

**The Public Commission to Examine the Maritime Event of the 31st of
May 2010, Meeting number 2 of the 9th of August 2010**

Participants: The Chairman, Judge (Retired) Jacob Turkel

Prof. Miguel Deutch

General (Res.) Amos Horev

Ambassador Prof. Shabtai Rosenne

Ambassador Reuven Merhav

Hoshea Gottlieb – Commission Secretary

Observers: Lord David Trimble

Brigadier General (Res.) Kenneth Watkin

Hoshea Gottlieb: Examination of the Maritime Event of the 31st of May 2010, meeting number 2.

Chairman, Judge (Retired) Jacob Turkel: Good morning. In the Commission meeting today we shall hear the open testimony of the Prime Minister. The Prime Minister shall respond to the questions we shall present to him. The Prime Minister shall answer questions which may not be answered publicly, behind closed doors. The protocol of the open hearing shall be published for the public. We shall also publish parts of the confidential protocol in the event we shall believe that this will not harm essential interests. The testimony of the Prime Minister shall begin now, and it shall continue until the hours of the afternoon. During the testimony we shall have a recess. The Commission shall allow that Prime Minister to complete his testimony verbally or in writing if this shall be found suitable.

Mr. Prime Minister, according to law you are warned to tell the truth. In

your testimony I shall ask you to refer to the main issues before the Commission. Did the blockade imposed on the Gaza Strip and the steps taken to enforce it comply with the rules of International Law? Afterwards, I will continue with the other main questions. Please.

The Prime Minister, Mr. Benjamin Netanyahu: Thank you, Mr. Chairman. I am the first person to appear before this honorable Commission. Many others will appear after me, and I believe that by your thorough work, you will reveal all the facts and bring the truth to light. I am convinced that at the end of your comprehensive investigation, it will be undoubtedly clear that the State of Israel and the Israel Defense Forces conducted themselves in accordance with international law and that the IDF soldiers who boarded the decks of the Marmara displayed exceptional courage in fulfilling their mission and in defending themselves against a real threat to their lives. I am confident in the soldiers of the IDF, and the entire State of Israel is proud of them. Gentlemen, the appearance of Israel's Prime Minister before this Commission is the best evidence of the high standards by which Israel's democracy functions. In the Middle East, democracy is a rare species. Unfortunately, in this region, governments shoot their opponents in broad daylight, brutally repress women and stone them to death, and systematically deny their minorities and entire populations the most basic human rights. In these countries, there is no free press to expose such crimes, no genuine parliaments to hold hearings, no independent courts to give fair trials, and no local human rights organizations. There is only tyranny and terror. However, the State of Israel has always been different. Very different. Israel is a liberal, democratic country governed by the rule of law, with independent courts, a vibrant parliament, and a free press. Israel is an example of a

democratic nation subject to unmatched threats of war and terrorism and nevertheless it succeeds to simultaneously protect its democratic values and defend the security of its people. Other nations that in recent years have had to address the challenge of maintaining their democratic values in the face of terrorism can learn much from the Israel democracy which has been successfully meeting this challenge for 62 years. One of the reasons why we are so successful at meeting this double challenge is that we constantly examine our own actions. My testimony here today, as well as the impending appearances of the political and military leadership of Israel before this Commission, is the best answer to those who raise questions about the readiness and willingness of Israel to examine itself. No country or army examines itself more thoroughly than Israel and the IDF. To those who would point an accusing finger at Israel I ask: How many countries would be willing to establish a truly independent Commission such as this one? How many countries would invite foreign observers to participate in such a Commission? How many Prime Ministers and Presidents would appear before such a Commission? To those who argue that Israel does not investigate itself according to accepted international standards, I say: It would be good if many countries around the world were investigating themselves according to the high standards of Israel. Gentlemen, in order to answer the Commission's questions, I would first like to clarify our policies concerning the Hamas regime in Gaza, on which we based our actions regarding the flotilla. Hamas is a terrorist organization that calls for and works toward the destruction of Israel. The Hamas charter calls for the annihilation of the Jewish people. Over the past decade, Hamas has received increasing assistance from Iran, which also calls to wipe Israel

off the map. Iran has equipped Hamas with thousands of rockets, missiles, and other weapons. Hamas has turned Gaza, the Gaza Strip into an enclave of terror sponsored by Iran, which I referred to in January 2006 as “Hamastan”. In addition, Iran provides Hamas with intelligence assistance, military training, political support and significant funding. Hamas took over the Gaza Strip in 2007 by military force. It expelled the Palestinian Authority and denied it any effective presence there and since then, Hamas has increasingly fortified its hold on the Gaza Strip and has turned it into a huge weapons depot and a base from which to attack Israel. Hamas has fired thousands of rockets, missiles and mortars from the Gaza Strip, harming Israel’s towns and citizens. At first, the fire rained down on Sderot and the communities surrounding Gaza, thereafter on, Ashkelon, Beer-Sheva and Ashdod. Today, Hamas has stockpiled weapons that can reach Tel Aviv and north of Tel Aviv and also other distant areas inside of Israel. Despite a significant decrease in the number of rocket and missile attacks over the past year and a half, the firing has not stopped. Just a few days ago, without any provocation, Hamas allowed the firing of a Grad missile on a residential neighborhood in Ashkelon, and a Kassam missile on the Sapir College in Kibbutz Shaar Hanegev, and it sent a terror cell from Gaza into the Sinai that fired missiles at Aqaba and Eilat. Usually, the firing at Israel comes from populated areas in Gaza, from homes and schools, from sites near hospitals, mosques, UN facilities, etc. In 2006, Hamas kidnapped our soldier Gilad Shalit and in the past four years has held him in a cruel captivity, in complete isolation without even a single visit by the Red Cross, in blatant violation of international law and the most basic human values. I think that the President of the Supreme Court, Justice Dorit

Beinish defined this well when she said and I quote: “The Gaza Strip is controlled by a murderous terrorist organization which acts determinedly to harm the State of Israel and its residents and which, through its violent actions directed indiscriminately at citizens, men, women and children, violates every possible rule of international law.” End of quote.

