimates by the Ministry of Economy, which provided the Commission with the following estimates from the Syndicate of restaurants: Direct cost= US\$ 15.5 million, Indirect cost=US\$ 137.5 million, Profit losses=US\$ 74 million.

²⁷¹ The Government of Lebanon. Setting the stage for long term reconstruction: the national early recovery process, Stockholm conference for Lebanon's early recovery, 31 August 2006, p.19.

²⁷² The Government of Lebanon. Setting the stage for long term reconstruction: the national early recovery process, Stockholm conference for Lebanon's early recovery, 31 August 2006, p.18. In addition, the number of women-headed families will definitely increase due to this war and the number of working people rendered disabled will be two other factors in the pauperization of families.

²⁷³ Ministry of Finance. Impact of the July Offensive on the Public Finances in 2006 – Brief preliminary report, 30 August 2006 <http://www.lebanonundersiege.gov.lb/documents/ImpactonfinanceReport-Englishversion-06.pdf> (Retrieved on 8 November 2006).

Commission that unofficial estimates for the reconstruction, based on the assessment done so far, are now at US\$3.5 billion²⁷⁴.

304. The Government of Lebanon has set up an overall coordination system of the early recovery process. This task will involve all key ministries and state agencies as well as international and local organizations with the participation of the private sector. In that regard, an Early Recovery Fund was established.²⁷⁵

ii. The blockade

305. The blockade clearly exacerbated the impact of the conflict on the economy of Lebanon. As outlined earlier, the fishermen were not able to exercise their activity for more than one month. Their situation was aggravated by the magnitude of the Jiyeh oil spill and the impossibility, because of the blockade, of undertaking rapid cleanup measures. The fact that the air and sea blockade were maintained for more than three weeks after the end of the hostilities did not contribute to allaying, at least partially, the pressure on the fishing and tourism sectors.

306. The analysis of the economic impact of the blockade cannot be limited to the fishing and tourism industries. As indicated by the Ministry of Finance “for the two months of July and August, the slide in revenues has already amounted to around US\$ 314 million (...), which is equivalent to 1.44% of GDP, and is expected to sum up to more than US\$ 920 million (...) only in 2006 when compared to previous expectations, taking into account the spanning of the blockade for a period of two months.”²⁷⁶

307. This loss in revenue does not take into account economic losses incurred by entrepreneurs due to the impossibility of cargo ships entering Lebanese ports to deliver their merchandise. For example, in establishing the overall magnitude of the impact on the economy, it was pointed out to the Commission that it is necessary to take into account also the extra demurrage costs incurred by ships that were not allowed to enter Lebanese waters in ports.²⁷⁷ The Commission is convinced that all of these are direct economic and financial consequences of the blockade that would need to be considered for the establishment of Israel’s obligation to repair for damages that derive from the unnecessarily inflexible way in which Israel carried out the blockade.

g. Housing

308. Due to the number of housing units which were partially damaged or completely destroyed, the reconstruction and compensation process will be a major issue over the months and even years to come and will require huge financial and human resources.

²⁷⁴ The Council also underlined that it is looking for solutions for the private sector which amounts to 85% of the GDP of Lebanon, in order to reply to both direct and indirect impact of the war.

²⁷⁵ An updated list of donations in kind or nature is available on the website of the Higher Relief Commission <http://www.lebanonundersiege.gov.lb> (Retrieved on 8 November 2006).

²⁷⁶ Ministry of Finance. Impact of the July Offensive on the Public Finances in 2006 – Brief preliminary report, 30 August 2006 <http://www.lebanonundersiege.gov.lb/documents/ImpactonfinanceReport-Englishversion-06.pdf> (Retrieved on 8 November 2006).

²⁷⁷ This aspect is highlighted by OCHA, which states that “the blockade took its toll on manufacturers who, dependent on imported raw materials, paid high demurrage costs on inputs waiting at foreign ports to enter Lebanon.”: OCHA Situation Report 37, 12 September 2006.

309. The Commission was told that the Government of Lebanon is intending to provide a number of prefabricated housing units which, it is feared, might have a deleterious effect on sustainable housing solutions for the affected.²⁷⁸ In addition, as the winter season is approaching, there is a real need to help people to winterize their houses and to find adequate housing for those who do not have so far.

310. In addition, the Commission is concerned at the discrimination which might result from the various approaches to the reconstruction process. Indeed, the fact that some villages have been “adopted” by donor countries²⁷⁹, while others might have been left aside, may amount to discrimination. Moreover, due to the number of organizations and government departments working on reconstruction, duplication of work will probably arise.

311. The need for cooperation among the various actors participating in the reconstruction of housing units is essential as some people are refusing repair works from NGOs fearing that they will not be eligible for compensation promised by pledging countries and the Government of Lebanon. This is why, in Southern Lebanon, the main actors agreed with the Council of the South to adopt guidelines for the procedure of work they intend to carry out in order to avoid duplication.²⁸⁰ These guidelines will be an essential asset in order to establish priorities, ease the process and ensure a better implementation of the right to adequate housing free of discrimination.

312. So far as compensation is concerned, the situation varies widely according to the area under consideration. Indeed, the Commission met with individuals who informed it that they had received compensation from the Hezbollah, mainly an amount in cash in order to allow them to pay their rent and to buy furniture in another building. Others said that they had not received anything²⁸¹. The majority complained that the Government of Lebanon had not given them anything for the time being. This can be explained by the extent of the work which needs to be done. However, the Commission wishes to recall that non-discrimination in compensation is a paramount issue.

313. For both reconstruction and compensation, a central legal issue will be the dubious legality of many homes and commercial structures, notably in the South where there was no government supervision in this area for many years. It might be the opportune time for municipalities to adopt

²⁷⁸ By mid-October, Saudi Arabia had installed 48 residential pre-fabricated houses. The United Arab Emirates had pledged 5,000 pre-fabricated houses, while Turkey pledged 750. Prime Minister Fouad Siniora had said in September that Lebanon is in need of 30,000 pre-fabricated houses. See: Higher Relief Committee, Daily Situation Report 77, 18 October 2006. The issue of prefabricated houses was raised in the report of Special Rapporteurs : See A/HRC/2/7, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari - Mission to Lebanon and Israel (7-14 September 2006), para. 104 (b).

²⁷⁹ For example, Qatar announced its plan to rebuild four of the most heavily damaged villages in Southern Lebanon: Bent Jbeil, Aita Ech Chaab, Khiyam, and Ainata and began distributing cash for home repairs.

²⁸⁰ The first draft is available at http://www.lebanon-support.org/resources/Emergency_Shelter_Cluster_Guidelines.doc (Retrieved on 8 November 2006).

²⁸¹ This has also been reported in the assessment report of Médecins du Monde: Médecins du Monde, Les conséquences du conflit de l'été 2006 sur les conditions de vie et la santé des populations civiles du Sud Liban, 12 octobre 2006, p.35. www.medecinsdumonde.org/publications/rapports/rapport_liban_octobre06 (retrieved on 8 November 2006).

urban planning schemes for each village in order to ensure legal security of tenure. The Commission was also informed that the situation is very similar in South Beirut. In addition, the situation of widows will have to be taken into due consideration as their ownership rights might differ from those of men. Mechanisms should be devised to ensure appropriate consultation and participation in decisions concerning reconstruction. Compensation procedures should be just, timely, accessible, free of charge, and age and gender sensitive. More generally, within the process of return of people to their homes and of compensation, all relevant human rights standards related to the right to adequate housing²⁸² should be respected and attention should be paid to the human rights standards regarding restitution and compensation²⁸³.

II. Conclusions as to violations of IHL, human rights law and international law

As a result of its inquiry, the Commission reaches the following conclusions:

314. The hostilities that took place from 12 July to 14 August 2006 constitute an international armed conflict to which conventional and customary IHL and human rights law are applicable.

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

316. The principle of military necessity cannot justify every attack or destruction. The attacks on civilians, destruction of unoccupied houses, churches, mosques, shops, and so on do not normally contribute to defeating the enemy. In many cases, the ‘military necessity’ element did not justify the military action taken.²⁸⁴

317. The Commission considers 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.

318. IDF’s conduct of the hostilities showed an overall lack of respect for the cardinal principles regulating the conduct of armed conflict. Israel did not respect its obligation to distinguish civilians from combatants. 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 IHL and human rights obligations. . Treating as “terrorists” all members or affiliates of an official political party leads to an unacceptable interpretation of the law.

²⁸² A summary of these rules can be found in the reports of the Special Rapporteur, Miloon Kothari, submitted to the Commission on Human Rights at its fifty-seventh (E/CN.4/2001/51, paras. 13-22) and fifty-ninth (E/CN.4/2003/55, paras. 10-19) sessions.

²⁸³ E/CN.4/2005/17 Principles on housing and property restitution for refugees and internally displaced persons, 28 June 2005; E/CN.4/2005/102/Add.1 Updated set of principles for the protection and promotion of human rights through action to combat impunity, 8 February 2005 (notably principles 31 to 34); A/RES/60/147 Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law, 21 March 2006 (notably its parts IX to XI).

²⁸⁴ On military advantage see Dinstein, Y. *The Conduct of hostilities under the law of International armed conflict*, Cambridge University Press, 2004, p. 82 et ect.

In addition, the deliberate attacks against the houses of family, friends, members or relatives – but not fighters – of Hezbollah contravene IHL and human rights law.

319. The number of houses and residential buildings destroyed in Southern Lebanon and in south Beirut does not reflect an adequate application of the principles of military necessity and proportionality. The deliberate and indiscriminate targeting of civilian houses constitutes a violation of IHL and of international human rights obligations.

320. All attacks on civilian infrastructure, including roads, bridges, airport and ports, water facilities, factories, farms and shops, in particular far from the confrontations in the South, even in cases of “dual use”, cannot be justified in each instance under military necessity and was disproportionate to the military advantage they provided. They constitute a violation of Israel’s obligations under IHL to distinguish between military targets and civilian objects.

321. The attack on the Jiyeh power plant led to a massive oil spill that polluted most of the Lebanese coasts. IDF’s failure to take the necessary precautionary measures violated Israel’s international law, IHL, and human rights 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, which equally contravened the same international obligation.

322. The targeting of civilian convoys was indiscriminate and constitutes a disproportionate use of force which violates Israel’s IHL and international human rights obligations.

323. Targeting clearly marked Lebanese Red Cross and civil defence vehicles and personnel carrying out their activities, and direct attacks and the collateral damage caused to medical facilities were in clear violation of customary rules of IHL

324. Deliberate attacks on places of worship, churches and mosques, were unjustified and go beyond the requirements of distinction and of military necessity, thus constituting a violation of IHL obligations.

325. IDF attacks in the vicinity of sites listed in the UNESCO World Heritage List caused damage to protected property, particularly to archaeological sites in Baalbeck and Tyre, as well as in sites of historical importance to the Lebanese population, such as Chamaa, Khiyam, Tibnin, and Bent J’Beil. These attacks violate Israel’s IHL obligation to undertake the necessary precautionary measures to avoid direct or indirect damage to especially protected cultural, historical and archaeological property.

326. Concerning the direct targeting of schools, the Commission did not find any evidence as to the effective military contribution of these attacking buildings. These attacks constitute, therefore, a grave violation of IHL and human rights obligations.

327. Acts of vandalism of houses, schools and religious places by the IDF constitute a particular violation of human rights and IHL.

328. The IDF warnings to civilians directing them to evacuate their homes were largely ineffective. Civilians were attacked when doing so, and evacuation was physically impossible. The

principle of precaution issued to spare civilians of the effects of the conflict was not respected. The use of warning leaflets of a propaganda nature does not meet IHL obligations.

329. The direct attacks on UNIFIL/UNOGL positions by the IDF cannot be justified on grounds of military necessity. These attacks constitute a clear violation of international law and IHL.

330. 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 posts as deliberate shields for the firing of their rockets.

