

ANNEXES: VOLUME I  
(BASIC DOCUMENTS)

# International Court of Justice

Case Concerning Questions of  
Interpretation and Application of the  
1971 Montreal Convention Arising from  
the Aerial Incident at Lockerbie  
(Libyan Arab Jamahiriya v. United Kingdom)

*Preliminary Objections of the  
United Kingdom*

ANNEXES: VOLUME I  
(BASIC DOCUMENTS)

JUNE, 1995

## LIST OF ANNEXES

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### BASIC DOCUMENTS

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Title and Reference

**Convention**

- 1 Convention for the Suppression of Unlawful Acts against the Safety of Civilian Aircraft, Montreal, 23 September 1971 (the Montreal Convention), 974 United Nations Treaty Series 177.

**UN Security Council Resolutions**

- 2 Security Council Document S/RES/731 (1992), 21 January 1992: Security Council resolution 731 (1992).
- 3 Security Council Document S/RES/748 (1992), 31 March 1992: Security Council resolution 748 (1992).
- 4 Security Council Document S/RES/883 (1993), 11 November 1993: Security Council resolution 883 (1993).

**Letters Circulated as UN Documents**

- 5 General Assembly Document A/46/825 and Security Council Document S/23306, 31 December 1991: Letter from the French Permanent Representative to the United Nations Secretary-General.
- 6 General Assembly Document A/46/826 and Security Council Document S/23307, 31 December 1991: Letter from the United Kingdom Permanent Representative to the United Nations Secretary-General.
- 7 General Assembly Document A/46/827 and Security Council Document S/23308, 31 December 1991: Letter from the United States Permanent Representative to the United Nations Secretary-General.
- 8 General Assembly Document A/46/828 and Security Council Document S/23309, 31 December 1991: Letter from the Permanent Representatives of France, the United Kingdom and the United States to the United Nations Secretary-General.

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- 9 Security Council Document S/23441, 18 January 1992: Letter from the Libyan Permanent Representative to the President of the Security Council.

**UN Security Council Debates**

- 10 Security Council Document S/PV.3033, 21 January 1992: Provisional Verbatim record of the 3,033rd meeting of the Security Council.
- 11 Security Council Document S/PV.3063, 31 March 1992: Provisional Verbatim record of the 3,063rd meeting of the Security Council.
- 12 Security Council Document S/PV.3312, 11 November 1993: Provisional Verbatim record of the 3,312th meeting of the Security Council.

**Reports of the UN Secretary-General**

- 13 Security Council Document S/23574, 11 February 1992: Report by the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992).
- 14 Security Council Document S/23672, 3 March 1992: Further report by the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992).
- 15 Security Council Document S/23992, 22 May 1992: Report of the Secretary-General pursuant to paragraph 8 of Security Council resolution 748 (1992).

**Scottish Criminal Proceedings**

- 16 Statement of Facts by the Lord Advocate of Scotland in the case of Abdelbaset Ali Mohmed Al Megrahi and Al Amin Khalifa Fhimah, Edinburgh, 13 November 1991.
- 17 Petition of the Procurator Fiscal of Dumfries and Galloway charging Abdelbaset Ali Mohmed Al Megrahi and Al Amin Khalifa Fhimah, 13 November 1991.
- 18 Summary of Scottish Criminal Procedure in Murder Cases, May 1995.
- 19 Statement of Legal Provision concerning Offences under Scots Law, May 1995.

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20	House of Commons Debates, 16 February 1959, columns 31 to 34.
<b>1969</b>	
21	General Assembly Document A/RES/2551 (XXIV), 6 January 1970: General Assembly resolution 2551 (XXIV).
<b>1970</b>	
22	General Assembly Document A/RES/2625 (XXV), 4 November 1970: General Assembly resolution 2625 (XXV).
23	General Assembly Document A/RES/2645 (XXV), 30 November 1970: General Assembly Resolution 2645 (XXV).
24	Security Council Document S/RES/286 (1970), 9 September 1970: Security Council resolution 286 (1970).
<b>1971</b>	
1*	Convention for the Suppression of Unlawful Acts against the Safety of Civilian Aircraft, Montreal, 23 September 1971 (the Montreal Convention), 974 United Nations Treaty Series 177.
<b>1973</b>	
25	General Assembly Document A/RES/3034 (XXVII), 11 January 1973: General Assembly resolution 3034 (XXVII).
26	House of Commons Debates, 16 April 1973, columns 43 and 44.



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**1984**

- 27 House of Commons Debates, 25 April 1984, columns 739 to 752.
- 28 House of Commons Debates, 1 May 1984, columns 195 to 208.
- 29 House of Commons Debates, 1 May 1984, columns 209 to 225.
- 30 Associated Press report, 17 November 1984.

**1985**

- 31 Security Council Document S/17554, 9 October 1985: Note by the President of the Security Council.
- 32 Security Council Document S/17702, 27 December 1985: Note by the President of the Security Council.

**1986**

- 33 *Le Monde* newspaper article, 5 March 1986.
- 34 House of Commons Debates, 24 April 1986, columns 209 to 211.

**1987**

- 35 Security Council Document S/18641, 28 January 1987: Note by the President of the Security Council.
- 36 Keesing's Record of World Events, Volume XXXIII (1987), p. 35218, June 1987.
- 37 House of Commons Debates, 18 November 1987, column 595.

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**1988**

- 38 United Nations Press Release SC/5057, 30 December 1988: Statement made on behalf of Security Council members by the President of the Security Council.
- 39 Statement from the Air Accidents Investigation Branch, United Kingdom Department of Transport.

**1989**

- 40 Security Council Document S/RES/635, 14 June 1989: Security Council resolution 635 (1989).

**1991**

- 41 Associated Press report, 17 June 1991.
- 42 Statement of the Trustees of the Police Dependants' Trust, 18 October 1991.
- 16\* Statement of Facts by the Lord Advocate of Scotland in the case of Abdelbaset Ali Mohamed Al Megrahi and Al Amin Khalifa Fhimah, Edinburgh, 13 November 1991.
- 17\* Petition of the Procurator Fiscal of Dumfries and Galloway charging Abdelbaset Ali Mohamed Al Megrahi and Al Amin Khalifa Fhimah, 13 November 1991.
- 43 Security Council Document S/23221, 16 November 1991: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 44 General Assembly Document A/46/660 and Security Council Document S/23226, 20 November 1991: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 5\* General Assembly Document A/46/825 and Security Council Document S/23306, 31 December 1991: Letter from the French Permanent Representative to the United Nations Secretary-General.
- 6\* General Assembly Document A/46/826 and Security Council Document S/23307, 31 December 1991: Letter from the United Kingdom Permanent Representative to the United Nations Secretary-General.

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- 7\* General Assembly Document A/46/827 and Security Council Document S/23308, 31 December 1991: Letter from the United States Permanent Representative to the United Nations Secretary-General.
- 8\* General Assembly Document A/46/828 and Security Council Document S/23309, 31 December 1991: Letter from the Permanent Representatives of France, the United Kingdom and the United States to the United Nations Secretary-General.

**1992**

- 45 General Assembly Document A/46/840, 9 January 1992 and A/46/840/Corr.1, 21 January 1992: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 46 General Assembly Document A/46/841 and Security Council Document S/23396, 9 January 1992: Letter from Libyan Permanent Representative to the United Nations Secretary-General.
- 47 General Assembly Document A/46/844 and Security Council Document S/23416, 13 January 1992: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 48 Security Council Document S/23436, 17 January 1992: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 9\* Security Council Document S/23441, 18 January 1992: Letter from the Libyan Permanent Representative to the President of the Security Council.
- 2\* Security Council Document S/RES/731 (1992), 21 January 1992: Security Council resolution 731 (1992).
- 10\* Security Council Document S/PV.3033, 21 January 1992: Provisional Verbatim record of the 3,033rd meeting of the Security Council.
- 49 Security Council Document S/23500, 31 January 1992: Note by the President of the Security Council.

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- 13\* Security Council Document S/23574, 11 February 1992: Report by the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992).
- 14\* Security Council Document S/23672, 3 March 1992: Further report by the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992).
- 3\* Security Council Document S/RES/748 (1992), 31 March 1992: Security Council resolution 748 (1992).
- 11\* Security Council Document S/PV.3063, 31 March 1992: Provisional Verbatim record of the 3,063rd meeting of the Security Council.
- 50 Letter from the Secretary of State for Foreign and Commonwealth Affairs to Mr Robert Muir, 1 April 1992.
- 51 United Nations Press Release SG/1925, 2 April 1992.
- 52 Security Council Document S/PV.3064, 2 April 1992: Provisional Verbatim record of the 3,064th meeting of the Security Council.
- 53 Security Council Document S/23828, 22 April 1992: Letter from the French Permanent Representative to the United Nations Secretary-General.
- 54 Security Council Document S/23891, 8 May 1992: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 55 Security Council Document S/23917, 14 May 1992: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 56 Security Council Document S/23918, 14 May 1992: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 15\* Security Council Document S/23992, 22 May 1992: Report of the Secretary-General pursuant to paragraph 8 of Security Council resolution 748 (1992).
- 57 House of Commons Debates, 18 June 1992, columns 1038 to 1040.

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**1992 (continued)**

- 58 Security Council Document S/24209, 30 June 1992: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 59 Security Council Document S/24428, 14 August 1992: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 60 JANA (Libya News Agency) press report, 21 October 1992 (English translation).
- 61 House of Commons Debates, 20 November 1992, columns 432 and 433.
- 62 General Assembly Document A/47/758 and Security Council Document S/24913, 7 December 1992: Letter from the Permanent Representatives of France, the United Kingdom and the United States to the United Nations Secretary-General.
- 63 Security Council Document S/24961, 16 December 1992 and Security Council Document S/24961/Add.1, 18 December 1992: Letter from the Libyan Permanent Representative to United Nations Secretary-General.

**1993**

- 64 Security Council Document S/26139, 23 July 1993: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 65 General Assembly Document A/48/314 and Security Council Document S/26304, 13 August 1993: Letter from the Permanent Representatives of France, the United Kingdom and the United States to the United Nations Secretary-General.
- 66 Security Council Document S/26313, 17 August 1993: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 67 Security Council Document S/26500, 28 September 1993: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.

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**1993 (continued)**

- 68 Material on Scottish Criminal Trial Procedure Provided by the United Kingdom to the United Nations Secretary-General, September 1993.
- 69 Security Council Document S/26523, 1 October 1993: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 70 General Assembly Document A/48/PV.20, 26 October 1993: General Assembly 48th Session, 20th Plenary Meeting, Thursday 7 October 1993 pp.4 to 10.
- 71 Security Council Document S/26629, 26 October 1993: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 4\* Security Council Document S/RES/883 (1993), 11 November 1993: Security Council resolution 883 (1993).
- 12\* Security Council Document S/PV.3312, 11 November 1993: Provisional verbatim record of the 3312th meeting of the Security Council.
- 72 Security Council Document S/26760, 17 November 1993: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 73 Security Council Document S/26837, 3 December 1993: Letter from the French Permanent Representative to the United Nations Secretary-General.
- 74 Security Council Document S/26859, 10 December 1993: Letter from the Chargé d'affaires of the Libyan Permanent Mission to the United Nations Secretary-General.

**1994**

- 75 Security Council Document S/1994/900, 29 July 1994: Letter from the United Nations Secretary-General to the Security Council President.
- 76 Security Council Declaration S/PRST/1994/40, 29 July 1994.
- 77 General Assembly Document A/49/299 and Security Council Document S/1994/238, 9 August 1994: Letter from Representatives of France, the United Kingdom and the United States to the United Nations Secretary-General.

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**1994 (continued)**

- 78 General Assembly Document A/49/PV.23: General Assembly 49th Session, 23rd Meeting, 7 October 1994 pp.9 to 15.
- 79 House of Commons Debates, 13 December 1994, columns 40 to 48.

**1995**

- 80 House of Commons Debates, 1 February 1995, columns 1056 to 1064.
- 81 General Assembly Document A/RES/49/60, 17 February 1995: General Assembly Resolution 49/60.
- 82 Security Council Document S/1995/226, 27 March 1995: Letter from the Libyan Permanent Representative to the United Nations Secretary-General.
- 83 Security Council Document S/PRST/1995/14, 30 March 1995: Note by the President of the Security Council.
- 84 General Assembly Document A/50/128 and Security Council Document S/1995/247, 30 March 1995: Letter from the Permanent Representatives of France, the United Kingdom and the United States to the United Nations Secretary-General.
- 18\* Summary of Scottish Criminal Procedure in Murder Cases, May 1995.
- 19\* Statement of Legal Provisions concerning Offences under Scots Law, May 1995.

# Annex 1



No. 14118

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**MULTILATERAL**

**Convention for the suppression of unlawful acts against the safety of civil aviation (with Final Act of the International Conference on Air Law held under the auspices of the International Civil Aviation Organization at Montreal in September 1971). Concluded at Montreal on 23 September 1971**

*Authentic texts: English, French, Russian and Spanish.*

*Registered by the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics on 18 July 1975.*

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**MULTILATÉRAL**

**Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile (avec Acte final de la Conférence internationale de droit aérien tenue sous les auspices de l'Organisation de l'aviation civile internationale à Montréal en septembre 1971). Conclue à Montréal le 23 septembre 1971**

*Textes authentiques : anglais, français, russe et espagnol.*

*Enregistrée par les États-Unis d'Amérique, le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et l'Union des Républiques socialistes soviétiques le 18 juillet 1975.*

## CONVENTION<sup>1</sup> FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION

### The States Parties to the Convention

Considering that unlawful acts against the safety of civil aviation jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

Considering that the occurrence of such acts is a matter of grave concern;

Considering that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

Have agreed as follows:

*Article 1.* 1. Any person commits an offence if he unlawfully and intentionally:

- (a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or
- (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

<sup>1</sup> Came into force on 26 January 1973 in respect of the following States, on behalf of which an instrument of ratification or accession had been deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland or the United States of America, i.e. 30 days following the date (27 December 1972) of deposit of the instruments of ratification of ten signatory States having participated in the Montreal Conference, in accordance with article 15(3):

<i>State</i>	<i>Date of deposit of instrument of ratification or accession (a) at London (L), Moscow (M) or Washington (W)</i>	
Brazil*	24 July	1972 (L,M,W)
Canada	19 June	1972 (L)
	20 June	1972 (W)
	23 July	1972 (M)
Chad	12 July	1972 (L,W)
	17 August	1972 (M)
German Democratic Republic*	9 July	1972 (M)
Guyana	21 December	1972 a (W)
Hungary*	27 December	1972 (L,M,W)
Israel	30 June	1972 (L)
	6 July	1972 (W)
	10 July	1972 (M)
Malawi*	21 December	1972 a (W)
Mali	24 August	1972 a (W)
Mongolia*	5 September	1972 (W)
	14 September	1972 (L)
	20 October	1972 (M)
Niger	1 September	1972 (W)
Panama	24 April	1972 (W)
Republic of China	27 December	1972 (W)
South Africa*	30 May	1972 (W)
Spain	30 October	1972 (W)
Trinidad and Tobago	9 February	1972 (W)
United States of America	1 November	1972 (W)
	15 November	1972 (L)
	22 November	1972 (M)
Yugoslavia	2 October	1972 (L,M,W)

(Continued on p. 179)

- (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
- (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or
- (e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.
2. Any person also commits an offence if he:
- (a) attempts to commit any of the offences mentioned in paragraph 1 of this Article; or
- (b) is an accomplice of a person who commits or attempts to commit any such offence.

(Footnote 1 continued from p. 178)

Subsequently, the Convention came into force for the States listed below 30 days after the date of deposit of their instrument of ratification or accession with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland or the United States of America, in accordance with article 15 (4):

State	Date of deposit of instrument of ratification or accession (a)	
	at London (L), Moscow (M) or Washington (W)	
Argentina..... (With effect from 25 December 1973)	26 November	1973 (L,M,W)
Australia..... (With effect from 11 August 1973)	12 July	1973 (L,M,W)
Austria..... (With effect from 13 March 1974)	11 February	1973 (L,M,W)
Bulgaria*..... (With effect from 24 March 1973)	22 February 28 March 20 March	1973 (L) 1973 (W) 1974 (M)
Byelorussian Soviet Socialist Republic*..... (With effect from 2 March 1973)	31 January	1973 (M)
Chile..... (With effect from 30 March 1974)	28 February	1974 a (W)
Costa Rica..... (With effect from 21 October 1973)	21 September	1973 (W)
Cyprus..... (With effect from 14 September 1973)	27 July 30 July 15 August	1973 (L) 1973 (M) 1973 (W)
Czechoslovakia*..... (With effect from 9 September 1973)	10 August	1973 (L,M,W)
Denmark..... (With effect from 16 February 1973. Decision reserved as regards the application of the Convention to the Faroe Islands and Greenland)	17 January	1973 (L,M,W)
Dominican Republic..... (With effect from 28 December 1973)	28 November	1973 (W)
Fiji..... (With effect from 4 April 1973)	5 March 18 April 28 April	1973 (W) 1973 (L) 1973 (M)
Finland..... (With effect from 12 August 1973)	13 July	1973 a (L,M,W)
Ghana..... (With effect from 11 January 1974)	12 December	1973 a (W)
Greece..... (With effect from 14 February 1974)	15 January	1974 (W)
Iceland..... (With effect from 29 July 1973)	29 June 29 June	1973 (M) 1973 a (L,W)
Iran..... (With effect from 9 August 1973)	10 July	1973 a (L,M,W)
Iraq*..... (With effect from 10 October 1974)	10 September	1974 a (M)

(Continued on p. 180)

*Article 2.* For the purposes of this Convention:

(a) an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;

(Footnote 1 continued from p. 179)

<i>State</i>	<i>Date of deposit of instrument of ratification or accession (a) at London (L), Moscow (M) or Washington (W)</i>	
Italy .....	19 February	1974 (L,M,W)
(With effect from 21 March 1974)		
Ivory Coast .....	9 January	1973 a (W)
(With effect from 8 February 1973)		
Japan .....	12 June	1974 a (L,W)
(With effect from 12 July 1974)		
Jordan .....	13 February	1973 (L)
(With effect from 15 March 1973)	19 February	1973 (M)
	25 April	1973 (W)
Libyan Arab Republic .....	19 February	1974 a (W)
(With effect from 21 March 1974)		
Mexico .....	12 September	1974 (L,M,W)
(With effect from 12 October 1974)		
Netherlands .....	27 August	1973 (L,M,W)
(With effect from 26 September 1973 for the Kingdom in Europe and Surinam, and with a declaration to the effect that the Convention shall apply to the Netherlands Antilles from 11 June 1974)		
New Zealand .....	12 February	1974 (L,M,W)
(With effect from 14 March 1974)		
Nicaragua .....	6 November	1973 (W)
(With effect from 6 December 1973)		
Nigeria .....	3 July	1973 a (W)
	9 July	1973 a (L)
	20 July	1973 a (M)
Norway .....	1 August	1973 a (L,M,W)
(With effect from 31 August 1973)		
Pakistan .....	16 January	1974 a (M)
(With effect from 15 February 1974)	24 January	1974 a (L,W)
Paraguay .....	5 March	1974 (W)
(With effect from 4 April 1974)		
Philippines .....	26 March	1973 (W)
(With effect from 25 April 1973)		
Poland* .....	26 January	1975 (L,M)
(With effect from 27 February 1975)		
Portugal .....	15 January	1973 (L)
(With effect from 14 February 1973)		
Republic of Korea* .....	2 August	1973 a (W)
(With effect from 1 September 1973)		
Saudi Arabia* .....	14 June	1974 a (W)
(With effect from 14 July 1974)		
Sweden .....	10 July	1973 a (L,M,W)
(With effect from 9 August 1973)		
Ukrainian Soviet Socialist Republic* .....	26 February	1973 (M)
(With effect from 28 March 1973)		
Union of Soviet Socialist Republics* .....	19 February	1973 (L,M,W)
(With effect from 21 March 1973)		
United Kingdom of Great Britain and Northern Ireland* .....	25 October	1973 (L,M,W)
(With effect from 24 November 1973. In respect of the United Kingdom of Great Britain and Northern Ireland and Territories under the territorial sovereignty of the United Kingdom as well as the British Solomon Islands Protectorate)		
United Republic of Cameroon* .....	11 July	1973 a (W)
(With effect from 10 August 1973)		

\* See p. 223 of this volume for the text of the reservations and declarations made upon ratification or accession.

(b) an aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this Article.

*Article 3.* Each Contracting State undertakes to make the offences mentioned in Article 1 punishable by severe penalties.

*Article 4.* 1. This Convention shall not apply to aircraft used in military, customs or police services.

2. In the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall apply, irrespective of whether the aircraft is engaged in an international or domestic flight, only if:

- (a) the place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registration of that aircraft; or
- (b) the offence is committed in the territory of a State other than the State of registration of the aircraft.

3. Notwithstanding paragraph 2 of this Article, in the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registration of the aircraft.

4. With respect to the States mentioned in Article 9 and in the cases mentioned in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall not apply if the places referred to in subparagraph (a) of paragraph 2 of this Article are situated within the territory of the same State where that State is one of those referred to in Article 9, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.

5. In the cases contemplated in subparagraph (d) of paragraph 1 of Article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.

6. The provisions of paragraphs 2, 3, 4 and 5 of this Article shall also apply in the cases contemplated in paragraph 2 of Article 1.

*Article 5.* 1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offences in the following cases:

- (a) when the offence is committed in the territory of that State;
- (b) when the offence is committed against or on board an aircraft registered in that State;
- (c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (d) when the offence is committed against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 (a), (b) and (c), and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

*Article 6.* 1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the States mentioned in Article 5, paragraph 1, the State of nationality of the detained person and, if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

*Article 7.* The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

*Article 8.* 1. The offences shall be deemed to be included as extraditable offences in any extradition treaty existing between Contracting States. Contracting States undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1 (b), (c) and (d).

*Article 9.* The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

*Article 10.* 1. Contracting States shall, in accordance with international and national law, endeavour to take all practicable measure for the purpose of preventing the offences mentioned in Article 1.

2. When, due to the commission of one of the offences mentioned in Article 1, a flight has been delayed or interrupted, any Contracting State in whose territory the aircraft or passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

*Article 11.* 1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

*Article 12.* Any Contracting State having reason to believe that one of the offences mentioned in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States mentioned in Article 5, paragraph 1.

*Article 13.* Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 10, paragraph 2;
- (c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

*Article 14.* 1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

*Article 15.* 1. This Convention shall be open for signature at Montreal on 23 September 1971, by States participating in the International Conference on Air Law held at Montreal from 8 to 23 September 1971 (hereinafter referred to as the Montreal Conference). After 10 October 1971, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in the Montreal Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Convention on International Civil Aviation (Chicago, 1944).<sup>1</sup>

*Article 16.* 1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Convention.

DONE at Montreal, this twenty-third day of September, one thousand nine hundred and seventy-one, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

<sup>1</sup> United Nations, *Treaty Series*, vol. 15, p. 295. For the texts of the Protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161; vol. 514, p. 209; vol. 740, p. 21, and vol. 893, p. 117.



## Annex 2



## Security Council

Distr.  
GENERAL

S/RES/731 (1992)  
21 January 1992

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### RESOLUTION 731 (1992)

Adopted by the Security Council at its 3033rd meeting,  
on 21 January 1992

The Security Council,

Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and jeopardize the security of States,

Deeply concerned by all illegal activities directed against international civil aviation, and affirming the right of all States, in accordance with the Charter of the United Nations and relevant principles of international law, to protect their nationals from acts of international terrorism that constitute threats to international peace and security,

Reaffirming its resolution 286 (1970) of 9 September 1970, in which it called on States to take all possible legal steps to prevent any interference with international civil air travel,

Reaffirming also its resolution 635 (1989) of 14 June 1989, in which it condemned all acts of unlawful interference against the security of civil aviation and called upon all States to cooperate in devising and implementing measures to prevent all acts of terrorism, including those involving explosives,

Recalling the statement made on 30 December 1988 by the President of the Security Council on behalf of the members of the Council strongly condemning the destruction of Pan Am flight 103 and calling on all States to assist in the apprehension and prosecution of those responsible for this criminal act,

Deeply concerned over the results of investigations, which implicate officials of the Libyan Government and which are contained in Security Council documents that include the requests addressed to the Libyan authorities by

France, 1/, 2/ the United Kingdom of Great Britain and Northern Ireland 2/, 3/ and the United States of America 2/, 4/, 5/ in connection with the legal procedures related to the attacks carried out against Pan American flight 103 and Union de transports aériens flight 772;

Determined to eliminate international terrorism,

1. Condemns the destruction of Pan American flight 103 and Union de transports aériens flight 772 and the resultant loss of hundreds of lives;
2. Strongly deplores the fact that the Libyan Government has not yet responded effectively to the above requests to cooperate fully in establishing responsibility for the terrorist acts referred to above against Pan American flight 103 and Union de transports aériens flight 772;
3. Urges the Libyan Government immediately to provide a full and effective response to those requests so as to contribute to the elimination of international terrorism;
4. Requests the Secretary-General to seek the cooperation of the Libyan Government to provide a full and effective response to those requests;
5. Urges all States individually and collectively to encourage the Libyan Government to respond fully and effectively to those requests;
6. Decides to remain seized of the matter.

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- 1/ S/23306.
  - 2/ S/23309.
  - 3/ S/23307.
  - 4/ S/23308.
  - 5/ S/23317.