Gentlemen, since this Commission deals with the question of international law, I would like to point out that Hamas is guilty of at least four types of war crimes: inciting genocide, systematically and intentionally firing on civilians, using civilians as human shields and preventing the Red Cross from visiting the kidnapped IDF soldier, Gilad Shalit. I request the Commission to demand the release of Gilad Shalit, and as a first step, to allow the Red Cross to visit him. These four types of war crimes committed by the Hamas are not only past crimes. These crimes are being committed today as well, and I hope this Commission will consider it appropriate to emphasize these points in its report. I say this only because other Commissions, which claimed that the question of human rights and international law were so dear to their hearts, for some reason almost entirely ignored these essential issues. I am convinced that a credible investigation like yours which is independent, transparent, impartial and responsible will certainly not ignore them. In any event, as the Prime Minister of Israel, responsible for the security of the state and its citizens, I certainly cannot ignore the true character of Hamas and the threat it presents to Israel. When I began my term as Prime Minister, I determined Israel’s policy regarding this threat according to the following principles: One: actions to secure the release of Gilad Shalit. Two: immediately response to the firing on Israel from the Gaza Strip. Three: actions to prevent the entry of weapons and war materiel into

Gaza. Four: actions to prevent a humanitarian crisis in Gaza. Let me begin with Gilad Shalit. This is a subject which touches the hearts of all the people of Israel. When I began serving as Prime Minister, I appointed Hagai Hadas to head the efforts to secure Gilad's release and immediately afterwards I welcomed the appointment of a German mediator that has proven experience. Within six months, we made a deal in which we received a video showing Gilad talking and functioning both physically and cognitively. I attribute great importance to this tape as evidence before the entire world that Hamas is holding Gilad and is responsible for his welfare. Three months later, I agreed to the mediator's proposed deal in which 450 Hamas prisoners would be released, along with an additional 550 Palestinian prisoners, in exchange for Gilad's release. At the same time, I insisted on security demands that would prevent the dangerous prisoners who would be released, from harming Israeli citizens again. Eight months after we agreed to accept the mediator's proposal, we are still waiting for Hamas's answer. At the same time, we are working on various other ways to secure Gilad's release. Regarding the second component of our policy, the policy of responding to missile attacks, Gentlemen, it has always been my belief that a policy of not responding to attacks would soon turn a trickle of missiles into a rain of missiles, and that the rain of missiles would eventually become a storm of missiles. That is why I determined a policy in which the IDF would respond to each missile strike on our territory as closely to the time of the attack as possible. Regarding the third component in our policy; the prevention of entry of weapons: We have continued the previous government's policy of preventing weapons and war materiel from entering into the Gaza Strip. Our efforts include

intelligence and operational activities, as well as extensive diplomatic activities vis-à-vis many countries, the most important of which is of course Egypt. I attribute great importance to strengthening Israel's ties with Egypt, first and foremost to strengthen the forces of peace and stability in our region and also to increase the efforts to prevent the smuggling of weapons from the Sinai into the Gaza Strip. I raised this subject in each of my five meetings with President Mubarak over the past year and a half. I would like to point out that during the past year, Egypt has increased its efforts to prevent the entry of weapons into territory controlled by Hamas. As part of the effort to prevent the entry of weapons into the Gaza Strip, my government has continued the naval blockade that was imposed by the previous government during "Operation Cast Lead" in January of 2009 as well as continuing the restrictions and supervision of the movement of goods at land crossings that were imposed in September 2007. I will have more to say on this point later on. The fourth principle of our policy was to avoid a humanitarian crisis in Gaza. When I began serving as Prime Minister, I realized that many of our friends around the world were repeating Hamas' claim that the restrictions imposed in 2007 and the naval blockage imposed in January of 2009 had created a humanitarian crisis in Gaza. This was repeated, time after time, however, the information we obtained clearly proved that this claim was baseless. There was no hunger in Gaza and there was no deficiency of medicines or other essential items. Even though the territory in question is controlled by a hostile terrorist force that calls for our destruction, Israel did not stop supplying electricity, water or fuel to Gaza, and we allowed the entry of food, medicine and other basic commodities. We also continued to accept

patients from Gaza in our hospitals in both life-threatening cases or to treat unique medical problems. On average, 1,500 patients and accompanying family members come into Israel each month. There is nothing that more clearly demonstrates the absurdity of the claim that Israel is acting inhumanely toward Gaza. If only Hamas's terrorist regime would act towards Israel's population and our kidnapped soldier, Gilad Shalit, with a fraction of the humane attitude Israel has shown towards the population of Gaza and towards the prisoners of Hamas. For both my government and the previous government, preventing a humanitarian crisis in Gaza was both an obligation and a desire. While we did prevent a humanitarian crisis, we did not succeed in preventing the image of a humanitarian crisis, an image that is entirely false. Even though there was not a humanitarian crisis in Gaza, I decided to gradually ease the restrictions on the movement of goods through the land crossings. I authorized this because these restrictions gradually turned into a diplomatic and public relations burden and they were used in a false propaganda campaign that began to undermine international support for our policy to prevent the entry of weapons into Gaza. Accordingly, we expanded the list of food items in 2009 and we increased the number of trucks entering Gaza by approximately 30% over the five months preceding the flotilla incident. However, our decision to ease restrictions on the entry of civilian goods had little impact on the international discourse. Despite these easements, in spite of photographs and information which we released to the world, showing the marketplaces of Gaza filled with goods, the perception in the international community that there was a humanitarian crisis in Gaza increasingly took root. Forces hostile to Israel used the unfounded allegation of a humanitarian