331. The Commission has formed a clear view that, cumulatively, the deliberate and lethal attacks on civilians and civilian objects, including protected religious property, protected cultural and historical property, as well as of objects essential to the survival of the population; the attacks against protected personnel, including LRC and Civil Defence; the indiscriminate and disproportionate nature of these attacks; the willful targeting of fleeing civilians; and the gratuitous and wanton destruction of civilian property and civilian infrastructure offering no clear and unambiguous military advantage, amount to collective punishment.

332. The abduction of civilians on Lebanese territory and their unlawful transfer and detention in Israeli prisons, including their subjection to cruel, degrading and inhuman treatment contravene IHL and human rights obligations.

333. Forced displacement of almost one million persons in and outside of Lebanon as a direct or indirect result of the indiscriminate attacks on civilians, civilian property and infrastructure, threats and fear arising there from, constitutes a violation of international law and human rights.

334. Failure to provide free and uninterrupted access for humanitarian assistance to civilian population in need, as well as the imposition of unnecessary movement limitations on humanitarian convoys constitute a grave violation of IHL obligations to ensure access to humanitarian assistance and to provide security guarantees for their effective deployment.

335. Israel’s blockade of Lebanese airport and ports had a significant impact on human life, the environment and on the Lebanese economy. It led to great suffering for the civilian population, damage to the environment, and substantial economic loss. Therefore, it is a violation of essential principles of international law, IHL and human rights law.

336. None of the weapons known to have been used by the IDF are illegal per se under IHL, The manner in which these weapons were used raises questions regarding distinction and proportionality.

337. The use of cluster munitions by the IDF was of no military advantage and was in contradiction to the principles of distinction and proportionality. These were part of a widespread and systematic targeting of civilians and their property causing great suffering, injury and death during and after the conflict. The extent of the use of the munitions particularly during the last 72 hours of the conflict points toward a plan by the IDF.

338. The widespread and systematic nature of messages relayed and communicated to the Lebanese, the timing and manner in which they were relayed, and the inflammatory language used, bear out that they were intended to incite or otherwise provoke inter-confessional violence and civil disorder in Lebanon. Given the particular political context in Lebanon, these acts amount to undue interference in Lebanese internal affairs.

339. The Commission's conclusions concerning violations of human rights have been formulated from a general perspective coming from a fact-finding body and not from a human rights monitoring body. For this purpose, the question of human rights violations can be addressed from two viewpoints: particular cases concerning well-identified individuals and cases targeting a large group of victims or part of the population.

340. The Commission examined during its inquiry different individual incidents and situations of a general character, taking into account the post-conflict situation in Lebanon. Thus the Commission classifies its legal evaluation on two levels:

(1) in some cases where the attacks against civilians or their property were direct and deliberate, where abductions, transfers and detentions in Israel of civilians occurred, it can be considered that there is a violation of the right to life, the right to property, the interdiction of inhuman, humiliating and degrading treatment. Moreover, these deliberate strikes against civilians amount in fact to summary and extra-judicial executions of persons (suspected or assimilated to terrorists-enemies). It not only violated the fundamental rights of these persons (right to life, right to personal security, fair trial, non discrimination) but also constitutes a very negative State practice, extremely disturbing for contemporary legal culture. The particular attention of the international community is drawn to this.

(2) In a general framework, the issues of violation of the right to life, right to education, right to property, right to a healthy environment, right to voluntarily return home in safety (without limitations), right of everyone to an adequate standard of living for himself and her family, including adequate food, clothing and housing and the right of everyone to the enjoyment of just and favourable conditions of work are open.

III. The question of international responsibility

341. The Commission considers that the conflict gives rise to two pertinent issues. Namely, (a) the international responsibility of Israel under international law, IHL and human rights and (b) the accountability of individuals, for serious IHL and human rights violations.

342. It emerges clearly from all the facts and their legal analysis that IDF actions resulted in civilian deaths and injuries; destruction and damage to civilian properties and protected objects; and direct loss, damages and injuries to the Lebanese Government and its people, including environmental harm. In certain cases, such as the deliberate attacks against civilians and civilian properties, attacks against Red Cross ambulances and other protected objects, and the indiscriminate use of cluster munitions, the violations committed by IDF could qualify as *serious violations of the laws and customs of war and war crimes*.

343. The cluster munitions issue is a very particular one. There is ample evidence that cluster bombs were used in an indiscriminate manner and that many towns and villages were littered with

the bomblets as well as large tracts of agricultural land. For example, there is evidence of targeting directly on Tibnin, Nabatiyeh, Yahmor, Ain Ibel, Yaroun, Bent J'beil, Qfar Tibnit and Swane. The concentration of cluster attacks in the area North of the Litani in the last 72 hours of the conflict is particularly difficult to justify as it is out of "Katyusha" range for targets in Israel. It is however a rich agricultural area. The extent of the use cluster munitions by the IDF goes beyond that required to interdict their opponents and points more towards a punitive use of weapon.

344. Israel infringed its international law, IHL and human rights obligations. As a consequence, the question of its international responsibility arises. It is worth recalling that the obligation of a State responsible for an internationally wrongful act to put an end to that act is well established in general international law, and the existence of such a duty has been reiterated by the ICJ.²⁸⁵

345. The government of Israel was required to respect and ensure respect at all times for IHL and human rights by its armed forces. These violations were not only committed by members of IDF but were part of a plan or policy. The declarations of high military commanders that "we will turn Lebanon's clock back 20 years", and that "once inside Lebanon everything is legitimate" bears this out.

346. The conduct of military operations is regulated by a universally recognized body of legal prescriptions. It is also well settled that serious violations of IHL entail individual criminal responsibility.²⁸⁶ As underscored by the United Nations High Commissioner for Human Rights: "war crimes and crimes against humanity may be committed even by those who believe, accurately or not, that their combat is a just one and their cause a worthy pursuit". "When... legal obligations regulating the conduct of hostilities are violated, personal criminal responsibility may ensue, particularly for those in position of command and control".²⁸⁷

347. In this regard, first, grave breaches of the Geneva Conventions and Additional Protocol I constitute war crimes and their violations entail individual responsibility. Second, customary international law also provides for individual criminal responsibility for such breaches as well as for violations of the laws and customs of war and other serious violations of international humanitarian law. Third, it must also be underlined that violations of a number of core human rights equally entail under the relevant international human rights instruments and customary international law individual responsibility. The Commission's report contains many indications of conduct that constitute serious IHL and human rights violations for which individual responsibility can be imputed. These entail an obligation on the part of Israel to put to an end to serious breaches of IHL and HR

²⁸⁵ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, advisory opinion of 9 July 2004, *I.C.J. Reports 2004*, para. 150; See also, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, *I.C.J. Reports 1986*, p. 149; *United States Diplomatic and Consular Staff in Tehran*, Judgment, *I.C.J. Reports 1980*, p. 44, para. 95; *Haya de la Torre*, Judgment, *I.C.J. Reports 1951*, p. 82.

²⁸⁶ Serious means that, "it must constitute a breach of a rule protecting important values, and the breach must involve grave consequences for the victim"; ICTY; *Tadic* Jurisdiction Decision, Appeal Chamber, para. 94.

²⁸⁷ Statement by Ms. L. Arbour, United Nations High Commissioner for Human Rights to the 2nd Special Session of the Human Rights Council, 11 August 2006
<http://www.ohchr.org/english/bodies/hrcouncil/docs/specialsession/Special%20Session%20ME%20August%2010%202006%20draft%20LA.pdf> (Retrieved on 8 November 2006).

committed and to prosecute those responsible. In this regard, the international community has its part of responsibility.

348. 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 IHL and Human Rights violations. If not, the culture of impunity will not be brought to an end.

D. Recommendations

349. The Commission submits the following recommendations to the Human Rights Council:

Humanitarian Assistance and reconstruction

(17) Considering the consequences of the conflict in Lebanon and its effects on the Lebanese population, notably in the South, the HRC should promote initiatives and call for the mobilization of the international community to assist Lebanon and its people. The HRC should consider the possibility of encouraging organs, agencies and institutions within the UN system to work together in a comprehensive and coordinated programme of cooperation with the Lebanese Government aimed at the improvement of living conditions, particularly in Southern Lebanon, so that the civilian population can fully enjoy their human rights.

(18) The HRC should encourage the United Nations system (UNESCO, UNEP, UNHCR, UNICEF, WHO), and the Bretton Woods Institutions in their multi sectorial programmes and projects to promote and undertake precise and concrete actions, including with professional and technical expertise in the necessary reconstruction efforts, e.g. buildings, bridges, cleaning of areas affected by clusters, environment, archaeological sites (Byblos).

(19) The HRC should call upon the UN Secretary-General to undertake an evaluation of humanitarian assistance provided to civilians by the United Nations System and other humanitarian and relief organizations in Lebanon. The Cargo Movement Notification Procedure and the notification or “concurrence procedure” set up during the conflict with a view to enhancing the right to immediate and unlimited access to humanitarian assistance for civilians in armed conflict could be part of this assessment.

(20) The HRC should call for the mobilization of professional and technical expertise necessary to cope with the ecological disaster on maritime environment on the Lebanese coast and beyond. In this context, it should be useful to engage the Barcelona Convention system covering the Mediterranean Sea and Regional Marine Pollution Emergency Response Centre for the Mediterranean based in Malta.

(21) The HRC should establish a follow-up procedure on the measures to be taken, notably for the recovery of Lebanon and above all the reparations of victims among the Lebanese civilian population.

Vulnerable groups (children)

(22) The HRC should give careful attention to the fate of child victims of the armed conflict. National institutions and specialised international agencies should work together to effectively assist the Lebanese government in the implementation of health programmes, rehabilitation projects and mental health care initiatives for children.

Respect for International Humanitarian Law

(23) The HRC should promote and monitor the obligation to “respect and ensure respect” of the IHL by all parties in a conflict, including non-state actors.

(24) In order to establish responsibility for human rights violations, some aspects of the conduct of IDF need more legal inquiry, with full cooperation from both victims and the perpetrator.

(25) The HRC should establish a follow-up procedure to monitor the human rights situation in Lebanon, taking into account the conclusions and recommendations of this report.

Weapons

(26) The HRC should take the initiative to promote urgent action to include cluster munitions to the list of weapons banned under international law. The Council should request the relevant international bodies, including the Meetings of States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, to address the legality of some weapons particularly indiscriminate to the civilian population, including weapons which use depleted uranium.

(27) The scientific research currently under way in Lebanon and abroad on the effects of certain weapons used during the conflict needs to be continued. The results will be decisive in the examination of the lawfulness of certain “new weapons” in the light of IHL. The HRC should encourage these efforts and follow-up developments.

(28) The HRC should strongly call upon Israel to immediately hand over to UNIFIL and the Government of Lebanon full and detailed information on the use, and of all coordinates of cluster munitions launched in Lebanon to enable timely clearance of unexploded ordnance (UXO), avert continued death toll and injury, enable the return of displaced persons to their communities and resumption of normal social and economic life.

Redress violations of Humanitarian Law and Human Rights

(29) It is important to address and promote legal means for individuals to redress violations of human rights and humanitarian law during conflicts. This is an urgent issue for particular regions and countries not covered by existing human rights mechanisms. Once more, the issue of individual complaints concerning violations of IHL arises.

(30) The Commission draws the attention of the HRC to the serious lacunae in international law, international humanitarian and human rights as regards the possibility of victims to seek and obtain reparations and compensation. In this regard, the Commission proposes that the HRC could explore possibilities aimed at the creation of a commission competent to examine individual claims.

(31) A commission of arbitration could be envisaged between the interested parties to examine issues of reparations.

(32) The Commission calls upon the HRC to follow closely, and to the Office of the High Commissioner for Human Rights to accord whatever assistance it can to the work of the Lebanese Parliamentary Human Rights Committee for it to complete its comprehensive investigation into “reported killings” and other alleged serious IHL and HR violations.