# Annex 3



Security Council

Distr.  
GENERAL

S/RES/748 (1992)  
31 March 1992

RESOLUTION 748 (1992)

Adopted by the Security Council at its 3063rd meeting,  
on 31 March 1992

The Security Council,

Reaffirming its resolution 731 (1992) of 21 January 1992,

Noting the reports of the Secretary-General, 1/ 2/

Deeply concerned that the Libyan Government has still not provided a full and effective response to the requests in its resolution 731 (1992) of 21 January 1992,

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is essential for the maintenance of international peace and security,

Recalling that, in the statement issued on 31 January 1992 on the occasion of the meeting of the Security Council at the level of heads of State and Government, 3/ the members of the Council expressed their deep concern over acts of international terrorism, and emphasized the need for the international community to deal effectively with all such acts,

Reaffirming that, in accordance with the principle in Article 2, paragraph 4, of the Charter of the United Nations, every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involve a threat or use of force,

1/ S/23574.

2/ S/23672.

3/ S/23500.

Determining, in this context, that the failure by the Libyan Government to demonstrate by concrete actions its renunciation of terrorism and in particular its continued failure to respond fully and effectively to the requests in resolution 731 (1992) constitute a threat to international peace and security,

Determined to eliminate international terrorism,

Recalling the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures,

Acting under Chapter VII of the Charter,

1. Decides that the Libyan Government must now comply without any further delay with paragraph 3 of resolution 731 (1992) regarding the requests contained in documents S/23306, S/23308 and S/23309;

2. Decides also that the Libyan Government must commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and that it must promptly, by concrete actions, demonstrate its renunciation of terrorism;

3. Decides that, on 15 April 1992 all States shall adopt the measures set out below, which shall apply until the Security Council decides that the Libyan Government has complied with paragraphs 1 and 2 above;

4. Decides also that all States shall:

(a) Deny permission to any aircraft to take off from, land in or overfly their territory if it is destined to land in or has taken off from the territory of Libya, unless the particular flight has been approved on grounds of significant humanitarian need by the Committee established by paragraph 9 below;

(b) Prohibit, by their nationals or from their territory, the supply of any aircraft or aircraft components to Libya, the provision of engineering and maintenance servicing of Libyan aircraft or aircraft components, the certification of airworthiness for Libyan aircraft, the payment of new claims against existing insurance contracts and the provision of new direct insurance for Libyan aircraft;

5. Decides further that all States shall:

(a) Prohibit any provision to Libya by their nationals or from their territory of arms and related material of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment and spare parts for the aforementioned, as well as the provision of any types of equipment, supplies and grants of licensing arrangements, for the manufacture or maintenance of the aforementioned;

(b) Prohibit any provision to Libya by their nationals or from their territory of technical advice, assistance or training related to the provision, manufacture, maintenance, or use of the items in (a) above;

(c) Withdraw any of their officials or agents present in Libya to advise the Libyan authorities on military matters;

6. Decides that all States shall:

(a) Significantly reduce the number and the level of the staff at Libyan diplomatic missions and consular posts and restrict or control the movement within their territory of all such staff who remain; in the case of Libyan missions to international organizations, the host State may, as it deems necessary, consult the organization concerned on the measures required to implement this subparagraph;

(b) Prevent the operation of all Libyan Arab Airlines offices;

(c) Take all appropriate steps to deny entry to or expel Libyan nationals who have been denied entry to or expelled from other States because of their involvement in terrorist activities;

7. Calls upon all States, including States not members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to 15 April 1992;

8. Requests all States to report to the Secretary-General by 15 May 1992 on the measures they have instituted for meeting the obligations set out in paragraphs 3 to 7 above;

9. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations:

(a) To examine the reports submitted pursuant to paragraph 8 above;

(b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the measures imposed by paragraphs 3 to 7 above;

(c) To consider any information brought to its attention by States concerning violations of the measures imposed by paragraphs 3 to 7 above and, in that context, to make recommendations to the Council on ways to increase their effectiveness;

(d) To recommend appropriate measures in response to violations of the measures imposed by paragraphs 3 to 7 above and provide information on a regular basis to the Secretary-General for general distribution to Member States;

(e) To consider and to decide upon expeditiously any application by States for the approval of flights on grounds of significant humanitarian need in accordance with paragraph 4 above;

(f) To give special attention to any communications in accordance with Article 50 of the Charter from any neighbouring or other State with special economic problems that might arise from the carrying out of the measures imposed by paragraphs 3 to 7 above;

10. Calls upon all States to cooperate fully with the Committee in the fulfilment of its task, including supplying such information as may be sought by the Committee in pursuance of the present resolution;

11. Requests the Secretary-General to provide all necessary assistance to the Committee and to make the necessary arrangements in the Secretariat for this purpose;

12. Invites the Secretary-General to continue his role as set out in paragraph 4 of resolution 731 (1992);

13. Decides that the Security Council shall, every 120 days or sooner should the situation so require, review the measures imposed by paragraphs 3 to 7 above in the light of the compliance by the Libyan Government with paragraphs 1 and 2 above taking into account, as appropriate, any reports provided by the Secretary-General on his role as set out in paragraph 4 of resolution 731 (1992);

14. Decides to remain seized of the matter.

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# Annex 4



Security Council

Distr.  
GENERAL

S/RES/883 (1993)  
11 November 1993

RESOLUTION 883 (1993)

Adopted by the Security Council at its 3312th meeting,  
on 11 November 1993

The Security Council,

Reaffirming its resolutions 731 (1992) of 21 January 1992 and 748 (1992) of 31 March 1992,

Deeply concerned that after more than twenty months the Libyan Government has not fully complied with these resolutions,

Determined to eliminate international terrorism,

Convinced that those responsible for acts of international terrorism must be brought to justice,

Convinced also that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is essential for the maintenance of international peace and security,

Determining, in this context, that the continued failure by the Libyan Government to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions in resolutions 731 (1992) and 748 (1992), constitute a threat to international peace and security,

Taking note of the letters to the Secretary-General dated 29 September and 1 October 1993 from the Secretary of the General People's Committee for Foreign Liaison and International Cooperation of Libya (S/26523) and his speech in the General Debate at the forty-eighth session of the General Assembly (A/48/PV.20) in which Libya stated its intention to encourage those charged with the bombing of Pan Am 103 to appear for trial in Scotland and its willingness to cooperate with the competent French authorities in the case of the bombing of UTA 772,

Expressing its gratitude to the Secretary-General for the efforts he has made pursuant to paragraph 4 of resolution 731 (1992),

Recalling the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures,

Acting under Chapter VII of the Charter,

1. Demands once again that the Libyan Government comply without any further delay with resolutions 731 (1992) and 748 (1992);

2. Decides, in order to secure compliance by the Libyan Government with the decisions of the Council, to take the following measures, which shall come into force at 00.01 EST on 1 December 1993 unless the Secretary-General has reported to the Council in the terms set out in paragraph 16 below;

3. Decides that all States in which there are funds or other financial resources (including funds derived or generated from property) owned or controlled, directly or indirectly, by:

- (a) the Government or public authorities of Libya, or
- (b) any Libyan undertaking,

shall freeze such funds and financial resources and ensure that neither they nor any other funds and financial resources are made available, by their nationals or by any persons within their territory, directly or indirectly, to or for the benefit of the Government or public authorities of Libya or any Libyan undertaking, which for the purposes of this paragraph, means any commercial, industrial or public utility undertaking which is owned or controlled, directly or indirectly, by

- (i) the Government or public authorities of Libya,
- (ii) any entity, wherever located or organized, owned or controlled by (i), or
- (iii) any person identified by States as acting on behalf of (i) or (ii) for the purposes of this resolution;

4. Further decides that the measures imposed by paragraph 3 above do not apply to funds or other financial resources derived from the sale or supply of any petroleum or petroleum products, including natural gas and natural gas products, or agricultural products or commodities, originating in Libya and exported therefrom after the time specified in paragraph 2 above, provided that any such funds are paid into separate bank accounts exclusively for these funds;

5. Decides that all States shall prohibit any provision to Libya by their nationals or from their territory of the items listed in the annex to this resolution, as well as the provision of any types of equipment, supplies and grants of licensing arrangements for the manufacture or maintenance of such items;

6. Further decides that, in order to make fully effective the provisions of resolution 748 (1992), all States shall:

- (a) require the immediate and complete closure of all Libyan Arab Airlines offices within their territories;

(b) prohibit any commercial transactions with Libyan Arab Airlines by their nationals or from their territory, including the honouring or endorsement of any tickets or other documents issued by that airline;

(c) prohibit, by their nationals or from their territory, the entering into or renewal of arrangements for:

- (i) the making available, for operation within Libya, of any aircraft or aircraft components, or
- (ii) the provision of engineering or maintenance servicing of any aircraft or aircraft components within Libya;

(d) prohibit, by their nationals or from their territory, the supply of any materials destined for the construction, improvement or maintenance of Libyan civilian or military airfields and associated facilities and equipment, or of any engineering or other services or components destined for the maintenance of any Libyan civil or military airfields or associated facilities and equipment, except emergency equipment and equipment and services directly related to civilian air traffic control;

(e) prohibit, by their nationals or from their territory, any provision of advice, assistance, or training to Libyan pilots, flight engineers, or aircraft and ground maintenance personnel associated with the operation of aircraft and airfields within Libya;

(f) prohibit, by their nationals or from their territory, any renewal of any direct insurance for Libyan aircraft;

7. Confirms that the decision taken in resolution 748 (1992) that all States shall significantly reduce the level of the staff at Libyan diplomatic missions and consular posts includes all missions and posts established since that decision or after the coming into force of this resolution;

8. Decides that all States, and the Government of Libya, shall take the necessary measures to ensure that no claim shall lie at the instance of the Government or public authorities of Libya, or of any Libyan national, or of any Libyan undertaking as defined in paragraph 3 of this resolution, or of any person claiming through or for the benefit of any such person or undertaking, in connection with any contract or other transaction or commercial operation where its performance was affected by reason of the measures imposed by or pursuant to this resolution or related resolutions;

9. Instructs the Committee established by resolution 748 (1992) to draw up expeditiously guidelines for the implementation of paragraphs 3 to 7 of this resolution, and to amend and supplement, as appropriate, the guidelines for the implementation of resolution 748 (1992), especially its paragraph 5 (a);

10. Entrusts the Committee established by resolution 748 (1992) with the task of examining possible requests for assistance under the provisions of Article 50 of the Charter of the United Nations and making recommendations to the President of the Security Council for appropriate action;

11. Affirms that nothing in this resolution affects Libya's duty scrupulously to adhere to all of its obligations concerning servicing and repayment of its foreign debt;

12. Calls upon all States, including States not Members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to the effective time of this resolution;

13. Requests all States to report to the Secretary-General by 15 January 1994 on the measures they have instituted for meeting the obligations set out in paragraphs 3 to 7 above;

14. Invites the Secretary-General to continue his role as set out in paragraph 4 of resolution 731 (1992);

15. Calls again upon all Member States individually and collectively to encourage the Libyan Government to respond fully and effectively to the requests and decisions in resolutions 731 (1992) and 748 (1992);

16. Expresses its readiness to review the measures set forth above and in resolution 748 (1992) with a view to suspending them immediately if the Secretary-General reports to the Council that the Libyan Government has ensured the appearance of those charged with the bombing of Pan Am 103 for trial before the appropriate United Kingdom or United States court and has satisfied the French judicial authorities with respect to the bombing of UTA 772, and with a view to lifting them immediately when Libya complies fully with the requests and decisions in resolutions 731 (1992) and 748 (1992); and requests the Secretary-General, within 90 days of such suspension, to report to the Council on Libya's compliance with the remaining provisions of its resolutions 731 (1992) and 748 (1992) and, in the case of non-compliance, expresses its resolve to terminate immediately the suspension of these measures;

17. Decides to remain seized of the matter.

Annex

The following are the items referred to in paragraph 5 of this resolution:

- I. Pumps of medium or large capacity whose capacity is equal to or larger than 350 cubic metres per hour and drivers (gas turbines and electric motors) designed for use in the transportation of crude oil and natural gas
- II. Equipment designed for use in crude oil export terminals:
  - Loading buoys or single point moorings (spm)
  - Flexible hoses for connection between underwater manifolds (plem) and single point mooring and floating loading hoses of large sizes (from 12" to 16")
  - Anchor chains
- III. Equipment not specially designed for use in crude oil export terminals but which because of their large capacity can be used for this purpose:
  - Loading pumps of large capacity (4,000 m<sup>3</sup>/h) and small head (10 bars)
  - Boosting pumps within the same range of flow rates
  - Inline pipe line inspection tools and cleaning devices (i.e. pigging tools) (16" and above)
  - Metering equipment of large capacity (1,000 m<sup>3</sup>/h and above)
- IV. Refinery equipment:
  - Boilers meeting American Society of Mechanical Engineers 1 standards
  - Furnaces meeting American Society of Mechanical Engineers 8 standards
  - Fractionation columns meeting American Society of Mechanical Engineers 8 standards
  - Pumps meeting American Petroleum Institute 610 standards
  - Catalytic reactors meeting American Society of Mechanical Engineers 8 standards
  - Prepared catalysts, including the following:
    - Catalysts containing platinum
    - Catalysts containing molybdenum
- V. Spare parts destined for the items in I to IV above.

# Annex 5



General Assembly Security Council

Distr.  
GENERAL

A/46/825\*  
S/23306\*  
31 December 1991  
ENGLISH  
ORIGINAL: FRENCH

GENERAL ASSEMBLY  
Forty-sixth session  
Agenda item 125

SECURITY COUNCIL  
Forty-sixth year

MEASURES TO PREVENT INTERNATIONAL  
TERRORISM WHICH ENDANGERS OR  
TAKES INNOCENT HUMAN LIVES OR  
JEOPARDIZES FUNDAMENTAL FREEDOMS  
AND STUDY OF THE UNDERLYING  
CAUSES OF THOSE FORMS OF  
TERRORISM AND ACTS OF VIOLENCE  
WHICH LIE IN MISERY, FRUSTRATION,  
GRIEVANCE AND DESPAIR AND WHICH  
CAUSE SOME PEOPLE TO SACRIFICE  
HUMAN LIVES, INCLUDING THEIR OWN,  
IN AN ATTEMPT TO EFFECT RADICAL  
CHANGES

Letter dated 20 December 1991 from the Permanent  
Representative of France to the United Nations  
addressed to the Secretary-General

I have the honour to transmit herewith the text of a communiqué from the Presidency of the French Republic and the Ministry of Foreign Affairs concerning the judicial inquiry conducted on the attack on the UTA DC-10 of 19 September 1989.

I should be grateful if you would have this letter and its annex circulated as an official document of the General Assembly, under agenda item 125, and of the Security Council.

(Signed) Jean-Bernard MERIMEE

\* This communication is reissued at the request of the Permanent Mission of France to the United Nations.



ANNEX

Communiqué from the Presidency of the French Republic  
and the Ministry of Foreign Affairs

The judicial inquiry conducted with regard to the attack on the UTA DC-10, which resulted in 171 deaths on 19 September 1989 places heavy presumptions of guilt for this odious crime on several Libyan nationals.

Accordingly, following the summoning of the Ambassador of Libya to France by the Minister of State, Minister for Foreign Affairs, the French Government reiterates its demand that the Libyan authorities cooperate immediately, effectively and by all possible means with French justice in order to help to establish responsibility for this terrorist act.

To that end, France calls upon Libya:

- To produce all the material evidence in its possession and to facilitate access to all documents that might be useful for establishing the truth.
- To facilitate the necessary contacts and meetings, inter alia, for the assembly of witnesses.
- To authorize the responsible Libyan officials to respond to any request made by the examining magistrate responsible for judicial information.

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# Annex 6



General Assembly Security Council

Distr.  
GENERAL

A/46/826\*  
S/23307\*  
31 December 1991

ORIGINAL: ENGLISH

GENERAL ASSEMBLY  
Forty-sixth session  
Agenda item 125

SECURITY COUNCIL  
Forty-sixth year

MEASURES TO PREVENT INTERNATIONAL  
TERRORISM WHICH ENDANGERS OR  
TAKES INNOCENT HUMAN LIVES OR  
JEOPARDIZES FUNDAMENTAL FREEDOMS  
AND STUDY OF THE UNDERLYING  
CAUSES OF THOSE FORMS OF  
TERRORISM AND ACTS OF VIOLENCE  
WHICH LIE IN MISERY, FRUSTRATION,  
GRIEVANCE AND DESPAIR AND WHICH  
CAUSE SOME PEOPLE TO SACRIFICE  
HUMAN LIVES, INCLUDING THEIR OWN,  
IN AN ATTEMPT TO EFFECT RADICAL  
CHANGES

Letter dated 20 December 1991 from the Permanent Representative  
of the United Kingdom of Great Britain and Northern Ireland to  
the United Nations addressed to the Secretary-General

I have the honour to enclose:

(a) The text of the statement made by the Lord Advocate of Scotland on 14 November 1991 relating to the investigation into the destruction of a Pan Am airliner over Scotland on 21 December 1988 with the loss of 270 lives (annex I);

(b) The text of the Foreign Secretary's statement on the matter in the British Houses of Parliament on 14 November 1991 (annex II);

\* This communication is reissued at the request of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations.

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English  
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(c) The text of a statement issued by the British Government on 27 November 1991 (annex III).

I should be grateful if you would have this letter and its enclosures circulated as a document of the General Assembly, under agenda item 125, and of the Security Council.

(Signed) D. H. A. HANNAY

/...

ANNEX

Announcement by the Lord Advocate of Scotland on 14 November 1991

The Lockerbie investigation has now been in progress for almost three years. In the recent months the Lockerbie investigation team headed by the Chief Constable of Dumfries and Galloway Mr. George Esson and the Senior Investigating Officer Chief Superintendent Stuart Henderson have been reporting to the Procurator Fiscal on the results of the investigation.

In consultation with the United States Attorney General I have concluded there is sufficient evidence to justify application to the Court for warrants for the arrest of named individuals. I instructed the Procurator Fiscal at Dumfries to make the necessary application to the Sheriff and yesterday Mr. MacDougall obtained from him the grant of warrants for the arrest of two Libyan nationals on charges of conspiracy, murder and contravention of the Aviation Security Act 1982.

The two accused are Abdelbaset Ali Mohamed Al Megrahi and Al Amin Khalifa Fhimah.

It is alleged that Megrahi is a senior officer of the Libyan Intelligence Services, holding positions with Libyan Arab Airlines and as Director of the Centre for Strategic Studies in Tripoli at the time of these offences.

It is alleged that Fhimah was also an officer of the Libyan Intelligence Services, holding a position as Station Officer with Libyan Arab Airlines in Malta.

The first charge in the petition is that between 1 January 1985 and 21 December 1988 at the premises occupied by Megrahi and by the Libyan Intelligence Services, in Tripoli, Libya, at a special forces training area, Sabha, Libya, at the premises occupied by the firm Mebo Ag at the Novapark Hotel, Zurich, Switzerland, at the Holiday Inn and the Libyan Cultural Centre, both in Sliema, Malta, at the house occupied by Fhimah at 3 St. John's Flat, Mosta, Malta, at Luga Airport, Malta, and at the Libyan People's Bureau, East Berlin, German Democratic Republic, and elsewhere in Libya, Malta, Switzerland, Czechoslovakia and the German Democratic Republic.

Being members of the Libyan Intelligence Services, and in particular Megrahi being the Head of Security of Libyan Arab Airlines and thereafter Director of the Centre for Strategic Studies, Tripoli, Libya and Fhimah being the Station Manager of Libyan Arab Airlines in Malta.

Did conspire together and with others to further the purposes of the Libyan Intelligence Services by criminal means, namely the commission of acts of terrorism directed against nationals and the interests of other countries and in particular the destruction of a civil passenger aircraft and murder of its occupants.

And, in pursuance of the conspiracy, while acting in concert together and with others

(a) Between 1 January 1985 and 31 December 1985, at the premises occupied by Mebo Ag, in Zurich, at the premises of the Libyan Intelligence Services, in Tripoli, at the Libyan People's Bureau, East Berlin and elsewhere, they did order, cause to be manufactured and obtain from the firm of Mebo Ag twenty electronic timers capable of detonating explosive devices;

(b) Between 1 January 1985 and 31 July 1986 at the special forces training area at Sabha, Libya, they did cause the effectiveness of such timers to be tested in conjunction with explosives;

(c) Between 20 March 1986 and 31 December 1988, within the offices of Libyan Arab Airlines at Luqa Airport, Malta, and at the said Libyan Cultural Centre, Sliema, and elsewhere in Malta they did have in their possession and under their control a quantity of high performance plastic explosive;

(d) Between 31 July 1987 and 21 December 1988, within the premises occupied by Mebo Ag, in Zurich they did establish and maintain a pretended business under the name Abh as a cover for the operations of the Libyan Intelligence Services;

(e) On 20 February 1988 at Dakar Airport, Senegal, they did cause one of these timers, together with other components of an improvised explosive device, including a quantity of high performance plastic explosive and a firearm and ammunition, to be introduced into Senegal for terrorist purposes;

(f) Between 1 September 1988 and 21 December 1988, at Eucharistic Congress Road, Malta, they did establish and maintain a pretended business to be known as and under the name of Med Tours or Medtours Services Limited, as a cover for the operations of the Libyan Intelligence Services;

(g) Between 1 and 20 December 1988, at the premises occupied by Mebo Ag, in Zurich at the premises occupied by Megrabi and by the Libyan Intelligence Services, in Tripoli and elsewhere in Switzerland and Libya they did order and attempt to obtain delivery of forty further such timers from the firm of Mebo Ag;

(h) Between 1 and 21 December 1988, at Luqa Airport, Malta, or elsewhere in Malta they did unlawfully acquire airline luggage tags;

(i) On 7 December 1988 in the shop premises known as Mary's House at Tower Road, Sliema, Malta, they did purchase a quantity of clothing and an umbrella;

(j) On 20 December 1988 at Luqa Airport, Malta, Megrabi did enter Malta using a passport in the false name of Ahmed Khalifa Abdusamad and they did cause a suitcase to be introduced to Malta;

(k) On 20 and 21 December 1988 Megrahi did reside at the Holiday Inn, Sliema, Malta, under the false identity of Ahmed Khalifa Abdusamad; and

(l) On 21 December 1988 at Luga Airport, they did place or cause to be placed on board an aircraft of Air Malta Flight KM180 to Frankfurt Am Main Airport, Federal Republic of Germany, the suitcase or a similar suitcase containing clothing and umbrella and an improvised explosive device containing high performance plastic explosive concealed with a radio cassette recorder and programmed to be detonated by one of the electronic timers, having tagged or caused such suitcase to be tagged so as to be carried by aircraft from Frankfurt Am Main via London, Heathrow Airport to New York, John F. Kennedy Airport.

And such suitcase was thus carried to Frankfurt Am Main Airport and there placed on board an aircraft of Pan American World Airways Flight PA103A and carried to London, Heathrow Airport and there, in turn, placed on board an aircraft of Pan American World Airways Flight PA103 to New York, John F. Kennedy Airport.

And the improvised explosive device detonated and exploded on board the aircraft flight PA103 while in flight near to Lockerbie, whereby the aircraft was destroyed and the wreckage crashed to the ground and the 259 passengers and crew and 11 residents of Lockerbie hereof were killed and they did murder them.

The second alternative charge is one of murder on a more restricted basis.

The third alternative charge is that being members of the Libyan Intelligence Services and having, while acting in concert with others, formed a criminal purpose to destroy a civil passenger aircraft and murder the occupants and having obtained possession of and tested the effectiveness of electronic timers and being in possession of and having under their control a quantity of high performance plastic explosive, they did on and between the dates and at the places and by the means stated in the second charge unlawfully and intentionally destroy the aircraft in service and commit on board the aircraft in flight acts of violence which were likely to and did endanger the safety of the aircraft, in respect that they did murder those 270 persons: contrary to the Aviation Security Act 1982, Section 2(1) and (5).

Both accused are believed to be in Libya. The warrants will be circulated through Interpol but it is considered unlikely that they will be arrested in the normal way. A demand is being made to Libya for the surrender of these men for trial.

A simultaneous announcement is being made in Washington by Attorney General Barr following on the handing down of an indictment by a Grand Jury in Washington. The terms of the United States indictment and the Scottish petition have been drawn up in full consultation. Differences between the indictment and petition are explained by differences in our legal systems and procedures and I would wish to make it clear that we are in full agreement on

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the allegations made. The charges are essentially identical and are in respect of the same two accused persons.

This does not mark the end of the police investigation, although it plainly marks the most important public development to date in this unique criminal inquiry. I would wish to pay tribute to the outstanding work and ongoing commitment shown by many police officers and agencies not only in this country but throughout the world in their determined efforts to solve this crime.

I would wish to make particular mention of the extraordinary work done by forensic scientists and other specialists.

I remain committed to bring this matter to a proper conclusion in a Court of Law whether it is to be in this country or in the United States.

I must remind the media that for the purposes of the Contempt of Court Act 1981 proceedings became active when Sheriff Barr granted warrants for arrest. The Chief Constable and I cannot and will not comment on the evidence on which these charges are based.

/...



ANNEX II

Statement by the Foreign Secretary, The Rt. Hon. Douglas Hurd,  
in the House of Commons, 14 November 1991

Mr. Speaker,

With permission, I should like to make a statement about the conclusion of the Lockerbie investigation and its implications.

My noble and learned friend the Lord Advocate has today announced the issue of warrants for the arrest of two Libyan Intelligence Officers against whom, on the basis of the evidence available, the Procurator Fiscal has brought charges alleging their involvement in the destruction of Pan Am Flight 103 on 21 December 1988. The American authorities have taken similar action.