crisis to try and break the naval blockade. This was and remains the primary motivation of Hamas in its efforts to encourage the various flotillas. From time to time, these things are even explicitly said, as a spokeswoman for the flotilla on the deck of the Marmara said on May 27, 2010: "Our mission is not to provide humanitarian aid, but rather to break the blockade." End of quote. It is worth mentioning that it was only Israel and not the flotilla organizers, through the UN, that ensured that some of the goods aboard the flotillas were transferred to Gaza. At the meeting of senior ministers called "the Forum of Seven" that was held before the flotilla arrived on May 26, 2010, I presume you will read the protocol of that meeting, I emphasized the need to clarify Israel's policy in light of the attempts to undermine the security blockade by falsely claiming the existence of a humanitarian crisis. The discussion in "the Forum of Seven" was a continuation of a discussion held that same morning by the same forum regarding our general policy towards the Hamas regime in Gaza, during which I determined the need to examine the blockade policy and its security and diplomatic ramifications. This is in quotation marks. In the discussion held by "the Forum of Seven", I said that the principle that should guide us is, and I quote: "the prevention of weapons smuggling." I also said that this was the only explanation that will be understood by the international community and that the right policy would be one in which Israel would and I quote: "screen and inspect" goods to prevent the entry of weapons into the Gaza Strip. Now, after the flotilla, we continued this discussion and made the decision in the Cabinet, the direction of which was already clear in the discussion of "the Forum of Seven" to complete the removal of the restrictions on civilian goods and leave the security blockade in force. Obviously, the flotilla

incident and the international discourse that followed hastened this decision. However, as you can see from the discussions held by “the Forum of Seven”, the direction of the decision was already clear beforehand. Our policy, therefore, is intended to maintain the naval blockade as a tool that supports the security blockade. I would like to explain how dangerous an open sea route to Gaza is for the security of the State of Israel. On one ship, the Karin A, Iran tried to send dozens tons of weapons to Gaza. On another ship, the Francop, Iran tried to send Hezbollah hundreds of tons of weapons. To be exact, approximately two-thirds of the total ammunition fired at Israel during the Second Lebanon War. This was on one ship. Therefore, due to all these security considerations, my government continued to enforce the naval blockade imposed by the previous government. We did so for the flotilla in question, as well as with the two ships that followed, the Irish ship and the Libyan ship. Before this flotilla, the IDF prepared to enforce the blockade, as it had during previous flotillas. Due to the number of ships, their size, the number of passengers on board and their stated intentions, we saw the need to make a special diplomatic effort to try and prevent the flotilla’s arrival to the shores of Gaza, or at the very least to convince its organizers to dock at Ashdod or El-Arish and from there to direct the goods through land crossings after the appropriate security checks were made. During the month of May, a ongoing diplomatic effort to do this was made by the Ministry of Foreign Affairs vis-a-vis many countries, including countries whose citizens were onboard or whose harbors could be used by the flotilla at any stage of its voyage including Egypt, Greece, Cyprus, Ireland, Britain, the United Nations, and above all with Turkey. The Minister of Defense even participated in these efforts. Due to the

importance I attributed to Turkey's main role in this flotilla, my office directly worked on assisting the diplomatic efforts vis-à-vis Turkey. Beginning on May 14, my office was in contact with the highest officials of the Turkish government. These contacts, and later on the contacts of our Minister of Defense with the Turkish Foreign Minister whom he has known for many years, were intended to prevent any conflict with the Marmara flotilla. They continued up until the eve of the flotilla's arrival off the coast of Gaza. I too personally appealed to a senior official in the Egyptian government on May 27 so that he would intervene with the Turkish government. However, as the date of the flotilla's arrival neared, it became clear that diplomatic efforts would not stop the flotilla. Contrary to this, diplomatic efforts did assist in preventing violent confrontations with the two ships that came after this flotilla and this is because the Irish government and parties in Libya acted responsibly and helped prevent a confrontation and also because the organizers of those flotillas did not have any intention of confronting our forces, unlike the organizers of the flotilla in question, or more precisely, unlike the IHH activists on the flagship, the Mavi Marmara. The fact is that even in that flotilla, the passengers on the other five ships did not want a violent confrontation, and therefore there was no such confrontation. That was not the case on the Marmara. In spite of our ongoing diplomatic efforts, at the end of the day the Turkish government did not prevent the Marmara's attempt to break the naval blockade. All our suggestions to re-direct the ship's cargo to go through a security inspection in Ashdod and then be transferred to Gaza through the land crossings were unsuccessful. We also did not hear any public message from the Turkish government to curb the incitement of the activists onboard. Apparently

the Turkish government did not see the possible incident between Turkish activists and Israel as being against their interests, and certainly not something that justified applying effective pressure of the IHH activists. I must point out that on the 17th of that month, the Turkish prime minister met with Iranian president Ahmadinejad and with the Brazilian president to make a joint statement regarding an Iranian nuclear transaction that was opposed by the United States and the other permanent members of the UN Security Council. Turkey thereby strengthened its identification and cooperation with Iran just days before the flotilla. Regarding the IHH activists, not only did they not prevent a confrontation, they announced their intention to seek one. They announced that they wanted to break the blockade and I quote that "the Jews need to go back Auschwitz." Given the lack of effective pressure by the Turkish government and the lack of any desire on the part of the flotilla organizers to redirect their ships to alternative ports, none of the diplomatic efforts were successful. We tried to prevent the launch of the flotilla at the diplomatic and security levels. We did not succeed. We suggested transferring the goods through the Ashdod and El- Arish ports. We did not succeed. We held continuous contacts vis-à-vis and with the most senior levels of the Turkish government. We did not succeed. In a closed forum, I will elaborate and explain why none of our diplomatic efforts would have prevented the Marmara's desire to try to break the blockade. When it became clear several days before the flotilla's arrival that this was the situation, I decided to convene "the Forum of Seven" in order to prepare for the event in a coordinated manner in terms of the media, public relations and diplomacy. Since this would be a media event surrounding a military operation, in addition to the Ministers, I invited

the Chief of General Staff, representatives of the Ministry of Foreign Affairs and members of the National Information Headquarters to the discussion.

Chairman, Judge (retired) Jacob Turkel: This is the meeting, I understand, of the 26th of 27th of May, correct?

The Prime Minister, Mr. Benjamin Netanyahu: Indeed, the 26th of May.

Chairman, Judge (retired) Jacob Turkel: Thank you.

The Prime Minister, Mr. Benjamin Netanyahu: I will give you the exact date, yes, the 26th of May. Maybe, excuse me, if I could have my briefcase, I can look at the protocol and then I will see the exact date, if there is one. Yes thank you, the 26th of May.

Chairman, Judge (retired) Jacob Turkel: Thank you.

