

II. BACKGROUND

23. Syria has long had a powerful influence in Lebanon. During the Ottoman Empire, the area that became Lebanon was part of an overall administrative territory governed from Damascus. When the countries were established in the aftermath of the First World War, Lebanon was created from what many Arab nationalists considered to be rightfully part of Syria. Indeed, since the countries became independent, they have never had formal diplomatic relations.

24. Syrian troops were invited into Lebanon by Lebanese President Suleiman Franjeh in May 1976 in the early stages of the latter's civil war. In the Taif Agreement, reached among members of the Lebanese parliament, that ended the civil war in 1989, *inter alia*, Lebanon thanked Syria for its assistance in deploying its forces in the Lebanon. A provision of the agreement called for Lebanon and Syria to determine jointly the future redeployment of those forces. A later agreement reached between the two countries in May of 1991 regarding cooperation, restated that provision. Syrian forces withdrew in May 2005 in compliance with Security Council resolution 1559 (2004).

Relations between Mr. Hariri and Syria

25. The Commission's investigation has confirmed what many in Lebanon have long asserted, that senior Syrian intelligence officials had a powerful day-to-day and overall strategic influence on the governance of Lebanon. The apparent growing conflict between Mr. Hariri and senior Syrian officials, including Syrian President Bashar Assad, was a central aspect of the information provided to the Commission through interviews and documents. A meeting in Damascus between Mr. Hariri and President Assad on 26 August 2004 appeared to bring the conflict to a head. In that meeting, which allegedly lasted for 10-15 minutes, President Assad informed Mr. Hariri, who was then Prime Minister, that President Assad intended that Lebanon would extend the term in office of Lebanese President Emile Lahoud, which Mr. Hariri opposed.

26. Lebanese and Syrian witnesses, and the transcript of a meeting between Mr. Hariri and Syrian Deputy Foreign Minister Walid Al-Moallem, provided the Commission with sharply differing versions of what was said in that meeting. A number of Lebanese witnesses – including then former ministers Marwan Hamadeh and Ghazi Areedi, Druze leader and head of the Progressive Socialist Party Walid Jumblat, parliament member Bassem Sabaa, and Mr. Hariri's son, Saad – reported that Mr. Hariri told them that President Assad brusquely informed him of the decision to extend President Lahoud's term and threatened to “break Lebanon over your [Mr. Hariri's] head and Walid Jumblat's” if Mr. Hariri (and presumably Mr. Jumblat) did not agree to support the extension of President Lahoud's term. Syrian officials characterized the meeting differently. Syrian Foreign Minister Farouk Sharaa and General Ghazali, head of Syrian

intelligence in Lebanon, described the meeting in positive terms. General Ghazali told the Commission that Mr. Hariri told him that President Assad referred to Mr. Hariri as a “friend,” and described a cordial, respectful meeting in which President Assad consulted Mr. Hariri on the matter.

27. Following are excerpts of interviews conducted by the Commission regarding the 26 August 2005 meeting, relevant parts of a letter to the Commission from Mr. Sharaa, and a portion of the transcript of a taped conversation between Mr. Hariri and Mr. Al-Moallem:

Minister of Foreign Affairs of the Syrian Arab Republic, letter to the Commission of 17 August 2005:

“A meeting took place between President Bashar Assad and late Prime Minister Rafik Al-Hariri in Damascus on August 26th, 2004 within the framework of the ongoing political consultation between the Syrian and Lebanese leaders. (...) A general review was made of the local and regional developments, including the possible extension of the mandate of Emile Lahoud, the President of Lebanon, in view of the troubled regional conditions and based on the mutual interest in maintaining stability in Lebanon. Mr. Al-Hariri requested that in case a consensus regarding the mandate extension is reached in the Council of Ministers, Syria should make endeavors to get President Lahoud to better cooperate in the forthcoming period. The President requested Mr. Hariri to consult with his group and with whom he deems suitable and to take the appropriate position.”

Rustum Ghazali, undated written statement, submitted to the Commission by letter of 17 August 2005:

“I had two meetings at Anjar on that date (26 August 2004) with Prime Minister Hariri. The first was in the morning of August 26th, 2004, on his way to Damascus to meet President Bashar Assad in Damascus, and the second was on his return trip from Damascus to Beirut after meeting with President Bashar Assad in Damascus. The latter meeting was also held in our office at Anjar.”

(...)

“We discussed his meeting with President Bashar Assad. He (Hariri) looked relaxed. Prime Minister Hariri said that his meeting with President Bashar Assad was cordial and brief. According to Prime Minister Hariri, President Assad told him: Abu Bahaa, we in Syria have always been dealing with you as a friend and as the Prime Minister of Lebanon. Today, I am also dealing with you as a friend and as the Prime Minister of Lebanon. Under the difficult circumstances currently witnessed by this region, with Lebanon in the midst, we are of the view that it is in the interest of Lebanon to maintain the continuity of the regime by extending the term of office of President Lahoud. As a friend, we would like you to clarify your position regarding this matter. We are in no hurry to know the answer, and you may wish to think about it at your convenience.”