Two hundred seventy people were killed at Lockerbie, 66 of them British. The relatives and friends of these victims have suffered and continue to suffer great pain and sorrow. The House will be thinking of them today.

Mr. Speaker, as the Lord Advocate has said a demand is being made of the Libyan authorities for the surrender of the accused to stand trial. I repeat that demand on behalf of the whole Government. I know the House will unreservedly endorse it.

The accusations levelled at Libyan officials are of the gravest possible kind. As the warrants which the Lord Advocate will be making public make clear, the charges allege that the individuals acted as part of a conspiracy to further the purposes of the Libyan Intelligence Services by criminal means, and that those means were acts of terrorism. This was a mass murder, which is alleged to involve the organs of government of a State. Libyan officials have been accused of this crime not only in Scotland and America but also in France where arrest warrants were issued on 30 October over the destruction of Flight UTA 772 in September 1989. We are consulting the United States and other friendly governments, many of whom lost nationals in Flight Pan Am 103, about the next steps.

I understand that the investigation has revealed no evidence to support suggestion of involvement by other countries. This matter does not therefore affect our relations with other countries in the region.

Let me pay tribute to all of those whose untiring work under the direction of the Lord Advocate over almost three years has produced this remarkable outcome. In particular, I salute the work of the Dumfries and Galloway Constabulary, and all those in many parts of the world who have helped with the gathering of evidence and information. The Government is grateful for all the help given to the investigation in many countries.

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We expect Libya to respond fully to our demand for the surrender of the accused. The interests of justice require no less. This fiendish act of wickedness cannot be passed over or ignored.

/...

ANNEX III

Statement issued by the British Government on 27 November 1991

Following the issue of warrants against two Libyan officials for their involvement in the Lockerbie atrocity, the Government demanded of Libya the surrender of the two accused for trial. We have so far received no satisfactory response from the Libyan authorities.

The British and American Governments today declare that the Government of Libya must:

- Surrender for trial all those charged with the crime; and accept complete responsibility for the actions of Libyan officials.
- Disclose all it knows of this crime, including the names of all those responsible, and allow full access to all witnesses, documents and other material evidence, including all the remaining timers.
- Pay appropriate compensation.

We are conveying our demands to Libya through the Italians, as our protecting power. We expect Libya to comply promptly and in full.

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# Annex 7



General Assembly Security Council

Distr.  
GENERAL

A/46/827\*  
S/23308\*  
31 December 1991

ORIGINAL: ENGLISH

GENERAL ASSEMBLY  
Forty-sixth session  
Agenda item 125

SECURITY COUNCIL  
Forty-sixth year

MEASURES TO PREVENT INTERNATIONAL  
TERRORISM WHICH ENDANGERS OR  
TAKES INNOCENT HUMAN LIVES OR  
JEOPARDIZES FUNDAMENTAL FREEDOMS  
AND STUDY OF THE UNDERLYING  
CAUSES OF THOSE FORMS OF  
TERRORISM AND ACTS OF VIOLENCE  
WHICH LIE IN MISERY, FRUSTRATION,  
GRIEVANCE AND DESPAIR AND WHICH  
CAUSE SOME PEOPLE TO SACRIFICE  
HUMAN LIVES, INCLUDING THEIR OWN,  
IN AN ATTEMPT TO EFFECT RADICAL  
CHANGES

Letter dated 20 December 1991 from the Permanent Representative  
of the United States of America to the United Nations addressed  
to the Secretary-General

I have the honour to enclose the following text:

- (a) Statement of the Government of the United States regarding the bombing of Pan Am 103;
- (b) Joint declaration of the United States and United Kingdom.

I should be grateful if you would have this letter and its enclosure circulated as an official document of the General Assembly, under agenda item 125, and of the Security Council.

(Signed) Thomas R. PICKERING

\* This communication is reissued at the request of the Permanent Mission of the United States of America to the United Nations.

ANNEX

Statement issued by the Government of the United States  
on 27 November 1991 regarding the bombing of Pan Am 103

After the indictments were handed down on 14 November we conveyed them to the Libyan regime. We have also consulted closely with the Governments of France and the United Kingdom and in concert with those two Governments we have the following two declarations to present publicly today.

JOINT DECLARATION OF THE UNITED STATES AND UNITED KINGDOM

The British and American Governments today declare that the Government of Libya must:

- surrender for trial all those charged with the crime; and accept responsibility for the actions of Libyan officials;
- disclose all it knows of this crime, including the names of all those responsible, and allow full access to all witnesses, documents and other material evidence, including all the remaining timers;
- pay appropriate compensation.

We expect Libya to comply promptly and in full.

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# Annex 8



General Assembly Security Council

Distr.  
GENERAL

A/46/828\*  
S/23309\*  
31 December 1991

ORIGINAL: ENGLISH

GENERAL ASSEMBLY  
Forty-sixth session  
Agenda item 125

SECURITY COUNCIL  
Forty-sixth year

MEASURES TO PREVENT INTERNATIONAL  
TERRORISM WHICH ENDANGERS OR  
TAKES INNOCENT HUMAN LIVES OR  
JEOPARDIZES FUNDAMENTAL FREEDOMS  
AND STUDY OF THE UNDERLYING  
CAUSES OF THOSE FORMS OF  
TERRORISM AND ACTS OF VIOLENCE  
WHICH LIE IN MISERY, FRUSTRATION,  
GRIEVANCE AND DESPAIR AND WHICH  
CAUSE SOME PEOPLE TO SACRIFICE  
HUMAN LIVES, INCLUDING THEIR OWN,  
IN AN ATTEMPT TO EFFECT RADICAL  
CHANGES

Letter dated 20 December 1991 from the Permanent Representatives  
of France, the United Kingdom of Great Britain and Northern  
Ireland and the United States of America to the United Nations  
addressed to the Secretary-General

We have the honour to circulate herewith the text of a tripartite  
declaration on terrorism issued by our three Governments on 27 November  
following the investigation into the bombings of flights Pan Am 103 and  
UTA 772.

\* This communication is reissued at the request of the Permanent  
Missions of France, the United Kingdom of Great Britain and Northern Ireland  
and the United States of America to the United Nations.



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English  
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We should be grateful if you would have this letter and its annex circulated as a document of the General Assembly, under agenda item 125, and of the Security Council.

(Signed) Jean-Bernard P.H.P. MERIMEE  
Permanent Representative of France  
to the United Nations

(Signed) David HANNAY  
Permanent Representative of  
the United Kingdom of Great  
Britain and Northern Ireland  
to the United Nations

(Signed) Thomas R. PICKERING  
Permanent Representative of the  
United States of America to the  
United Nations

ANNEX

Declaration of the United States of America, France  
and Great Britain on terrorism

The three States reaffirm their complete condemnation of terrorism in all its forms and denounce any complicity of States in terrorism acts. The three States reaffirm their commitment to put an end to terrorism.

They consider that the responsibility of States begins whenever they take part directly in terrorist actions, or indirectly through harbouring, training, providing facilities, arming or providing financial support, or any form of protection, and that they are responsible for their actions before the individual States and the United Nations.

In this connection, following the investigation carried out into the bombings of Pan Am 103 and UTA 772 the three States have presented specific demands to the Libyan authorities related to the judicial procedures that are under way. They require that Libya comply with all these demands, and, in addition, that Libya commit itself concretely and definitively to cease all forms of terrorist action and all assistance to terrorist groups. Libya must promptly, by concrete actions, prove its renunciation of terrorism.

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# Annex 9



Security Council

Distr.  
GENERAL

S/23441  
18 January 1992  
ENGLISH  
ORIGINAL: ARABIC

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LETTER DATED 18 JANUARY 1992 FROM THE PERMANENT REPRESENTATIVE  
OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED  
TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit to you herewith the text of a letter from the Secretary of the People's Committee for Foreign Liaison and International Cooperation addressed to His Excellency Mr. James A. Baker III, Secretary of State of the United States of America, and His Excellency Mr. Douglas Hurd, Minister for Foreign Affairs of the United Kingdom of Great Britain and Northern Ireland, through the embassies of Belgium and Italy, which are entrusted with the interests of the two countries in the Jamahiriya.

In the letter, the Jamahiriya calls for the implementation of article 14 of the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Ali Ahmed ELHOUDEIRI  
Permanent Representative

Annex

I refer to the disintegration of Pan Am flight 103 over the village of Lockerbie in southern Scotland on 21 December 1988. After two years of investigation, the United States of America and the United Kingdom began to make random accusations against individuals, organizations and States and, when nearly three years had elapsed, the same countries directed the self-same charges against two Libyan nationals on the basis of the same investigation.

The United States of America, the United Kingdom and Libya are States parties to the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. Accordingly, out of respect for the principle of the ascendancy of the rule of law and in implementation of the Libyan Code of Criminal Procedure promulgated in 1953, which fixes the jurisdiction of Libyan national law, as soon as the charges were made, Libya immediately exercised its jurisdiction over the two alleged offenders in accordance with its obligation under article 5, paragraph 2, of the Montreal Convention by adopting certain measures to ascertain their presence and taking immediate steps to institute a preliminary inquiry. It notified the States mentioned in article 5, paragraph 1, of the Convention that the suspects were in custody.

It is incontestable that the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation does not exclude any criminal jurisdiction exercised in accordance with national law (in the present case Libyan law), as stated in article 5, paragraph 3. As a State party to the Convention and in accordance with paragraph 2 of the same article, we took such measures as might be necessary to establish our jurisdiction over any of the offences mentioned in article 1, paragraph 1 (a), (b) and (c) and article 1, paragraph 2, because the alleged offender in the case was present in our territory.

Moreover, article 7 of the Convention stipulates that the Contracting Party in the territory of which the alleged offender is found shall, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution and that those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

The case was, indeed, submitted to the judicial authorities, and an examining magistrate was appointed (a Counsellor of the Supreme Court). He instituted judicial procedures to ascertain the presence of the two suspects, initiated a preliminary inquiry and issued an order for the two suspects to be taken into custody, on a tentative basis. The States mentioned in article 5, paragraph 1, of the Convention were notified accordingly and were requested to cooperate with the Libyan judicial authorities. The Libyan judicial authorities appointed to conduct the inquiry made the same request in official communications addressed to the following:

The Attorney General of the United States of America;

/...

The Foreman of the Grand Jury in the District of Columbia, United States of America;

The French examining magistrate.

As of the present moment, however, there has been no response to any of these requests.

In taking these measures, Libya has given practical expression to its deep sorrow at the tragic and criminal destruction of the aircraft, and it has on more than one occasion expressed its respect for the principle of the ascendancy of the rule of law.

After calling on the other parties concerned to cooperate, and while expecting the cooperation requested to be fully forthcoming, Libya has received from the United States of America and the United Kingdom not only the outright refusal of such cooperation but even the threat of the use of force and an aggregate reaction that has made any negotiated settlement impossible.

It is to be noted that article 14, paragraph 1, of the Convention stipulates that any dispute between two or more contracting States which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration.

Article 33, paragraph 1, of Chapter VI of the United Nations Charter, entitled "Pacific settlement of disputes", stipulates that the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall seek a solution by negotiation, enquiry, mediation, conciliation, arbitration or judicial settlement.

Libya urges the United States of America and the United Kingdom to be governed by the voice of reason and law, to give their prompt agreement to arbitration in accordance with article 14, paragraph 1, of the Convention and to sit down with us as soon as possible in order to elaborate details in order to assist in the preparation of the dispute for arbitration.

Libya affirms its unqualified condemnation of terrorism in all its forms, it censures any participation in a crime of this type, and it specifically denies any association with, knowledge of or consent to the acts which led to the crash of the Pan Am aircraft.

Libya will be happy to exert the utmost efforts for the elimination of all forms of terrorism. I hope that the proposals we have made will meet with your agreement.

Ibrahim M. BISHARI  
Secretary of the People's Committee  
for Foreign Liaison and  
International Cooperation

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# Annex 10



Security Council

PROVISIONAL

S/PV.3033

21 January 1992

ENGLISH

PROVISIONAL VERBATIM RECORD OF THE THREE THOUSAND AND  
THIRTY-THIRD MEETING

Held at Headquarters, New York,  
on Tuesday, 21 January 1992, at 11.30 a.m.

President: Sir David HANNAY

(United Kingdom of Great  
Britain and Northern  
Ireland)

Members: Austria  
Belgium  
Cape Verde  
China  
Ecuador  
France  
Hungary  
India  
Japan  
Morocco  
Russian Federation  
United States of America  
Venezuela  
Zimbabwe

Mr. HOHENFELLNER  
Mr. NOTERDAEME  
Mr. JESUS  
Mr. LI Daoyu  
Mr. POSSO SERRANO  
Mr. ROCHEREAU DE LA SABLIERE  
Mr. ERDOS  
Mr. GHAREKHAN  
Mr. HATANO  
Mr. SNOUSSI  
Mr. VORONTSOV  
Mr. PICKERING  
Mr. ARRIA  
Mr. MUMBENGEGWI

This record contains the original text of speeches delivered in English and interpretations of speeches in the other languages. The final text will be printed in the Official Records of the Security Council.

Corrections should be submitted to original speeches only. They should be sent under the signature of a member of the delegation concerned, within one week, to the Chief, Official Records Editing Section, Department of Conference Services, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.



The meeting was called to order at 11.45 a.m.

ADOPTION OF THE AGENDA

The agenda was adopted.

LETTERS DATED 20 AND 23 DECEMBER 1991 (S/23306, S/23307, S/23308, S/23309, S/23317)

The PRESIDENT: I should like to inform the Council that I have received letters from the representatives of Canada, Congo, Iraq, Italy, the Libyan Arab Jamahiriya, Mauritania, Sudan and Yemen in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Belgasem El-Tahli (Libyan Arab Jamahiriya) took a place at the Council table; Mr. Kirsch (Canada), Mr. Adouki (Congo), Mr. Kadrat (Iraq), Mr. Traxler (Italy), Mr. Ould Mohamed Mahmoud (Mauritania), Mr. Hassan (Sudan) and Mr. Basalamah (Yemen) took the places reserved for them at the side of the Council Chamber.

The PRESIDENT: I should like to inform the Council that I have received a letter dated 20 January 1992 from the Permanent Representative of Morocco to the United Nations, which reads as follows:

"I have the honour to request that the Security Council extend an invitation to His Excellency Mr. Adnan Omran, Under-Secretary-General of the League of Arab States, to address the Council under rule 39 of its provisional rules of procedure during the Council's discussion of the item presently on its agenda."

JP/ASW

S/PV.3033

3

(The President)

That letter has been published as a document of the Security Council under the symbol S/23442. If I hear no objection, I shall take it that the Council agrees to extend an invitation under rule 39 to Mr. Omran.

There being no objection, it is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have the following documents before them:

S/23306, letter dated 20 December 1991 from the Permanent Representative of France to the United Nations addressed to the Secretary-General;

S/23307, letter dated 20 December 1991 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General;

S/23308, letter dated 20 December 1991 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General;

S/23309, letter dated 20 December 1991 from the Permanent Representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General; and

S/23317, letter dated 23 December 1991 from the Acting Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General.

Members of the Council also have before them document S/23422, which contains the text of a draft resolution submitted by France, the United Kingdom of Great Britain and Northern Ireland and the United States of

(The President)

America. I should like to draw attention to documents S/23416 and S/23417, letters dated 20 and 29 November 1991, respectively, from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General, and S/23436 and S/23441, letters dated 17 and 18 January 1992, respectively, from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council.

The first speaker is Mr. Jadalla A. Belgasem El-Talhi, the Minister for Strategic Industries of the Libyan Arab Jamahiriya. I welcome him and invite him to make his statement.

Mr. BELGASEM EL-TALHI (Libyan Arab Jamahiriya) (interpretation from Arabic): At the outset, Sir, allow me on behalf of my delegation to congratulate you on your assumption of the presidency of the Security Council for the current month. Your task demands extraordinary wisdom and patience and a deep sense of justice. It is our earnest hope that your vast experience will help inspire you and the Council with the principles of justice, truth and respect for law.

We also pay tribute to your predecessor who presided over the Council last month.

I am very pleased also to take this opportunity to express our sincere congratulations to Mr. Boutros Ghali, who has just taken office as Secretary-General of the United Nations. Mr. Boutros Ghali is renowned for his competence and experience, but we take special pride in his assuming that important post since he belongs to a nation that we are proud to belong to, and to a continent of which we are a member and which we cherish.

(Mr. Belgasem El-Talhi,  
Libyan Arab Jamahiriya)

I should also like to take this opportunity to pay tribute to the former Secretary-General, Mr. Javier Perez de Cuellar, for the contribution he made to international peace and security and to the promotion of world economic and social development.

I congratulate the countries that became members of the Council at the beginning of this year and I pay tribute to the countries whose membership in the Council expired at the end of last year.

My country welcomes the convening of the Security Council, in spite of the facts that I shall explain later in my statement. We hope that this meeting of the Council will contribute to dissipating the smokescreen that has engulfed the issue before it. Some have tried to use it to block and indeed distort my country's real position. My country welcomes the meeting of the Council; we might have ventured to ask for a meeting after the direct threat by high-level official circles in the Governments of the United Kingdom and the United States of America to use force against my country.

(Mr. Belqasem El-Talhi, Libyan Arab Jamahiriya)

Since the 1988 explosion of the Pan Am aircraft and the 1989 explosion of the UTA aircraft, the world has heard many stories. At various times accusations were leveled against States, groups or both; at different times, different groups were accused, with given groups being declared innocent after having been accused.

Approximately four years after the horrible Lockerbie accident, United Kingdom and United States investigators suddenly came up with two different indictments. The Scottish application accuses two individuals, while the United States indictment names two individuals and implicates a State and one of its Government services.

Although the announcement by the Lord Advocate of Scotland and the indictment by the United States grand jury are ostensibly based on an arduous four-year investigation, no supporting evidence or proof has been made available. All the world's penal codes require that to be valid an indictment must be supported by evidence and proof. An indictment without that supporting evidence or proof can mean only two things. First, the United States and United Kingdom indictments are intended as final, unequivocal judgements on which there is to be no further discussion: the two Libyan nationals were declared guilty when the indictments were issued. That would mean a new rule of law running counter to the established principle: the accused are now to be considered guilty until proved innocent.

Alternatively, the evidence and proof behind those indictments are not serious, and the accusations are based on guesswork and groundless actions. They are based, inter alia, on the allegation that an unaccompanied suitcase was carried on Air Malta flight KM-180 to Frankfurt on 21 December 1988. The

(Mr. Belgasem El-Talhi, Libyan Arab Jamahiriya)

indictments further allege that the suitcase contained the tool of the crime that caused the crash of the aircraft. That allegation is completely baseless and the assertion invalid. Maltese authorities carried out the necessary investigation, which concluded that no unaccompanied suitcase was on board that flight on that date. That was the determination of Air Malta, which is the most relevant party to the alleged incident. Moreover, the Minister for Foreign Affairs and Justice of Malta, a former President of the General Assembly, confirmed that finding in a statement before the Parliament of the Republic of Malta.

In a joint communiqué by the Prime Minister of the Republic of Malta and the Secretary of the General People's Committee, issued on 17 December 1991, the Maltese side affirmed that

"the findings of the investigations proved that no unaccompanied suitcase remained aboard Air Malta flight KM-180 to Frankfurt on 21 December 1988".

Thus, the arguments are groundless and cannot support such grave accusations. They are based on false premises and assumptions and are therefore false, because that which is based on false arguments is itself false. Anything else would violate the basic judicial norms and guarantees that all countries, including the United States, the United Kingdom and France, are eager to ensure in their own constitutions.

What was the reaction of my country to the two indictments? And I stress that they were not judicial judgements: they were mere indictments, accompanied not by any investigative documentation but by hostile official statements, some of them going so far as to threaten military and economic aggression. Indeed, the United States actually intensified its economic

(Mr. Belqasem El-Talhi, Libyan Arab Jamahiriya)

boycott by taking action inconsistent with the international monetary system and violating all established laws and regulations. Despite all that, my country treated the matter seriously and showed due respect for the judicial authorities in the two countries. Libya's competent judicial authorities took the following steps:

First, they appointed two investigating magistrates.

Secondly, those magistrates initiated an investigation in accordance with the Libyan law of criminal proceedings of 1953, because the matter relates to accusations that two Libyans committed acts that are viewed as crimes under the Libyan penal code and that are also punishable under the law of the country in which the incident occurred.

Thirdly, the Libyan investigators contacted the investigating authorities in Scotland, the United States of America and France, requesting investigation files and evidence so that they could fulfil their mandate. The Libyan investigators expressed their willingness to travel to those countries to acquaint themselves with the investigations and review the evidence. They offered to cooperate with the investigators in those three countries.

But the Libyan investigators have been unable thus far to make any significant progress, owing to the refusal by the United Kingdom, the United States and France to hand over the files of the investigations or submit the evidence in their possession.

(Mr. Belgasem El-Talhi, Libyan Arab Jamahiriya)

Everyone knows that there can be no accusation without an investigation and no judgement without a fair trial. These principles are respected in all legislation, including the constitutions of the United States, the United Kingdom and France.

Fourth, the competent authorities in my country expressed their readiness to receive investigators to participate in the investigation. They welcomed lawyers of those claiming civil liability as well as representatives of human rights organizations.

Fifth, despite the considerations supporting Libyan national jurisdiction, the competent authorities in my country believed that the international dimensions of the alleged events might make an international investigation an appropriate means of starting to resolve the dispute. Up to this very time, the existing dispute has nothing at all to do with the rule of law, to which all declare they are committed. Rather, the dispute is related to multifaceted occurrences involving more than one State. The competent authorities in my country would even have welcomed a neutral investigating committee or reference of the question to the International Court of Justice.

Those were the actions taken and the positions held by my country.

The Jamahiriya handled this matter, which is of a legal nature, in accordance with its valid legislation and with established international law and norms.

Now, how did the other parties react to this position, which we firmly believe is a legal and just position? Not only did they reject it, but, moreover, the United Kingdom and the United States requested the extradition of the two Libyan nationals in order that they could be tried in their courts



(Mr. Belgasem El-Talhi, Libyan Arab Jamahiriya)

before the completion of the investigation or even before they had been confronted with the actual accusations against them. Does this request not seem strange under established international norms, especially when it comes from States like the United Kingdom, with a long history of justice, and the United States of America, which has placed the sovereignty of law and the protection of human rights at the forefront of its ideals? Both these States are members of the Security Council.

My country has not dealt with this issue out of illegal motives or incentives or in response to any political decision by the General People's Committees. The problem has nothing to do with the Libyan State, but it does involve Libyan nationals. Only the judiciary has the authority to verify the problem, in accordance with the established principles concerning investigations and accusations, and other fundamental principles. The judiciary is independent and nothing except domestic and international law can have any control over it, especially when it is dealing with a purely legal question.

All that having been said, can anyone claim that my country has not cooperated? My country has cooperated and we are still ready to cooperate to the fullest extent, within the context of absolute respect for international agreements, established norms, prevailing legal systems, and human rights.

In our view, the entire issue is absolutely clear. What does this review of the matter demonstrate? It is obvious that if there is an issue before the Council which it has to deal with, it is a legal issue; it is a question concerning a conflict of jurisdiction, a dispute over the legal determination to be made in connection with a request for extradition.

(Mr. Belgasem El-Talhi, Libyan  
Arab Jamahiriya)

In regard to the first question, the answer is obvious. If there is a conflict of jurisdiction, it is of a legal nature and international law and the relevant international conventions set out the concrete ways and means to solve it. The 1971 Convention for the suppression of unlawful acts against the safety of civil aviation - known as the Montreal Convention - stipulates in its article 14 that

"Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

Does that text not set forth practical procedures and controls for ensuring the peaceful settlement of the dispute?

As for the dispute in connection with extradition, the situation is obvious. There are countless precedents in this regard, including precedents pertaining to the United States of America and France.

What is before us is a legal issue. The horrible realities underlying the issue should not make us forget this fact. The legal nature of the issue cannot be questioned, especially as it relates to major super-Powers that are permanent members of the Security Council and that are aware, even more than other countries, that the Security Council should bear in mind that, in making recommendations in this respect, it should also take into consideration that, under Article 36, paragraph 3, of the Charter

(Mr. Belgasem El-Talhi, Libyan  
Arab Jamahiriya)

"legal disputes should as a general rule be referred to the International Court of Justice in accordance with the provisions of the Statute of the Court."

There can be no doubt that this is a purely legal question. Neither can there be any doubt that therefore the Security Council is a forum that is not competent to consider the question.

It is clear what the Security Council is competent to consider - namely, a dispute of a political nature in which the parties to it have not followed any of the means for peaceful settlement of disputes set out in Article 33 of the Charter. In such a case, the Council may call upon the parties to settle their dispute by such peaceful means. My country has frequently declared its readiness to negotiate and accept mediation and other peaceful means to settle the dispute. The Security Council should at least call upon the other parties to respond favourably to that expression of readiness.

Libya is a small, developing country with limited resources. Our aim is to develop and improve the standard of living of our nationals. Libya believes that this cannot be done except through the supremacy of international legality, the establishment of peace, the consolidation of justice and the deepening of effective international cooperation. Therefore, we in Libya are very sincerely committed to legality and the rule of law.

(Mr. Belqasem El-Talhi,  
Libyan Arab Jamahiriya)

I hope that this will not shake our faith in our conception of the new international order, in which we envisage an essential role for the Security Council based on the principles of the United Nations Charter.