The Prime Minister, Mr. Benjamin Netanyahu: I asked to receive an update regarding recent diplomatic and communication efforts, and to hear additional ideas as to how to minimize the public relations and diplomatic costs of a confrontation that already seemed inevitable. At the end of the meeting, I authorized diplomatic and communication assignments as I was about to leave for a very important meeting with the President of the United States. I asked that the confrontation be minimized as much as possible and I quote: "that top efforts be made to avoid harming anyone". I know that the Minister of Defense and Chief of General Staff gave the same order. I also authorized a number of actions in order to reduce the damage to Israel's public diplomacy efforts by different means. I would like to call your attention Gentlemen to one of those directives, embedding foreign reporters with IDF forces so that they could record and film the unfolding events in order to prevent the spreading of false reports. So that it would be filmed during real time. I wanted to ensure

that there would be complete coverage of what happened when our soldiers boarded the ships because I was afraid that, once again, there would be an attempt to try to slander IDF soldiers as part of the constant propaganda war against Israel. Unfortunately, slandering the IDF and the State of Israel is a routine tactic of our enemies. It happened during “Operation Defensive Shield” when a mass slaughter in Jenin was invented. It happened during the Second Lebanon War and during “Operation Cast Lead”, when Israel was falsely accused of intentionally harming civilians. It started to happen on the morning of May 31. Preliminary reports of the event published around the world claimed that our soldiers killed innocent and calm peace activists. It was only when videos were distributed several hours later that this lie began to be exposed. Imagine what would have happened if we did not have these videos. Once they were published, fair and honest people around the world began to understand that the Marmara was no love boat to say the least and that the IHH activists were not exactly innocent peace activists. It was only then that many people understood that our soldiers faced a very real danger to their lives from brutal attacks with clubs, metal rods and knives and, as you have no doubt learned, from live weapons, IDF soldiers acted in self- defense. We made tremendous efforts to prevent injuries, but the IDF soldiers have the right to defend themselves. I have no doubt that once this honorable Commission shall reveal all the facts and the entire truth comes to light, all the slanders related to the flotilla that have been directed at Israel and the IDF will disappear. Gentlemen, members of the Commission, this is my statement that I wanted to present before you at the opening of my testimony. I thank you for the important issues you have referred to me and which

you requested that I clarify in my answers to your questions. I will do my best, and if there are other questions, or clarification questions to my answers I will refer to them in detail after the recess before the members of the Commission and the two observers. Mr. Chairman, you asked in respect to the security situation which led to imposing the naval blockade on the Gaza Strip and whether the naval blockade complies with the rules of international law.

Chairman, Judge (retired) Jacob Turkel: Yes.

The Prime Minister, Mr. Benjamin Netanyahu: Yes, and if I'm not mistaken you asked me also regarding the identity of the decision makers? Yes.

Chairman, Judge (retired) Jacob Turkel: The identity of the decision makers and the forums, if this was a forum and not a single person.

The Prime Minister, Mr. Benjamin Netanyahu: I will explain. I will answer all questions regarding the issue of imposing the naval blockade, from what was explained to me, and out of the material presented before me now, since this is a matter that was decided and determined by the previous government. The information given to me indicates that the naval blockade was imposed at the end of "Operation Cast Lead" according to the request and recommendation of the Military Attorney General. Since August 2008, the Military Attorney General repeatedly explained to the Chief of General Staff, to the Attorney General, and to others, that it is necessary to comply with international law when imposing a naval blockade in place on the Gaza Strip. The Chief of General Staff then requested the Minister of Defense to decide on the blockade and in the beginning of 2009 the Minister of Defense declared the naval blockade was in place on the Gaza Strip.

Chairman, Judge (retired) Jacob Turkel: Excuse me, please clarify. Why was a

declaration of the blockade necessary in order to comply with the rules of international law?

The Prime Minister, Mr. Benjamin Netanyahu: First of all this was determined by – Chairman, Judge (retired) Jacob Turkel: I know, the Military Attorney General.

The Prime Minister, Mr. Benjamin Netanyahu: I will explain what he says.

Chairman, Judge (retired) Jacob Turkel: Yes.

The Prime Minister, Mr. Benjamin Netanyahu: First of all I emphasize, not only does Israel comply with international law in respect to the naval blockade, the reason it decided on the blockade in the first place was in order to comply with the requirements of the law. The Military Attorney General explained this a few times. He explained that the naval blockade is a legitimate means which is recognized in international law, during combat, for ensuring security. Without the blockade he says, there are no effective means for coping with foreign civilian vessels that try to enter the Gaza Strip and which are not suspected of enemy terror activities. However by imposing a blockade, he says that it is possible to act against vessels that breach the blockade, by using reasonable force, for preventing the passage and to seize the vessel that breaches the blockade. Furthermore, it is also possible to act against a vessel which it is reasonably assumed that it trying to enter the closed area, even before it enters it. The Military Attorney General clarified that the blockade will continue and remain in force also at the end of “Operation Cast Lead”, the blockade does not interfere with the supply of humanitarian aid which can be carried out by land. This was the opinion of the Military Attorney General of the 30th of December 2008, and he requested, he recommended presenting the issue of the blockade before the political echelon. In other words, he regarded this, as I understand, as legally

necessary in order to actually legalize and ensure that the naval security activities of the IDF will be in line with international law. It's not that they decided to act, and then they looked for ways to adjust it to international law, rather they decided on a general policy in accordance with international law from the beginning. In respect to the date of adopting these decisions, according to what I know,

Prof. Miguel Deutch: Excuse me,

The Prime Minister, Mr. Benjamin Netanyahu: Yes, please.

Prof. Miguel Deutch: It is possible that according to international law, there is a relationship between the effects of the naval blockade, the implications of the naval blockade on the civilian population, and its effectiveness. Can you refer to this point and to the comparison between these two elements?

The Prime Minister, Mr. Benjamin Netanyahu: I can do so later, after the recess, I will expand on this, but I can say one thing. Our obligation from an international perspective is to prevent a humanitarian crisis. The naval blockade, does not cause a humanitarian crisis, since we have other means, land crossing, to transfer food, medicines and other essentials to the population. The existence or non existence of the naval blockade does not create this problem. I hope that this answers the question.

Prof. Miguel Deutch: Is there factual data? I assume that this data is not with you now sir, but in principle, regarding the quantity of goods that were transferred by land and in this way?