Marwan Hamadeh, witness statement of 27 June 2005:

“On Wednesday 24 or 25 August, Mr. Hariri, Mr. Jumblat and Mr. Berri were all invited to go to Damascus in order to be informed about the decision to extend Mr. Lahoud’s mandate. Mr. Jumblat informed R. Ghazali that he would need to discuss it with President Assad. R. Ghazali insisted that the answer should be “yes” before setting up any appointment. He actually advised Mr. Jumblat to respond positively because this was a strategic matter for President Assad. Mr. Jumblat’s answer was negative. One hour later, Mr. Jumblat called me and told me that the Syrian Intelligence had cancelled his appointment.

In the evening, Mr. Jumblat and myself went to visit Mr. Hariri. He said that R. Ghazali insisted that as long as his answer was not positive, he would not confirm his appointment either. He was asked to go to Damascus, stay in his house (...) until further notice. The following day, he was called in for a short meeting.”

(...)

“The day Mr. Hariri met with President Assad, I was meeting at Mr. Jumblat’s residence in Beirut, with Bassem Sabaa and Ghazi Areedi. We saw that Mr. Hariri’s motorcade was back by 1 PM which meant that the meeting in Damascus was pretty short. We saw Mr. Hariri who looked tired. He was sweating. He told the four of us that President Lahoud was to be reelected or “he will have to pay a high price”. (...)He reported President Assad saying to him: I will break Lebanon on your head and Jumblat’s head.”

Ghazi Areedi, witness statement of 1 July 2005:

“Mr. Hariri reported to us that President Assad told him: “If Jacques Chirac puts me out of Lebanon, I will consider different options and will let you know. Either you are with us or against us. My choice is Emile Lahoud for President. I will make sure he is the President. I will wait for your answer. (...) Tell Walid Jumblat that if he has Druze people in Lebanon, I also have a Druze community in Syria. I am ready to do anything.”

Walid Joumblatt, witness statement of 28 June 2005:

“According to Mr. Hariri, Assad told him:”Lahoud is me. I want to renew his mandate. (...) If Chirac wants me out of Lebanon, I will break Lebanon. (...) During his visit to my house, Mr. Hariri was extremely tense and disappointed. He was in a very bad position.”

Jubran Tueni, witness statement of 25 June 2005:

“Later on, in 2004, when the issue of President Lahoud’s extension came up, Mr. Hariri also told me, that President Assad had threatened him directly and told him, that voting against the extension would be considered as being directed against Syria. According to Mr. Hariri, President Assad added that in that case they, the Syrians, would “blow him up” and any of his family members and that they would find them anywhere in the world.”

Bassem Sabaa, witness statement of 30 June 2005:

“When Mr. Hariri came back from his meeting with President Assad, I met him at Walid Jumblat’s house.”

(...)

“He reported to us President Assad’s words who has put it bluntly: “I am personally interested in this matter. It is not about Emile Lahoud but about Bashar Assad”.

We asked him if he had had a chance to discuss the matter with President Assad. He said that President Assad told him that the matter was not open for discussion, that it was bound to happen or else I will break Lebanon”(...). He was extremely aggravated. He told me that for the sake of Lebanon and its interests, he must think about what he will do, that we are dealing with a group of lunatics who could do anything.”

Saad Hariri, witness statement of 9 July 2005:

“I discussed with my father, the late Rafik Hariri, the extension of President Lahoud’s term. He told me that President Bashar Assad threatened him telling him: “This is what I want. If you think that President Chirac and you are going to run Lebanon, you are mistaken. It is not going to happen. President Lahoud is me. Whatever I tell him, he follows suit. This extension is to happen or else I will break Lebanon over your head and Walid Jumblat’s. (...) So, you either do as you are told or we will get you and your family wherever you are.”

Rafik Hariri, taped conversation with Walid Al-Moallem on 1 February 2005:

“In connection with the extension episode, he (President Assad)_sent for me and met me for 10 to 15 minutes.”

(...)

“He sent for me and told me: “ You always say that you are with Syria. Now the time has come for you to prove whether you meant what you said or otherwise.” (...) He did not ask my opinion. He said: “I have decided.” He did not address me as Prime Minister or as Rafik or anything of that kind. He just said: “I have decided.” I was totally flustered, at a loss. That was the worst day of my life.”

(...)

“He did not tell me that he wished to extend Lahoud’s mandate. All he said was “I have decided to do this, don’t answer me, think and come back to me.””

(...)

