

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

MISSION PERMANENTE
DE LA RÉPUBLIQUE DU YÉMEN
GENÈVE

N: 65



الوفد الدائم للجمهورية اليمنية
لدى المقر الأوروبي للأمم المتحدة
جنيف

26th of March 2014

Excellency,

We are writing to you regarding the nomination of the Special Rapporteur in the OPT. This position was established by the Commission of Human Rights in its resolution E/CN.4/RES/1993/2 (A) of 19 February 1993, which, in detailing the mandate, decided inter alia that the special rapporteur will “report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, **until the end of the Israeli occupation of those territories**” (OP4 (c)).

We would like to draw your attention to the following considerations when appointing the mandate holder:

At the outset, we would like to reiterate the relevant provisions set out in the IB package, in particular paragraph 39, which indicates that the mandate holder appointment should be based on the criteria of (a) expertise; (b) experience in the field of the mandate; (c) independence; (d) impartiality; (e) personal integrity; and (f) objectivity, and paragraph 52, which emphasizes the importance inter alia of broad consultations, in particular through the regional coordinators, in guiding the President of the Council in his/her identification of an appropriate candidate for each vacancy.

In light of the above, and as regards the appointment of the Special Rapporteur on the OPT, it is our strong conviction that, of the shortlisted candidates, there is only one appropriate candidate for the position.

Indeed, there were originally 10 candidates for the position of Special Rapporteur on the OPT, 8 of which applied exclusively to this position, and 2 of which applied to several special mandate holder positions. Of those who had applied exclusively to the OPT position, all except one, were discarded by the Consultative Group; the two candidates who had applied to several positions have been shortlisted by the Group.

Of the shortlisted candidates, it is clear that only one has the relevant experience as relates to the mandate, particularly in terms of previous work on Palestine and the broader Middle East. More generally, Professor Chinkin remarkably fulfils the criteria listed in Article 39 of the IB Package:

- **She clearly has the relevant experience and expertise:** She is a leading professor of international law and a leading international lawyer who has experience working in Palestine and on some of the most complex legal and political problems in the Middle East. She has served as a member of the High-level Fact-Finding Missions to Beit Hanoun (2008) and a member of the United Nations Fact-Finding Mission on the Gaza Conflict (2009).
- **She is independent, impartial, objective and with strong personal integrity:** Professor Chinkin's reports to the Human Rights Council have consistently shown a high level of impartiality and objectivity by addressing violations from both parties according to the provisions of International Law. It is also worth emphasizing that Professor Chinkin was the EU nominee for the Special Rapporteur position before Professor Richard Falk
- **She is both available and motivated:** Professor Chinkin will no longer have teaching responsibilities as of August 2014 and will thus be able to devote significant amounts of time—at least three months of the year—to the mandate.

Your Excellency, Article 40 of the IB Package also specifies the need to give due consideration to equitable geographic distribution. Given that the outgoing Special Rapporteur on the OPT is from the United States, it would only be in line with Article 40 for the next mandate holder to be of a different nationality.

Given all of the above, and given that according to paragraph 22(d) in resolution 16/21 and in implementing paragraph 52, the President can decide not to follow the order of priority proposed by the Consultative Group, in which case he/she shall justify his/her decision, we believe that the President has a strong case and ample justification to take such a decision.

We again emphasize the need to comply with the provisions set out with the IB package while selecting and appointing Special Rapporteurs. Any deviation could set a dangerous precedent, which we would want to avoid.

Please accept, Excellency, the assurance of our highest consideration.



Dr. Ali Mohammed Majwar
Ambassador
Permanent Representative
Coordinator of the Arab Group

H.E Mr. Baudelaire Ndong Ella
President of the Human Rights Council
Geneva