The Prime Minister, Mr. Benjamin Netanyahu: Of course, certainly. There is. I can present to you in writing. The number of trucks that have passed, the intelligence data that we had regarding the supply of various types of food, and basic goods. These things are documented. I also requested to

clarify this. I also requested to clarify this by virtue of our liability as the government to ensure that there is no humanitarian crisis. And I dealt with this issue upon the beginning of my term, since I heard all kinds of complaints from leaders of countries, I saw it also in material, telegrams of the Ministry of Foreign Affairs and my own discussions with different factors. First of all I wanted to ascertain that there is no humanitarian crisis, and indeed there was none, I checked also the past and there was no humanitarian crisis during the previous government. However a clear image was created, an image of a humanitarian crisis. We clearly knew that there was no such crisis. There was no food problem, no problem of hunger, no problem with the supply of medicines. There was a problem sometimes with medical treatment but we took these patients, at impressive numbers, to our own hospitals. Therefore there was no basis to this claim that the naval blockade which was a security blockade in nature, this blockade was intended actually to prevent the entry of vessels, but not to prevent the entry of civilian goods to the population that was due, above the basic level required according to international law, in other words above the level of preventing a humanitarian crisis, which never existed. Sir,

Chairman, Judge (retired) Jacob Turkel: Yes. I repeat my previous question. You already answered some of the issues however I would like to emphasize this. Who actually decided upon the blockade? You said that this existed already in the previous government. Which forum decided? Was this the government in its general assembly? Another more reduced forum? And what were the exact actual contents of the blockade decision?

The Prime Minister, Mr. Benjamin Netanyahu: According to what I know, the request of the Military Attorney General that I described to you, was made in

August 2008 and onward. The Chief of Staff's request to the Minister of Defense was made on the 31st of December 2008, and the declaration of the Minister of Defense was made during "Operation Cast Lead, on the 3rd of January 2009 in which he declared the naval blockade. I will elaborate.

Chairman, Judge (retired) Jacob Turkel: Yes. Yes, Please.

The Prime Minister, Mr. Benjamin Netanyahu: The decision was to impose a naval blockade on the area which was marked on a map attached to the blockade declaration, and this area was opposite the Gaza coast up to a distance of 20 miles from the coast. The blockade, by the way, is naturally absolute. Therefore the only question is the area where the blockade applies and this was marked on the map. This was the decision, In other words, the Military Attorney General recommended to the Chief of Staff who recommended to the Minister of Defense, who imposed the blockade virtue of his authority to impose the blockade. He determined the blockade.

Chairman, Judge (retired) Jacob Turkel: Was the intention was that no ship shall enter this area? Or that a ship can enter only after examination? What actually was the intention?

The Prime Minister, Mr. Benjamin Netanyahu: No, according to the opinion of the Military Attorney General, which is directed towards international law, it was explained that the blockade is impartial. It was enforced on all ships, it was not selective. Therefore it applies to everyone and it must be effective. It has two elements, two criteria: impartiality in enforcement and effectiveness in enforcement. Therefore there was no gap. And by the way, since the blockade was imposed, 12 ships tried to reach Gaza, to break through the blockade. 4 before the flotilla, 6 during this flotilla, and

another 2 after this flotilla, and all, without exception were stopped. If they were not stopped, they were prevented from reaching the Gaza shores. This means that the blockade was fully and completely implemented since it was put in place in January 2009, on everyone.

Chairman, Judge (retired) Jacob Turkel: If I understand correctly, then in order to sum up this matter, the Military Attorney General gave his opinion regarding the manner or scope of the blockade, and after receiving his opinion the government or the government forum decided in accordance with this opinion. Did I understand correctly?

The Prime Minister, Mr. Benjamin Netanyahu: Yes, this was the policy of the State of Israel. Actually the political echelon, in this case, the Minister of Defense, I am convinced in complete agreement with the former prime minister, imposed the blockade and this was his ongoing policy. No decision to cancel the policy of the blockade was made, and therefore it continued. And it remains in force even today. I began to describe to you when this blockade was declared, and this was on the 3rd of January, and its declaration was distributed in the form and manner determined by the IDF. Yes, now regarding your question, specifically I say that there were no changes in the form of the blockade or its function. The answer to this is negative. Since there were no changes to the blockade since it was imposed and until today, since as I said, the opinion of the Military Attorney General was that this blockade was to be impartial. I said equal but I meant impartial, and effective, so that the blockade is absolute. Now-

Chairman, Judge (retired) Jacob Turkel: Excuse me, if you say sir that there were no changes, then if we refer to publications in the media regarding easements regarding coriander for instance -

The Prime Minister, Mr. Benjamin Netanyahu: I am speaking of the naval blockade, excuse me.

Chairman, Judge (retired) Jacob Turkel: That is exactly what I wanted to clarify.

The Prime Minister, Mr. Benjamin Netanyahu: Excuse me.

Chairman, Judge (retired) Jacob Turkel: You are speaking of the naval blockade, as opposed to the land blockade, or land restrictions.

The Prime Minister, Mr. Benjamin Netanyahu: The popular term, and sometimes I used it, the land blockade or the civilian blockade, this is not the correct term. As I learned, the correct term is restrictions and supervision over the transfer of goods at land crossings, this exists and there were changes that applied to these restrictions as I described. However the naval blockade, in accordance with the recommendation of the Military General Attorney and the order issued by the Minister of Defense, this naval blockade has never changed since it was imposed.

General (res.) Amos Horev: Actually it was not necessary to declare the land blockade since there is no land blockade.

The Prime Minister, Mr. Benjamin Netanyahu: Goods are transported inside and there is

General (res.) Amos Horev: This means, the blockade is a naval blockade only.