“I was not treated as a friend or an acquaintance. No. I was asked: “Are you with us or against us?” That was it. When I finished my meeting with him, I swear to you, my body guard looked at me and asked why I was pale-faced”

28. In the meeting with Mr. Al-Moallem, Mr. Hariri complained that he believed that President Assad was being deliberately misinformed by the Syrian security services and Mr. Sharaa about the actions of Mr. Hariri. Translated excerpts of the meeting include the following statements by Mr. Hariri:

- “I cannot live under a security regime that is specialized in interfering with Hariri and spreading disinformation about Rafik Hariri and writing reports to Bashar Assad.”
- “But Lebanon will never be ruled from Syria. This will no longer happen.”

29. During this discussion, Mr. Al-Moallem told Mr. Hariri that “we and the [security] services here have put you into a corner.” He continued, “Please do not take things lightly.”

30. The recorded interview clearly contradicts Mr. Al-Moallem’s witness interview of 20 September 2005 in which he falsely described the 1 February meeting as “friendly and constructive” and avoided giving direct answers to the questions put to him.

Syrian cooperation with the Commission

31. The information set forth above, and the evidence collected by the Commission as described in the section below entitled **Planning of the Assassination**, point to the possibility that Syrian officials were involved in the assassination of Mr. Hariri. When the Commission attempted to get the cooperation of the Syrian Government in pursuing these lines of the investigation, the Commission was met with cooperation in form, not substance.

32. The initial contact between the Commission and the Syrian authorities took place on 11 June 2005 when the Commissioner sent a letter to the Syrian Foreign Minister, requesting a meeting with representatives of the Syrian government. Mr. Sharaa replied on 11 July, pledging the Syrian Government’s support for the investigation in general terms. On 19 July, the Commission asked to interview several witnesses including the President of the Syrian Arab Republic. On 26 August, at the request of the Syrian government, a meeting took place between the Commissioner and a representative of the Syrian Foreign Ministry, in Geneva, Switzerland. At that meeting, the Commissioner was given a letter containing written statements of four witnesses. It was indicated that President Assad would not be available for any interview. The Commissioner repeated his request for direct witness interviews and was told that the request was under consideration but that President Assad would not be available to be interviewed.

33. On 30 August the Commission sent another request to the Syrian Foreign Minister, requesting interviews of several additional witnesses and suspects in Syria. The letter requested the support of the Syrian government to search the premises of the suspects. On 7 September Foreign Minister Sharaa informed the Commission in writing that while the Commission’s evidence was based on false testimony, his Government agreed that the persons listed in the Commission’s requests of 19 July and 30 August, except for President Assad, could be interviewed.

34. On 12 September details of the upcoming interviews were discussed between the Commission and a representative of the Syrian Foreign Ministry. The Commission expressed its wish that the interviews should be held in a third country, neither Lebanon

nor Syria, which was refused. The Syrian authorities insisted that the interviews take place in Syria with the participation of Syrian officials. The interviews took place between 20 and 23 September. Each interview was conducted in the presence of the Legal Advisor to the Syrian Foreign Affairs Ministry or another representative of the Foreign Ministry, one interpreter, two note takers, and at times, an additional person whose affiliation was not identified. At the end of the interview process, it was apparent that the interviewees had given uniform answers to questions. Many of those answers were contradicted by the weight of evidence collected by the UNIIC from a variety of other sources. The Commission has not had the opportunity to follow up on these interviews or pursue its investigation regarding a possible Syrian involvement in the crime.

35. The Commission has concluded that the Government of Syria's lack of substantive cooperation with the Commission has impeded the investigation and made it difficult to follow leads established by the evidence collected from a variety of sources. If the investigation is to be completed, it is essential that the Government of Syria fully cooperate with the investigating authorities, including by allowing for interviews to be held outside Syria and for interviewees not to be accompanied by Syrian officials.

III. THE CRIME

36. On 14 February 2005 at approximately 1250 hrs, the former Lebanese Prime Minister Rafik Hariri left the Nejme Square in Beirut going back to the Kuraytem Palace. He traveled in a motorcade comprising of 6 cars, together with his security detail and Member of Parliament, Bassel Fleyhan.

37. When the motorcade passed the St. George Hotel at Minae Al-Hosn Street a huge explosion occurred and resulted in the death of Mr. Hariri and others.

38. Shortly after the blast, the Director of Al-Jazeera TV in Beirut received a telephone call from a man who stated that the Nasra and Jihad Group in Greater Syria claimed responsibility for the assassination of Mr. Hariri. This message was broadcast shortly thereafter.

IV. THE LEBANESE INVESTIGATION

Initial Measures

39. To resolve a crime of this magnitude requires strong management capacity, clear roles, coordination and access to sufficient competency, manpower, equipment and means of assistance. The following brief outline reviews measures undertaken by the