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Note: The Commission of Inquiry has provided the President of the Human Rights Council with a CD Rom of pictures that is available to all delegations for consultation. Furthermore, all pictures will be made available online at the address www.ohchr.org/english/bodies/hrcouncil/3session/index.htm



ANNEX I

Human Rights Council

Special session resolution S-2/1. The grave situation of human rights in Lebanon caused by Israeli military operations

The Human Rights Council,

Reaffirming the purposes and principles contained in the Charter of the United Nations,

Reaffirming also the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action, and recalling the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and other human rights instruments,

Acknowledging that peace and security, development and human rights are the pillars of the United Nations system,

Recalling General Assembly resolution 60/251 of 15 March 2006 in which the Assembly decided that the Human Rights Council:

(a) Should address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon; and

(b) Shall respond promptly to human rights emergencies,

Guided by the Charter of the United Nations, relevant human rights instruments and international humanitarian law, in particular the Hague Conventions of 1899 and 1907 on the Laws and Customs of War on Land which prohibit attacks and bombardment of civilian populations and objects and lay down obligations for general protection against dangers arising from military operations against civilian objects, hospitals, relief materials and means of transportation,

Recalling the commitments of the High Contracting Parties to the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto,

Reaffirming that each High Contracting Party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva

Convention) is under obligation to take action against persons alleged to have committed or to have ordered the commission of grave breaches of the Convention, and recalling the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity,

Emphasizing that human rights law and international humanitarian law are complementary and mutually reinforcing,

Stressing that the right to life constitutes the most fundamental of all human rights,

Condemning Israeli military operations in Lebanon, which constitute gross and systematic human rights violations of the Lebanese people,

Appalled at the massive violations of the human rights of the people of Lebanon by Israel resulting in the massacre of thousands of civilians, injuries, extensive damage to civilian infrastructure, displacement of 1 million people, and outflows of refugees fleeing heavy shelling and bombardment against the civilian population,

Strongly condemning the indiscriminate and massive Israeli air strikes, in particular on the village of Qana on 30 July 2006, and the targeting of United Nations peacekeepers at the United Nations observer post in southern Lebanon on 25 July 2006,

Taking note of the strong condemnation by the United Nations High Commissioner for Human Rights of the killing of civilians in Qana, her call to take measures to protect civilian lives and civilian objects and her reiteration of the need for independent investigation, with the involvement of international experts,

Noting the extreme concern expressed by the Representative of the Secretary-General on human rights of internally displaced persons, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the Special Rapporteur on the right to food about the continuing adverse impact on the human rights and the humanitarian situation of the civilian population in Lebanon,

Emphasizing that attacks and killings of innocent civilians and the destruction of houses, property and infrastructure in Lebanon are a breach of the principles of the Charter of the United Nations, international law and international humanitarian law as well as are flagrant violations of human rights,

Recognizing the urgent need to address the dire humanitarian situation in Lebanon, including through the immediate lifting of the blockade of Lebanon imposed by Israel,

Noting with concern the environmental degradation caused by Israeli strikes against power plants and their adverse impact on health,

Concerned at the targeting of the communication and media networks in Lebanon,

Outraged at the continuing senseless killings by Israel, with impunity, of children, women, the elderly and other civilians in Lebanon,

1. *Strongly condemns* the grave Israeli violations of human rights and breaches of international humanitarian law in Lebanon;
2. *Condemns* the massive bombardment of Lebanese civilian populations, especially the massacres in Qana, Marwaheen, Al Duweir, Al Bayadah, Al Qaa, Chiyah, Ghazieh and other towns of Lebanon, causing thousands of deaths and injuries, mostly among children and women, and the displacement of 1 million civilians, according to a preliminary assessment, thus exacerbating the magnitude of the human suffering of the Lebanese;
3. *Also condemns* the Israeli bombardment of vital civilian infrastructure resulting in extensive destruction and heavy damage to public and private properties;
4. *Calls upon* Israel to abide, immediately and scrupulously, by its obligations under human rights law, in particular the Convention on the Rights of the Child, and international humanitarian law;
5. *Urges* all concerned parties to respect the rules of international humanitarian law, to refrain from violence against the civilian population and to treat under all circumstances all detained combatants and civilians in accordance with the Geneva Conventions of 12 August 1949;
6. *Calls upon* Israel to immediately stop military operations against the civilian population and civilian objects resulting in death and destruction and serious violations of human rights;
7. *Decides* to urgently establish and immediately dispatch a high-level commission of inquiry comprising of eminent experts on human rights law and international humanitarian law, including the possibility of inviting the relevant United Nations special procedures to be nominated to the Commission:
 - (a) To investigate the systematic targeting and killings of civilians by Israel in Lebanon;
 - (b) To examine the types of weapons used by Israel and their conformity with international law;
 - (c) To assess the extent and deadly impact of Israeli attacks on human life, property, critical infrastructure and the environment;
8. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all administrative, technical and logistical assistance required to enable the Commission of Inquiry to fulfil its mandate promptly and efficiently;

9. *Calls upon* the international community urgently to provide the Government of Lebanon with humanitarian and financial assistance to enable it to deal with the worsening humanitarian disaster, rehabilitation of victims, return of displaced persons and restoration of the essential infrastructure;

10. *Requests* the Commission of Inquiry to report to the Council no later than 1 September 2006 on progress made towards the fulfilment of its mandate.

*3rd meeting
11 August 2006*

[Adopted by a recorded vote of 27 votes to 11 with 8 abstentions. The voting was as follows:

- In favour:* Algeria, Argentina, Azerbaijan, Bahrain, Bangladesh, Brazil, China, Cuba, Ecuador, India, Indonesia, Jordan, Malaysia, Mali, Mauritius, Mexico, Morocco, Pakistan, Peru, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Tunisia, Uruguay, Zambia.
- Against:* Canada, Czech Republic, Finland, France, Germany, Japan, Netherlands, Poland, Romania, Ukraine, United Kingdom of Great Britain and Northern Ireland.
- Abstaining:* Cameroon, Gabon, Ghana, Guatemala, Nigeria, Philippines, Republic of Korea, Switzerland.]

NATIONS UNIES**UNITED NATIONS**

**HUMAN RIGHTS COUNCIL
COMMISSION OF INQUIRY ON LEBANON**

ANNEX II

TERMS OF REFERENCE

1. On 11 August 2006, the Human Rights Council adopted resolution S-2/1 at its second special session. In paragraph 7 of the resolution the Council decided to “urgently establish and immediately dispatch a high-level commission of inquiry”.
2. On 1 September, the President of the Human Rights Council appointed three persons to the Commission on the basis of their expertise in human rights law and international humanitarian law, as well as their integrity, impartiality and independence. The Commission began its work on 11 September and will report to the Council within two months.
3. According to paragraph 7 of resolution S-2/1 of the Human Rights Council, the mandate of the Commission includes the following actions:
 - “(a) to investigate the systematic targeting and killings of civilians by Israel in Lebanon;
 - (b) to examine the types of weapons used by Israel and their conformity with international law; and
 - (c) to assess the extent and deadly impact of Israeli attacks on human life, property, critical infrastructure and the environment.”

The Commission will implement its mandate through the prism of international law, international humanitarian law and international human rights law.

The Commission will take due account of relevant activities within the United Nations system, including the work of UN special procedures.

4. The Commission is provided, by the Secretary-General and the High Commissioner for Human Rights, with the administrative, technical and logistical assistance required to fulfil its mandate promptly and efficiently, including through a Secretariat.

5. The Commission should enjoy the full cooperation of all States Members of the United Nations. It may also seek the cooperation of international institutions and other relevant actors, as appropriate.
6. In order to enable the Commission to discharge its mandate, the following facilities should in particular be provided:
 - g. Freedom of movement throughout the territory of Lebanon, including facilities of transport.
 - h. Unhindered access to all places and establishments, and freedom to meet and interview representatives of Governmental and local authorities, military authorities, community leaders, non-governmental organizations and other institutions, and any such person whose testimony is considered necessary for the fulfilment of its mandate.
 - i. Unhindered access for individuals and organizations wishing to meet with the Commission.
 - j. Free access to all sources of information, including documentary material and physical evidence.
 - k. Security arrangements for the personnel and documents of the Commission to be provided in accordance with the United Nations Host Country Agreements.
 - l. Protection of victims and witnesses and all those who are in contact with the Commission in connection with the inquiry; no such person shall, as a result of such contact, suffer harassment, threats, acts of intimidation, ill-treatment or reprisals.
7. In particular, the Commission Members and staff shall enjoy the privileges and immunities accorded to experts on missions and officials under the 1946 Convention on the Privileges and Immunities of the United Nations.

ANNEX III**List of meetings in Geneva****Human Rights Council:**

Ambassador Luis Alfonso de Alba, President of the Human Rights Council

Governments:

Ambassador Gébran Soufan, Permanent Representative of Lebanon to the UN at Geneva

Ambassador Itzhak Levanon, Permanent Representative of Israel to the UN at Geneva

UN Special Procedures:

Mr Philip Alston, Special Rapporteur on Summary or Arbitrary Executions

Mr Walter Kälin, Special Representative of the Secretary General for Displaced Persons

Mr Miloon Kothari, Special Rapporteur on the Right to Housing

Office of the High Commissioner for Human Rights:

Ms Louise Arbour, High Commissioner for Human Rights

UN agencies:

UN Humanitarian Coordinator for Lebanon (telecon)

OCHA

UNEP

UNESCO (telecon)

UNHCR

UNMAS

WHO

Other organizations:

ICRC

Amnesty International

List of official meetings in Lebanon

1. Lebanese Government Officials
 - President Emile Lahoud
 - Prime Minister Fu'ad Siniora,
 - Minister of Public Works and Transport Mohammed Safadi,
 - Minister of Economy Sami Haddad
 - Minister of Environment Yacoub Sarraf
 - Minister of Culture Tarek Mitri
 - Minister of Foreign Affairs Fawzi Salloukh
 - Acting Minister of Interior Ahmed Fatfat
 - Chief of Staff of the Lebanese Armed Forces General Shaki al-Masri
 - Minister of Agriculture Talal Al Sahili
 - Minister of Social Affairs Nayla Moawad
 - Minister of Health Dr. Khalifeh Mohammed Jawad
 - Minister of Energy and Water Mohammed Fneish
 - Minister of Justice Charles Rizk
 - Prosecutor General Said Mirza
 - Minister of Labour Trad Hmadeh
 - Minister of Displaced Nihmeh Tohmeh
 - Director of the National Demining Office Col. Mohammed Fehmi
 - Chief of Legal Research Department, MFA, Ambassador Zaidan Essaghir
 - Lebanese Army Chief of Operations General Hassan Ayoub
 - Director of Antiquities, Ministry of Culture, Mr Frédéric Hussein

2. Members of the Lebanese Parliament
 - MP Ghassan Moukheiber, Rapporteur of the Parliamentary Human Rights Committee
 - MP Ismaïl Soukariyi, Parliamentary Human Rights Committee
 - MP Mohammed Raad

3. Officials of other institutions
 - The Military Prosecutor
 - Civil Defence
 - Managing Director of the Port of Beirut
 - Council for Development and Reconstruction (CDR)
 - National Council for Scientific Research
 - Council for the South
 - Chamber of Commerce, Industry and Agriculture
 - Centre for Economic Studies
 - Hospitals:
 - *Beirut Hariri Hospital*
 - *Governmental Hospital, Tyre*
 - *Jabal el-Amal Hospital*
 - *Hiram Hospital*

Marjayoun Hospital
Najem Hospital
Dar el Hekma Hospital, Baalbeck

- Lebanese Red Cross
- Jiyeh Power Plant

4. Local authorities

Officials of the municipalities of:

- Beirut
- Ghobeiri, Haret Hreik, Burj Baraneh and Chiyah
- Ghazieh
- Qana
- Tibnin
- Chihine
- Aita Ech Chaab
- Yatar
- Marwaheen
- Bent Jbeil
- Khiyam