The Prime Minister, Mr. Benjamin Netanyahu: Yes, true, I need to clarify maybe or to elaborate, you will certainly want me to do so afterwards later on, I can elaborate more, but it must be understood that actually the State of Israel treats the area under the Hamas regime as enemy territory. We don't call this an enemy country, since it is not a country. But this is defined as enemy territory and according to this definition we can oversee the transfer of goods, we can impose the naval blockade, and there are those who even say it is our obligation, if we want to prevent something from entering by sea, but we have a full right to restrict the entry of goods and

other items, however we have one obligation. Our obligation is to prevent a humanitarian crisis. In other words we are obligated, if I would need to define this, to provide the basic level of supplies. You can allow them to build one floor or two floors or three floors or a complete tower, in respect to additional supplies beyond the level of a humanitarian crisis. But we as mentioned, allowed the supply of good through the land route at all stages, and we even made easements according to considerations, not regarding international law, rather due to considerations of what was smart, necessary, the political or public relations situation that was prevalent, however not because of international law. The easements that we made regarding the passage of goods by land, these easements were not based on legal requirements. They were based on political needs and public relations needs, as I understood them to be then.

Ambassador Reuven Merchav: You say that there were no changes in the policy of the blockade. Were there no changes because the situation was re-examined or simply because no changes applied?

The Prime Minister, Mr. Benjamin Netanyahu: No changes applied, since we wanted to prevent the entry, the use of sea routes for entry, for different reasons. I detailed some of them. The sea route can maybe be the most effective route for transporting weapons. In any event, there was a naval blockade and no changes were made in it, and this is a simple fact.

Chairman, Judge (retired) Jacob Turkel: Yes, in the meantime in respect to this issue there are no questions.

Ambassador Reuven Merchav: I request to complete this question anyway. If, my question refers to if there was a periodical re-examination of regarding the policy of the blockade.

The Prime Minister, Mr. Benjamin Netanyahu: There was no such examination. This was approximately one year and something after the war, and the blockade was ongoing. It was also tried. It was tried 4 times by ships. In other words it stood the test 4 times, 4 ships that tried since the blockade was imposed to reach the shores of Gaza, and the IDF prevented them from doing so.

Chairman, Judge (retired) Jacob Turkel: If you have finished what you have to say regarding the imposition of the blockade then we shall begin speaking about Israel's actions in order to enforce the blockade. I mean of course the event of the 31st of May 2010, Excuse me, Prof. Rozen has another question.

Ambassador Prof. Shabtai Rozen: Excuse me sir, only one question if I may. How was the blockade published? If I understand correctly it must be published according to law. How was it published?

The Prime Minister, Mr. Benjamin Netanyahu: According to my understanding, this was published by me, I mean it was given to the order of the Minister of Defense that issued the order, I will search here in what I said. A declaration was issued by the IDF, I don't know the details of the declaration, how this was distributed let's say to the international community to the international shipping community, to the best of my knowledge these steps were taken by the IDF following the order issued by the Ministry of Defense.

Ambassador Prof. Shabtai Rozen: Thank you very much.

Chairman, Judge (retired) Jacob Turkel: Yes. As I said, this brings us to the stage of enforcing the blockade and the actions that were taken. Maybe you will give us the general background and we shall afterwards go on to the details.

The Prime Minister, Mr. Benjamin Netanyahu: Yes. As I clarified, the political echelon, in every matter. Yes? Is responsible for determining policy, in this case the policy of the blockade, and the military echelon is responsible for implementing this policy. The political echelon imposed the naval blockade and the military echelon enforces it. The entry of each of the 12 ships into Gaza was prevented since the naval blockade was imposed in January 2009, including the 6 ships of this flotilla on the 31st of May 2010. The IDF determined its methods to enforce the blockade and it is performing its work well and the most important matter more or less is the division of labor as I know it.

Chairman, Judge (retired) Jacob Turkel: So as I asked you regarding the imposition of the blockade, who actually decided on the actions to stop the flotilla on the 31st of May? Which forum or which ministers or maybe these were not ministers. Who actually decided this?

The Prime Minister, Mr. Benjamin Netanyahu: The regular action of enforcement in all the cases of flotillas, is an action decided by the military echelon, sometimes with or without the Minister of Defense, I don't know what was done in previous flotillas with the approval of the Minister of Defense. According to what the government was told, all of these actions were accompanied by legal counsel, also by the Military General Attorney. Since in the opinion of all of the factors, the action that was taken was the last resort, in other words we tried to stop it as I described this by political means and we did not succeed, the instruction was to perform this action with minimum friction as much as possible without bodily harm and the IDF examined different alternatives to perform these guidelines, which as mentioned was also the instruction of the Minister of Defense and of the Chief of Staff. This was the only instruction.

Chairman, Judge (retired) Jacob Turkel: This means, that we have instructions to prevent as much as possible bodily harm and the loss of life, and actually the IDF, or the IDF's command at its different levels is the one that decides the best method.

The Prime Minister, Mr. Benjamin Netanyahu: Yes, this is standard procedure.

Chairman, Judge (retired) Jacob Turkel: I understand.

Prof. Miguel Deutch: Was a concrete decision made regarding this flotilla in the discussion in the "Forum of Seven" on the 26th of May?

The Prime Minister, Mr. Benjamin Netanyahu: No, I requested there an opinion regarding the questions that could arise regarding aspects of the media, public opinion and politics. I, maybe in the next forum, will point out before the members of the Commission and the two observers, one issue that arose. However the object of this forum was to be politically prepared regarding the public relations fallout of the flotilla, which we knew was approaching, and which we knew that the IDF would stop, was preparing to stop, we knew there would be friction, and we knew that there was someone who wanted to use this as propaganda in order to harm our public relations, in the media and also politically. I requested to have a brainstorming session with the members of the "Forum of Seven", how is it possible to prevent this thing, I received a number of ideas, I issued some instructions, I think they are important even in this matter, but we did not get into the details of the action, except for the implications of this thing on the media. There is one more thing I must say, all of the ministers without exception said, and expressed their opinion, not a deciding forum but they expressed their opinion, that in spite of the expected propaganda damage, the policy of the blockade must be enforced due to the importance of the issue to the security of

Israel.

Chairman, Judge (retired) Jacob Turkel: Were alternatives considered also by the political echelon for enforcing the blockade? Or was the matter of alternatives left in the hands of the military echelon?

The Prime Minister, Mr. Benjamin Netanyahu: No, I said that the IDF examined the different alternatives to executing the instruction, on the one hand to stop the flotilla, and on the other hand, to execute this comprehensive instruction of mine, of the Minister of Defense and of the Chief of General Staff, and to do this with minimal friction and without any injuries. In respect to another certain discussion that is not connected to methods of action, I will be happy to update you after the recess.

