



SECURITY COUNCIL REPORT UPDATE REPORT



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LEBANON

Update report on a possible international tribunal to try those charged in the terrorist attack that killed Rafik Hariri

On 21 March 2006, the Secretary-General submitted the report (S/2006/176) requested by the Security Council in December (S/RES/1644) on international assistance to Lebanon to try those responsible for the terrorist attack that killed former Lebanese Prime Minister Rafik Hariri on 14 February 2005.

Nicolas Michel, Under-Secretary-General for Legal Affairs held consultations with the Lebanese authorities and members of the Lebanese judicial system in Lebanon and then in New York. The report, based on the outcome of the consultations, recommended that:

- The tribunal should be mixed (Lebanese and international);
- The founding instrument should be an agreement between Lebanon and the UN;
- The tribunal should have personal jurisdiction over all those responsible for the attack;
- The applicable criminal law should be Lebanese;
- The tribunal should be located outside Lebanon;
- The composition of the tribunal should be significantly international;
- The source of financing should be a mix between Lebanese and UN funding and;
- The beginning of its operations should depend on the progress of the investigation.

A draft resolution is being prepared, which seems to have wide support, requesting the Secretary-General to negotiate an agreement with the Lebanese government on the creation of the tribunal, taking into account the recommendations made in the report.

The request to establish a tribunal of international character came from Lebanon, and as a result the current recommendations are not likely to be controversial amongst the elected members. Various permanent members have been very skeptical about creating new judicial bodies of an international character, and until recently dismissed the notion of a special tribunal for Lebanon. That position seems to have relaxed in recent weeks. The draft is expected to be adopted on Friday or perhaps next week.

This development seems to signal a growing comfort level within the Council on issues arising from Hariri's assassination.

It is expected that the Secretary-General will come back to the Security Council once the agreement with Lebanon is finalised. The Council will then consider establishing the tribunal. It seems that the Council is content to leave the bulk of the negotiation to the Secretariat and the Lebanese authorities. However, Council members do remain interested in a number of crucial points such as the jurisdiction (whether the tribunal will also be responsible for the trial of perpetrators of other assassination attempts), the location, the applicable law (Lebanese criminal law includes death penalty and foreign states could be reluctant to extradite their nationals) and the financing.