5. UN and its agencies

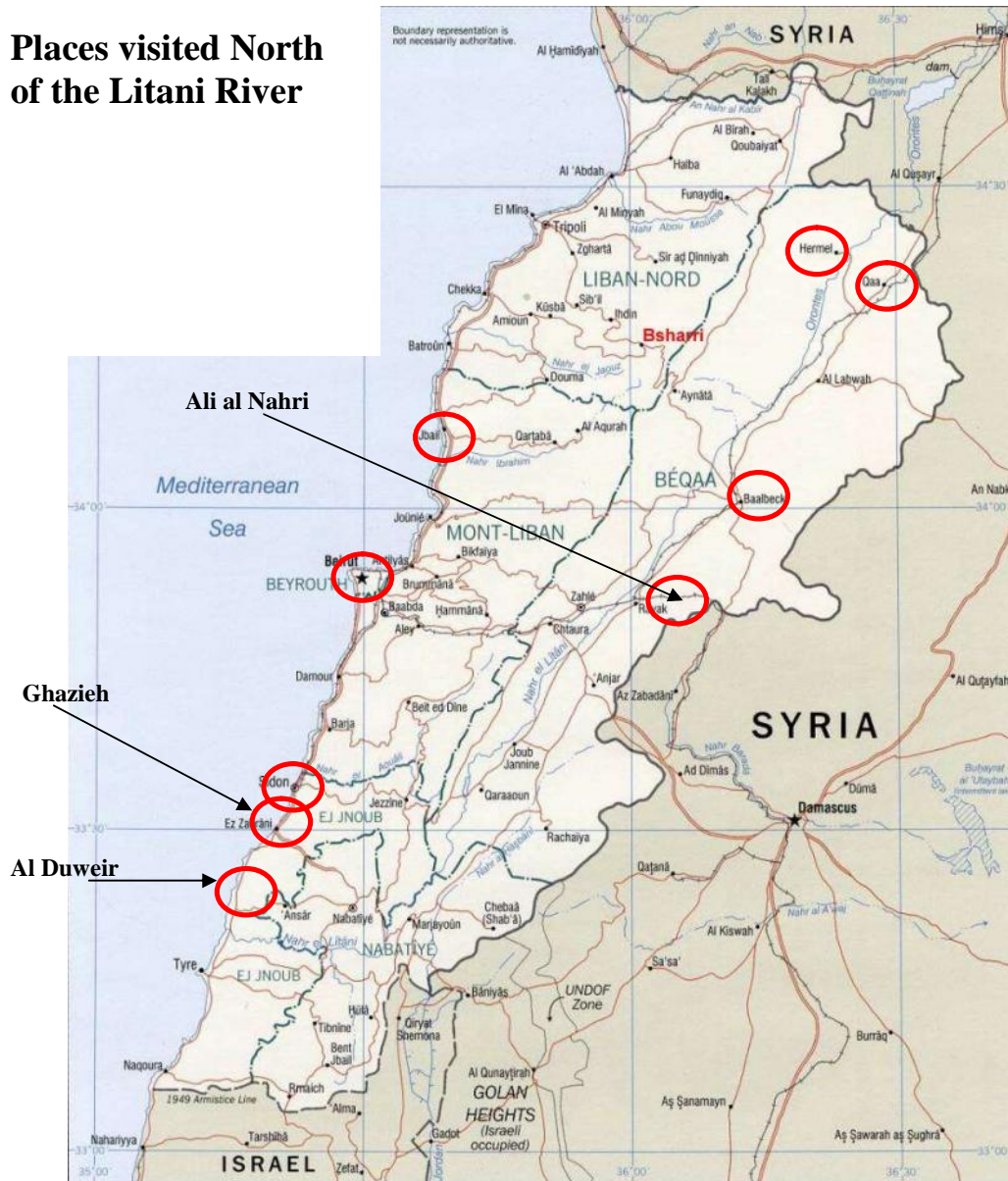
- Personal Representative of the Secretary General
- UN Resident Coordinator
- OHCHR
- OCHA
- UNDP Beirut and Tyre
- UNMACC Tyre
- UNIFIL
- UN Observer Group Lebanon
- UNHCR
- WFP
- UNICEF
- UNESCO

6. NGOs and other organizations

- Lebanese Bar Association
- Jihad el Binaa
- Network of NGOs working with the Human Rights Parliamentary Committee
- Other human rights NGOs, national and international
- Journalists
- Academics

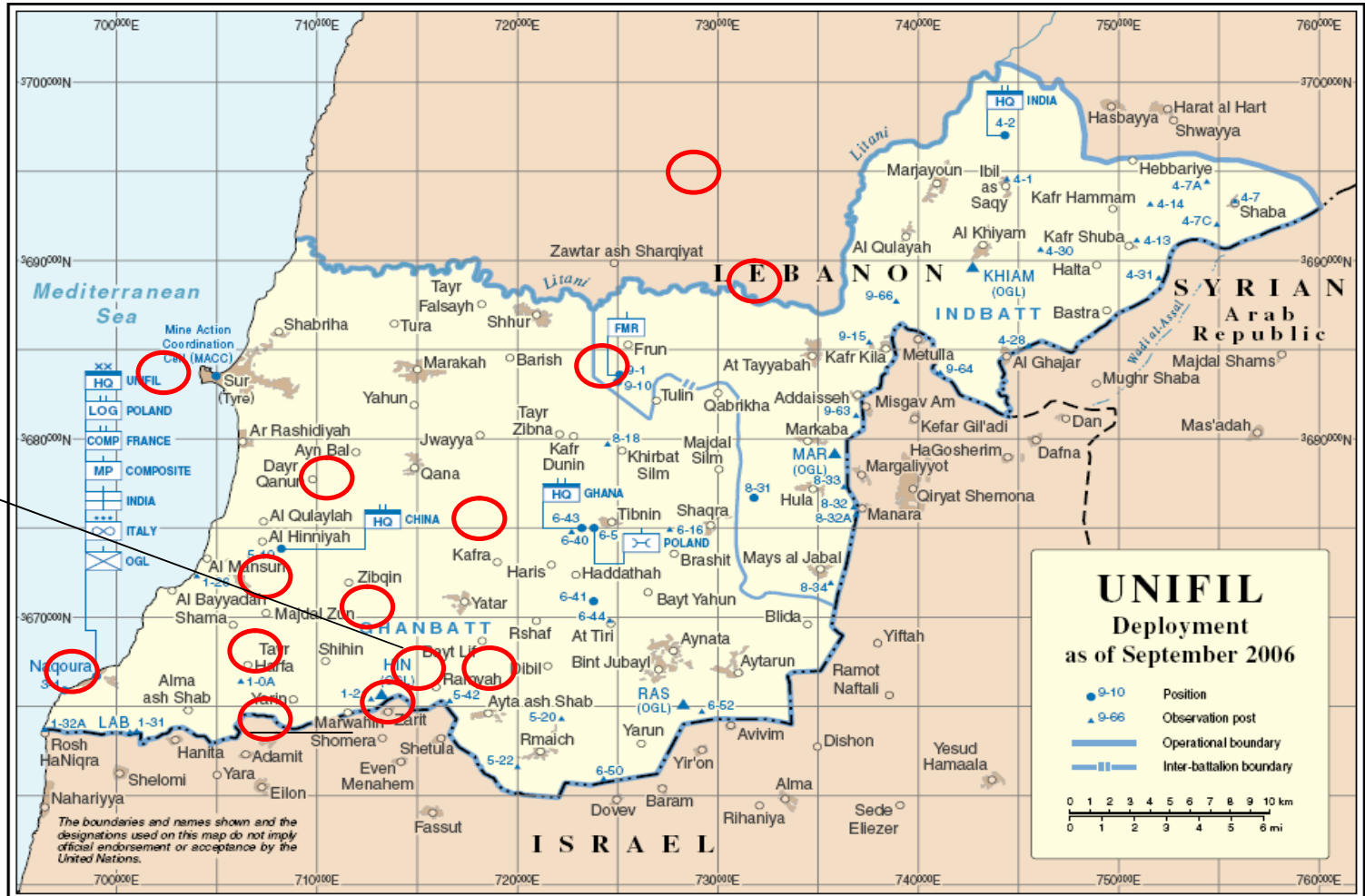
Annex V

Places visited North of the Litani River



Places visited
South of the
Litani River

Debel
and
Qauzah



ANNEX VI

Source: Higher Relief Council website

List of collective massacres perpetrated by Israeli Army in its attack against Lebanon in summer 2006							
No.	Village	Region	Date	Targeted area	Number of killed	Number of wounded	Remarks
1	Aytaroun first massacre	Bint Jbeil/ South Lebanon	12-Jul	Houses of both Ali and Hassan Al-Akhrass	11 civilians	unknown	<i>The family members of Hassan Al-Akrass hold the Canadian nationality and held a press conference in Montreal</i>
2	Dweir massacre	Nabatiyeh/ South Lebanon	13-Jul	Ali Akkash house	12 civilians		<i>An entire family was killed with children under 18</i>
3	Zibkeen massacre	Tyre/South Lebanon	13-Jul	Naim Bzeeh with its three floors	12 civilians	unknown	<i>Corpses remained under the rubble till the end of the aggression</i>
4	Shhour massacre	Tyre/South Lebanon	13-Jul	Ali Khashab house	7 civilians	unknown	<i>There were still corpses under the rubble</i>
5	Baflay massacre	Tyre/South Lebanon	13-Jul	Munir Zein	8 civilians	unknown	<i>Amongst the victims there were two Kuwaitis</i>
6	Yatar first massacre	Bint Jbeil/ South Lebanon	14-Jul	Abu-Akeel Sweydan	5 civilians	unknown	
7	Marwaheen massacre	Tyre/South Lebanon	15-Jul	A convoy of civilians attempting to flee the village after Israeli warning to bomb Marwaheen	22 civilians	unknown	<i>The convoy was struck in Bayyada</i>
8	Civil Defense Building	Tyre/South Lebanon	16-Jul	8-storey building	12 civilians	50 wounded	<i>Corpses remained under the rubble</i>
9	Abbassiyeh crossroad massacre	Tyre/South Lebanon	16-Jul	Building on the main road	13 civilians	unknown	
10	Abba massacre	Nabatiyeh/South Lebanon	16-Jul	Abed El-Aziz Tarheeni	10 civilians	12 civilians	<i>Most of the victims belonged to the same family</i>
11	Borj Shamali massacre	Tyre/South Lebanon	16-Jul	Ramez Zayyat house	5 civilians	8 civilians	<i>Two newborns were killed</i>
12	Aytaroun Second massacre	Bint Jbeil/ South Lebanon	17-Jul	Houses of both Mohammed and Hassan Awada	13 civilians	unknown	<i>Corpses were still under the rubble</i>
13	Rmayleh massacre		17-Jul	Convoy of displaced people trying to flee their villages heavily struck by air raids	12 civilians	unknown	<i>Chemical bombs were thrown on a convoy of displaced people</i>
14	Al-Hosh massacre	Tyre/South Lebanon	17-Jul	Kodsi Villa	4 civilians	3 civilians	<i>UNIFIL removed the rubble and pulled the corpses buried beneath the rubble</i>
15	Shmeiss massacre	Shheem/ Mount Lebanon	17-Jul	Residential house	5 civilians	10 civilians	
16	Srifa massacre	Tyre/South Lebanon	Night of 18-19 July	As-Sakna and Al Marj neighborhoods, the total demolition of more than 10 houses	More than 35 civilians	30 civilians	<i>Corpses of victims remained for weeks, till rotting disintegrated</i>
17	Aynatha massacre	Bint Jbeil/ South Lebanon	Night of July 19	Sami Darwish house	4 civilians	5 civilians	<i>Corpses remained under the rubble</i>
18	Salaa massacre	Tyre/South Lebanon	19-Jul	Hassan Moustapha Ayyoub	6 civilians	unknown	<i>Corpses remained under the rubble</i>

