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Letter dated 28 July 2014 from the Permanent Representative of Israel to the United Nations Office and other international organizations in Geneva addressed to the President of the Human Rights Council

I write you with the intention of keeping a record of and highlighting the multiple irregularities surrounding the preparation of the twenty-first Special Session of the Human Rights Council, held on Wednesday, July 23 2014.

Article 123 of the Institution-Building Package states the secretariat of the Council shall immediately communicate the request for the holding of a special session in a timely and transparent manner. This very basic principle was ignored on numerous occasions. As a consequence, I have grave concerns regarding the non-transparent and untimely manner in which the process of organizing this Special Session took place. To ease the overview of the numerous errors in procedure and protocol that took place in this instance, I have taken the liberty of listing them numerically below:

1. Letter of request

According to article 121, the request to hold a special session should originate from a letter of request. In actuality, such a letter was never circulated, nor was it sent to Israel, the concerned State. Furthermore, it was only published on the extranet at the express request of Israel, less than 24 hours before the Special Session was held. This is neither timely nor transparent.

2. Support for the request

According to rule 6 of its rules of procedure, the Human Rights Council shall hold special sessions at the request of a member of the Council with the support of one third of its members. The key which triggers action is the request, together with the 16 members supporting this request; however, one of these requirements was not met.

We received a first note verbale on July 18. On July 21 at 19:10hrs, a second note verbale regarding the Special Session was sent informing recipients of a change in the members supporting the request. It further stated that the delegation of Burkina Faso had signed "the" request, giving the impression it had stepped in to replace the withdrawal of Benin in order to keep a continuum of procedural correctness.

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In reality, this apparent “swap” did not occur. There was actually a gap of several hours between one member’s withdrawal and the other member’s communication of support. To be clear, there was no quorum to keep the request valid and no country to instantly replace Benin. The very act of Benin withdrawing served to cancel the action to hold a special session, ipso facto.

The secretariat should have communicated, in a transparent and timely manner, that the request presented on July 18 was therefore voided due to not meeting the minimum quorum required to support the request. Additionally, it should have issued a communication informing that the subsequent occurrence of a new country joining a new list of sponsors (hours later) had generated a new request, dated July 21.

3. Date of the Special Session

Article 122 states that the special session should be convened after the formal receipt of the request, in principle not earlier than two working days. With the note verbale communicating the request on July 21, at 19:10hrs, the secretariat failed to explain in a transparent or timely manner why was it still considering July 18 as the date of the formal receipt of the request, or holding the Session less than 48 hours later.

4. Principle of informing the concerned State

Lastly, to complement the obligation to communicate in a timely and transparent manner and extrapolating the application of Human Rights Council resolution 5/2, article 13, which establishes the principle of ensuring that the concerned government authorities are the first recipients of communications concerning this State, Israel was never treated as such. It was only due to Israel’s proactivity and insistence that it managed to find out critical information concerning the Special Session. The secretariat did not communicate diligently, out of its own initiative, with the concerned State.

The entire organization of this meeting was met with inconsistencies and disregard for the rules that regulate it. I therefore wish to reiterate that due to the frequent changes in the composition of the countries supporting the convening of the Special Session, the secretariat of the Human Rights Council entered into an uncharted territory, as well as a precedential situation. I believe the procedural inconsistencies and irregularities, coupled with the secretariat’s non-transparent and untimely conduct, create a problematic precedent that might not hold water in future circumstances. All missions in Geneva should be informed of my concerns, and additionally, I expressly request you to include the present letter in the report of the twenty-first Special Session.

(Signed) Eviatar Manor
Ambassador, Permanent Representative