For the Council to ignore the legal nature of the issue before it by adopting the draft resolution would have a far-reaching and profound negative impact on the conscience of all nations of the world. How could this forum accept a draft resolution based on incomplete investigatory conclusions? Under all national constitutions, the conclusions of an investigation are not final until confirmed in judicial judgements. Under what legality can an individual - even if he holds official office - be accused of committing an act that would automatically imply the collusion of that State?

We are all aware that a main issue in criminal law under all legal systems is the verification of the responsibility of the individual, per se. That responsibility is especially important to determine before concluding that the State is responsible for him, even if he is one of its officials.

How can the Council condemn Libya for its failure to respond after Libya has taken so many measures? Libya's position has been endorsed by many organizations, as evidenced by the resolutions of the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and other international organizations, including some legal organizations. Indeed, my country has taken all possible measures, including those mentioned in the statement of the President of the Security Council on 30 December 1988, in which he called on all States to assist in the apprehension and prosecution of those responsible for that criminal act.

How can this forum adopt a resolution urging Libya to respond fully and effectively to illegal requests and asking other countries to urge Libya to do

(Mr. Belqasem El-Talhi,  
Libyan Arab Jamahiriya)

so, as stipulated in the operative paragraphs of the draft resolution before us? I remind the Council that three States have asked Libya, inter alia, to disclose all the information on the crime in its possession, including the names of all involved, and to allow communication with witnesses and access to other documents and physical evidence, including the timers. What does this request mean? It can only mean a priori that the investigation is not yet complete, since the investigators lack witnesses and need the names of those involved and physical evidence. The foregone conclusion is that the accusation lacks witnesses and physical evidence. That was the main reason underlying the refusal of the United Kingdom and the United States to transmit the investigation file to the Libyan and other judiciaries.

What kind of accusation is it which is still seeking physical evidence, witnesses and information allegedly to be found in the possession of another country? One claim for compensation went to the extreme of bypassing the investigation stage, requests for extradition and the entire trial stage. The situation as put forward by these three countries presupposes the following: that the investigation is complete, which is untrue, since the three countries are still asking for information, physical evidence and the testimony of witnesses; that the extradition is taken for granted, which is contrary to existing laws; that the trial is over and the two Libyan nationals were convicted fairly and justly; that a final, unequivocal determination has been reached to the effect that the Libyan State is responsible for the defendants' actions; and that, as a result of the final and unequivocal criminal judgement, a civil determination has been rendered to oblige the Libyan State to pay compensation and that the Security Council is required to implement that judgement.

(Mr. Belqasem El-Talhi,  
Libyan Arab Jamahiriya)

Has any of these assumptions been fulfilled? In my opinion, they all contradict the established principles and norms not only of my country but also of the constitutions of all countries of the world, including that of the United States of America. They are basic principles and practices in investigation, accusation, indictment and trial. No accusation can be made before a fair investigation has taken place and sufficient evidence gathered. A person is innately innocent, an accused is innocent until proved guilty and no conviction or punishment can be imposed before a fair trial.

To sum up my country's position, we condemn terrorism in all its forms, including State-sponsored terrorism. Libya has confirmed and today reconfirms its determination to take every action and make every effort to put an end to this dangerous phenomenon. We are willing to commit ourselves to combating this plague by any measures approved by the international community.

Our country is small and therefore has a vested and genuine interest in stemming the tide of terrorism, including State-sponsored terrorism. My country also profoundly believes that the protection of civil aviation should be given the special attention and effective cooperation of all countries of the world.

(Mr. Belgasem El-Talhi, Libyan Arab Jamahiriya)

My country, which, as you are aware, has been a victim of criminal acts directed against the safety of civil aviation, strongly condemned and condemns the destruction of the two Pan Am and UTA airliners. We expressed - and today we express once again - our sympathy with the families of the victims. My country is committed to disclosing the complete facts surrounding those criminal acts.

Secondly, the accusations directed against the Libyan Arab Jamahiriya with regard to the destruction of the United States and French airliners have to do with legal disputes. The measures taken in the countries concerned have tended to take the form of purported investigatory proceedings which led to the filing of accusations. Today, there can be no argument in favour of moving the dispute from the legal sphere to the political sphere by referring it to the Security Council. Indeed, the Security Council has no competence to consider legal disputes. The Charter contains explicit provisions on the methods for handling such disputes through arbitration and due legal process.

Thirdly, since receiving the indictment papers, my country has restated its commitment to exercising its jurisdiction, pursuant not only to domestic legislation but to relevant international conventions as well. In this connection two judges have been assigned to investigate the matter, and they have already begun to exercise their functions. In addition, my country has expressed its willingness to cooperate with the judicial authorities in the countries concerned. By so doing, we are motivated solely by the wish to uncover all the facts and to fix responsibility. My country has agreed to the participation of all interested parties in the investigatory proceedings, which should be carried out within the framework of full cooperation with the investigating authorities in the countries concerned.

(Mr. Belgasem El-Talhi, Libyan Arab Jamahiriya)

Libya has requested those authorities to provide it with all the evidence and documents in their possession that could assist in the progress of its investigation, but Libya's initiative has met with no positive response.

After all it has done and advocated, can Libya conceivably be accused of a lack of cooperation? Libya has pursued the course dictated by its existing legislation and consistent with the provisions of international law. Investigatory proceedings were initiated and the two accused will be brought to trial to examine the evidence against them. If they are convicted, they will be punished according to the provisions of Libyan law, which are tougher than those in most other modern criminal legal systems.

The competent legal authorities themselves will continue to implement those processes stipulated by law. It is unthinkable that the independence, impartiality and integrity of the Libyan judiciary should be questioned on any pretext or on the basis of any political motivation. Any initiative, at any level, must be taken through and in cooperation with the competent Libyan legal authorities, as we have demanded.

I repeat that the investigation in Libya has unfortunately not yet made any progress owing to the lack of cooperation on the part of other parties and their refusal to transmit the dossiers of their investigations. In practical terms, this can only mean either that no investigation was actually conducted or that, as we have noted, the investigation was grossly deficient.

I should like to state once again that this dispute is of a purely legal nature, which should lead the Council to recommend its settlement through the diverse legal channels that are available, not only within the framework of the United Nations Charter but also under the provisions of more relevant international conventions, such as the aforementioned Montreal Convention of



(Mr. Belqasem El-Talhi, Libyan Arab Jamahiriya)

1971. On the basis of that Convention, particularly its article 14, and to solve the question raised about a conflict of competence, my country has taken concrete and practical measures and, in official communications addressed to both the United States of America and the United Kingdom, has requested that the dispute be referred to arbitration. Today, before the Council, my country requests that both those countries be invited to enter promptly into negotiations with Libya on proceedings leading to arbitration and an arbitration panel. To ensure the speedy settlement of the dispute, we consider that a short and fixed deadline be set for those proceedings, after which, if no agreement is reached on arbitration, the matter would be brought before the International Court of Justice.

My country expresses its willingness to conclude immediately, with any of the parties concerned, an ad hoc agreement to have recourse to the International Court of Justice as soon as the short deadline for reaching agreement on arbitration expires, or at any other convenient and near date should the countries concerned agree to go beyond the arbitration stage and the proceedings of an arbitration panel.

In that light, how can this dispute be considered a political one? We do not believe that it is, for Chapter VI of the Charter also sets forth concrete methods of reaching a peaceful settlement. The Council has been guided by those methods in earlier instances. The matter should not be handled in the light of any considerations other than those set forth in the Charter. Libya has never threatened any country. It cannot behave in such a way as to endanger peace and security. Indeed, Libya is being threatened by super-Powers, just as armed aggression was unleashed against it in 1986. Libya

(Mr. Belgasem El-Talhi, Libyan Arab Jamahiriya)

is still being subjected to an economic boycott, disinformation campaigns and psychological pressure.

In conclusion, the legality of the Council's work is subject to its observance of the provisions of the Charter of the Organization and to its proper implementation of those provisions. It is inconceivable that this could be achieved through the participation of the parties to this dispute in the voting on the present draft resolution. To disregard the legal nature of the dispute and treat it as a political matter would constitute a flagrant violation of the explicit provisions of Article 27, paragraph 3, of the Charter.

The Council has two choices: it can respect the Charter and follow moral principles and international law, or it can respond to this unjust request by the United States of America and the United Kingdom, which want to use the Council as a cover for military and economic aggression against a small country that is striving to free itself from economic backwardness. We are fully confident that the members of the Council - indeed, all Members of the United Nations - will uphold the principles enshrined in the Charter and international law and respect the principles of justice and equity that my country is asking to be applied and abided by.

The PRESIDENT: I thank the Minister for Strategic Industries of the Libyan Arab Jamahiriya for his compliments addressed to me.

The next speaker inscribed on my list is His Excellency Mr. Adnan Omran, Under-Secretary-General of the League of Arab States, to whom the Council has extended an invitation under rule 39 of its provisional rules of procedure. I invite him to take a place at the Council and to make his statement.

Mr. OMRAN (interpretation from Arabic): I should like to congratulate you, Sir, on your assumption of the responsibilities of the presidency of the Security Council for this month. I wish you success in your task. I take this opportunity to congratulate Mr. Boutros Boutros Ghali on his having been entrusted with the great responsibility of Secretary-General of the United Nations. I also congratulate the new members of the Council.

I should like at the outset to express to you and, through you, to the other members of the Security Council our deep appreciation for having given me this opportunity to speak on behalf of the League of Arab States on the important issue under consideration.

The League of Arab States, and its Secretary-General, Mr. Ahmad Esmat Abdel Meguid, have been following with keen interest developments with regard to the situation involving charges and threats directed against the Libyan Arab Jamahiriya concerning the regrettable incident of the downing of the Pan Am airliner in 1988.

During the past month the League of Arab States made every possible effort, through the contacts made by its Secretary-General with all the parties concerned, in order to reach a peaceful solution in consonance with the provisions of the legal instruments we should all respect and observe in such crises.

(Mr. Omran)

The secretariat of the League of Arab States called upon all parties to exercise self-restraint and to refrain from taking any precipitate action that might increase tension in the Middle East at this historical juncture, in which all international and Arab efforts are being concerted, particularly those of the United States of America, in order to reach a just, durable and comprehensive peace in the region.

Allow me very briefly to put on record the position of the League of Arab States and its member States by way of the following points:

First, the League of Arab States and all its member States attach special importance to this issue in all its aspects. Consequently, the League of Arab States condemns terrorism in all its forms and calls for activation of international efforts previously discussed by the General Assembly in order to deal with the question of international terrorism and its consequences, as well as the responsibilities for the kinds of terrorism, either that of the perpetrator's or that of the international community's, the latter bearing special responsibilities in this respect. The League of Arab States reiterates its numerous decisions adopted at the highest level, including at the summit level, condemning terrorism and calling for an international settlement of this serious issue.

Secondly, the League of Arab States with all its member States completely sympathizes with the families of the victims of the two aircraft, and sympathizes also with all the innocent victims of incidents of terrorism.

Thirdly, based on its interest in an objective and honest settlement of this question, the League of Arab States requests that all measures taken either within the framework of the United Nations or outside it should be based on the provisions of international law and the provisions of the Charter

(Mr. Omran)

of the United Nations. This is because, in the face of crises, the international community needs more objectivity, more adherence to legitimacy and more refraining from emotional reactions which might lead to the gravest consequences that are rejected by the international community. Based on the belief of the League of Arab States and the importance and seriousness of this issue and the need to find a solution to it in order to eliminate tension and reach constructive results which might promote international efforts aimed at putting a definitive end to international terrorism in all its forms, the Council of the League of Arab States held two emergency meetings, on 5 December 1991 and 16 January 1992, and adopted two resolutions in which it stressed the principles and means on which the Council of the League of Arab States believes that respect for the constructive objectives of the United Nations and all its Member States may be ensured.

The two resolutions can be summed up by the following two points: first, condemnation of terrorism in all its forms and of the incident of the downing of the American aircraft and full sympathy with the families of the victims; and, second, support for the position of the Libyan Arab Jamahiriya, which denied any responsibility for the incident and condemned terrorism in all its forms and expressed its full and total willingness to find a solution of the question in accordance with Article 33 of the United Nations Charter and to place this question before a neutral international commission of inquiry, which, thanks to its composition, might undertake an objective, neutral and comprehensive investigation of all files and all suspects and reveal all facts.

Based on this willingness, the League of Arab States proposed, in its resolution which has been distributed as an official document of the Security Council under the symbol S/23274 on 9 December 1991,

(Mr. Omran)

"... the establishment of a joint commission of the United Nations and the League of Arab States to study all documentation relating to the matter, in accordance with the existing cooperation between the two organizations, with the possible participation of other parties as observers". (S/23274, annex)

In the light of these investigations, suitable measures could be taken.

With all sincerity, we call upon the States members of this Council, particularly the three countries that called for the convening of this meeting, to keep in mind that every action that might be taken or requested will constitute an international precedent.

(Mr. Omran)

They should also remember the danger of taking action that might be considered a violation of the provisions of international law. Such action would not reassure the international community and its States. Nor would it give a good impression of the new international order which all our countries look forward to establishing on the basis of respect for the international principles and values embodied in the Charter of the United Nations.

We believe it illogical for the investigators, the judges, the jury and those who mete out punishment to be one and the same; it would contravene the most basic rules of law. Thus, we re-emphasize how important it is for the investigation to be conducted by a neutral, objective body. On this basis, we hope that the Council will entrust the Secretary-General with the task of exercising his good offices with all the parties concerned and that we will be able to reach a peaceful settlement of the question in conformity with Article 33 of the Charter. We are confident that such an action would spare the Middle East region complications that would have unprecedented and dire consequences. I believe we can all agree that the last thing the Middle East needs is more tension.

The PRESIDENT: I thank Mr. Omran for his kind words addressed to me.

The next speaker is the representative of the Sudan. I invite him to take a place at the Council table and to make his statement.

Mr. HASSAN (Sudan) (interpretation from Arabic): At the outset, Sir, allow me to express to you our sincere congratulations upon your assumption of the presidency of the Security Council for this month. I should also like to express our gratitude to your predecessor for the able and excellent manner in which he conducted the business of the Council last month.

(Mr. Hassan, Sudan)

Nor can I fail to express our happiness and sincere congratulations to Mr. Boutros Boutros Ghali, Secretary-General of the Organization, upon his well-deserved election to that high post.

We also extend our congratulations to the new members of the Council. We wish them all success in their endeavours for the maintenance of international peace and security. We express our appreciation as well to the outgoing members of the Council, who discharged their tasks fully in a turbulent stage of the history of our international Organization.

My delegation would like to express its extreme puzzlement at the train of events surrounding the accusations levelled by the United States of America, the United Kingdom and France at the Libyan Arab Jamahiriya concerning its alleged involvement in the destruction of the two UTA and Pan Am airliners, which have caused the question to be placed before the Council.

It is not clear to my delegation on what logical or legal basis the Security Council proceeded to deal with this subject and to formulate a draft resolution thereon without sufficient legal reasons. The whole matter is still under consideration and investigation. The allegations have not been proved beyond doubt. Therefore, placing the subject before the Security Council during this stage of the investigation runs counter to the principles of justice, and even common sense. It influences the ongoing investigations, which must be completely impartial and devoid of motivations of vengefulness and revenge.

The investigations which have taken place thus far - despite the great efforts that have been made - have been carried out by only one party. The Libyan Arab Jamahiriya has been given no opportunity to express its point of



(Mr. Hassan, Sudan)

view, or to take part in those investigations. Since the investigations have been carried out by one party alone, and by the competent authorities of countries which are parties to the question, they are not impartial. Hence, it is necessary to establish the appropriate atmosphere and the appropriate neutral, impartial venue to consider and decide upon the degree of involvement, if any, of the Libyan Arab Jamahiriya in these regrettable accidents, and to decide whether or not to extradite those accused.

We live in the new world order. This is the United Nations Decade of International Law. We live under the Charter of the international Organization and support its endeavours for the peaceful settlement of disputes.

The Security Council is considering what, to our country, are nothing but allegations without legal supporting evidence. It is our hope, therefore, that the Security Council will take into account all these factors and that it will give an opportunity for the rule of law, logic and common sense to be applied in dealing with such questions, that is to say through recourse to international legal institutions.

The Libyan Arab Jamahiriya has expressed its readiness to arrive at a legal solution to this crisis. Libya has reaffirmed its condemnation of terrorism in all its forms and shapes. It has agreed that the matter be subject to an impartial and neutral international investigation, or that it come before the International Court of Justice, the main judicial instrument of the United Nations for settling such disputes. We feel that the understanding and cooperation evinced by Libya must be matched by the other parties. Libya has appointed two judges to investigate the matter with the accused. In order to complement the efforts of the Libyan side, the three

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(Mr. Hassan, Sudan)

States concerned should provide the two Libyan judges with a copy of the investigation reports which have been requested, in addition, of course, to the supporting evidence of the indictment.

(Mr. Hassan, Sudan)

Our call for arbitration and for patience on this subject stems from our deep belief in the need to maintain international peace and security. That was the basis of Libya's readiness to cooperate with all the parties to the current dispute in order to resolve it peacefully. That is explicitly called for in Chapter VI of the United Nations Charter, in Article 33.

My delegation is gravely concerned about the use of the term "terrorism" in today's world. The way in which the term is used and the fact that some are being branded as terrorists without legal evidence or logical explanation have in themselves become a form of terrorism. Instead of being the forum for the settlement of disputes between Member States or for the maintenance of international peace and security, the Security Council has become a forum for the imposition of the will and interests of the strong on the weak.

The draft resolution before the Council constitutes an escalation of the confrontation between the Libyan Arab Jamahiriya and the States concerned. It does not relieve tension. It does not give room for the Secretary-General to intervene to avoid the dangers of the expected confrontation after its adoption.

My delegation pays tribute to the Under-Secretary-General for Political Affairs of the League of Arab States for his statement, and it pays tribute to the position of the League of Arab States as expressed in its resolution 5158 on this subject, adopted by its Council on 16 January this year. My delegation hopes that the members of the Council will respond favourably to that position in the discharge of their responsibility for the maintenance of international peace and security.

My delegation deeply regrets the accidents that have taken a toll of innocent lives, and expresses its condolences and sympathy to the bereaved

(Mr. Hassan, Sudan)

families. We also strongly condemn terrorism in all shapes and forms. My delegation supports the call by the Libyan Arab Jamahiriya for the convening of a special session of the General Assembly to consider and define international terrorism and ways in which to eradicate it.

The PRESIDENT: I thank the representative of Sudan for the kind words he addressed to me.

The next speaker is the representative of Iraq. I invite him to take a place at the Council table and to make his statement.

Mr. KADRAT (Iraq) (interpretation from Arabic): At the outset allow me, Sir, to congratulate you on your assumption of the presidency of the Security Council for the current month. I also take this opportunity to pay tribute to your predecessor, Ambassador Vorontsov, of the Russian Federation, for the skilful way in which he presided over the Council last month.

I should also like to congratulate Mr. Boutros Boutros Ghali on the assumption of his important post of Secretary-General of the United Nations during the current difficult international period, and I congratulate the new members of the Council.

The Libyan Arab Jamahiriya has repeatedly declared that it condemns terrorism and that it will not allow its territory or its nationals to be used for the commission of acts of terrorism, and that indeed Libya itself has been a victim of terrorism.

Following the receipt of indictments against two Libyan nationals, indictments which are not based on any legal proof or evidence, the Jamahiriya officially declared, through high-ranking officials and the mass media, and by every other available means, that it would address the issue with the utmost care and seriousness, in compliance with international law, including sovereign rights and the need to ensure justice for the accused and the

(Mr. Kadrat, Iraq)

victims. Libya announced that it would welcome the setting up of a commission of Arab and international jurists to pursue the investigation and trial. It also expressed its willingness to cooperate with any impartial international judicial authority. However, unfortunately, Libya received from the United States and Britain nothing but a refusal to cooperate in reaching a peaceful settlement of the dispute by judicial means.

Chapter VI of the United Nations Charter, entitled "Pacific settlement of disputes", contains in paragraph 1 of Article 33 the following stipulation:

"The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement ...".

In that connection, I wish to cite two letters addressed by the Secretary of the People's Committee for Foreign Liaison and International Cooperation of the Libyan Arab Jamahiriya to the American Secretary of State and the British Foreign Secretary on the application of Article 14 of the 1971 Montreal Convention for the suppression of unlawful acts against the safety of civil aviation.

Furthermore, there is no precedent for such judicial disputes being brought before the Security Council. Here I wish to recall resolution 5156, adopted by the Council of the League of Arab States on 5 December 1991, which provided for an invitation to constitute a joint commission of the United Nations and the League of Arab States and called on the Secretary-General of the League of Arab States to maintain contacts with the United Nations so that the United Nations Secretary-General would make all possible efforts with the parties concerned to reach a peaceful settlement of the matter.

(Mr. Kadrat, Iraq)

We appeal to the international community and world public opinion to stand on the side of justice in order to uphold the principles of the United Nations Charter. We emphasize the need to resolve the dispute by negotiations, mediation and judicial machinery, with the cooperation of all the parties concerned, to establish all the relevant facts of the matter.

Iraq expresses its support for the right of the Libyan Arab Jamahiriya to defend its national territory, homeland and people in compliance with the principles of universal justice.

The PRESIDENT: I thank the representative of Iraq for his kind words addressed to me.

The next speaker is the representative of Congo. I invite him to take a place at the Council table and to make his statement.

Mr. ADOUKI (Congo) (interpretation from French): I am pleased to be participating in this meeting of the Security Council under the presidency of the Permanent Representative of the United Kingdom, a country with a long legal tradition highly respected by Congo. In the present circumstances, Mr. President, your talents will greatly assist the Security Council as it considers the serious question of international terrorism.

My delegation wishes also to pay a tribute to Ambassador Vorontsov for the manner in which he conducted the work of the Council in December 1991. We also congratulate the new members of the Security Council.

My delegation wishes to take this opportunity to assure the Secretary-General, Mr. Boutros Boutros Ghali, of our full cooperation at this difficult moment when he takes the helm of the United Nations Secretariat. We convey our best wishes to his predecessor, Mr. Javier Perez de Cuellar.

In the harsh reality of the turmoil of a mad world, it is hard for the international community to shut its eyes and remain passive, or selectively to make mere gestures towards calming the trembling and the horror. We are horrified that countries that have regained freedom are experiencing famine and distress. We are horrified also at the absurd wars among those who once were fellow-countrymen that had never known they were enemies. Africa has been stricken by this horror. In that sad connection I think particularly of the current situation in Somalia. Other continents too are the site of such tribal wars that unfortunately claim dozens of innocent civilian victims.

Today the Security Council is meeting to discuss another kind of horror: international terrorism. I wish to comment briefly on that subject - indeed to testify.

The last time I spoke on the question of terrorism was during a meeting of the Sixth Committee at the forty-sixth session of the General Assembly,

(Mr. Adouki, Congo)

which was discussing measures to prevent international terrorism. I said that because of its violence, the losses it causes and the anxiety it generates, that problem was one from which Congo, like other countries, had, many times in its history, suffered greatly. In September 1989, for example, the in-flight explosion of a UTA DC-10 civil flight from Brazzaville to Paris caused the death of, inter alia, 49 Congolese citizens. That dark event created a chronic sense of anxiety in my country. Unhealed wounds are engraved in the memories of many Congolese families, and throughout the country.

Current events amply demonstrate that terrorism is a major challenge to our shared modern history. It is to the advantage of Governments to unite their efforts to fight terrorism vigorously.

Congo has enacted a number of regulatory and legislative measures that buttress the once-weak foundation of our legal anti-terrorism arsenal. We have also made efforts in the framework of international cooperation; these have resulted in Congo's accession to various conventions. The international community knows how important and logical it was for Congo to support General Assembly resolution 44/29 of 4 December 1989, which unequivocally condemned all terrorist acts, methods and practices.

Today, as the Security Council focuses on the specific situation arising from the in-flight destruction of Pan Am flight 103 and UTA flight 772, Congo feels encouraged, because Libya, against which allegations have been made, has expressed its willingness to cooperate in determining the truth.

Congo has never vacillated in its struggle against terrorism or in its commitment to the principles upheld by the international community.



The PRESIDENT (interpretation from French): I thank the representative of Congo for the kind words he addressed to me.  
(spoke in English)

The next speaker is the representative of Italy. I invite him to take a place at the Council table and to make his statement.

Mr. TRAXLER (Italy): At the outset, Sir, allow me to express to you my sincerest congratulations on your assumption of the presidency of the Council for the month of January, as well as the appreciation of my delegation for the way in which your predecessor, Ambassador Vorontsov, conducted the business of the Council.

At the same time, I wish to express, on behalf of my Government, our sincerest congratulations to Mr. Boutros Boutros Ghali on his unanimous election to the post of Secretary-General, as well as our sincerest wishes for success in his most exacting and most demanding task.

I am here today to reaffirm the strong condemnation by the Italian Government of acts of international terrorism in any form, acts which endanger - at the worst destroy - innocent lives and affect relations between States. My country has lost many human lives through the onslaught of internal terrorism. We have conducted a very strong fight within our borders against terrorism. We are therefore very deeply concerned by any occurrence of activities of international terrorism, particularly those directed against the security of civil aviation.

(Mr. Traxler, Italy)

These acts of unlawful interference against the peaceful exercise of civil aviation are profoundly disruptive, not only for the States affected by those acts but also for the international community as a whole. In the opinion of my Government, they therefore require that common actions be taken by the international community in order to bring to justice those who are charged with these crimes.

For those reasons, my country has favoured the involvement of the United Nations in connection with the need to identify and to prosecute those responsible for the terrorist acts conducted against the Pan Am and UTA flights that are the subject of the Council's deliberations today.