19	Aytaroun third massacre	Bint Jbeil/ South Lebanon	19-Jul	Convoy of displaced feeling Aytaroun on the Borj Shamali road	4 civilians	2 civilians	
20	Maaraboun massacre	West Bekaa	19-Jul	Convoy of pickup trucks driven by farmers	7 civilians	2 civilians	
21	Nabatiyeh first massacre	Nabatiyeh/South Lebanon	19-Jul	Down town Capitol commercial building	5 civilians	5 civilians	<i>The raid targeted also an ambulance</i>
22	Nabi Sheet massacre	West Bekaa	19-Jul	Hassan Shakar house	8 civilians	3 civilians	<i>Amongst the victims there were displaced from Mayss Al-Jabal village, two entire families of 8 were killed</i>
23	Tyre second massacre	Tyre/ South Lebanon	19-Jul	Residential areas in Tyre	20 civilians	unknown	<i>Many corpses remained under the rubble for several days</i>
24	Nabatiyeh second massacre	Nabatiyeh/ South Lebanon	25-Jul	House of Saad Mamzeh	7 civilians	unknown	
25	Haddatha massacre	Bint Jbeil/ South Lebanon	28-Jul	Hussein Mohammed Sabra house	6 civilians	unknown	<i>The air raid targeted a religious place used for social occasions (called "husseyniyeh") of the neighboring village, 6 members of the same family were killed</i>
26	Kfarjoz massacre	Nabatiyeh/South Lebanon	28-Jul	Dana Al-Khaleej Building	6 civilians	unknown	<i>Many neighboring residential buildings were hit</i>
27	Deir Kanoun Nahr massacre	Tyre/ South Lebanon	28-Jul	Abed Ezzedine house	4 civilians	unknown	
28	Yatar second massacre	Bint Jbeil/ South Lebanon	28-Jul	Internal houses and roads	4 civilians	unknown	
29	Noumeyriyyeh massacre	Nabatiyeh/South Lebanon	29-Jul	Houses of both families Haraki and Bdeir	7 civilians	unknown	<i>One entire family was killed in addition to neighbors</i>
30	Ayn Arab massacre	Bekaa	29-Jul	Unidentified residential houses	6 civilians	3 wounded	<i>Many corpses remained under the rubble for several days</i>
31	Yaroun massacre	Bint Jbeil/South Lebanon	30-Jul	A house where villagers were hiding seeking a safe haven	6 civilians	unknown	<i>6members of the same family (Khanafar) were killed : 3 women and 3 children</i>
32	New Qana massacre	Tyre/ South Lebanon	30-Jul	Shalhoub building (three-storey)	60 civilians	9 civilians at least	<i>The victims were mainly from Shalhoub and Hashem families. Corpses remained under the rubble for several days</i>
33	Hareess massacre	Bint Jbeil/South Lebanon	31-Jul	Houses of Khalil Jawad and Ali Saaban	16 civilians	unknown	<i>The 16 corpses of the two families remained under the rubble of the two residential houses</i>
34	Halloussiyeh massacre	Tyre/South Lebanon	31-Jul	Hussein Mwanness	More than 13 civilians	unknown	<i>All the corpses belonged to the same family (many of them were children under 12) and remained under the rubble for several weeks</i>
35	Road massacre in Qoleyleh	Tyre/South Lebanon	31-Jul	Roads and vehicles between Qoleyleh and A-Jebbeyn	12 civilians		<i>Amongst the victims there was a corpse of an 8 year old child</i>
36	Luweyzeh massacre	Ikleem Tuffah/South Lebanon	01-Aug	Salim Hashem house	5 civilians	1 civilian	
37	Maaroub massacre	Tyre/ South Lebanon	01-Aug	Abdel-Hussein Taleb	5 civilians	unknown	<i>Corpses remained under the rubble for a while</i>
38	Baalbeck massacre	Bekaa	Night August 1-2	A commandos operation on a hospital in	17 civilians	8 civilians	<i>The victims were only women, children and Syrian workers. Five</i>

				Baalbeck killed civilians			<i>innocent civilians were kidnapped and released later</i>
39	Qaa massacre	Bekaa	04-Aug	Syrian workers who were packaging peaches	50 civilians	unknown	
40	Taybeh massacre	Marjeyoun/ South Lebanon	04-Aug	Two-storey residential house	7 civilians	10 civilians	<i>The victims were elderly unable to leave their houses</i>
41	Ayta Shaab massacre	Bint Jbeil/ South Lebanon	04-Aug	Residential house	10 civilians	unknown	<i>Corpses remained under the rubble for a while</i>
42	Ansar massacre	Nabatiyeh/ South Lebanon	06-Aug	Ibrahim Assi house	5 civilians	10 civilians	<i>An entire family (Ibrahim Assi, his wife, his two daughters and their neighbors). Rescue workers who were pulling them were hit by another air strike that hit 9 neighboring houses</i>
43	Al-Jubbeyn massacre	Tyre/ South Lebanon	06-Aug	House of Kassem Akeel	4 civilians	unknown	<i>Air strikes hit heavily the village killing Kassem Akeel, his wife, his daughter and another victim</i>
44	Houla massacre	Marjeyoun/ South Lebanon	07-Aug	Several residential houses, amongst them a shelter	5 civilians	unknown	<i>60 persons who were hiding in a shelter and a social club "husseyneyeh" were miraculously rescued, while all surrounding buildings were totally destroyed by 6 heavy air strikes</i>
45	Ghassaniyeh massacre	Saida/ South Lebanon	07-Aug	Abdallah Tohmeh house	8 civilians	unknown	<i>An air strike hit at dawn Abdallah Khalil two-storey building killing him, his wife, his two sons, his two brothers and two others</i>
46	Ghaziyyeh first massacre	Saida/ South Lebanon	07-Aug	Residential neighborhoods	21 civilians	30 civilians	
47	Kfartebneet massacre	Nabatiyeh/ South Lebanon	07-Aug	Residential houses	5 civilians	18 civilians	<i>7 houses were totally destroyed, Harouf village was targeted later</i>
48	Breetal first massacre	Bekaa	07-Aug	Residential houses	14 civilians	31 civilians	<i>Many houses were totally damaged, Shmestar village was targeted later</i>
49	Shiyyah massacre	Beirut southern suburb	07-Aug	Hajjaj residential neighborhood	20 civilians	30 civilians	<i>The death toll increased later since many corpses were removed beneath the rubble. Amongst the victims, there were displaced from Beer Al-Abed, Haret Hrayk, Hayy Mawad</i>
50	Ghaziyyeh second massacre	Saida/ South Lebanon	08-Aug	Air raids struck heavily on the funeral procession of the victims of the previous day air raids	14 civilians	24 civilians	
51	Mashgharah massacre	Bekaa	09-Aug	Four-storey building	8 civilians	unknown	<i>The victims were all from the same family</i>
52	Al-Hayssa massacre	Akkar /North Lebanon	11-Aug	Al-Hayssa bridge	12 civilians	15 civilians	

53	Marjeyoun convoy massacre	Bekaa	11-Aug	A displaced convoy heading to the Bekaa valley fleeing Marjeyoun area	7 civilians	32 civilians	<i>The convoy was escorted by UN forces and had previous security clearance. It was constituted of more than 1500 civilian cars and 200 military cars</i>
54	Rweyss massacre	Beirut southern suburb	13-Aug		15 civilians	unknown	<i>The death toll increased later after pulling additional corpses from under the rubble. Amongst the people who were killed there were three newborns</i>
55	Breetal second massacre	Bekaa	13-Aug	One residential building in Breetal	13 civilians	22 civilians	<i>Five families were looking for a safe haven in the building that was struck heavily by Israeli air raids</i>
56	Jamaliyyeh massacre	Bekaa	14-Aug	A van carrying civilians	7 civilians	7 civilians	<i>The van was carrying displaced people</i>

ANNEX VII**EXAMPLES OF TELEPHONE AND TEXT MESSAGES RECEIVED DURING THE CONFLICT.**

Translated from the original Arabic

Examples of Warning Leaflets dropped by the Israeli Authorities**The IDF warns Lebanese civilians to evacuate villages south of the Litani River (July 25, 2006).²⁸⁸**

*"He who says he is protecting you, is really robbing you."
 "To all citizens south of the Litani River
 Due to the terror activities being carried out against the State of Israel from within your villages and homes, the IDF is forced to respond immediately against these activities, even within your villages.
 For your safety!!!
 We call upon you to evacuate your villages and move north of the Litani River.
 The State of Israel"*

The IDF warns residents of south Lebanon to move northward (July 27, 2006)²⁸⁹:

*"To residents of the region
 For your personal safety
 Read this announcement and act accordingly
 Rockets are being fired against the State of Israel from your area.
 The IDF will operate at full force against these terrorist groups effective immediately.
 For your own safety, you must leave the area immediately, and travel northwards.
 Anyone who remains is putting himself in danger.
 The State of Israel"*

The IDF announced restrictions on travel in any kind of vehicle south of the Litani River (Aug 7, 2006), which entered into effect at 2200 hours²⁹⁰:

*"To the Lebanese civilians south of the Litani River
 Read this announcement carefully and follow the instructions
 The IDF will escalate its operations, and will strike with great force the terrorist groups which are exploiting you as human shields, and which fire rockets from your homes at the State of Israel.
 The State of Israel"*

*"To the citizens of the region²⁹¹
 Read this statement carefully and follow its guidance*

²⁸⁸ <http://www.mfa.gov.il/mfa/terrorism>

²⁸⁹ Ibid note 1

²⁹⁰ Ibid note 1.

²⁹¹ Ibid note 1

*Horrible terrorist acts, such as firing missiles towards the State of Israel, are launched from your area.
IDF will act with force against the terrorist gang from this very moment.
For your own safety!
Leave this area at once and go to the North
Anyone who stays in the region is exposing his life to danger.
State of Israel”*

*“To the partisans of Hezbollah²⁹²
For whom are you fighting and offering your lives?
Is it for your leaders who have left you on your own at the time when you were not ready for combat, without proper equipment and in a state of starvation?
Is it for leaders who deny the death of your comrades and do not reward them with the promised honour and dignity?
Your leaders betrayed you!!!
Many of your comrades understood that there is no one on whom they can rely on and they have fled the battle.
Join them
Surrender or flee as far away as you can to save yourself
IDF Command”*

Other leaflets

*“The IDF has fought bravely your gangs in Baalbeck.
Know that you cannot escape us and we shall find you wherever you go, on land or underground.
Your leaders abandoned you and ran away after they sent you to your death to serve foreign interests.
The only way for you is to surrender”.*

*“To the Lebanese citizens,
The Hezbollah that is serving Iranian and Syrian interests has driven you to the edge.
The policy of Hezbollah brought you destruction, displacement and death.
Can you afford to pay such a high price again?
Let it be known that the IDF will be back and use force against any terrorist attack launched from Lebanon against the State of Israel.
The State of Israel”*

Radio Messages

This warning was reiterated in repeated radio broadcasts to southern Lebanon beginning in the early afternoon on 7 August²⁹³:

"Announcement to the population of southern Lebanon

²⁹² Ibid note 1

²⁹³ Ibid note 1

The IDF absolutely prohibits travel on the roads of southern Lebanon, from the line of the Litani River southwards, to the Israeli border. This applies to all vehicles. The curfew is in effect from 22h00 on August 7.

Southern Lebanon is a combat zone. Hezbollah terrorists are operating in your area, and you are being exploited as "human shields", in order to camouflage their activities.

The Israeli army is operating against the rocket fire and other terrorist activities being carried out from your area and from Lebanon against the State of Israel.

All vehicles, of any type, travelling in the aforementioned area are liable to be attacked, endangering those travelling in the vehicles. Any person who violates these instructions endangers himself and his passengers.

We repeat - The IDF prohibits absolutely the movement of all vehicles on the roads of southern Lebanon."

Telephone Messages

Transcripts of these messages were given to the Commission on request by the Chief of Staff of the Lebanese Army. They were recorded by Lebanese Military Intelligence. (Originals on Commission files.)

- To the Lebanese Ministry of Defence. Message received 5 August 2006 at 2230 hours saying:

"Military operations are not against you but against Hezbollah. Do not move from your locations, we are striking Baalbeck now. Inform your officer. Have you heard this message"?

- Message received at Lebanese Army headquarters on 8 August 2006 between 2145 and 2200 hours. Following is the voice message:

"Lebanese citizens, till when you will support the resistance? Do not let Hassan Nasrallah destroy your life, your economy and your infrastructure".

- Message from the Israeli Army on the number of the Air Intelligence force asking Lebanese citizens

"to stop supporting those who are throwing rockets and then flee. Hezbollah is using you and it is a shame to support such a gang".

Signature: State of Israel.(date indiscernible from photocopy)

- Message received at 2100 hours. The Lebanese Army received this message saying:

"Do not let Hassan Nasrallah play with your future."