Prof Miguel Deutch: Sir, could you now refer to the information that was before the deciding factors regarding the identity of the organizers, their nature, their objective etc...?

The Prime Minister, Mr. Benjamin Netanyahu: Yes, Certainly. From the end of April, from the beginning of May, we began to receive information regarding the flotilla and its organizers. At an earlier stage it was clear that this was a flotilla consisting of a few ships, and one large Turkish ship, which included hundreds of passengers. The flotilla was organized by a radical Turkish organization in the name of the IHH, an organization that supports Hamas. This organization was outlawed by an order of the Minister of Defense of Israel of August 2008. Now, in addition to the IHH activities the flotilla included also people from the media and politicians from different countries, and I think also some parliament members, we knew then, and others. From the beginning the declared intention of the organizers of the flotilla was to try and break through the naval blockade, by way of creating a provocation, for making public

relations achievements in the media. The intention of the organizers of the flotilla was to enter into a confrontation in the middle of the sea with the IDF covered by the media, and to cause as a result international pressure to remove the naval blockade. This is what happened, this is the material we had. All of the ministers that dealt with this matter had this information. I had this information as prime minister, the Minister of Defense had it, the Minister of Foreign Affairs and the ministers of the "Forum of Seven" had it, and all of the professional factors that dealt with enforcing the blockade had it the IDF and the other security factors.

General (res.) Amos Horev: Among the alternatives, was the alternative to concede in this case and allow the ships to reach Gaza considered?

The Prime Minister, Mr. Benjamin Netanyahu: I wish to give details regarding these issues and others in my testimony before the members of the Commission and before the observers, if I may, after the recess.

Chairman, Judge (retired) Jacob Turkel: Yes, at all stages, and this question is important regarding each one of the alternatives, and I must repeat this question. Were the implications of the compliance or non compliance of the possible methods to enforce the blockade, was this considered in respect to the rules of international law?

The Prime Minister, Mr. Benjamin Netanyahu: From our point of view everything was legally examined, everything was closely looked at from a legal standpoint. In other words, imposing the blockade was not only legal it was the result of a legal initiative of the Military Attorney General, and of course it was approved by the Attorney General, each of our actions is legally reviewed. This is routine. When we make decisions at all levels, legal counsel accompanies these echelons, this is true in respect to the government when it decides governmental decisions, and this is also true

in respect to specific actions, of the different ministries, of the different executing factors. These are all accompanied by legal counsel, which approves or does not disqualify the action, according to the legal issue. Usually the process is the opposite. If there is a legal problem, or with international law, this raised to the upper echelons and then the deciding echelon knows about it. There was such legal counsel accompanying everything connected to – not only this flotilla, but also regarding all the other flotillas, and in respect to many other actions that we do. All actions, actually.

Chairman, Judge (retired) Jacob Turkel: As I understand, you were not in Israel that day. Did this fact have any importance regarding the management or supervision over the mission? Or from the moment that the instruction was given by the government or the “Forum of Seven” from the moment onward it was all in the hands of the army and this did not require any supervision or involvement of yourself or your deputy?

The Prime Minister, Mr. Benjamin Netanyahu: No. I left clear instructions of who was responsible for handling all aspects of the flotilla, we expected not only the action, the IDF’s action to stop the ship, we also expected the entire international problem, and I requested the Minister of Defense, to coordinate this matter, to activate the “Forum of Seven” if necessary, and to contact me abroad, if necessary, but I wanted there to be a clear address on the ground for coordinating all of the issues, the political issues and the public relations issues, of course is additional responsibility vis-à-vis the army was clear by virtue of his position as the Minister of Defense. I wanted there to be one person, and indeed there was. From the aspect of coordinating, he was the address during my stay in America. The reason I traveled to America was that I had a very

important meeting, from all perspectives, in a matter I had with the President of the United States, in a matter that I will be happy to specify later on, if you would like. I will explain also the importance of the trip, which I think was clear and very high.

Chairman, Judge (retired) Jacob Turkel: Yes.

Ambassador Reuven Merchav: The question of your trip, Mr. Prime Minister, was not ignored by the participants of the discussion. At least one proposal was raised how to fill the vacuum. I assume that you can refer to this later, and complete the answer you previously gave.

The Prime Minister, Mr. Benjamin Netanyahu: Yes, I will be happy. I will do so.

Prof. Miguel Deutch: Were assessments given in the meeting of the 26th of May, I don't necessarily ask that this will be answered now, rather maybe later on, but were assessments given regarding the strength of the expected opposition.

The Prime Minister, Mr. Benjamin Netanyahu: Yes,

Prof. Miguel Deutch: By –

The Prime Minister, Mr. Benjamin Netanyahu: Yes, by the way, this issue I would say was raised in an incidental discussion regarding the problem of friction, the public relations problem that could arise, but I will be happy to give details regarding this matter later on.

Chairman, Judge (retired) Jacob Turkel: Yes. Are there any other questions that the members of the committee have? Do the observers have any questions?

Do we have any questions?

Mr. Watkin: Prime Minister, just one question with respect to the, the state over there, there was a, the humanitarian impact of the blockade. There have been a number of statements from the International Committee of the Red Cross concerning whether it would constitute a collective punishment and the

impact which it was having on the population of Gaza. And I just wonder, with respect to the question of the degree of humanitarian impact that that had, whether you had anything to comment on.

The Prime Minister Mr. Benjamin Netanyahu: Well, we checked this fairly thoroughly.