In this context, the Italian Government wishes to express appreciation for the draft resolution that is about to be adopted by the Security Council. It fervently hopes that the Libyan authorities will promptly and effectively comply with the draft resolution's provisions.

At the same time, we wish to express our deep faith in the efficacy of the efforts of the Secretary-General in securing a full and effective response from the Libyan Government.

The PRESIDENT: I thank the representative of Italy for his kind words addressed to me.

The next speaker is the representative of Canada. I invite him to take a place at the Council table and to make his statement.

Mr. KIRSCH (Canada): May I first of all express to you, Sir, my delegation's congratulations on your assumption of the presidency of the Security Council for this month, as well as our appreciation for the excellent manner in which your predecessor, Ambassador Vorontsov, conducted the Council's business during the month of December.

(Mr. Kirsch, Canada)

I should like to take this opportunity also to express our congratulations to the Secretary-General, Mr. Boutros Boutros Ghali, on his election, and to extend to him the assurances of our full cooperation.

Finally, I should like to welcome those States that have just become members of the Security Council this month.

Canada is one of the countries which had nationals killed in the destruction of Pan Am flight 103 over Lockerbie, Scotland, on 21 December 1988, and in the bombing of UTA flight 772 over Niger on 19 September 1989. Canada is entirely committed to putting an end to all forms of international terrorism. The international community has been for too long the victim of the type of terrorism in which States have been involved directly or indirectly. Addressing this reprehensible activity in a United Nations forum is entirely consistent with the renewed spirit and effectiveness of this Organization. Canada believes that attacks against civilian targets are abhorrent threats to international peace and security, and they must be addressed by the international community as a whole.

Moreover, the concern of the Security Council in respect of matters of international terrorism is not new. In 1989 my delegation was pleased to be involved in the process that led to the adoption by the Security Council of resolution 635 (1989), which condemned all acts of unlawful interference against the security of civil aviation. The Council now has the opportunity to build upon its involvement and to make a constructive contribution to bringing such criminal acts to an end.

In bilateral contacts, Canada has already underlined the seriousness with which it regards this matter. We have urged Libya to cooperate fully with the British, French and United States Governments in respect of this matter. In

(Mr. Kirsch, Canada)

the absence of a satisfactory Libyan response to the various bilateral démarches made to it and, given the non-acceptance to date by Libya of its responsibilities in these two tragedies, the Government of Canada considers that the draft resolution submitted to the Security Council represents the best course of action for the international community.

My Government therefore strongly endorses this draft resolution and urges the Security Council to adopt it.

The PRESIDENT: I thank the representative of Canada for his kind words addressed to me.

The next speaker is the representative of Mauritania. I invite him to take a place at the Council table and to make his statement.

Mr. OULD MOHAMED MAHMOUD (Mauritania) (interpretation from Arabic): I have the honour to participate, on behalf of the delegations of the five States members of the Arab Maghreb Union - of which my country has the honour of being Chairman this month - in the Security Council's discussion of the item before it today.

At the outset, I wish to express to you, Sir, our delegation's warm congratulations on your assumption of the presidency of the Security Council for this month. Your great diplomatic experience is, we are sure, the best guarantee that the Council's work will be successfully conducted.

We wish also to express to your predecessor, Ambassador Vorontsov of the Russian Federation, our congratulations on the wise manner in which he conducted the Council's work last month.

I should like to take this opportunity also to extend once again to the new Secretary-General, Mr. Boutros Boutros Ghali, our five delegations' sincere congratulations and to assure him of the readiness of all the

(Mr. Ould Mohamed Mahmoud,  
Mauritania)

institutions of our Union to cooperate with him in order to facilitate his tasks relating to the maintenance of international peace and security in accordance with the Charter of the United Nations. His personal qualities, his wide culture, his well-known diplomatic experience are all guarantees of success in progress by the United Nations towards the maintenance of international peace and security and the achievement of the objectives of the Charter.

I wish also to welcome the new members of the Security Council and to wish them all success in their lofty but difficult task. I also thank the outgoing members for the strenuous efforts they made in the past two years, along with all the other members of the Council.

(Mr. Ould Mohamed Mahmoud,  
Mauritania)

(spoke in French)

Our delegations have been deeply saddened by the news of the air accident near Strasbourg which took the lives of 87 people. We address our sincere condolences to the friendly French delegation and to the families of the victims.

The subject the Council is considering today is undoubtedly one of grave concern to the whole international community. Indeed, acts of terrorism have caused the deaths of many innocent victims throughout the world; hence the great interest of this community in seeing terrorism eradicated.

Like the vast majority of States Members of the United Nations, Tunisia, Morocco, Libya, Algeria and Mauritania energetically condemn this scourge in all its forms. They assert their determination to work towards the total elimination of all its manifestations from whatever source and whoever the perpetrators may be.

At a time when international relations can be improved, thanks to the end of the cold war, and when the easing of tension that has followed the cold war can only promote the systematic recourse to dialogue and compromise to solve all disputes, it is highly desirable and appropriate for the spirit of dialogue and compromise to replace the logic of confrontation. That logic not only clashes with the atmosphere of peace and stability for which humanity longs in order to devote itself to the problems that threaten its existence, but also is in contradiction with the principles and purposes of the Charter, which in Article 2, paragraph 4, calls upon the Members of our Organization to refrain in their international relations from the threat or use of force.

Furthermore, when there is a dispute between two or more States, the Charter in Article 33 calls upon them

(Mr. Ould Mohamed Mahmoud,  
Mauritania)

"first of all, [to] seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice".

In the present case, which would appear to be a question essentially juridical in nature - a question for the settlement of which the Libyan side has made concrete proposals for cooperation - it would be highly desirable for the Council to explore all ways and means likely to lead to a peaceful solution based on international legality. In any event, it should take into account the many appeals to wisdom and moderation made by the Arab Maghreb Union, the Organization of the Islamic Conference, and the League of Arab States in particular.

I should like to express the concern of our delegations at seeing the Security Council, which bears the primary responsibility for ensuring international peace and security, having recourse to controversial procedures that might negatively affect the authority of its decisions and also risk setting a dangerous precedent.

In a world which has resolutely turned its back on the period of sterile confrontation, it should be the desire of all to promote recourse in disputes to peaceful means of conflict resolution. Dialogue and joint action are prescribed by the Charter and should remain the only tools and means to achieve that goal.

The delegations of the members of the Arab Maghreb Union sincerely believe that with good will all problems, no matter how complex, can find equitable solutions, in such a way as to enhance the prestige of our Organization and bring about understanding and harmony among all peoples whose only wish is to live in peace.

The PRESIDENT (interpretation from French): I thank the representative of Mauritania for his kind words addressed to me.

(spoke in English)

The next speaker is the representative of Yemen. I invite him to take a place at the Council table and to make his statement.

Mr. BASALAMAH (Yemen) (interpretation from Arabic): My delegation is pleased to express to you, Sir, its warmest congratulations on your assumption of the presidency of the Security Council for this month. We are confident that your experience and well-known ability will lead the Council to success in its deliberations. I am also pleased to express our satisfaction at the good relations between our two countries, the United Kingdom and the Republic of Yemen - relations that promote the common interests of our two peoples.

I should also like to express our appreciation to Ambassador Vorontsov, the representative of the Russian Federation, for his wise guidance of the work of the Security Council last month.

I take this opportunity also to express our appreciation to all the countries that have praised the role played by Yemen during its membership of the Security Council. We express our warmest congratulations to the new Council members and we wish them every success in their tasks.

I should also like to express our pleasure at seeing Mr. Boutros Boutros Ghali shouldering his responsibilities as Secretary-General of the United Nations. We are confident that his great efficiency and well-known prudence will enable the international Organization to play a more positive role in solving all international problems in a just and peaceful manner, so as to achieve the objectives emphasized in the Charter



(Mr. Basalamah, Yemen)

of the United Nations. In this connection, we should also like to commend the positive role played by his predecessor, Mr. Javier Perez de Cuellar, in the efforts to achieve the principles and purposes of the Charter in various fields of international life.

The Security Council is considering today a new question in the framework of its appointed tasks. This question is undoubtedly a part of the new problems that will greatly affect the nature of international relations in the future and the role of the United Nations in regard to them. It will also have important repercussions and reflections on the Charter of the United Nations and international law. It also re-emphasizes the importance of not violating the principles of the United Nations in conflict resolution and the need to continuously observe international law, particularly the Charter of the United Nations, so as to be able to deal with international issues in a sound legal manner.

(Mr. Basalamah, Yemen)

Yemen, while condemning anew all forms of terrorism and all acts that might endanger or take innocent lives, wishes to express its serious concern over the loss of lives in civil aviation incidents, including the two incidents under consideration in the Security Council today. At the same time, it is our opinion that this question should be dealt with in a legal framework leading to the punishment of the perpetrators in a manner consonant with the letter and spirit of international law. We believe that the adoption of that method would be conducive to the maintenance of the international peace and security the Council seeks to realize.

In that connection we have witnessed the positive response of the Libyan authorities and their willingness to reach in a peaceful and legal manner a suitable solution that will achieve the desired objective. The question before the Council today concerns a fraternal Arab country and people. It is important that it be addressed within the framework of the purposes and principles of the United Nations Charter and international law. It is equally important that there should be no repetition of the serious developments the Arab region has witnessed in the past - developments that affected us as Arabs. We hope that adherence to the framework of international law, as emphasized in the stated positions of the Libyan Government and the resolution adopted by League of Arab States, which dealt with the modalities of a solution to this problem, will meet with a positive response on the part of the Council. We believe that there is still time and opportunity to find a suitable and peaceful solution that can ensure the sovereignty of law and spare us the dangers that might ensue from any hasty determination of the framework for a solution.

(Mr. Basalamah, Yemen)

In conclusion, we hope that the Security Council will deal with the issue in a wise and balanced manner that will guarantee international legality and justice and ensure the safety and stability of all countries.

The PRESIDENT: I thank the representative of Yemen for his kind words addressed to me.

Mr. SNOUSSI (Morocco)(interpretation from French): I should like first to reiterate to you, Sir, my congratulations on your assumption of the presidency of the Council for this month and to repeat my congratulations to your predecessor, Mr. Vorontsov, who conducted our proceedings last month with such effectiveness and success.

My country has participated with great interest in the consultations that were held in recent days on the subject of international terrorism. Morocco has never been either acquiescent or indifferent to that phenomenon and has always energetically condemned terrorism in all its forms. Our vigilance in this field has always, I believe, been wholly exemplary. Morocco has always cooperated actively in the United Nations and in all regional and international bodies in the drafting and implementation of conventions and resolutions against terrorism.

Our country has always reaffirmed its complete solidarity with those States that have denounced and condemned international terrorism and reaffirms its unconditional contribution to all efforts undertaken to deter and punish such outrages without compromise.

Throughout the course of consultations I have had occasion to state my country's unswerving devotion to the principles of the United Nations Charter and its noble objectives. It is our profound conviction that the question before the Council is in fact a last vestige of a period of painful

(Mr. Snoussi, Morocco)

confrontation that marked a world order we all hope has now become forever a thing of the past. However, those concerns, which felt bound to express throughout the discussions, have been motivated solely by our sincere wish to see that the action taken by the Council be in conformity with the principles of international law. We were also concerned that the Council not associate itself with any precedent that might prove dangerous or regrettable in the future.

My country's position with regard to the implementation of this common policy may have appeared somewhat ambiguous. In fact, it is based on Morocco's sincere wish to ensure that the contemplated recommendations would fall within the framework of and respect international law.

In this particular case we feel at this stage that the cooperation requested is fully justified as concerns the establishment of facts, particularly the identity of the suspects in the case. In light of the serious allegations made by the complainant States, the Libyan authorities will, I am sure, do everything possible to cooperate fully in arriving at the truth. The Minister for Strategic Industries of Libya has just given us his assurance that this is the case.

However, with regard to the implications to be drawn from the responsibility of such persons, when it is finally demonstrated, my country feels that we are touching on a principle of international law that is well established in both unwritten law and in various instruments, as well as in several recommendations of the United Nations General Assembly. That is the principle of "extradite or prosecute".

In this instance, Morocco cannot share the view that adoption of the draft resolution before us today enshrines any exception to that uncontested

(Mr. Snoussi, Morocco)

principle of international law. Our membership of the Council and our respect for it makes it incumbent upon us to draw attention at all times to this fundamental aspect of the problem facing us today. Nor, as a Maghreb State and a part of the Arab nation, can we ignore the fact that the State being singled out here is, like us, an Arab and Muslim country and a member of the Arab Maghreb Union. That State must be allowed to state its position, enjoy its rights and demonstrate its goodwill.

The participation of the Secretary-General, who is known by all for his devotion to respect for international law and to upholding the principles of the Charter, is our best guarantee that we are moving towards cooperation by all parties in establishing the truth and in implementing the legal proceedings already in train. His wisdom and experience will, I am sure, enable us to overcome all the difficulties with which the problem of international terrorism is fraught and will surely be a constructive contribution that, while respecting established legal norms, will enable us to achieve the goals we have set for ourselves, namely, the punishment of the guilty and deterrence of such acts in the future, with the cooperation of all.

(Mr. Snoussi, Morocco)

I would not like to conclude my statement without expressing most warmly my thanks for the understanding and cooperation my delegation enjoyed from the representatives of three friendly countries - France, the United States of America and the United Kingdom of Great Britain and Northern Ireland - the sponsors of the draft resolution before our Council. These consultations made it possible for us to get together with the non-aligned group and explore all aspects of the problem.

The Kingdom of Morocco is particularly interested in contributing to bringing about harmony among the members of the international community and it will continue, as it has done in the past, to make every effort to reduce misunderstanding and problems of communication which have often complicated relations between certain States.

The PRESIDENT (interpretation from French): I thank the representative of Morocco for the kind words he addressed to me.

(continued in English)

I should like to inform the Council that I have received a letter from the representative of the Islamic Republic of Iran in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Zarif (Islamic Republic of Iran), took the place reserved for him at the side of the Council Chamber.

The PRESIDENT: I invite the representative of the Islamic Republic of Iran to take a place at the Council table and to make his statement.

Mr. ZARIF (Islamic Republic of Iran): Mr. President, my delegation and I are pleased to see you presiding over today's important proceedings, as well as over other crucial issues which the Security Council faces this month. We are confident that under your wise leadership and skilled diplomacy the Security Council will do its utmost to uphold the authority of the rules of international law and to cause fairness and justice to prevail.

Felicitations and thanks are also due to Ambassador Vorontsov, Permanent Representative of the Russian Federation, for the excellent manner in which he guided the deliberations of the Council during the preceding month.

May I also take this opportunity to congratulate His Excellency Mr. Boutros Ghali, a distinguished diplomat of high calibre, for his very well-deserved election as Secretary-General of the United Nations. I wish also to congratulate the new members of the Security Council and wish them all success.

The Security Council is meeting today to decide upon the circumstances of two tragic events: the crash of Pan Am flight 103 on 21 December 1988 and of UTA flight 772 on 19 September 1989. The first tragedy took the lives of 270 unsuspecting innocent people and the second resulted in 171 deaths. The issue before the Security Council is, therefore, one which involves a considerable measure of humanity. It is a question of human life; specifically, it is an attempt to preserve the most basic of human rights: the right to one's life. Thus, Council members are engaged in an endeavour to preserve this right and to make sure that tragedies of this sort do not occur

(Mr. Zarif, Islamic  
Republic of Iran)

again. This endeavour is most praiseworthy when it is initiated, deliberated and decided upon in accordance only with the rule of law.

Assuming that these tragedies are the result of terrorist acts, one cannot but lend full support to the attempts to establish responsibility for the acts that led to the deaths of so many innocent people. The Government of the Islamic Republic of Iran holds the view that all acts constituting an unlawful interference with international civil aviation affect the interests of the international community and must therefore be suppressed, whatever the situation or the motives of the offenders. As such, the offender or offenders in the present cases must be brought to justice.

In this context, the applicable rule of international law is not ambiguous. The 23 September 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation does not obligate the Libyan Arab Jamahiriya to extradite or surrender the alleged offenders to any other State that may also have jurisdiction to try them, provided that Libya, as a Contracting State, undertakes to make the offence mentioned in article 1 of the Convention punishable by severe penalties. Regrettably, the draft resolution before the Security Council goes beyond this explicit rule of international law. This departure from the established rule of law is augmented when the cooperative approach of the Government of the Libyan Arab Jamahiriya is taken into account. Libya has welcomed the possibility of a commission of Arab and international jurists following the course of the investigation which the Libyan authorities have initiated upon the requests of the States that have now sponsored the draft resolution. The Libyan Foreign Minister has announced, in his letter to the Secretary-General of the United Nations circulated as document S/23416, that the United States Administration



(Mr. Zarif, Islamic  
Republic of Iran)

and the British Government have been requested to nominate lawyers to monitor the fairness and propriety of the inquiries it initiated in that respect.

Therefore, the Government of the Libyan Arab Jamahiriya has taken the necessary measures in accordance with article 5 of the Montreal Convention to establish jurisdiction in this case, and it has also gone out of its way to accommodate the sponsors of the draft resolution by inviting them and representatives of the international community to monitor its inquiry.

In this context, my Government endorses and subscribes to resolution No. 5158 of the Council of the League of Arab States, issued on 16 January 1992 and circulated as Security Council document S/23436.

In light of the above, and for the sake of the integrity of the Organization, we call upon the parties concerned to heed the principle of peaceful settlement of disputes in accordance with paragraph 1 of Article 33 of the United Nations Charter, which reads in part as follows:

"The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement ...".

Within the broad context of this principle of the United Nations Charter, article 14 of the Montreal Convention of 1971 presents the solution in terms of arbitration. Paragraph 1 of article 14 reads in part as follows:

"Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration."

(Mr. Zarif, Islamic  
Republic of Iran)

My delegation believes that the Libyan offer to submit the case to international arbitration is a prudent course of action which deserves the support of the international community. Such a course of action is consistent with both the letter and the spirit of international law and affords a greater degree of independent inquiry. Above all, it will preserve the integrity of the United Nations in general and the Security Council in particular.

The Government of the Islamic Republic of Iran wishes to reiterate that it has categorically condemned and continues to condemn all forms of international terrorism. In our view, all acts constituting unlawful interference with international civil aviation must be suppressed irrespective of the situation or the motives of the offender. To achieve this end, however, other laws are not to be violated; such practice becomes the fruit of the poisonous tree and thus unacceptable to men of reason.

The PRESIDENT: I thank the representative of the Islamic Republic of Iran for his kind words addressed to me.

I should like to inform the Council that I have received a letter dated 21 January 1992 from the Permanent Representative of Morocco to the United Nations, which reads as follows:

"I have the honour to request that the Security Council extend an invitation to His Excellency Ambassador Engin A. Ansay, Permanent Observer of the Organization of the Islamic Conference to the United Nations, to address the Council under rule 39 of its provisional rules of procedure during the Council's discussion of the item presently on its agenda."

That letter will be published as a document of the Security Council under the symbol S/23447.

If I hear no objection, I shall take it that the Council agrees to extend an invitation under rule 39 to Mr. Ansay.

There being no objection, it is so decided.

I invite Mr. Ansay to take a place at the Council table and to make his statement.

Mr. ANSAY: Mr. President, I have the honour to extend through you my thanks to the members of the Council for allowing me to speak on such an important issue.

At the outset I should like to congratulate you, Sir, on your assumption of the presidency of the Security Council for this month. We are confident that under your able steering the Council will reach a just decision.

Our congratulations go also to Ambassador Vorontsov, your predecessor.

I should also like to avail myself of the opportunity to welcome and congratulate most heartily Mr. Boutros Boutros Ghali, our new

(Mr. Ansay)

Secretary-General, on his assumption of this lofty and equally responsible position. We wish him luck and assure him of our full cooperation and strong support in his noble work.

The Organization of the Islamic Conference condemns terrorism in all its forms. This has been proclaimed in various OIC decisions and resolutions taken either at the meetings of its Foreign Ministers or Heads of State or Government.

Therefore, it is the OIC's principled position that the destruction of Pan Am flight 103 and the UTA flight of 19 September 1989 were heinous acts of terrorism which should be condemned and that all States and parties should assist in the apprehension and prosecution of those responsible for those criminal acts.

During its last summit meeting in Dakar, Senegal, the OIC adopted a resolution on the particular issue before us and, with your permission, Sir, I should like to inform the membership - as I have been instructed to do - on the content of that decision, resolution No. 20:

"Having considered the item related to the crisis involving an OIC Member State;

"Guided by the principles of the Charter which call for the promotion of solidarity among Member States;

"Abiding by the objectives and principles of the United Nations Charter which stipulate that all States are committed to refraining from the use or the threat of use of force in their international relations, the settlement of their disputes by peaceful means, respect for the independence of all Member States, and refraining from posing any threat to the sovereignty, territorial integrity and safety of their people;

(Mr. Ansay)

"Reaffirming its clear and unequivocal denunciation, on previous occasions, of all forms and types of terrorism, and its condemnation of all those who use or encourage it, be they individuals, groups or States; proceeding from the faith of the OIC Member States that terrorism runs counter to the Islamic values in which they believe, and which commit them never to tolerate or disregard terrorism, in so far as it contradicts the aspiration of individuals and Governments in the international community to a life of peace, where stability and security prevail;

"Taking note with great satisfaction of the declaration by the Libyan Jamahiriya that it denounces all forms and types of terrorism, and condemns all those that use or encourage it, and its willingness to cooperate with any international or regional judicial or humanitarian body in working for combating it; and in appreciation of the legal procedures it has taken in this connection;

"Expressing satisfaction with Libya's declaration that it is fully prepared to cooperate with the United States and the United Kingdom judicial authorities and that it welcomes visits by judges and investigators from the United States and the United Kingdom, so as to ensure the seriousness of the procedures and the impartiality of the investigations conducted in the charges levelled at some of its citizens and for the full truth to come to light regarding such charges;

"1. Takes note with satisfaction of Libya's confirmation that it denounces and condemns terrorism and that it is fully prepared to cooperate with any quarters fighting and working to combat terrorism, and

(Mr. Ansay)

commends the sensible way in which Libya has dealt with the threats directed against its territorial integrity and the security of its population;

"2. Expresses concern over the escalation of the crisis, and the reference to the possible use of force, which does not accord with the proper system of dealing with other States, the United Nations Charter, or international law; and calls for abiding by international conventions, and the use of dialogue and negotiations as a means of solving the disputes between States;

"3. Reaffirms its full solidarity with the Libyan Arab Jamahiriya and calls for averting any economic or military action against Libya;

"4. Requests the Secretary-General to follow up this question and submit a report thereon to the Member States."

The PRESIDENT: I thank the Permanent Observer of the Organization of the Islamic Conference for his kind words on my behalf.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. If I hear no objection, I shall take it that that is the case.

There being no objection, it is so decided.

I shall first call on those members of the Council who wish to make statements before the voting.

Mr. MUMBENEGWI (Zimbabwe): Let me begin by congratulating you, Sir, on your assumption of the demanding task of presiding over the work of the Council for the month of January. The skills, both diplomatic and intellectual, that you have demonstrated in guiding the Council's work so far assure us that the Council is in good hands as it prepares for a

(Mr. Mumbengegwi, Zimbabwe)

history-making session at the highest level in the coming few days. We also take this opportunity to extend our warm appreciation to Ambassador Yuliy Vorontsov of the Russian Federation for the able and calm manner in which he guided the work of the Council last month, at a time when his own country was going through a momentous transformation.

Although I have had the opportunity to congratulate and welcome our Secretary-General on another occasion, allow me, Sir, to do so on this occasion, since it is the first formal meeting of the Council at which I have spoken since he assumed that high office. As one of the three African representatives on the Council, I could hardly disguise the fact that it is a source of special pride to see one of the most distinguished sons of Africa, Mr. Boutros Boutros Ghali, head the Organization at such a momentous juncture in its history.

The issue before the Council today is a grave one. The wanton and wilful taking of human life that resulted from the terrorist acts committed against Pan Am flight 103 in December 1988 and UTA flight 772 in September 1989 must be condemned. Zimbabwe, which also has been a target of acts of terrorism over several years, condemns terrorism in all its forms. We believe that there should be no place for perpetrators of acts of terrorism to hide. Terrorism, in all its forms, must be punished. It is our view that international terrorism constitutes a grave threat to international peace and security. The 1976 report of the Secretary-General aptly characterized it as "a threat to the fabric of organized society and a potential danger to all Governments and peoples". (A/31/1/Add.1, part VI)

The Council is, therefore, doing the right thing in addressing this issue today, as it did in 1970, when it adopted resolution 286 (1970), and in 1989, when it adopted resolution 635 (1989).

(Mr. Mumbengegwi, Zimbabwe)

In our view, the draft resolution on which we are about to take action seeks to achieve two main objectives. First, it seeks to send a clear message that the Council is determined to deal firmly with terrorism. Secondly, it seeks to ensure that the accused are brought to trial. It is Zimbabwe's view that this has to be achieved on the basis of the established legal norms and the existing international legal instruments applicable to acts of terrorism.

My Government believes that in this regard the Security Council should be guided by the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. That Convention, like its sister Convention on the Suppression of Unlawful Seizure of Aircraft - The Hague Convention - designed to combat hijacking, which is another act of terrorism, seeks to implement the traditional precept of aut dedere, aut punire, generally translated as "extradite or punish". My Government understands the sensitivity that has always characterized the issue of extradition. The extradition of one's own nationals is impermissible in the laws of many States. This is why the existing international legal instruments make it clear that if the State holding the alleged offender does not extradite it shall be obliged, without any exception whatsoever, to submit the case to its competent authorities for the purpose of prosecution.