Cartoon leaflets

Cartoon leaflet number 1

- with the caption

"Any service?"

Cartoon leaflet number 2

- with the caption²⁹⁴ *“Your protector is exposing you”*

This is a common Arab proverb being used in a cartoon showing Nasrallah holding a shield to protect himself while a three member Lebanese family is tied up on the exposed face.

*“To the citizens of the villages located South of the Litani
Because of terrorist actions perpetrated against the State of Israel from inside your
villages and houses,
The Israeli Defense Forces were compelled to retaliate immediately against these
actions, even within your villages.
For your safety!!!
You are asked to vacate your villages immediately in the direction North of the Litani.
State of Israel”*

Cartoon leaflet number 3

- with the caption

“To the Lebanese people

Be aware!!!

He might look like a brother, but in reality he is a snake”

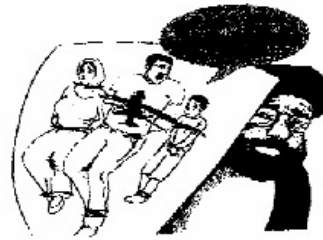
Cartoon leaflet number 4

- with the caption *“The Hezbollah policy destroyed Lebanon: he builds a castle of illusions in which I only stay for minutes, then I go back to my table, with nothing but empty words”* (quotation from a Lebanese song).

²⁹⁴ Ibid note 1



CARTOON LEAFLET 1



**إلى المواطنين في القرى الواقعة
جنوب نهر الليطاني**

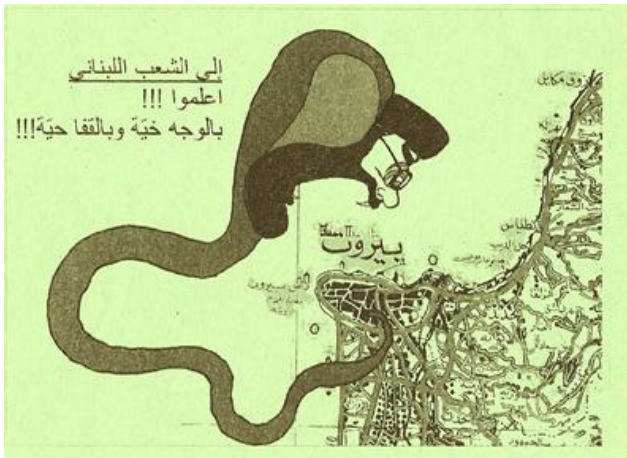
بسبب الأعمال الإرهابية التي تتخذ ضد
دولة إسرائيل من داخل قراكم وبيوتكم
اضطر جيش الدفاع الإسرائيلي على
الرد بشكل قوري ضد هذه الأعمال حتى
داخل قراكم.

من أجل سلامتكم!!!

اتكم مطالبون بإخلاء قراكم قورا باتجاه ما بعد شمال نهر الليطاني

دولة إسرائيل

CARTOON LEAFLET 2



CARTOON LEAFLET 3



CARTOON LEAFLET 4

ANNEX VIII**(a) Infrastructural damage**

Excerpts from Higher Relief Commission – Daily Sitrep 78, 19 October 2006

Destruction/damages:

The cumulative figures of Israel destructions in Lebanon are shown hereinafter (Preliminary figures).

Description	QTY
Airports (including Rafik Hariri international airport)	3
Roads (445,000 M2)	137
Fuel stations	25
Bridges and overpasses	92
Private houses/ Apartments. (Destroyed)	30,000
Private houses/ Apartment (Major damage).	30,000
Private Houses/ Apartment (Minor Damage).	70,000
Commercial sector (factories, markets, farms and medium size enterprises etc).	900
Small Size enterprises	2,800
Government institution (Buildings)	66
Schools (Destroyed/Damaged)	350
Hospitals (Major damage).	2
Health care buildings (destroyed).	12
Health care building (severely damaged)	38
Power plant	1
Power generation stations	14
Transformers	150
Main Electrical power supply network	50
Secondary power supply network	250
Telecommunication main net work	44
Telecommunication Sub net work	52
Telecommunication tower	18
Mobile transmission station	13
Radio transmission station	2
Main Water distribution net work	45
Secondary water distribution net work	285
Water purification Units	42
Water Pumping stations	40
Main water storage tanks	42
Water Chlorination Units	62
Water dam	1
Main Fuel storage tank	3
Sea port	4

Sewage treatment plant	1
Main Sewage Disposal system	38
Secondary sewage disposal system	120
Radar	4
Army brigade	4

ANNEX VIII (b)

Source: Ministry of Labour

Reports of Damaged Factories

Region/Address	Name of the Establishment	Activity	Primarily damage assessment by Owners	Number of Employees
BEKAA				
	Elba Middle East SAL	Building Roads and Transportation, Equipments		22
	Amwaj Leban (Taanayeh)	Stones – Industry (Cutting, shapping)		27
	Alarz Lilnasij (Cedars Textile SARL) (Rashayya Alwadi)	Textile	US\$ 8 million	10 + (15 to 25)
	Dallal Steel (teanayedh)	Prefab Houses	US\$ 25 million	66
	Florence for General Trade (Sollan Yaaoub)	Furniture		18 + 10
	Maliban SAL (Teanyel)	Glass Bottles		227
	Lamartine (Teanyel)	Food (Gum and Sweets)	US\$ 4,5 million	60
	Liban Lait	Dairy Products		286
	L'Origine Cos, Sal (Taanayel/ IZ)	Cosmetics, Perfume, Detergent, Plastic containers & Furnitures		43
	Mr. Hassan About Akar Est (Taanayel)	Granite & Marble & Gravel		18
	Muller (Teaneyil)	Food/Ice Cream		66
	Central Plast	Nylon Bags		9
	Massaya & Co. SAL (Teaneyil)	Alchoolic Drinks	US\$ 16,000	30

	Turner SARL (Teaneyil)	Glass Raw Material	US\$ 5,5 million	5
	Marzoua Mansour Co. and Sons	Refrigeration – Imp./Exp.		9
SOUTH				
	Plati Med. /(Tyre)	Medical Supply, Med Baggs for Serum	US\$ 12 million	91
	Pastech (Tyre)	Past Capsules/Med. use		20
	Fine (Nagul Bros Co. Ltd) (Jizin)	Paper Products - Tissues	US\$ 10 million	247
	Balhas (1659/?) DFB (1862/?)	Wood (Trade & Industry)	US\$ 1,606,802	10
	Olive Mill (Kolayah)	Olive Oil Production		15
	Olive Oil Mill & Wheat & Bourghoul Mill (Rachava al Fakhar)	Olive oil, Flour & Bourghoul		4
		Gas Bottling		5
	Elias Jirjis Elias for Slab and Marble	Slab and Marble		6
	Abdel Amir Abo Ghida Mill for Cereals zaatar and kishik (Khiyem)	Mill		3
	Nassouh Fahed Waked factor for Yougart and Cheese	Dairy Products		4
	Ali Amin Kanso factory for Biscuits and sweets	Biscuits and sweets		4
	Ali Hussein Khsheysh for Iron Industry (Khiyem)	Iron Industry		4
	Imad Ghosson Factory for pickles (Khiyem)	Preserved Vegetables/Pickles		5
	Kazaal Carpentry (Toul)	Carpentry and Sawing (furniture)		11
	Hassan Diab & Wassim Ismael factory for Stone and Marble	Stone and Marble sawing		8

(Nabathieh)			
Ali Kassim Alhussein Factory for Cement Blocks (Kantara)	Cement Blocks		4
Hussein Ftouni Stone Sawing Factory (Al Tybeh)	Stone Sawing		2
Makhrattat Roumani (Habbouch)	Stones & Hydraulic Pressing		4
Cement Mixing Factory (Ebel al Siki)	Ready Cement		12
Ezzat Mohammad Ali Khraiss Factory for Iron Industry (Kham)	Iron Industry		-
Al Rim Factory for Iron Industry (Dbine)	Iron Industry		2
APZ for Furniture Industry (Adloun)	Furniture & Decoration		103
Naamallah Abdallah for Stone Sawing	Stone Sawing & Building Blocks		11
Assad Khalil Farhat & Sons	Asphalt Mixer		10
Hassan Hussein Issa Garage (Khiyem)	Pressinh Hydraulic Tubes		1
Alrihani Est. For pinting & publishing (Nabatieh)	Printing and seals		3
Fouad Houmani for Cement Blocks (Nabatieh)	Cement Blocks		13
Olive Mill Khiyem)	Olive Oil		9
Alpha Group Co. SARL (Tyre)	Marble, Granite, Mozaique		17
Al Gondoline Sweets (Sayda)	Food/Arab Sweets		56

CHOUEIFAT				
	Helouani Transtec	Refrigerator		8
	Middle East Cold Stores SARL	Preserving Storing, Packaging		42
	IJAKO PLAST	Plast/Med		7
	Lebanese Co. for Carton Mince & Industry	Papers, Plastic, Aluminium		13
	Serum Products SARL (SOLUPAC)	Serum		52
	Lebanese Electrical Industries (L.E.I.)	Electrical Equipment		8
	International Timber COOP Sinno SARL	Wood	US\$ 1,2 million	9
	Sarno Belt Est.	Belts and Clothing		41
	SAAB Co. Ltd.	Cement		10 + 2
	Competencies Company Industry & Trading (Kafaat)	Shoes		-
	Mcheik Company for Trading and Industry Ltd.	Marble Trade		6
	ARACO Asphalt Lebanese SAL	Asfal and Shoes		26
	Pepsi Cola/SML C SAL	Pepsi Cola	US\$ 484, 178,000	647
Southern Suburbs of Beirut				
	Issam & Partners SARL (Harat Hrek-Kasis St.)	Shoes Accessories		35
	Issam Est for Industry & Economics (Harat Hrek-Kasis St.)	Clothing (Trade and Industry)		22
	Electra for Industry & Trade (Harat Hrek)	Electrical Equipment		41
	A.O. Gandour Sons SAL	Food		38
	Lebanese Paper Products Co. SAL	Paper		24

Faraj for Trade and Industry	Shoes and Bags		16
Spot (Ruwals)	Shoes		13
FARES BROS for Trade and Industry (Ghoubeiry)	Shoes Manufacturing needs Plastic		35
Batal Design (Harat Hrek)	Furniture		16
Fawzieh Fouldakar Estbmnt (Haret Hrek)	Book recovering, Sheathing		32
Al Tarikh al Arabi for Printing	Printing, recovering, selling. Books		25
Dar Ihyaa al Turath al Arabi (Haret Hrek)	Printing and Books		17
Maktabat Jreir(Haret Hrek)	Books & School Materials		-
BAZMAT (Flora)	Insecticide		11
SECUROL Liban	Glass Curtain		16
Boulangerie-Patisserie Château d'Or d'Haret Hrekj	Bakery and Pastries		18
Mousslamani Est for Industry & Trade (Haret Hrekj)			13
La Reine (Chiah)	Papers (Cutting & Packaging)		17
Makli Auto Parts (Haret Hrekj) ZR	Car Parts		3
Mohammad Alaouie Est (Haret Hrekj)	Clothing & Textiles & Tailors Supplies		30
Zelna Tex	Clothing		17
Jaber Broderie	Knitting & Sewing		4
Factory Youssef Hallad (Haret Hrekj)	Clothing		21
Faco for Trade & Industry (Haret Hrekj)	Clothing		50
Lord	Clothing		about 15
Golden Dragon Co.	Clothing		20
Rotex	Clothing (Trade & Industry)	US\$ 7 million	58
Al Hadaf Industries	Clothing (Trade & Industry)	US\$ 4 million	42