I mean, we heard all these complaints, which came from a variety of quarters. And I wanted to verify that there was no humanitarian crisis in Gaza, and indeed we verified that. We verified that there was a continuing supply, an adequate supply of food, well beyond any possible humanitarian level of basic medicine, of other basic needs. There may not have been luxuries - this is true. But there was no deprivation of basic commodities, basic foodstuffs, basic medicine and other medical needs. This was not, simply not true. And therefore, you know, we could, we heard all these complaints. We made sure that they weren't valid. But the fact that they weren't valid, that they didn't apply on the ground, didn't mean that it didn't apply in the air. They applied in the air of public discourse, all of the world. People were saying this. They were repeating it. And by dint of repetition, this assumed an aura or an aura of self-evident truth. And as this progressed, I found that we had to do something to change the, to try to change this perception. And therefore I raised and increased the number of trucks that entered Gaza daily by 30 percent. This was for the, about 6 months before this incident. And I found that didn't help. No matter how much I raise the level, it didn't help, because the argument was not only abating, it was increasing. We had increased the level of supplies well above the minimal level required, and the international community, or many of the international community were raising the level of attacks against us, as though there was a

humanitarian crisis. So at that point, our decision to, both to raise the number of trucks and ultimately to rescind, completely rescind the limitations on civilian supplies into Gaza, was not a function of international law. It wasn't a function of a humanitarian crisis that never applied there in the first place. It was a function of a judgment that said we are paying a political and propaganda price that is not worth it. It's not a question of collective punishment, because we weren't collectively punishing the population in the first place. We were carrying out what was required on our part from international law. But in a way, we were punishing Israel's perception and Israel's moral stature. And therefore I decided to change it. It wasn't a question of law, it was a question of judgment, political judgment that prompted us to change the, to increase the supply of trucks, ultimately, to rescind the limitations.

General (res.) Amos Horev: I would like to refer to this matter, I have a request. If it is possible to receive a quantitative assessment of the flow of goods through our crossings, and an assessment of what passed through the Egyptian border.

The Prime Minister, Mr. Benjamin Netanyahu: I am sure that it is possible to do so. I will try, I will give you whatever I have, but I am sure that the Minister of Defense and the Chief of General Staff will be able to give you details regarding the information.

General (res.) Amos Horev: An assessment for the time since we left Gaza.

The Prime Minister, Mr. Benjamin Netanyahu: I think that it is more than an assessment. First of all there is -

General (res.) Amos Horev: We know exactly what we transferred.

The Prime Minister, Mr. Benjamin Netanyahu: We know what we transferred.

General (res.) Amos Horev: Yes, and an assessment regarding the Egyptian border.

The Prime Minister, Mr. Benjamin Netanyahu: Regarding the Egyptian border I assume there is an assessment, I don't have it on me right now but I will be happy to search for it and transfer it to you. There are certainly assessments, I think I saw such assessments. But we know what we transferred. And this is not insubstantial. This was enough in order to ensure that there is no humanitarian crisis.

Ambassador Reuven Merchav: There is a certain lack of clarity in respect to Egypt's part in this matter. Their willingness to help or not to help. How is this reflected - ?

The Prime Minister, Mr. Benjamin Netanyahu: You mean with respect to the flotilla or at all?

Ambassador Reuven Merchav: Less in general, but mainly with respect to the flotilla. In respect to the passage of equipment through El- Arish and so on and so forth. If you can give us details regarding this matter.

The Prime Minister, Mr. Benjamin Netanyahu: I prefer to do so afterwards, later on, after the recess, if that is possible.

Prof. Miguel Deutch: Yes, I wish to refer to a matter that appears in the mandate of the Commission and this is the issue of clarifying claims in the humanitarian field. Was there a discussion of the government, a comprehensive discussion regarding this question? Is there any intention to have such a discussion? Regarding the best manner to clarify such claims?

The Prime Minister, Mr. Benjamin Netanyahu: I think that there were many such discussions, in previous governments and in this current government, and in each it was emphasized in a few discussion and in the discussions of the cabinet, in the discussions of staff and in all of these discussion, and certainly you have and if you don't I will make sure you have the summaries of the decisions, and in all of them there is an unequivocal

determination that Israel is obligated to prevent a humanitarian crisis in Gaza. Unequivocal.

Prof. Miguel Deutch: No No. I am referring to another point and that is the clarification of claims and complaints made in the humanitarian field, after such an event.

The Prime Minister, Mr. Benjamin Netanyahu: No, I would not say that there were such claims, there were all kinds of demarches, also in the government, it seems that there was one demarche in the previous government and one demarche in my government, and this did not fit with reality. We had information and since we had continuous and ongoing information, of the entry of goods into Gaza we knew that these claims are out of place. However our consideration, at least my consideration was from the beginning a consideration that had nothing to do with legality. I had not doubt that we had been complying with international law as far as preventing the humanitarian crisis in Gaza. My consideration was if there was a reason to broaden the supplies beyond the level required by law, in order to try and put a stop to claims that even if they were unfounded, they had a political impact and an impact in the media, and this is what guided us.

Prof. Miguel Deutch: I actually am referring to a point according to international law, and that is that there are certain acceptable clarification methods under international law, when claims are raised and when complaints are made in respect to such humanitarian violations such as these or others.

The Prime Minister, Mr. Benjamin Netanyahu: I can show you –

Prof. Miguel Deutch: The question is in respect to the system, is there an intention to have such discussion, or was such a principal discussion convened?

The Prime Minister, Mr. Benjamin Netanyahu: There were such discussions I think, a

few discussions in this matter that determined the level, for instance the question of food that was raised in a government discussion, in the previous government. However I will be able to detail this, if you'd like, later on in closed forums.

Chairman, Judge (retired) Jacob Turkel: As I understand, there are in the IDF, at least I remember from discussions when I was a judge, there are in Gaza, or there were, officers for humanitarian matters whose job was to follow the difficulties that could arise and to try and solve them. Did this continue to exist, the institution?

The Prime Minister, Mr. Benjamin Netanyahu: I will answer you in an orderly manner in writing. I want to ascertain the facts I give you, but to my best knowledge, the IDF is always watching this situation. It is always following the situation of supplies, the needs of the population, and we ensured this same level of supplies, according to the instructions of the governments. There are mechanisms for checking and ascertaining that the policies of the government are indeed being carried out, in order to prevent a humanitarian crisis. I will respond to you in writing with respect to these mechanisms, I will give you details regarding these mechanism in the answers I will present to you.

Chairman, Judge (retired) Jacob Turkel: Yes. Do the members of the Commission have more questions, do the observers? Okay. Good. Thank you very much to the Prime Minister. We will now have recess, and after the recess we shall re-convene in order to hear the issues that must be heard behind closed doors, and with this I end the public hearing. We shall now have a recess. Thank you.