Zimbabwe welcomes the clear role which the draft resolution gives to the Secretary-General in resolving the dispute before the Council. We believe that on a matter of grave importance such as the one before us it is prudent and appropriate that the Council take full advantage of the good offices of the Secretary-General. It is our sincere hope that when he reports back to the Council on the outcome of his efforts it will be possible to arrive at arrangements satisfactory to all parties concerned.



The PRESIDENT: I thank the representative of Zimbabwe for his kind words addressed to me.

Mr. POSSO SERRANO (Ecuador) (interpretation from Spanish): Since this is the first time my delegation has spoken this month it wishes to tell you, Sir, how happy we have been at the very active and efficient way in which you have been conducting the Council's work. We also wish to express our gratitude to the Permanent Representative of the Russian Federation for the diplomatic skill, kindness and courtesy with which he conducted our discussions last month.

We welcome the presence here of the new Secretary-General. We wish to repeat our willingness to cooperate fully and constantly with him.

We also wish warmly to welcome officially our new colleagues, the representatives of Cape Verde, Hungary, Japan, Morocco and Venezuela.

The President of Ecuador, Dr. Rodrigo Borja, has said on many occasions that our country is an island of peace. That is not a gratuitous or unfounded assertion. In the context of our subcontinent Ecuador is one of the countries which suffer least the effects of violence. Terrorism is unknown. This puts an unavoidable responsibility on the Ecuadorian authorities, which must maintain this island of peace and defend internal peace as a true national heritage.

At the international level, therefore, Ecuador considers it to be its duty to cooperate in actions directed towards eliminating violent aggression and combating terrorism in any form. Ecuador must express its total condemnation of any acts of terrorism or violence and any violation of international peace and security or threat to it.

(Mr. Posso Serrano, Ecuador)

Those are the basic reasons that prompt my delegation to vote for the draft resolution. Ecuador is convinced that that is the only way to express our rejection of violence and criminal aggression.

In addition, the delegation of Ecuador is convinced that the Security Council is called upon to send a clear warning to halt any encouragement, even if simply through tolerance, of acts of terrorism.

However, my delegation worked with the other non-aligned countries to ensure that the draft resolution would not be misinterpreted or be a negative precedent which would run counter to the regular powers of United Nations bodies or which could be used as an example for possible action or intervention at a later date. Ecuador also expressed its belief that in this case, as in any other, it is essential to act in such a way that there can be no misinterpretation or prejudging of special situations, and to ensure that actions shall be subject to the clear legal principles within the competence of States, in particular with regard to extradition. In addition, the delegation of Ecuador agreed with the other non-aligned countries about the need to establish a reliable, step-by-step process to deal with the claims made by the United States, France and the United Kingdom against Libya and to preserve the right of the Libyan Government to clarify its position and fulfil its obligations.

Lastly, the delegation of Ecuador trusts that the draft resolution will be taken in context and used only for its unique purposes, to deal with those involved in acts of terrorism and the meting out of punishment, if that is decided upon.

The PRESIDENT: I thank the representative of Ecuador for his kind words addressed to me.

Mr. JESUS (Cape Verde): My delegation takes much pleasure in seeing you, Sir, presiding over the Council's work for the month of January.

Your experienced guidance and dedication have already led us to produce many important decisions in the course of this month, which give us the assurance that much more will be accomplished by the Council under your disciplined and active leadership.

To your predecessor in the presidency, Ambassador Vorontsov of the Russian Federation, go our congratulations on the skilful and professional manner in which he led the Council's deliberations last month.

My delegation is very pleased to see here with us the new Secretary-General, Mr. Boutros Ghali. As he starts his important mandate and assumes his high and sometimes delicate responsibilities, we wish him much success and happiness.

Cape Verde as a matter of principle condemns, in the strongest possible way, acts of international terrorism, by whomever perpetrated. Nothing can justify the use of violence against targets which causes the loss of life of innocent victims and creates a general climate of insecurity.

(Mr. Jesus, Cape Verde)

We believe that international terrorism should be eliminated once and for all, and that the United Nations should play a major role in attaining that goal.

We call on all those that have in one way or another and for whatever purpose promoted, supported or engaged themselves, directly or indirectly, in acts of international terrorism to desist from that abhorrent practice, for it is wrong and attains no objective other than inflicting pain and suffering on innocent victims and their families.

We have joined in the condemnation of the outrageous downing of Pan Am flight 103 and UTA flight 772. We share the pain and suffering of those who lost loved ones in these two tragic incidents. The authors of these heinous crimes should be tried and appropriately punished.

These incidents have added much confusion and contributed substantially to a climate of insecurity in civil aviation. It is important - and it is high time - that the security of civil aviation be restored, so that anyone taking a plane can travel safely, without fear of any terrorist act. It is our hope that today's decision by the Security Council will be a positive turning point in that respect.

In voting in favour of the draft resolution before the Council, my country will signal its strong condemnation of international terrorism and its willingness to join its voice to those of others that want this abominable practice of violence eliminated. Our positive vote will also reflect our strong view that the authors of any such crimes should be brought to justice and punished according to the law.

(Mr. Jesus, Cape Verde)

Our vote, however, cannot and must not be interpreted or construed in any way as favouring the setting of any precedent that could change the well-established rules and international practice on extradition. Like the constitutions of many other countries, our Constitution states, in its article 33, that in no circumstances should any Cape Verdean citizen be extradited from Cape Verde. We believe that to be the expression of a principle dear to all countries, a principle that should be preserved. As a small nation we hold dear respect for the norms and principles of international law that over the centuries have served nations well.

In attempting to find a solution to an episode related to specific circumstances - however pernicious that episode may be and however much it is to be rejected - one should not lose a sense of the broader perspective, and one should carefully resist the temptation to create a legal entanglement to which we might all fall victim in different circumstances.

We are of the view that at all times this case should be handled with due respect for the principle of the peaceful settlement of disputes, and within the boundaries of international law. In this respect, we expect the Secretary-General to play a pivotal role in helping to bring about a negotiated solution.

Those are the parameters within which our affirmative vote on the draft resolution has to be seen.

The PRESIDENT: I thank the representative of Cape Verde for his kind words addressed to me.

(The President)

I shall now put to the vote the draft resolution contained in document S/23422.

A vote was taken by show of hands.

In favour: Austria, Belgium, Cape Verde, China, Ecuador, France, Hungary, India, Japan, Morocco, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Zimbabwe

The PRESIDENT: There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 731 (1992).

I shall call now on those members of the Council who wish to make statements following the voting.

Mr. PICKERING (United States of America): In adopting resolution 731 (1992), the Security Council has again demonstrated the important role which it should play in this new and hopeful era of international relations. Its responsibilities for international peace and security are paramount, and it has shown again that it takes such responsibilities with the utmost seriousness.

The Council has been confronted with the extraordinary situation of a State and its officials which are implicated in two ghastly bombings of civilian airliners. This is a situation to which standard procedures are clearly inapplicable. The effects of such conduct on international peace and security are clear and inescapable.

The Governments of France, the United Kingdom and the United States have presented to this Council the reports of investigations which implicate officials of the Libyan Government in the bombings of Pan Am flight 103 over Scotland and UTA flight 772 over Niger. Four hundred forty-one completely

(Mr. Pickering, United States)

innocent people from 32 countries, including from seven of the members of this Council, were murdered in an act of blatant, cold-blooded and brutal terrorism.

The issue at hand is not some difference of opinion or approach that can be mediated or negotiated. It is, as the Security Council has just recognized, conduct threatening to us all, and directly a threat to international peace and security. The mandate of the Security Council requires that the Council squarely face its responsibilities in this case. It must not be distracted by Libyan attempts to convert this issue of international peace and security into one of bilateral differences.

The resolution just adopted responds to a special situation that has been brought before this Council. It makes a straightforward request of Libya: that it cooperate fully in turning over its officials who have been indicted or implicated in these bombings and that it take concrete actions to conduct itself as a law-abiding State. It also calls upon the Secretary-General to add his efforts to those of the many States encouraging Libya to comply fully and effectively with this resolution. The resolution makes it clear that what the Council is seeking to ensure that those accused be tried promptly in accordance with the tenets of international law. The resolution provides that the people accused be simply and directly turned over to the judicial authorities of the Governments which are competent under international law to try them.

Until now, Libya has refused to respond to those requests and has sought to evade its responsibilities and to procrastinate. While Libyan efforts to obscure the nature of the issue before the Council have included explicit agreement that its nationals may be tried elsewhere, those efforts also

(Mr. Pickering, United States)

involve tortured attempts to identify or create venues that could reduce and even negate the value of the evidence so painfully collected in long and thorough investigations by the requesting States.

In adopting this resolution the Council has responded in a careful and prudent manner to a unique situation involving clear implications of State-sponsored terrorist attacks on civil aviation. The Council has clearly reaffirmed the right of all States in accordance with the Charter to protect their citizens. The resolution makes it clear that neither Libya nor indeed any other State can seek to hide support for international terrorism behind traditional principles of international law and State practice. The Council was faced in this case with clear implications of Government involvement in terrorism as well as with the absence of an independent judiciary in the implicated State. Faced with conduct of this nature, the Council had to act to deal with threats to international peace and security stemming from extremely serious terrorist attacks, and it did so with firmness, dignity, determination and courage. The Council's action thus sends the clearest possible signal that the international community will not tolerate such conduct.



(Mr. Pickering, United States)

We now hope that Libya will respond effectively, and do so rapidly. The voice of the international community in this regard is clear and determined. The Council expects Libyan compliance with the resolution which it has just adopted. The enormity of the crimes committed and the onslaught against international peace and security demand no less. The Council will be watching carefully how Libya responds. The Council will proceed in a step-by-step manner, I am sure, to maintain its commitment to international peace and security. It will continue to ensure that its voice and its decisions do all that is possible to persuade Libya, and any other States that might be motivated in the future to act as Libya has, to cease such actions now and in the future. If further action should be necessary, and we hope it will not be, we are convinced that the Council is ready on a continuing basis to face up to its full responsibilities.

Mr. ROCHEREAU DE LA SABLIERE (France) (interpretation from French):

The Governments of France, the United Kingdom and the United States each published on 27 November last a national communiqué conveying to the Libyan authorities specific requests connected with the legal procedures under way, following the attacks against UTA flight 772 and Pan Am flight 103; and, together, they published a joint communiqué recalling these requests and calling upon the Libyan authorities to comply with them without delay. To date, the Libyan authorities have not responded satisfactorily to these requests.

The Security Council has had occasion repeatedly to condemn actions against the security of civil aviation and to call for the strengthening of cooperation between all States in order to prevent or punish all acts of international terrorism, and for the prosecution of the perpetrators of such acts.

(Mr. Rochereau de la Sabliere,  
France)

The French Government has, within the United Nations, repeatedly denounced international terrorism. This is a scourge that in itself constitutes a threat to international peace and security. It blindly endangers citizens of all States. All appropriate means must be used to eradicate it.

That is the spirit in which France has undertaken its action. The deliberate and wilful destruction of these aircraft, causing the death of hundreds of victims, is a clear-cut case of international terrorism. The exceptional gravity of these attacks and the considerations connected with the restoration of law and security justify this action in the Security Council. This action, motivated by these specific cases of international terrorism, cannot constitute a precedent.

In these circumstances, France hopes that the unanimous reaction of the international community, expressed by the Security Council in its resolution 731 (1992), which we have just adopted, will induce the Libyan authorities to respond very quickly to the requests of the judicial authorities conducting the investigation into the heinous attacks committed against UTA flight 772 and Pan Am flight 103, which claimed 441 victims coming from various parts of the world.

Mr. NOTERDAEME (Belgium) (interpretation from French): Belgium has always condemned recourse to international terrorism in all its forms and whatever attempts are made to justify it. This attitude is based on international law and the principles of the Charter. Moreover, it has been repeatedly confirmed by the Security Council.

(Mr. Noterdaeme, Belgium)

The recent upheavals in the world political context provide the international community with possibilities for action to attempt to control this phenomenon. Belgium believes that all States must cooperate in developing and implementing measures to prevent all acts of terrorism. In many cases, these actually represent a threat to international peace and security. Accordingly, they must be resolutely combated. In accordance with the preventive approach, we should also cut off potential terrorists from their command centres.

Clearly, terrorist actions are more often than not possible only with the active or passive support of certain States, in flagrant violation of the legal commitments and moral values which they profess. Belgium denounces and condemns any relationship between States and terrorist groups and hopes that the States about which allegations are made in this respect will unambiguously reaffirm their commitment to ending any form of collusion with international terrorism.

More specifically, our Council has had before it today a draft resolution relating to the in-flight destruction of Pan Am and UTA aircraft. First and foremost, Belgium wishes here again to pay a tribute to the innocent victims of these two attacks, including a Belgian national.

Those are extremely serious indications of the responsibility of Libyan officials in the destruction of these two aircraft in flight and the death of all their passengers. It is Libya's responsibility to cooperate fully with the legal authorities of the States directly concerned in these two attacks, so that responsibility can be determined once and for all.

Over and above these two particular cases, the resolution that the Council has just adopted should, in my country's opinion, constitute a clear-cut reaffirmation by the international community of its condemnation and

(Mr. Noterdaeme, Belgium)

total rejection of international terrorism. It should above all represent a first step towards a more transparent system within which it would become increasingly difficult, and ultimately impossible, for terrorist organizations to benefit from the collusion and support of certain States.

Mr. LI Daoyu (China) (interpretation from Chinese): First of all, please allow me to congratulate you, Sir, on your assumption of the presidency of the Security Council for this month. With your well-known diplomatic talents and rich experience, I am confident that you will guide the work of the Security Council for this month to complete success. I should like to thank your predecessor, Ambassador Yuliy Vorontsov, Permanent Representative of the Russian Federation, who led the Council in a remarkable way to the fulfilment of its work last month. At the same time, I wish to take this opportunity to express warm congratulations and best wishes to the new Secretary-General, that outstanding politician Mr. Boutros Ghali. I am confident that he will, in this noble post, make brilliant contributions to safeguarding the purposes and principles of the Charter of the United Nations and further enhancing the role and prestige of the Organization. I should also like to pay a heartfelt tribute to the former Secretary-General, Mr. Perez de Cuellar, for the widely acclaimed active efforts he made during his tenure of office to strengthen the role of our Organization in the international arena. Finally, I wish to welcome the new members of the Council - Cape Verde, Hungary, Japan, Morocco and Venezuela - and to thank the outgoing members - Côte d'Ivoire, Cuba, Romania, Yemen and Zaire - for their contributions.

The Chinese Government's principled position on the question of terrorism is known to all. We have persistently opposed and condemned all forms of terrorism, because terrorism endangers innocent lives. We deeply deplore the

(Mr. Li Daoyu, China)

bombings of Pan Am flight 103 and UTA flight 772 and their serious consequences. Such a tragedy, in our view, should never be repeated, and we are in favour of conducting earnest, fair, objective and thorough investigations on the bombing incidents, in accordance with the Charter of the United Nations and the principles of international law, and of inflicting due punishment on those accused, if proved guilty.

(Mr. Li Daoyu, China)

We have noted that, ever since the United States, the United Kingdom and France made public their investigations on the bombing incidents, the Libyan Government has shown a certain flexibility on related matters and indicated its willingness to cooperate in finding a solution. We also understand that grave differences still exist between the three countries - the United States, the United Kingdom and France - on the one side, and Libya on the other, as to how to carry out the investigations and proceedings regarding the aforementioned incidents. China believes that prudent and appropriate rather than high-pressure approaches should be adopted to bridge such differences.

During previous rounds of consultations and discussions, we noticed that the non-aligned members of the Council expressed their concern over the fact that the Security Council might base its decision solely upon the unilateral investigations of certain countries and, in particular, that the issues of jurisdiction and extradition were involved. The non-aligned members therefore put forward constructive proposals which the Chinese delegation supports. Considering that the proposals have been accepted by the sponsors of the resolution, and proceeding from the Chinese Government's consistent principled position against terrorism, the Chinese delegation voted in favour of resolution 731 (1992) adopted earlier.

Nevertheless, I should like to reiterate here that China still believes that there exist possibilities and opportunities at present to solve the problem through consultations. I wish to reiterate that the Chinese side sincerely and strongly hopes that countries directly involved in this issue will resolve their differences by peaceful consultation and through diplomatic channels so as to find a reasonable and fair solution to the bombing incidents. Such an approach would not only avoid complicating the problem further and increasing the tension, but also contribute to the maintenance of

(Mr. Li Daoyu, China)

regional peace and security as well as upholding the United Nations Charter and the principles of international law. We are convinced that, as long as all the parties concerned adopt a positive, responsible and constructive attitude, an appropriate and reasonable solution to the existing problem will be found.

In conclusion, I should like to emphasize that the adoption of this resolution should not lead to any drastic action or to exacerbating tensions.

The PRESIDENT: I thank the representative China for his kind words addressed to me.

Mr. VORONTSOV (Russian Federation): The Russian Federation unreservedly condemns all acts of international terrorism without exception, constituting as they do an open threat to international security. We vigorously oppose acts of terrorism that involve the deaths of innocent people, disrupt the diplomatic activities of States and their representatives, and which complicate the normal course of international contacts and meetings and transportation links between countries. In this regard we believe it necessary to strengthen international cooperation in the elimination of international terrorism. Recent years have seen a growing trend towards increasing cooperation in the world, including within the United Nations system, in the field of the struggle against terrorism. Today's meeting of the Security Council is confirmation of this.

This is not the first time that the problem of terrorism against civil aviation has appeared on the agenda of our Council. The Council's last resolution on this subject - resolution 635 (1989) of 14 June 1989 - condemned all acts of illegal infringement of the security of civil aviation and called upon all States to cooperate in producing and implementing measures to prevent all acts of terrorism, including those involving the use of explosives.

(Mr. Vorontsov,  
Russian Federation)

It is Russia's belief that the cooperation of Members of the United Nations in this area should be based upon the principles and norms of international law. A major stimulus for the concertation of international efforts should be the protection of the lives and safety of people.

On the basis of what I have said and of our principled approach of unswerving observation of international legality and law, we supported the request of the United Kingdom, the United States and France for the convening of a meeting of the Security Council. The tragedy of Pan Am flight 103 and UTA flight 722, which took hundreds of innocent lives, must not be allowed to be repeated. At the hands of ruthless terrorists there perished twice as many people as are now in this very Chamber. Often, the exigencies of our tasks required us to fly, and we can imagine the helpless horror experienced by the passengers of these two aircraft at the explosions.

We most energetically condemn the destruction of these aircraft and those who are responsible for the deaths of these people. We believe it necessary to ensure the comprehensive cooperation of the Libyan authorities, as well as that of other States, in establishing responsibility for the acts of terrorism committed against these aircraft. It is our belief that in no circumstances must the prestige and good name of a country be allowed to suffer from wrongful or criminal acts committed by any of its citizens. It is important, in accordance with universally acknowledged legal norms, that the judicial organs of those countries to which the downed aircraft belonged and over whose territory the crime was committed should be allowed to deal with this case. International interest in this trial should ensure that it is open and impartial in nature.



(Mr. Vorontsov,  
Russian Federation)

The threat constituted by acts of terrorism against civil aviation to international security and stability must consolidate the efforts of the international community to produce the necessary measure of reaction to this transnational challenge. We supported the resolution just adopted by the Security Council in the belief that it is a step in that direction.

Mr. ERDOS (Hungary) (interpretation from French): As this is the first time that the Hungarian delegation has spoken in an official meeting of the Security Council, permit me to convey to you, Sir, our best wishes for success on your assumption of the presidency of the Council for the month of January. At the same time, I should like to congratulate you on the dynamic activity in which, under your highly competent leadership, the Council has been engaged constantly since the beginning of the year. We are also grateful to Ambassador Vorontsov of the Russian Federation for his work as President of the Council last December.

I also take this opportunity to express our warmest congratulations and to wish every success to Mr. Boutros Boutros Ghali, the new Secretary-General of the United Nations. I assure him of my country's most active and constructive cooperation in the performance of his highly responsible tasks. Finally, I should also like to convey my gratitude for the kind words addressed to my country, among others, upon its election as a new non-permanent member of the Security Council.

Hungarian public opinion has followed with growing concern terrorist action that continue to poison international life. It has also noted the recent increase in acts of terrorism committed on our own territory. Most recently, the phenomenon of terrorism has struck us twice: a bomb attack took place in the vicinity of the Budapest airport on a bus carrying Jews from the

(Mr. Erdos, Hungary)

former Soviet Union on their way to Israel; another attack took place against the Ambassador of Turkey in Budapest.

Hungary firmly condemns in all its forms the scourge of terrorism, which is becoming one of the most alarming global phenomena of the late twentieth century. It also condemns any assistance, direct or indirect, given to those who plan or carry out such actions. The tragedy of Pan Am flight 103 affects Hungary directly, because four of our citizens died in that awful disaster. No one is immune to these monstrous and senseless acts, and among the victims there could very well have been children, relatives or friends of people sitting around this very table or present in this rows of representatives' seats.

We therefore associate ourselves with the statement made at the time by the President of the Security Council on its members' behalf. This statement called on all States to assist in efforts aimed at arresting those responsible for this criminal act and at bringing them to trial. We also recall General Assembly resolution 46/51, which appealed to all States to take effective and determined measures rapidly and definitively to eradicate the scourge of international terrorism.

(Mr. Erdos, Hungary)

Ours is a position of principle and we are guided by our responsibilities to the relatives of the Hungarian victims. Hence we feel morally bound to contribute in so far as we are able to establishing the facts relating to such criminal incidents.

The attacks on Pan Am and UTA aircraft are acts that obviously threaten international peace and security. As a result, we feel that it is entirely justified and highly appropriate for the Security Council, the United Nations body entrusted with the primary responsibility for the maintenance of international peace and security, to consider these terrorist manifestations.

It was with deep concern that Hungarian public opinion learned of the results of the inquiries that implicated Libyan nationals in the tragedies that occurred over Scotland and the Sahara. In a public statement in early December the Hungarian Government stated that there was a pressing need for all States Members of the United Nations, including the Libyan Government, to cooperate in establishing all the facts of the case and in determining responsibility so that those who had perpetrated the crimes might be brought to trial and meted punishment commensurate with their deeds. Hungary expresses its deep concern at terrorist acts in which States are implicated, directly or indirectly. Each and every member of the international community is in duty bound to cooperate fully and appropriately to bring the facts to light and to establish responsibility unequivocally. That applies to the case now before us as it does to all other manifestations of international terrorism.

Hungary believes that the question of eradicating international terrorism has a legitimate place among the concerns of the Security Council, which, on the basis of its mandate under the Charter, is obliged to follow closely any

(Mr. Erdos, Hungary)

event that might endanger international peace and security. In this connection the Council is in duty bound to exercise vigilance and to remain seized of specific acts of terrorism that threaten or destroy innocent lives. For verbal expressions of faith are no longer enough; the time has come for concrete actions. It is on the basis of those considerations that Hungary decided to vote in favour of the resolution, and we were pleased that it was adopted unanimously.

The PRESIDENT (interpretation from French): I thank the representative of Hungary for his kind words addressed to me.

Mr. HOHENFELLNER (Austria): Austria firmly and unequivocally condemns all acts of terrorism and has always done so. Austria has consistently called on the international community - and in particular on the United Nations - to increase efforts to combat international terrorism.

The resolution adopted by the Security Council today is an important step in this concerted action against the scourge of international terrorism. By condemning the terrorist attacks leading to the destruction of Pan Am flight 103 and UTA flight 772 and urging the Libyan Government to contribute to the elimination of international terrorism the Security Council has acted within its responsibility for the maintenance of international peace and security. Such terrorist acts strike at the very foundation of modern civilization and jeopardize friendly relations among States and, indeed, endanger their security. The perpetrators of these criminal acts must therefore be brought to justice, and it is now up to Libya to lend its full cooperation to this end. That is why Austria supported resolution 731 (1992).

The intensified legal and practical cooperation of all States is essential and, indeed, indispensable for an effective fight against

(Mr. Hohenfellner, Austria)

international terrorism. Austria has therefore become a party to all relevant international instruments against terrorism. We believe that action taken by the Security Council in this field should be guided by the principles enshrined in these conventions if a State consistently refuses to cooperate with the international community in this effective fight against terrorism.

Mr. GHAREKHAN (India): Let me begin, Mr. President, by felicitating you on your presidency of the Security Council for the month of January 1992. Your experience and energy will, I am confident, provide the Council with noteworthy stewardship during this month.

I should like to convey my delegation's appreciation to Ambassador Vorontsov of the Russian Federation for his exemplary presidency of the Council last month.

Today's meeting of the Council also provides me with the opportunity of warmly welcoming Mr. Boutros Boutros Ghali on his election as Secretary-General. It is a special pleasure for me as India's representative to welcome him in our midst and to wish him success in his very important tasks.

May I also convey my warm appreciation to the delegations of Côte d'Ivoire, Cuba, Yemen, Romania and Zaire, the outgoing members of the Council. I should like to thank them for their warm cooperation with my delegation last year. I should also like to welcome Cape Verde, Japan, Hungary, Morocco and Venezuela, the new members of the Security Council.

The universal concern at the scourge of international terrorism brings the Security Council into session today. This is not the first time the Council has taken up the issue. Resolutions 286 (1970) and 635 (1989) had addressed the problem. Separately, the General Assembly has also pronounced itself on terrorism.