Maestro (Haret Hrekj)	Shoes	US\$ 600,000	16
White Shoe	Shoes		8
Triko Starlet Company (Haret Hrekj)	Clothing	US\$ 2,500,000	22
LOGIX (Haret Hrekj)	Printing		10
Mr. Khodr Hammoud Est. (Haret Hrekj)	Furnitures (Home & Offices)		25
Wazni Trading & Jewellery Manufacturing & Co. (Chiah)	Fabricating and Gathering Jewellery from Diamonds and Precious Stones		16
Ets. Fouad El-Baayno pour Reliure	Books covering		60
Assi Bros C. (Haret Hrekj)	Furniture		18
Tricot Magic (Haret Hrekj)	Clothes & Socks		26
Tricot Dima (Haret Hrekj)	Knitting & Sewing Industry, Knitting Accessories		-
Ets. F.R. Annan (Bourj al Barajina)	Tubes and Kitchen		8
Al Farah Est. And Factory for Furnitures (Haret Hrekj)	Furnitures		8
Maximum for Industry & Trade (Haret Hrekj)	Clothing	US\$ 600,000	34
Chami Est for Industry	Shoes & Accessories		25
Verruca Shoes (Haret Hrekj)	Shoes		17
Dar el Fikr S.a. (Haret Hrekj)	Publishing, distribution, Printing & covering		194
Trussadia for Industry & Commerces SARL (Haret Hrekj-Kasis St.)	Clothing (Trade & Industry)	US\$ 3 million	30
Bassim Nassireddin for trade (Ouzael)	Papers & Plastic		10
Youssif Baydoun, Printing Press (Haret Hrekj)	Printing		27
Moulins Chahrazad	Mill/Pepper, Cereals		5
Tricot Orient Star (Haret Hrekj)	Clothing		5

	Dar Sobh for Printing & Publishing (Haret Hrekj)	Printing, Publishing & Distributing		25
	Jawad Bros Co. for Industry & Trade (Haret Hrekj)	Clothing (Tricot Factory)		6
	Hizzam Al Dine Est (Haret Hrekj)	Tissues, Curtains (sewing) & Furnitures		21
	Khalifeh Est for Printing	School and Commercial Paper Books Industry		11
	Sweid for Design (Haret Hrekj)	Curtain Tissus Factory (Sewing), Design & Furniture		8
	Al Nameh Modern Bakery (Haret Hrekj)	Bakery Products & Pastry		10
	Wissam Co. for Industry & Trade Sally Shoes (Haret Hrekj)	Shoes Industry		14
	Al Chaabane Sweets Factory for Trade (Haret Hrekj)	Pastry & Chocolate		5
	Al Hage Ahmad Fathallah & Sons Factory	Doors Manufacturing Industry		12
	Chik Top (Haret Hrekj)	Clothing Industry		12
	Al Hara Factory for Aluminium (Haret Hrekj)	Aluminium Industry		2
	Rabieh Bneir for Curtains (Haret Hrekj)	Curtains Sewing Industry		5
CHOUT				
	Limpex & Anan Enterprises S.a. (Haret Hrekj)	Paper (cutting, rolling, etc.)		25
	Petro Rubber	Rubber		9

ANNEX IX**Physical damage inflicted on health facilities during the conflict**

Source: WHO, MOPH. Lebanon Crisis : Service Availability Assessment, 29 August 2006, 82 p.

- **Outpatients facilities**

	Beirut Suburbs (42)		Bent Jbeil (30)		Hasbaya (19)		Marjayoun (26)		Nabatieh (48)	
	#	%	#	%	#	%	#	%	#	%
Totally destroyed	3	7	8	27	0	0	1	4	0	0
Severe damage	4	9	10	33	1	5	7	27	5	10
Minor damage	3	7	1	3	0	0	2	8	3	6
Equipment damage	2	4	0	0	0	0	0	0	0	0
No damage	30	73	11	37	18	95	16	61	40	84

	Beirut (50)		Jezzin (17)		Sour (53)		Hermel (4)		Baalbeck (39)	
	#	%	#	%	#	%	#	%	#	%
Totally destroyed	0	0	0	0	0	0	0	0	0	0
Severe damage	1	2	0	0	1	2	0	0	1	3
Minor damage	0	0	0	0	14	26	0	0	0	0
Equipment damage	0	0	0	0	0	0	0	0	0	0
No damage	49	98	17	100	38	72	4	100	38	97

- **Hospitals**

	Beirut Suburbs (8)		Bent Jbeil (3)		Hasbaya (1)		Marjayoun (2)		Nabatieh (5)	
	#	%	#	%	#	%	#	%	#	%
Severe damage	2	25	1	33	0	0	0	0	1	20
Minor damage	2	25	0	0	0	0	0	0	2	40
No damage	4	50	2	67	1	100	2	100	2	40

	Beirut (28)		Saida (14)		Sour (6)		Hermel (4)		Baalbeck (11)	
	#	%	#	%	#	%	#	%	#	%
Severe damage	0	0	1	7	2	33	0	0	1	9
Minor damage	0	0	0	0	1	17	0	0	0	0
No damage	28	100	13	93	3	50	4	100	10	91

UN humanitarian cargo movement notification procedure

Source : UN OCHA - HCCC

Activities : Supply Chain

Type of document : Procedure

Country : LB LBN 422 Lebanon, Lebanese Republic

Publication date 2006-Jul-28

Global overview of the cargo procedures to facilitate the safe delivery of humanitarian relief materials into and throughout Lebanon.

Background:

1. To facilitate the supply of humanitarian relief materials to Lebanon, the United Nations is working to establish humanitarian corridors into and within Lebanon. The management and movement of all UN humanitarian cargo on these corridors will be controlled by a UN Humanitarian Cargo Coordination Center (HCCC) in Beirut that will be managed by the World Food Programme (WFP) in support of the entire UN system. The HCCC will vet all cargo movement requests and schedule the route and timetable of proposed convoys. The HCCC will also consider and manage cargo movement requests from NGOs. UN managed and chartered vehicles, aircraft and vessels will be used unless otherwise agreed.
2. Sea Corridors: Humanitarian corridors from the sea are envisioned into the ports of Beirut, Tripoli, Saida and Tyre. For seaborne cargo, it is estimated that up to three (3) feeder vessels will operate from ports in the eastern Mediterranean.
3. Land and Air Corridors: Humanitarian corridors on land are envisioned from the northern border town of Aarida to Beirut and from Beirut to cities and towns in southern Lebanon. Conditions permitting, an air corridor may be established into Beirut International Airport.
4. Within Lebanon, deliveries to the affected areas will be carried out by a UN managed fleet comprised of one hundred (100) short haul 10 metric tonnes capacity trucks, capable of traversing damaged roads and difficult terrain. UN Agencies and NGOs will hand over their cargo to WFP at five UN managed facilities (to be designated), a minimum of 48 hours prior to dispatch. The relief cargo will be consolidated and prioritised for dispatch. Deliveries will be made using UN managed and marked trucks in convoys. Convoys will always be escorted by at least two (2) UN marked Land-cruisers.

Proposed Notification Procedure:

5. Beirut Cell:
 - a. At least 48 hours in advance of the estimated time of departure (ETD) requesting agencies will submit the UN Cargo Movement Notification to the HCCC. (The HCCC points of contact in Beirut will be published soon)
 - b. Eighteen (18) hours prior to the estimated time of departure (ETD), WFP will

notify the IDF via UNTSO and the Lebanese Government of the convoy details.

c. WFP will provide a liaison officer to the Lebanese Army to facilitate the processing of cargo movement notification

6. Jerusalem Cell:

a. A cell will be established at UNTSO HQ in Jerusalem to be staffed by UNTSO/UNSCO/WFP/OCHA. Personnel. The cell will manage all UN-IDF communications regarding UN controlled humanitarian operations in Lebanon.

b. The HCCC will transmit to the Jerusalem Cell all cleared Movement Notification requests. The Jerusalem Cell, will acknowledge receipt and will forward these requests to the IDF Humanitarian Coordination Center in Tel Aviv. This notification will be confirmed by telephone.

c. Upon receipt of a response from the IDF, the Jerusalem cell will inform the HCCC in Beirut no later than 12 hours ahead of the ETD. The Beirut cell will in turn notify the relevant UN agency or NGO. No convoy will proceed without receiving such confirmation.

7. A request by the UN to provide a liaison officer to the IDF Humanitarian Coordination Centre in Tel Aviv is under consideration by Israeli authorities.

8. Queries should normally be made to the Beirut cell as noted above.

List of weapons used - Cluster munitions

From the Commission's investigations it was apparent that the IDF used the following main weapons systems during the conflict.

Aircraft

The IDF used their full inventory of fighter, transport, helicopter and surveillance aircraft. The fighter aircraft were equipped with dumb as well as smart precision guided laser bombs. Helicopters were of the troop transport type or provided platforms for weapons such as such as the US-built Apache. These weapons would be a combination of cannon and missiles. The latter were probably of the Spike –ER (Extended Range) missile, Hellfire or TOW.

Unmanned Aerial Vehicles (UAVs) (“drones”)

These were reported by a large number of witnesses as being employed by the IAF throughout the war. It is apparent that in addition to their main role as surveillance aircraft, the IDF have also developed an armed UAV capability which was again reported by witnesses as being used on a number of occasions. The armament of this UAV might well be compatible with the anti-tank variety of missile carried by their helicopters. Informed sources suggest these UAVs are presently capable of carrying 2 or 3 such missiles probably of the Israeli produced Spike variety. The Spike missile is small. It weighs around 5.3 pounds and is approximately 25 inches long. It is capable of being flown into a target from a UAV by an operator or as a ‘fire and forget system’. The air vehicles involved are believed to be Israeli Aircraft Industries Herons which have only very recently (early 2006) entered operational service. Israel also operates IAI Searcher II and Elbit Hermes 450 S unmanned air vehicles both of which would be capable of carrying at least two Spike missiles. Lebanese army sources told the Commission that the so-called MKs (translated as Mother of Kamel), the local generic name for the UAVs, carry 3 missiles. The UAVS are operated from a base inside Israel and on occasion from forward tactical sites. Once a target is spotted, mission control would forward the coordinates back to the IAF command post in Tel Aviv. From there it would be sent to one of the many fighter jets or attack helicopters hovering over Lebanon around the clock.

Artillery

The Israeli **Artillery Corps** is the IDF corps responsible for operating its medium and long-range artillery assets. During the conflict much was heard of their 155 mm self-propelled guns and the Multi Launch Rocket System (MLRS) described above in the section on cluster bombs. The ground based troops were also supported by **Naval Gun Fire Support** from Israeli naval assets operating off the Lebanese coast.

Main Battle Tanks

The Merkava is the main battle tank used by the Israeli armed forces. The tank is equipped with a 120mm gun and with three 7.62 mm machine guns, two roof mounted and one co-axial with the main gun. The tank's fire control system includes modern components, whose capabilities are very high in detection range and target acquisition. The night vision system is based on the world's leading thermal technology. The tank carries an ammunition store of 50 rounds of 120 mm

ammunition. The tank carries a store of 10,000 rounds of 7.62 mm ammunition. The tank also utilizes a sophisticated Battle Management System (BMS).

Cluster Munitions

Cluster munitions consist of a canister which breaks apart above the ground to release a large number of small bombs. These are known as “bomblets” if delivered by air or “grenades” if delivered by artillery or rocket systems. A single artillery shell disperses these grenades over an area as large as two football pitches. Air-delivered cluster bombs saturate an area twice that size. A range of this ammunition has been developed and is designed specifically to target military objectives such as tanks, artillery locations, vehicles or troops; some have an incendiary capability. There is a significant “dud rate”. Official figures place this generally at between 1 and 5%. However in the Lebanon conflict, dud rates as high as 40 % have been reported.²⁹⁵ In other words, many of the bomblets did not explode but, rather like anti-personnel mines, they litter the ground with the potential to explode at any time later. Dud rates of 40% translate into approximately 250 unexploded bomblets for each MRLS rocket fired. The number of M 85 duds is most striking as this ammunition has a built-in self destruct feature which apparently did not function correctly.

From the information made available to the Commission, Israel has in its arsenal cluster munitions which can be delivered by aircraft, artillery and rockets. The following cluster munitions were used by Israel in Lebanon during the conflict:

Ground Based

- **M483A1 155mm artillery shells** each of which deliver 88 dual-purpose (anti-material and anti-personnel) grenades.
- **M 395 and M 396 Israeli manufactured 155 mm artillery shells.** These contain 63 and 49 M85 cluster grenades respectively. They also have a built-in self destruct device.
- **The Multiple Launch Rocket System (MLRS).** The MLRS is a versatile weapon system that supplements traditional artillery. It delivers large volumes of firepower in a short time against critical, time-sensitive targets. The system consists of a tracked launcher capable of launching two munitions pods of six rockets. Each rocket (US manufactured M26) contains 644- M77 cluster grenades, designed to detonate on impact. The anti-materiel capability is provided through a shaped charge which can penetrate up to four inches of armour. Its steel case fragments and produces antipersonnel effects with a radius of 4 m. A volley of 6 rockets would release 3,864 cluster bombs over an area covering a one kilometre radius.

Air Dropped

Israel also used the CBU-58 cluster bomb. It is loaded with 650 bomblets (BLU-63). These bomblets contain 5-gram titanium pellets, making them incendiary and useful against flammable targets.

²⁹⁵ Discussions with UN MACC 18 October 2006.

List of materials received from Officials in Lebanon*Lebanese Presidency press office,*

- CD: Pictures of the conflict, War on Lebanon, July 2006

Ministry of Foreign Affairs,

- Set of Israeli propaganda leaflets
- List of collective massacres
- General truce convention (“Armistice Agreement”) between Lebanon and Israel

Ministry of Interior,

- 4 files containing police reports on daily incidents and violations (1) Beirut/north, (2) Bekaa, (3) South, (4) Mount Lebanon
- List of damages on humanitarian vehicles and facilities, 21 August 2006

Ministry of Environment,

- Lebanese Atomic Energy Commission – National Council for Scientific Research: Preliminary findings – Depleted uranium post conflict assessment mission
- Ministry of Environment: “environmental assessment of July 2006 war on Lebanon: a preliminary scoping (draft of 22 Aug. 2006)
- UNEP: Lebanon Post-Conflict Assessment: Summary
- World Bank: Cost assessment of Environmental damage caused by recent hostilities in Lebanon – Concept note – 15 Sept. 2006
- IUCN: Rapid Assessment of Key Biodiversity Sites and Protected Areas in Lebanon – Mission 18-20 Aug. 2006
- Set of 3 documents regarding previous oil spills
- Power Point Presentation on oil spill in Lebanon
- Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean
- Set of documents related to oil spill, incl. overview of the situation, letter from the Minister, list of surveyed sites, cost of oil spill, equipment and human resources needed.
- One CD of IUCN on Lebanon’s oil spill crisis (video)
- One CD with 17 documents, 1 video and 114 pictures from various sites
- Lebanon Marine and Coastal Oil Pollution International Assistance Action Plan (prepared by the Experts working group for Lebanon – 25 Aug. 2006)
- REMPEC-Cedre: A synthesis of the surveys recently carried out by OSOCC Experts, up to 23 Sept. (25 Sept. 2006)
- REMPEC-Cedre: Lebanon marine and coastal oil pollution international assistance action plan (13 Oct. 2006)
- Information note: Results of sample analysis (29 Aug. 2006)
- Oil Spill Equipment donated to Lebanon
- Waste Management Options (6 Oct. 2006)
- Basic waste management recommendations (14 Sept. 2006)

Ministry of Education and Higher Education,

- Preliminary assessment of July 12 2006 war damages, Public schools, September 2006

Ministry of Culture,

- Constat des effets de la marée noire sur Byblos
- Report and pictures on damages of July 2006 Israeli aggression on Lebanese archaeological and historical sites
- UNESCO draft proposal, Emergency Safeguarding of the World Heritage Site of Byblos: oil spill effect
- Paper on Rehabilitation of Cultural Heritage Site of Chamaa – South Lebanon, and the Souks of Baalbeck listed on the Worl Heritage

Ministry of Defence,

- Samples of leaflets thrown on the South
- List of military buildings hit
- List of military killed
- List of military injured
- Samples of Army logs on Damages and targeted places

Ministry of Economy and Trade,

- Note “Economic Assessment”
- Higher Relief Commission Daily Situation Report No 65
- Paper: War Crimes/Crimes against humanity
- List of collective massacres (prepared by the Higher Relief Council)
- List of businesses targeted
- CD with pictures of bridges, road, villages attacked; satellite images
- List of industries damaged partially or completely by the war

Ministry of Labour,

- List of Damaged Factories

Ministry of Agriculture,

- CD with pictures of war damages

Ministry of Public Works and Transport

- CD: “War of July”

Ministry of Health,

- National Strategy for Early Recovery of the Health Sector in Lebanon
- Statistics on July 2006 wounded (Arabic)

Ministry of Information,

- CD: slide show of atrocities
- Videotape

Ministry of Social Affairs,

- 2 power points presentations of the Renee Moawad Foundation on project: Combating child labor through education.

- Higher Council of Childhood, The Israeli war on Lebanon, documented war crimes against children

Chamber of Commerce, Industry and Agriculture,

- Report “An overview of the economic impact of Israel’s war on Lebanon” with a cover letter

Parliamentary Human Rights Committee,

- File on Zoubqine
- File on Sreifa
- File on Marwaheen
- File on Marjayoun
- File on Chiyah
- File on Qana
- File on El Douweir
- One brochure from Télé Lumière
- One book from the Newspaper Al Safi
- 2 CDs from LBCI
- 1 CD from New TV
- A set of pictures
- An electronic file with 15 reports
- List of civilian children provided by the Internal Security Forces (Arabic)
- List of civilian dead compiled by the civil society network (Arabic)
- List of civilian injured victims provided by the Ministry of Health (Arabic)
- List of destroyed schools, hospitals, worship places as well as petrol stations provided by the Internal Security Forces (Arabic)
- Testimony of Ill-treatment by a Lebanese individual detained by the Israeli authorities (English)
- List of cluster bomb victims for the period from 14 August to 17 October 2006 (Arabic)

Al Kham Municipalities,

- 4-page paper on detailed damages

Qana Municipality,

- Historical guide to Qana (x2)
- Detailed list of casualties

Burj Barajneh Municipality,

- One letter with a list of damages

Ghobeirch Municipality,

- One letter on damages

Dahyeh Municipality,

- CD Pictures of bridges, roads and villages attacked

Jiyyeh Power Plant Director,

- 2 videos and 13 pictures after fire
- 29 videos and 55 pictures during fire

- One map

Najem Hospital – Tyre,

- List of amputees
- List of patients received during the crisis

Dar-el-Hekma Hospital, Baalbeck

- One CD with 146 pictures

Bar Association in Beirut,

- Summary of the report of the Bar Association in Beirut to the Special Investigation Commission appointed by the Human Rights Council.
- Full report submitted to the Commission of Inquiry.

Human Rights Institute (Bar Association),

- List of casualties in the Shiyyah incident
- The Israeli War on Lebanon: documented war crimes against children and violations of rights of the Lebanese children

Lebanese Red Cross,

- Newsletter, issue 11, year 3, October 2006

ANNEX XIV**List of materials received from NGOs and other sources***Human Rights Watch,*

- Fatal strikes, Israel's indiscriminate attacks against civilians in Lebanon, August 2006
- Letter dated 20 October 2006, with collection of documents about the actions of Hezbollah.

Amnesty International,

- Israel/Lebanon, Israel and Hizbullah must spare civilians, Obligation under international humanitarian law of the parties to the conflict in Israel and Lebanon, July 2006
- Israel/Lebanon, Deliberate destruction or "collateral damage"? Israeli attacks on civilian infrastructure, August 2006
- Israel/Lebanon, Under fire: Hizbullah's attacks on northern Israel, September 2006
- Lebanon: Cluster-bombs threaten civilian lives, 1 September 2006
- UA 212/06 Fear for safety/forcible displacement, 7 August 2006
- UA 216/06 Fear for safety/health concern, 9 August 2006
- UA 237/06 Fear for safety, 1 September 2006
- Public statement, Security Council must ask UN Secretary-General to initiate comprehensive independent inquiry in Lebanon and Israel, 9 August 2006
- Public Statement, Lebanon/Israel: The UN Human Rights Council must make a positive contribution to ending violations of human rights and humanitarian law, 11 August 2006
- Public statement, Lebanon: Grinding impact of maritime blockade on civilians, 8 September 2006
- Open letter, Lebanon/Israel: Open letter to foreign ministers meeting in Rome, 26 July 2006
- Open letter to members of the United Nations Security Council on the situation in Lebanon/Israel, 2 August 2006
- Letter to Secretary-General Kofi Annan, 25 August 2006

Reporters sans frontières,

- Emergency response in Lebanon, Activity report, August 2006
- Letter to Pr. Ghalil Djilali, Commission internationale humanitaire d'établissement des faits, 1 August 2006
- Press release, Humanitarian Fact-Finding Commission replies to Reporters without borders, 24 August 2006

FIDH, REMDH, Plateforme non gouvernementale Euromed,

- Liban : Mission de solidarité, 15 August 2006

International Crisis Group,

- The Arab-Israeli conflict: To reach a lasting peace, 5 October 2006

UN Watch,

- Index of documents on Hezbollah violations, 20 October 2006

Pax Christi International,

- Letter with information from the Hôpital Ste Thérèse, Beirut, and latest reports from NFH and ALEF, 12 October 2006

Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee,

- F. Raday, "Israel under Rocket Attack: A Profile of Displacement and Destruction 12 July-15 August 2006", 29 September 2006

Statement of the *International Association of Jewish Lawyers and Jurists (IAJLJ)*, sent with letter dated 30 October 2006

Commission internationale humanitaire d'établissement des faits,

- Letter to M. Robert Menard, SG Reporters sans frontières, 16 August 2006

Nouveau Droits de l'Homme - Association Libanaise pour l'Education et la Formation (NDH-ALEF),

- International Humanitarian Law violations in the current conflict opposing Hezbollah (Lebanon) to the State of Israel, Preliminary report, 1 August 2006
- International Humanitarian Law violations in the current conflict opposing Hezbollah (Lebanon) to the State of Israel, Second report, 14 August 2006
- International Humanitarian Law violations in the current conflict opposing Hezbollah (Lebanon) to the State of Israel, Third report, 4 September 2006
- The right to an adequate standard of living of internally displaced persons, 11 August 2006

Landmine action,

- Foreseeable harm, the use and impact of cluster munitions in Lebanon: 2006

Lebanese Association for Human Rights,

- Summary of events, September 2006
- A detailed list of massacres perpetrated by Israel.
- Comments
- List of names of killed females and children

Palestinian human rights organization (PHRO),

- Urgent Appeal to UNRWA to setup an emergency action due to situations in Lebanon, 21 July 2006
- Expatriated Palestinians, 25 July 2006
- Israel severe breaches to the international law. 27 July 2006
- Defending the rights of Palestinian refugees in Lebanon, August 2006
- Written statement submitted to the second special session of the UN HRC, 10 August 2006

Khiam Rehabilitation Center for Victims of Torture,

- Inventory of 33 days of Massacres, 14 September 2006
- Daily attacks against Lebanon
- For an international court & to freeze the Israeli membership in the UN, 14 September 2006

ANND (NGO)

- CD, Lebanon Under Aggression, Daily Updates, (July12 –August 14)

Caritas Lebanon Migrant Center,

- Emergency response to extremely vulnerable migrants in Lebanon, Following the crisis of Lebanon 12 July 2006

NGO network against Israeli war crimes,

- Questionnaire used to interview victims, August 2006

The Lebanese Foundation For Permanent Civil Peace,

- Impact de la guerre du 12 Juillet 2006 sur la société libanaise et les droits de l'homme, 2 October 2006

Greek political party « Synaspismos »,

- Report on a visit to Lebanon, 25-27 July 2006

ANNEX XV**Contents of CD Rom with pictures documenting COI's findings**

1. Agriculture (7 files)
2. Attacks on civilians and civilian objects (67 files)
3. Medical facilities (13 files)
4. Medical personnel (8 files)
5. Religious property and places of worship (13 files)
6. Cultural and historical property (26 files)
7. Environment (11 files)
8. Schools and educational establishments (3 files)
9. UN Peacekeepers (4 files)
10. Weapons (6 files)