(Mr. Gharekhan, India)

After the bombing of Pan Am flight 103 in December 1988 the Council's membership issued a press statement calling on all States to assist in apprehending and prosecuting those responsible for the criminal act. In meeting today to adopt resolution 731 (1992) the Council takes cognizance of a dispute involving two or more States in an issue of manifest concern to the international community. The Council's need to act in the maintenance of international peace and security is therefore legitimate.

There is hardly any country which has not been the victim of terrorism of some form or the other. India has had direct experience of terrorist violence of various kinds. In 1985 an Air India Boeing 747 en route to India from Canada was blown up in mid-air with a loss of around 400 lives. Innocent Indians have been victims of countless other terrorist attacks that include hijackings, secessionist violence fomented from outside aimed at destabilizing the country and terrorism inspired from across our national boundaries. Several Indians lost their lives on board Pan Am flight 103.

It is no wonder, therefore, that India vigorously condemns terrorism in all its forms. Our painful experience of the devastation and tragedy that international terrorism leaves in its wake enlists our involvement in today's decision of the Council.

I should stress here that the Council is specifically addressing the question of international terrorism. My delegation's vote on the resolution is an expression of its cooperation in the international community's efforts to combat this menace. The Council's action, in other words, is directed towards this objective of combating terrorism and does not, in my delegation's view, prejudge the commitment - or lack of it - of any country in promoting the objective in mind.

(Mr. Gharekhan, India)

Governments have sometimes, for short-term gains, been lenient with terrorists. For example, hijackers have been allowed to go unpunished, a leniency that only emboldens terrorists. My delegation believes, therefore, that determined Security Council action should send out the message that terrorists, and international terrorists even more, will not find safe haven anywhere but will be flushed out and punished for their misdeeds.

(Mr. Gharekhan, India)

Today's resolution, against this backdrop, throws up complex and important questions that deserve attention. In explaining my delegation's vote, I should like to make the following points.

The action that the Council envisages today, unprecedented in Council annals, and with juridical implications, cannot be a precedent. The goal of eradicating international terrorism is a pressing one. At the same time, careful note should be taken of the legal implications inherent in an issue of this kind as it is considered in the Council. We are dealing here with a case where three States, on the basis of evidence gathered by them, wish to enlist the membership of the Security Council in taking action. Such an approach immediately brings up the provisions of the United Nations Charter and of international law. It is my delegation's conviction that action by the Council should be within the ambit of and through the means provided by international law. That is why my delegation believes that today's decision of the Council cannot be considered precedent setting.

I would furthermore stress the importance of recognizing and respecting national sovereignty. The concept has been widely perceived to have come under some strain recently and deserves reiteration. This is all the more important where delicate and complex international issues with implications for national sovereignty, such as the one we are considering today in the Council, are concerned.

Non-aligned members of the Council engaged in a serious attempt at finding a consensus on this issue. My delegation believes that the important efforts of the nonaligned caucus, through consultations with the sponsors of the resolution, contributed measurably to the consensus adoption of the resolution.

A further concern of my delegation related to what the resolution has now



(Mr. Gharekhan, India)

addressed by calling upon the enormous prestige and resources of the Secretary-General in the cause of peace. My delegation believes that, had the Council not invoked the services of the Secretary-General, it would have deprived itself of one of its most potent instruments in the maintenance of international peace and security. I should add that it is my delegation's understanding that the Secretary-General will report to the Council on the outcome of his efforts.

It is on that understanding that my delegation voted in favour of resolution 731 (1992).

The PRESIDENT: I thank the representative of India for his kind words addressed to me.

Mr. HATANO (Japan): Japan, which has long held the position of strongly opposing terrorism in any form, has been following closely the inquiries into the bombing of flights Pan Am 103 and UTA 772, among whose victims was a Japanese national.

The facts of the incidents, including any possible State involvement, must be thoroughly clarified and those responsible identified through due legal process. If these incidents are revealed to be the results of international terrorist activities, then those involved deserve strong censure. My Government has called upon the Libyan Government to respond effectively to the requests made by France, the United Kingdom and the United States.

The Security Council has witnessed a spirit of cooperation in the process of drafting this resolution, and I hope that the Secretary-General will be successful as he seeks the cooperation of the Government of Libya in providing a full and effective response to those requests.

My delegation welcomes the adoption of the resolution.

Mr. ARRIA (Venezuela) (interpretation from Spanish): Mr. President, I am especially pleased to join in the congratulations that have been offered to you by my colleagues. Your intelligent and active leadership has made it possible for the Council to deal smoothly, speedily and effectively with such complex matters as Yugoslavia, Cambodia, El Salvador and now Libya.

We wish also to pay a tribute to Mr. Vorontsov, Permanent Representative of the Russian Federation, for the extraordinary manner in which he guided the Council's proceedings during a period of great significance to his country and the world.

That Mr. Boutros Boutros Ghali has now assumed his post as our new Secretary-General is a source of great satisfaction to our country.

Venezuela is this month beginning its fourth term as a member of the Security Council, where it has always maintained an unshakable position in support of peace, international security and full respect for the sovereignty of nations. Our Organization's Charter has been the framework within which we have enunciated our positions, with the intention of always reflecting also those of the community we represent. We are well aware of the fact that, although our country alone is responsible for its decisions in the Council, we cannot disregard the opinions of the nations we represent here. Our affirmative vote today is a consequence of this vision and this responsibility.

International terrorism has taken thousands of victims and, generally speaking, its perpetrators and instigators have remained unpunished. Such carnage continues to penalize the whole world with a kind of psychological terrorism which obliges us to make major efforts in the field of security in order to prevent such criminal acts. All people who use civil aviation are today still hostages to the kind of terror and anguish resulting from acts such as the downing of the French aircraft of UTA and the American aircraft of

(Mr. Arria, Venezuela)

Pan Am. Those who make use of civil air transport cannot remain in a state of constant anxiety, and that is why we propose that the Council should pronounce itself in a new resolution on terrorism in general, just as on how it will deal with these crimes. Our action against crimes against mankind will not be limited to the case now before us. It is obvious that, as long as the perpetrators remain unpunished, terrorism will never cease.

The inability of the General Assembly to take a stand on the establishment of an international crime tribunal has made it necessary for the Council today to act and to assume its responsibility towards the community we represent. Although this measure is exceptional and has involved problems for many of our countries in the area of jurisdiction and extradition of nationals, the Council does have the necessary competence and it must be prepared to assume the enormous responsibility involved in filling this institutional gap the result of the lack of alternative machinery to deal with crimes against mankind.

There can be no doubt that the decision taken unanimously by the Security Council confers legitimacy and representativeness on this resolution, the premise of which is limited strictly to acts of terrorism involving State participation.

In these new times it is urgent to accelerate the decision-making process so as to be able to deal with situations in which international cooperation must triumph over confrontation. Since 1948 the United Nations has been considering the establishment of an international criminal tribunal, calling on the International Law Commission to study its establishment in order to try persons accused of genocide and other crimes.

The latest initiative in this direction was taken by Trinidad and Tobago, which in 1989 requested the General Assembly at its forty-fourth session to

(Mr. Arria, Venezuela)

include the item "International criminal responsibility of individuals: establishment of an international criminal court". The former Prime Minister of that nation, Arthur Robinson, in his statement before the General Assembly in 1990 said that an international criminal tribunal would provide

"... greater protection for security and sovereignty, particularly of small States; essentially, it is stability and world order that are at stake." (A/45/PV.20, p. 31)

The United Nations today is playing a particularly prominent role in new world circumstances. That is why I wanted to take this opportunity of my first statement in the Council to stress that international impunity endangers international peace and security.

How much longer will we have to wait for the creation of a judicial organ to try those who are guilty of crimes against mankind? The United Nations has for 40 long years been dealing with the creation of such a tribunal, that is, practically since its founding, but the time for action has never yet seemed ripe for its representatives. Twenty years ago, diverse considerations paralysed the political will of our Organization to deal morally and juridically with terrorism. Defining terrorism itself led to interminable discussions. All these considerations are not relevant today, and we must assert the will of the United Nations and not waste any more lives or time.

(Mr. Arria, Venezuela)

It is time we understood that this is not an academic subject: This is a real subject, as the resolution we adopted today shows. The United Nations, because of its role in the world, cannot afford to continue to debate in coming years a matter of such significance and urgency. If anything affects international security - and it will be affected by this in the future - it is crimes against mankind. International impunity is an intolerable threat which cannot be accepted. The United Nations is obliged to act without any further delay.

The countries that sponsored this resolution - the United States, France and the United Kingdom - worked with the group of non-aligned countries represented in the Council and made the clear declaration that this resolution is exceptional by its nature and cannot be considered in any way as a precedent but is intended only for those cases in which States are involved in acts of terrorism.

Venezuela can never be disassociated from an international effort against terrorism as represented by this resolution. This is a matter where vagueness or equivocation cannot be tolerated. It is not enough just to issue a declaration of principles against terrorism. Venezuela today, thanks to the General Assembly, is in a position in which it feels obliged to be responsible and unequivocal.

Finally, I should like to say that our decision-making process took very much into account the results of the three years of investigations which were carried out by three countries universally recognized for their respect for the principles of law and the independence of their judicial branches. The tribunals of those countries have condemned no one and have confined themselves exclusively to determining the existence of evidence that would justify impartial criminal proceedings.

(Mr. Arria, Venezuela)

Like all countries of Spanish origin, Venezuela recognizes its links with the Arab world, whose history is largely the history of mankind. We feel that this makes us particularly sensitive to their problems. For this reason we are confident that the purpose of this resolution - a peaceful settlement of the dispute - can be achieved. Accordingly, we deem the urgent and active participation of the Secretary-General to be of special political and institutional importance.

The PRESIDENT: I thank the representative of Venezuela for his kind words addressed to me.

I shall now make a statement in my capacity as the representative of the United Kingdom.

The Council is meeting today to consider two of the most horrific acts of terrorism that the world has seen. The destruction of flight Pan Am 103 over Lockerbie on 21 December 1988 resulted in the deaths of 270 people: 259 passengers and crew, and 11 residents of the Scottish town of Lockerbie. The destruction of flight UTA 772 on 19 September 1989 resulted in 171 deaths. Four hundred and forty-one people died in these two acts of mass murder and they were nationals of over 30 different countries. Forty-seven British nationals were killed. The United Nations itself lost a most distinguished officer, Mr. Bernt Carlsson, the Commissioner for Namibia. The enormity of these tragedies must be clear to all, even in a world that has become hardened to acts of terrorism.

But there is another aspect which sets these cases apart: the clear indication of Libyan Government involvement. It is this which has led the British Government, together with those of France and the United States, to bring before the Council Libya's failure, thus far, to comply with our

(The President)

requests that the accused be made available for trial in Scotland or the United States and to cooperate with the French judicial authorities. It is this exceptional circumstance of government involvement which has made it appropriate for the Council to adopt a resolution urging Libya to comply with those requests. We trust that the Libyan authorities will now see reason and comply fully and effectively with our requests and make available the accused for trial in Scotland or the United States.

The facts are fully set out in the documents circulated some time ago to the Council. On 14 November 1991 the Lord Advocate, who is the head of the independent prosecution authority in Scotland, announced his conclusion that there was sufficient evidence to justify application to the court for warrants for the arrest of two named Libyan nationals. The court issued warrants for their arrest on charges which include conspiracy and murder. Details of the charges are set out in the annex to Security Council document 23307. I would wish to emphasize the thoroughness of the police investigation, which lasted almost three years; the outstanding work of many police officers and agencies, not only in Scotland but throughout the world, and the extraordinary achievement of the forensic scientists and other specialists. We are not asserting the guilt of these men before they are tried, but we do say that there is serious evidence against them which they must face in court.

The accusations levelled at Libyan officials are of the gravest possible kind. The charges allege that the individuals acted as part of a conspiracy to further the purposes of the Libyan Intelligence Services by criminal means. This was a mass murder, and one in which we have good reason to believe the organs of a State Member of the United Nations were implicated.

(The President)

Following the issue of warrants against the two Libyan officials, the British Government sought to persuade the Libyan Government to make available the two accused for trial in Scotland. No satisfactory response was received. So on 27 November 1991 the British and American Governments issued a statement declaring that the Government of Libya must surrender for trial all those charged with the crime, and accept complete responsibility for the actions of Libyan officials; disclose all it knows of this crime, including the names of all those responsible, and allow full access to all witnesses, documents and other material evidence, including all the remaining timers; and pay appropriate compensation.

On the same day, the British, French and American Governments issued a declaration requiring that Libya comply with their requests and, in addition, that Libya commit itself concretely and definitively to cease all forms of terrorist action and all assistance to terrorist groups. They stated that Libya must promptly, by concrete actions, prove its renunciation of terrorism.

Over two months have passed since we requested Libya to make the accused available for trial. No effective response has been received. Instead, the Libyan authorities have prevaricated and have resorted to diversionary tactics. The letter dated 18 January concerning a request for arbitration under article 14 of the Montreal Convention is not relevant to the issue before the Council. The Council is not, in the words of article 14 of the Montreal Convention, dealing with a dispute between two or more Contracting Parties concerning the interpretation or application of the Montreal Convention. What we are concerned with here is the proper reaction of the international community to the situation arising from Libya's failure, thus far, to respond effectively to the most serious accusations of State involvement in acts of terrorism.



(The President)

We have thought it right, and indeed preferable to other ways of pursuing the matter, to come before the Council and seek the Council's support, through the resolution just adopted. We very much hope that Libya will respond fully, positively and promptly, and that the accused will be made available to the legal authorities in Scotland or the United States, and in France.

The two accused of bombing Pan Am flight 103 must face, and must receive, a proper trial. Since the crime occurred in Scotland and the aircraft was American, and since the investigation has been carried out in Scotland and in the United States, the trial should clearly take place in Scotland or in the United States. It has been suggested the men might be tried in Libya. But in the particular circumstances there can be no confidence in the impartiality of the Libyan courts. The suggestion of a trial before some international tribunal is simply not practical. The International Court of Justice has no criminal jurisdiction. There is no international tribunal with such jurisdiction.

In addition to the need to bring to justice the perpetrators of these particular crimes, it is vital that this Council send an unequivocal message to other would-be terrorists. The Council's action should have an important deterrent effect. In future, terrorists operating with the connivance or support of a Government will know that they can be brought to trial swiftly and effectively in the country where their crime was committed. We cannot afford to give the impression that they will be given special treatment, or benefit from diplomatic haggling.

We do understand the position of those countries whose own laws prevent the extradition of their nationals. But there is no rule of international law which precludes the extradition of nationals, and indeed many countries place no bar on this and regularly do extradite their own nationals. This is the

(The President)

case with the United Kingdom, the United States and many other countries. We are not, by this resolution, seeking to challenge in any way the domestic rules in those countries which prohibit the extradition of nationals. We are not seeking to establish any precedent that would cast doubt on the legitimacy of those rules. We are not setting a broad precedent. We are dealing only with terrorism in which there is State involvement. In the circumstances of this case it must be clear to all that the State which is itself implicated in the acts of terrorism cannot try its own officials.

I now resume my functions as President.

There are no further names on the list of speakers. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 3.20 p.m.



Security Council

PROVISIONAL

S/PV.3033/Corr.1  
23 January 1992

ENGLISH

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PROVISIONAL VERBATIM RECORD OF THE THREE THOUSAND AND  
THIRTY-THIRD MEETING

Held at Headquarters, New York,  
on Tuesday, 21 January 1992, at 11.30 a.m.

Corrigendum

Page 93

First paragraph should read

(Mr. Hohenfellner, Austria)

The intensified legal and practical cooperation of all States is essential and, indeed, indispensable for an effective fight against international terrorism. Austria has therefore become a party to all relevant international instruments against terrorism. We believe that action taken by the Security Council in this field should be guided by the principles enshrined in these conventions unless a State consistently refuses to cooperate with the international community in this effective fight against terrorism.

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# Annex 11



Security Council

PROVISIONAL

S/PV.3063

31 March 1992

ENGLISH

PROVISIONAL VERBATIM RECORD OF THE THREE THOUSAND  
AND SIXTY-THIRD MEETING

Held at Headquarters, New York,  
on Tuesday, 31 March, at 10.30 a.m.

President: Mr. ARRIA (Venezuela)

Members:

Austria	Mr. HOHENFELLNER
Belgium	Mr. NOTERDAEME
Cape Verde	Mr. JESUS
China	Mr. LI Daoyu
Ecuador	Mr. AYALA LASSO
France	Mr. MERIMEE
Hungary	Mr. ERDOS
India	Mr. GHAREKHAN
Japan	Mr. HATANO
Morocco	Mr. SNOUSSI
Russian Federation	Mr. LOZINSKY
United Kingdom of Great Britain and Northern Ireland	Sir David HANNAY
United States of America	Mr. PICKERING
Zimbabwe	Mr. MUMBENGEGWI

This record contains the original text of speeches delivered in English and interpretations of speeches in the other languages. The final text will be printed in the Official Records of the Security Council.

Corrections should be submitted to original speeches only. They should be sent under the signature of a member of the delegation concerned, within one week, to the Chief, Official Records Editing Section, Department of Conference Services, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

The meeting was called to order at 11 a.m.

ADOPTION OF THE AGENDA

The agenda was adopted.

- (a) LETTERS DATED 20 AND 23 DECEMBER 1991 (S/23306, S/23307, S/23308, S/23309, S/23317)
- (b) REPORT BY THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 4 OF SECURITY COUNCIL RESOLUTION 731 (1992) (S/23574)
- (c) FURTHER REPORT BY THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 4 OF SECURITY COUNCIL RESOLUTION 731 (1992) (S/23672)

The PRESIDENT (interpretation from Spanish): I should like to inform the Council that I have received letters from the representatives of Iraq, Jordan, the Libyan Arab Jamahiriya, Mauritania and Uganda in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Elhouderi (Libyan Arab Jamahiriya), took a place at the Council table; Mr. Al-Nima (Iraq), Mr. Naouri (Jordan), Mr. Ould Mohamed Mahmoud (Mauritania) and Mr. Karukubiro Kamunanwire (Uganda) took the places reserved for them at the side of the Council Chamber.

The PRESIDENT (interpretation from Spanish): The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

(The President)

Members of the Council have before them two reports by the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992), contained in documents S/23574 and S/23672 respectively.

Members of the Council also have before them document S/23762, which contains the text of a draft resolution submitted by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

I should like to draw attention to the following other documents: S/23641, letter dated 25 February 1992 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General; S/23656, letter dated 26 February 1992 from the Permanent Representative of Portugal to the United Nations addressed to the Secretary-General; S/23731, letter dated 18 March 1992 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General; and S/23745, letter dated 23 March 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Jordan to the United Nations addressed to the President of the Security Council.

The first speaker is the representative of the Libyan Arab Jamahiriya, on whom I now call.

Mr. ELHOUDERI (Libyan Arab Jamahiriya) (interpretation from Arabic): At the outset, Sir, permit me on behalf of my delegation to congratulate you on your assumption of the presidency of the Security Council for this month. We are confident that the skill and expertise to which you have accustomed us will contribute to the success of the Security Council's work in a manner that will achieve justice and maintain the principles and purposes for which the United Nations was created.

(Mr. Elhouderi, Libyan Arab Jamahiriya)

Today the Security Council is once again considering the 1988 crash of a Pan American aircraft and the 1989 crash of a UTA aircraft, along with the accusation that two Libyan nationals caused the destruction of those aircraft. This is occurring without taking into consideration the framework in which the issue should be examined: the legal framework. It is occurring without awaiting the final word on the subject from neutral and objective jurisdiction.

The Security Council's decision to consider the item again two months after the last time it did so implies that all aspects of the question have been exhaustively considered, that the two Libyan citizens have been convicted by a just and objective court, that it has been clearly and unequivocally proven that the two accused are linked to the Libyan State, that the Libyan State is responsible for their acts and that it is now the task of the Security Council to carry out the sentence.

But the facts are different. Even the evidence on the basis of which a court might convict or acquit the accused is incomplete: parties have not cooperated with the judicial authorities in Libya, having refused to turn over the files on the case and the evidence in their possession.

The situation is very similar to the way in which the Security Council has considered this matter from the very beginning: today's meeting is taking place under the same circumstances and with the same motivations.

Last January before the Council, the delegation of the Socialist People's Libyan Arab Jamahiriya reviewed what Libya has done in the face of United States, British and French allegations. While it would be repetitious to go



(Mr. Elhouderi, Libyan  
Arab Jamahiriya)

over those measures again, my delegation believes it would be useful now not merely to recall them but also to demonstrate the extent to which Libyan authorities have cooperated and how much they want completely to uncover all the facts relating to these criminal acts.

In that context, I repeat before the Council that when my country received the documents of indictment its competent judicial authorities began to act. Two judges were appointed and began work immediately; they undertook an initial investigation and an order was issued to hold the two accused in initial custody.

(Mr. Elhouderi, Libyan  
Arab Jamahiriya)

Furthermore, my country has expressed its readiness to cooperate with the judicial authorities in the States concerned; we have expressed our readiness to cooperate with all the parties concerned in their investigations. We have also asked for all the evidence, all the documents, to help us in our investigations. The relevant authorities in my country have expressed their readiness to receive investigators to participate in the investigations and have welcomed civil rights and human rights lawyers.

In addition, despite all considerations respecting Libya's national jurisdiction, the relevant authorities in my country have said that they would welcome a neutral investigating committee or putting the matter before the International Court of Justice. Although the dispute is of a purely legal nature, and therefore should be solved by legal means in accordance with the relevant international conventions, my country, on the basis of the 1971 Montreal Convention, has taken concrete, practical measures and has requested arbitration on the dispute. The Foreign Ministers of the United States of America and the United Kingdom have been informed of that in official communications.

In brief, those are the measures my country has taken since the beginning of the dispute and just before the adoption of resolution 731 (1992). As we said at the previous meeting, that was not for any political reasons. This legal issue was dealt with in accordance with current Libyan legislation, international law and accepted international norms.

(Mr. Elhouderi, Libyan  
Arab Jamahiriya)

What was the response of the other parties to this just and legal position? Indeed, what was the Security Council's response? The United Kingdom and the United States of America responded to this just and legal act with more than rejection; both parties made a request for the extradition of the two Libyan citizens to stand trial on their territory, before the investigation was complete, and indeed before the two accused were faced with the accusations made against them. That is a clear violation of the most basic principles of judicial procedures. There can be no accusation without investigation and sufficient evidence, and the accused is innocent until proved guilty. There can be no sanction without trial.

Article 36 of the Charter states:

"3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court." We had hoped that in reviewing this legal question the Security Council would act in that way. However, the Council took another direction and adopted resolution 731 (1992). Not only is that resolution based on incomplete investigations, but there is no justification for it. It makes no mention of the Libyan point of view, which we had expressed. Moreover, it ignores the provisions of Article 33 of the Charter concerning the settlement of disputes between Member States by peaceful means.

On top of all that, the procedure followed by the Council in adopting resolution 731 (1992) did not take into account the correct implementation of paragraph 3 of Article 27 of the Charter, which says that in the case of

(Mr. Elhouderi, Libyan  
Arab Jamahiriya)

decisions adopted under Chapter VI a party to a dispute shall abstain from voting. That is applicable to France, Britain and the United States of America.

Those facts concerning the basis of resolution 731 (1992) and the procedures followed in its adoption are not put forward merely as the Libyan point of view. Rather, they represent the opinions of professors, other thinkers and legal experts. They are an expression of the opinion of international organizations, one of which has consultative status at the United Nations. Here I would mention the International Progress Organization, which expressed its opinion in document S/23641.

It has been said that the Security Council decided to reconsider this question because the Libyan authorities did not cooperate in implementing resolution 731 (1992). Whatever pretexts are invoked to justify this position, we wish to reaffirm that the Socialist People's Libyan Arab Jamahiriya has always abided by United Nations resolutions. We have always wanted to implement those resolutions, including Security Council resolutions.

Although Libya realizes the circumstances of the adoption of resolution 731 (1992) and the confusion surrounding it, the very day following its adoption the Jamahiriya expressed its readiness to cooperate with the Secretary-General of the United Nations to ensure the success of his mission, with respect for the United Nations Charter and international law.

On the basis of those facts the relevant Libyan authorities assured the Secretary-General's Special Envoy, who visited the Jamahiriya on 25 January this year, that that was its position. He was also informed of the measures

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(Mr. Elhouderi, Libyan  
Arab Jamahiriya)

taken by the Libyan Arab Jamahiriya, including the request to the Governments of the United States of America and the United Kingdom to provide the Libyan judiciary with the information at their disposal. Furthermore, the Jamahiriya suggested that the Secretary-General should invite judges from the United States of America, the United Kingdom and France to visit Libya, as well as representatives of the League of Arab States, the Organization of African Unity and the Organization of the Islamic Conference, in order to observe the trial - should Libyan judges decide on such a trial - of the two Libyan citizens.

In order to demonstrate further cooperation and good will, Libya informed the Secretary-General of other measures it had taken. First, Libya had decided to accept the French demands, because they were in line with international law and did not jeopardize Libyan sovereignty. In this context, the Libyan authorities requested the Secretary-General either to take the initiative of setting up a mechanism for the implementation of that aspect of the resolution or ask France and Libya to negotiate such a mechanism among themselves.

(Mr. Elhouderi, Libyan Arab Jamahiriya)

Secondly, as concerns Security Council resolution 731 (1992) as a whole, Libya has reaffirmed its readiness to cooperate fully with the Council and the Secretary-General in a way that would not infringe upon its State sovereignty nor violate the United Nations Charter and the principles of international law. In this connection Libya suggested that a mechanism be created for the implementation of resolution 731 (1992) and invited the Secretary-General to create such a mechanism or to call upon the parties concerned to enter into discussions aimed at reaching an agreement on the setting up of the mechanism in accordance with the spirit of the resolution.

Notwithstanding all the difficulties and legal obstacles created both by Libyan national legislation and international conventions, the principle of national sovereignty and the Charter of the United Nations - and we believe that resolution 731 (1992) runs counter to the Charter - the Libyan Arab Jamahiriya renewed its expression of readiness to cooperate with the Secretary-General in facilitating the task entrusted to him in operative paragraph 4 of that resolution.

In that connection Libya made the following statements: First, the Jamahiriya has no objection to the principle of surrendering the two suspects to the headquarters of the United Nations Mission in Tripoli to facilitate investigations, and it has no objection to the Secretary-General's undertaking to set up a legal committee made up of objective, neutral judges to carry out fact-finding activities and to verify the seriousness of the accusations made against our two citizens, including a comprehensive investigation. If the Secretary-General were then to confirm the seriousness of the accusations, the Jamahiriya would not object to surrendering the two accused persons under his personal supervision to a third party, as long as the Secretary-General would

(Mr. Elhouderi, Libyan Arab Jamahiriya)

furnish full legal and judicial guarantees of the need to hold a fair and objective trial based on the Declaration of Human Rights and the principles of international law.

Secondly, we agree with the French request and with the French proposal to send a judge to Libya to investigate the matter as he may see fit, and we agree to provide the French judge with copies of the minutes of the investigation undertaken by the Libyan judge.

Thirdly, in addition to the foregoing the Jamahiriya reaffirms its strong condemnation of terrorism in all its forms, regardless of the source. It has denied its purported implication in any act of terrorism and has expressed its readiness to have the United Nations Secretary-General or his deputy engage in fact-finding activities within the Jamahiriya in order to disprove - or confirm - such allegations. Libya will abide by its commitment to furnish all facilities and information required by the Secretary-General or his deputy to discover the truth, and it has clearly stated its opinion that there is a need to draft a convention, bilateral or multilateral, setting forth ways and means of eradicating international terrorism.

In addition, Libya has expressed its readiness to cooperate in putting an end to all acts of terrorism against innocent civilians and has stated that it will not allow its territory or citizens or institutions to be used in any manner whatsoever for the perpetration of acts of terrorism, either directly or indirectly, and that it is prepared to apply the severest sanctions against all persons implicated in such acts.

After all I have said, can anyone really maintain that Libya has not cooperated? My country has cooperated. It has expressed its readiness to cooperate to the utmost within full respect for its internal laws and

(Mr. Elhouderi, Libyan  
Arab Jamahiriya)

international law and agreed international norms. The Jamahiriya has always wanted to solve the matter in a way that does not contravene its domestic legislation. The People's Congresses wield the power in the country, and they are the bodies that must take the appropriate decisions.

Libya's desire to deal with the matter in keeping with established conventions and norms explains its decision, which is in accordance with article 14 of the 1971 Montreal Convention, to submit the dispute to the International Court of Justice. Our goal is not, as some have claimed, to prevaricate or to gain time. The decision is in implementation of the text of the aforementioned article, which allows the Jamahiriya to seek a legal way in which it can cooperate fully.

All I have said clearly shows that the impasse in finding a solution to the problem has not been created by any lack of cooperation on the part of the Libyan authorities. The impasse has been created by the other parties, which have rejected all initiatives designed to bring about a fair and neutral investigation. Those parties want to abort any international or regional efforts in that framework. How else can we interpret the automatic rejection of all the initiatives Libya has taken to find a solution and of all the proposals made by many international organizations, including legal and regional organizations? Here, we would mention the resolution adopted by the Foreign Ministers of the League of Arab States following their extraordinary session on 22 March of this year, in which they urged the Security Council to avoid the adoption of any decision to take economic, military or diplomatic measures against Libya, to await a decision by the International Court of Justice and to allow the committee established by the Council - consisting of six ministers and the Secretary-General of the League - to undertake the



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necessary urgent contacts with the parties concerned, the President of the Security Council, the States members of the Security Council and the Secretary-General of the United Nations to find a solution to the crisis.

In the light of all that, why do we have this continuing rejection of all international appeals calling for flexibility and restraint? Why has there been a rejection of any cooperation with the Libyan judiciary? Why has there been a refusal to furnish the evidence on which the two accused persons have been indicted? Why is there a refusal to participate in the ongoing investigation or in some neutral international investigation? And in addition to those questions, we would add the following: Why is it claimed that this incident does not come under the jurisdiction of the International Court of Justice, even though the United States itself has in 7 earlier cases concerning attacks against American aircraft petitioned the International Court and not the Security Council? Does this mean that the United States of America prefers to use the most useful instrument rather than the one most directly concerned? And why such haste? Why do the other parties refuse to await the opinion of the International Court of Justice on the question? Why are they exerting pressure on the Security Council to consider the question at the same time as the Court is considering it?

(Mr. Elhouderi, Libyan Arab Jamahiriya)

The surprising fact is that the United States of America has declared in advance its rejection of any ruling of the International Court of Justice that would not be in its favour. Here, we would recall its position in its dispute with Nicaragua, in which the United States rejected the Court's opinion of 26 November 1984, in violation of Article 94 of the Charter.

We fear that this rejection of all initiatives and the attempts to smear my country's reputation and to lead international public opinion astray are but paving the way to another act of aggression against peaceful Libyan cities, such as that which took place in 1986, in which hundreds of innocent civilians perished. This very morning, the Western media are claiming that Libya has prevented foreign nationals from leaving the country. This has been strongly denied by my country. It is a truly baseless allegation.

I do not wish to list here all the many statements made by officials in the British and American Governments on this subject. I would just mention one statement made by the United States President on 19 November 1991. He said that the United States was seeking possible responses beyond bringing the accused to trial.

The primary objective of the United Nations and the Security Council as laid down in Article 1 of the Charter is to act by peaceful means in conformity with the principles of justice and international law in order to settle international disputes which might lead to a breach of the peace. Proceeding from that principle and as a commitment to it, Libya has expressed its full willingness to find a peaceful and just solution to the dispute. We have reaffirmed our readiness to cooperate with the Secretary-General of the United Nations towards the success of the mission entrusted to him in Security

(Mr. Elhouderi, Libyan  
Arab Jamahiriya)

Council resolution 731 (1992) in a manner promoting respect for the Charter of the United Nations and in conformity with the provisions of international law.

We have put forward many proposals, of which the Secretary-General has been apprised through his Personal Envoy or through letters communicated to him. The Jamahiriya, proceeding from principled and firm positions, has affirmed on many occasions its condemnation of international terrorism and its rejection of any form of violence threatening the lives of innocent people or endangering their security and safety. Furthermore, Libya has declared its support for the international community in any measures it takes to fight international terrorism. We have affirmed that we seek to participate effectively in any effort aimed at achieving this objective.

All of this leads me to state that it is incorrect to claim that the Libyan authorities have not fully and effectively responded to the demands contained in resolution 731 (1992). As far as the extradition of Libyan nationals is concerned, our national laws would reject any such action. Libya is not alone in this. It is a normative rule of international law. However, my country has none the less attempted to find a solution that would maintain its sovereignty and not breach its laws.

As far as the other demands are concerned, my country has fully responded to those demands in a manner respecting the norms of international law. We have shown our readiness to cooperate further, as clearly pointed out by the Secretary-General in his second report to the Security Council in document S/23672. He states in paragraph 6 of that report that:

"there has been a certain evolution in the position of the Libyan authorities".

(Mr. Elhouderi, Libyan Arab Jamahiriya)

This conclusion clearly shows that there has been an evolution that could lead to a satisfactory solution to the dispute. On that basis, we had expected the Security Council to take this evolution into account. We had hoped to encourage the Secretary-General in his efforts to implement resolution 731 (1992).

Instead, we have found measures leading in the opposite direction. What we find today in the draft resolution before the Council is an example of the abuse of the Security Council by some permanent members through the imposition of resolutions that not only run counter to international legitimacy but also are in flagrant violation of that legitimacy. This could lead to a situation in which the very principles and objectives of the United Nations are threatened. These are dangers the consequences of which cannot be predicted. Law and objectivity are being set aside in favour of selfish personal criteria. Such acts will also undermine the bases of international law and open the door to chaos, with a particular threat to the future of smaller States.

In accordance with Chapter VI of the United Nations Charter, and particularly paragraphs 2 and 3 of Article 36, the Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties. The Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice.

What is taking place now clearly shows that the Security Council did not take these factors into consideration. It shows that the Security Council has bent to the requests of three States and moved directly to the implementation

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of Chapter VII of the Charter, which relates to action with respect to threats to the peace, breaches of the peace, and acts of aggression. That is not the case in the situation now before the Security Council. The matter is a legal dispute concerning who should investigate the accused and who should put them on trial. That is the crux of the matter.

Therefore, brandishing Chapter VII and the draft resolution is the greatest act of fraud perpetrated against the Charter of the United Nations. It is an insult to the intelligence of the international community. It is a flagrant act of forgery. Chapter VII deals with threats to international peace and acts of aggression. Libya, which is being threatened, should invoke Chapter VII, and not the United States, Britain or France, which have invoked it merely because two people, who have yet to be proven guilty, have been indicted. The sponsors of the draft resolution and the measures based on Chapter VII included in it have jumped directly to Article 41, because Article 39 calls on the Security Council to determine the existence of any threat to the peace, breach of the peace, or act of aggression, and to make recommendations or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

(Mr. Elhouderi, Libyan Arab Jamahiriya)

Article 40 calls upon the Security Council, before making the recommendations or deciding upon the measures provided for in Article 39, to call upon the parties to a dispute to comply with such provisional measures as it deems necessary or desirable; the Security Council must take account of whether the parties to the dispute do or do not take such provisional measures. However, none of the above has taken place, and the sponsors of the draft resolution jumped directly to the following Article, thus totally ignoring Articles 39 and 40.

The draft resolution before the Council purposely has a reference to sanctions. Operative paragraph 1 is a clear expression of a threat of further sanctions to take effect if Libya does not immediately respond to the provisions of resolution 731 (1992). Operative paragraph 2 contains unspecified demands: we do not know what criterion leads this Security Council claim that Libya must commit itself definitively to cease all acts of aggression in which they allege my country to be implicated. We do not know when the Security Council will decide that the Jamahiriya has abided by the provisions of operative paragraphs 1 and 2 of the draft resolution so that the sanctions imposed under it may be lifted according to its terms.

However, we also know that the other parties in the dispute enjoy permanent membership in the Security Council; they have the right of veto over all draft resolutions. We therefore would wonder why such haste in operative paragraph 3? Why the withdrawal of all activities and offices of foreign airlines in Libya in a period of merely days? Is not the objective to carry out another act of vengeance against Libya?

The Security Council has participated in solving many international disputes. It has put an end to tension in many regions of the world in a

(Mr. Elhouderi, Libyan Arab Jamahiriya)

manner satisfactory to all parties concerned, and one ensuring the correct implementation of the Charter of the United Nations. In this period of the Security Council's history, there are two clear choices: either respect for the Charter in the implementation of international law, a respect for moral principles, or the other choice, which is to legitimize unjust measures which France, the United States and Britain see as the beginning of further, subsequent measures such as the imposition of an economic siege and military aggression against a small country which is working to build itself and to develop.

For our part, we still hope that the Security Council will act in accordance with the will of all States Members of the United Nations in a manner ensuring respect for the principles of the Charter and the principles of international law, a manner which would strengthen international peace and security and promote the principle of justice and fairness, a principle the application of which my country has repeatedly called for. We also hope that the Security Council will not take any measures which will adversely affect the credibility of the United Nations as an international instrument for the promotion of peace and cooperation. Such acts would make of the United Nations an instrument exploited by certain States to achieve their own objectives and aims; this would threaten the very foundations of the Organization, and would make it meet the same fate as that of the League of Nations. We hope that that will not happen again.

The PRESIDENT (interpretation from Spanish): I thank the representative of the Libyan Arab Jamahiriya, Ambassador Elhouderi, for his kind words addressed to me.

(The President)

The next speaker on my list is the representative of Jordan, who wishes to make a statement in his capacity as Chairman of the Group of Arab States for the month of March.

I invite him to take a place at the Council table and to make his statement.

Mr. NAOURI (Jordan) (interpretation from Arabic): On behalf of the Arab Group at the United Nations, which my country has the honour to be chairing during the month of March, I should like to convey to you, Sir, our sincerest congratulations on your assumption of the presidency of the Security Council for this month. Our confidence in your ability to guide the deliberations of the Council and lead them to success is reinforced by the high efficiency and diplomatic acumen which you have evinced since you first assumed this responsibility.

I should also like to express our appreciation to your predecessor, Ambassador Thomas Pickering, the Permanent Representative of the United States of America, for the worthy manner in which he conducted the work of the Council during the month of February.

The Arab countries, at the level of the Council of the Arab League and through their representatives to the United Nations, have followed with keen interest and concern the recent developments in the situation resulting from the accusations levelled at the Libyan Arab Jamahiriya concerning the destruction of the Pan Am flight and the French UTA flight. At a time when the necessary, urgent contacts between the parties concerned are still continuing in order to reach a solution to the Libyan-American-British-French crisis in accordance with the provisions of the Charter of the United Nations and the principles of international law, today we find the Security Council



(Mr. Naouri, Jordan)

facing a fait accompli; this is reflected in the draft resolution before the Council, which, if adopted, would adversely affect the important efforts made by the League of Arab States represented by the seven-member ministerial committee and the Secretary-General of the Arab League. It might also undermine the hopes our Arab peoples and public opinion are pinning on reaching a peaceful settlement satisfactory to all parties and in consonance with the letter and spirit of Security Council resolution 731 (1992).

It is regrettable that the outcome the Security Council will achieve in adopting this draft resolution will be the fruit of rushing into putting the draft resolution to the vote without paying due attention to its consequences; this is the result of failing to give enough time for all concerned parties and the Secretary-General of the United Nations to make further efforts within the framework of the principles and objectives of the Charter, especially its Article 33, which calls for the peaceful settlement of all conflicts and disputes.

(Mr. Naouri, Jordan)

The Arab countries have been very desirous of reaching a peaceful solution to this problem, a solution that would avoid for our Arab region the complications that would result from adopting a resolution affecting a fraternal country, the Libyan Arab Jamahiriya. The draft resolution could have direct and indirect repercussions for other Arab and non-Arab countries which have nothing to do with the subject-matter being discussed by the Security Council under this draft resolution and which are not to blame for the consequences this draft resolution could have - especially if we take into account the close relationship between the interests of Arab and non-Arab countries, on the one hand, and those of the Libyan Arab Jamahiriya, on the other, reflected in the strong relations between those countries and the Libyan Arab Jamahiriya in other fields.

To emphasize the full attention and active efforts devoted to this crisis by the Arab countries from the outset, it might be useful to set out the steps taken and proposals made by the Arab countries in this connection:

First, the Council of the League of Arab States, in its resolution 5156 of 5 December 1991, called for the establishment of a joint committee of the United Nations and the League of Arab States. This call was reiterated in the Council's resolution 5158 of 16 January 1992. In addition, the Secretary-General of the League of Arab States was entrusted with the task of contacting the United Nations to ensure the exercise by the Secretary-General of the Organization of his good offices with all the parties concerned, with a view to reaching a peaceful settlement to this crisis.

Secondly, there was emphasis on the need to call upon the Security Council to resolve the conflict through negotiations, mediation and a judicial

(Mr. Naouri, Jordan)

settlement, in accordance with the stipulations of Chapter VI, Article 33, of the Charter of the United Nations.

Thirdly, resolution 5161 of 22 March 1992, reflects the sincere desire of the League of Arab States by urging the Security Council to avoid adopting any resolution calling for military, economic or diplomatic actions that might lead to a worsening of the negative factors affecting the region, pending a decision by the International Court of Justice on the case submitted to it on 3 March 1992, and in order to give a chance for any efforts made by the Committee established by the Council of the League of Arab States to bear fruit.

Those are the bases of the Arab efforts to achieve a peaceful settlement to the crisis, a settlement satisfactory to all parties and in accordance with the letter and spirit of Security Council resolution 731 (1992). They are in fact in consonance with the provisions of the Charter of the United Nations and international law. Furthermore, they are realistic and logical, particularly if they are met by good intentions and not by recourse to another kind of approach, based on escalation and confrontation. Such an approach is replete with dangers to our Arab region, at a time when intensive efforts are being made to put an end to the suffering and tension that have prevailed in the region for dozens of years.

The following facts must be emphasized here:

First, the Arab efforts being made within the Council of the League of Arab States have not yet been exhausted; they have not yet run their course. These active efforts are still being made, and are set forth in the letter sent by Mr. Ahmet Abdel Meguid, the Secretary-General of the League of Arab States, to Mr. Boutros Boutros-Ghali, the Secretary-General of the United Nations, on 29 March 1992.

(Mr. Naouri, Jordan)

Secondly, in a press release issued by the office of the Secretary-General of the League of Arab States on 30 March 1992, the secretariat of the League emphasizes that the Libyan position indicated in the Libyan message concerning a solution to the present crisis between Libya and some Western countries confirms the sincere desire to evince good intentions in order to contain the crisis and reach a definitive solution to it, in accordance with public international law and the provisions of Chapter VI of the Charter of the United Nations.

Thirdly, the Arab countries have reiterated their desire for the Secretary-General of the United Nations, in accordance with the powers conferred on him under the Charter of the United Nations, to make his good offices and valuable efforts available with a view to settling this crisis by peaceful means.

Fourthly, the Arab resolutions have consistently stressed condemnation of all forms of terrorism and terrorist acts directed against innocent civilians. We believe that the phenomenon of terrorism is a painful general phenomenon and is not limited to one region or State. International efforts are required in order to establish international machinery on general legal, and not on selective, bases. The Arab countries have suffered from this phenomenon of terrorism in all its forms, and there can be no doubt that they are fully ready to participate effectively to the success of such efforts.

Fifthly, the political atmosphere in the world today, resulting from characteristics of the new international order which has begun to take shape, has made it possible to reach suitable peaceful solutions to many regional and international problems. We believe that on the same basis, and in the same spirit, the peaceful efforts to solve this problem can be crowned with success if the necessary time is given for that purpose.

(Mr. Naouri, Jordan)

There are chances for peace and for a peaceful settlement of the crisis being considered by the Security Council today. They could make a positive contribution. What is required is self-restraint, not rushing into steps and resolutions that could impede or abort such chances. In the world of today, it is our duty, indeed our responsibility, to avail ourselves of every chance for peace. The Security Council today shoulders the historic responsibility of showing its determination to continue the march towards peace and to spare our region tension and instability. We are confident that the Council will not hesitate to give peace and a peaceful settlement more time and another chance, so that they can yield their fruits.

The PRESIDENT (interpretation from Spanish): I thank the representative of Jordan for the kind words he addressed to me.

The next speaker is the representative of Mauritania. I invite him to take a place at the Council table and to make his statement.

Mr. OULD MOHAMED MAHMOUD (Mauritania) (interpretation from Arabic): On behalf of the delegations of the five States members of the Arab Maghreb Union, I have the honour of participating in the discussion on the item before the Security Council today.

I should like first to express our delegations' warm congratulations to you, Sir, on your assumption of the presidency of the Security Council for the month of March. We are convinced that thanks to your vast diplomatic experience the Council's work this month will be successful.

To your predecessor, Ambassador Thomas Pickering of the United States, our delegations express their heartfelt congratulations on the skilful way he directed the Council's proceedings last month.

(Mr. Ould Mohamed Mahmoud,  
Mauritania)

(spoke in French)

In our statement of 21 January 1992 on the item before the Council once again today, I noted that the States members of the Arab Maghreb Union - Algeria, Libya, Mauritania, Morocco and Tunisia - forcefully condemn terrorism in all its forms and manifestations, irrespective of the source or the perpetrators of the terrorism. In that statement I stressed that the fundamental changes on the international scene marking the end of the cold war should put an end to the reign of tension and confrontation and replace it with a new era of dialogue and cooperation fostering the peaceful settlement of the conflicts and disputes that unfortunately persist. That is why, when the Council was discussing the text that was to be adopted as resolution 731 (1992), I expressed the profound concern of our Governments, which felt that the underlying spirit of the resolution was not in harmony with the dynamics of détente and negotiations or with the hopes aroused by the prospect of a world that would be more stable, more just and more secure for all.

Today I wish again to share with the Council the concern of our States about the consideration of a draft resolution providing for sanctions against a member of the Arab Maghreb Union - the more so since the draft resolution, if adopted, would condemn the Libyan people for an act responsibility for which has not yet been established.

Members of the Council will know that, concerned about the future which the countries of the Union are determined to build together, with the help of all friendly States, the Permanent Representatives of the members of the Arab Maghreb Union have repeatedly explained that the harmful consequences of such a resolution could hamper the Union's progress.

(Mr. Ould Mohamed Mahmoud,  
Mauritania)

Our States therefore consider that it could be possible to avoid the sanctions and other measures set out in the text, especially since the dispute in question seems to be basically juridical in nature and since the International Court of Justice, to which it has been submitted, has been considering it since last Thursday. We know too that to settle this dispute Libya has agreed to cooperate with the Security Council and with the Secretary-General.

The Secretary-General's report to the Council pursuant to paragraph 4 of resolution 731 (1992) emphasizes the evolution of Libya's position on this issue. The countries of the Maghreb believe that the Libyan side is doing its best to cooperate in the search for a peaceful settlement of the dispute. Only a few days ago, a judge in the tribunal of the Arab Maghreb Union was mandated to continue the inquiry on the two Libyan nationals who have been charged by United States and British law-enforcement officials.

The Libyan Government has stated its willingness to comply with resolution 731 (1992) and with international law. It has also expressed its readiness to comply fully with any judgement of the International Court of Justice.

That is why the Maghreb delegations, along with the delegations of the States members of the League of Arab States and other countries which reject any possible violation of international law and which are concerned about international legality and respect for United Nations resolutions, have in recent days spoken with the President of the Council and are today addressing the members of the Council concerning the political and economic consequences of possible sanctions against Libya. That is also why the Council of

(Mr. Ould Mohamed Mahmoud,  
Mauritania)

Ministers of the States members of the League of Arab States, determined to contribute to the settlement of this dispute, has stated its view that the adoption of sanctions would be untimely. The seven-member ministerial committee mandated by the Council of Ministers to follow this matter is making sustained efforts to find a peaceful and equitable solution to the dispute.

In that context, we want to stress the efforts the Heads of State of the members of the Arab Maghreb Union have made in contacts with Libya and other concerned States individually and collectively. The provisions and the spirit of the Charter of the United Nations and recent experience, which calls for moderation and preventive diplomacy - the crux of the message of the recent Security Council summit - urge us to shun radical solutions marked by the stamp of humiliation.

In a world focusing on the interdependence of economic and security interests, the members of the Security Council, whose fundamental purpose is to ensure the maintenance of peace and security, must cultivate a spirit of harmony and cooperation in the service of the international community.

In any event, our delegations, which believe there remain possibilities for a peaceful settlement, hope that moderation will prevail in the consideration of this question. We believe that the adoption of any sanctions would be inappropriate, and that all efforts must be continued to promote the use of peaceful means for the solution of all disputes and conflicts. We are convinced that the Security Council can enhance its credibility and the prestige of the Organization in the service of world peace by taking into account the concerns of Member States and appeals for wisdom and prudence.



The PRESIDENT (interpretation from Spanish): I thank the representative of Mauritania for the kind words he addressed to me.

The next speaker is the representative of Iraq. I invite him to take a place at the Council table and to make his statement.

Mr. AL-NIMA (Iraq) (interpretation from Arabic): This, Sir, is the last day of your presidency of the Security Council, and my delegation wants to express its profound appreciation and admiration for the wisdom and skill with which you have presided over the Council's work this month. Those activities were many, and most significant.

It is universally believed that Security Council resolutions based on the provisions and principles of the Charter must be characterized by fairness and justice. I wish therefore to pose a number of questions prompted by the draft resolution before the Council (S/23762). My questions go to the heart of the principles of fairness and justice that all Members expect the Security Council to uphold.

My first question is a substantive one. Has the Security Council exhausted all the means available to it under Chapter VI of the Charter to secure compliance by the Libyan Arab Jamahiriya with resolution 731 (1992)? Has Libya rejected resolution 731 (1992), enabling the Council to move on to enforcement measures under Chapter VII?

(Mr. Al-Nima, Iraq)

Why did the Council act in this case with such haste and so harshly to guarantee the implementation of a resolution adopted less than three months ago, when it did not act in the same way regarding other well-known resolutions relating to other States? They include Israel, which has rejected and failed to implement any resolution of the Council for decades. The Council failed to take any action against its heinous acts of terrorism against the Palestinian people and against the sovereignty of Lebanon.

In the not-so-distant past the Council failed to act under Chapter VII regarding resolution 598 (1987) with the same alacrity and at the same level, although one of the parties to the dispute had failed to express a position on the resolution or to accept its implementation, until a whole year had passed.

Are these enforcement measures commensurate with the aims and objects of the resolution, or are they designed to become sanctions for an unspecified period? Has the Council taken into account the adverse economic implications of the resolution for the economies of the neighbouring States? The draft resolution does not imply a solution to the problems of those countries. The experience of the Gulf crisis was that certain States suffered as a result of the embargo against Iraq, and continued to suffer, and the measures taken by the Council under Article 50 did not result in any noteworthy improvement of the situation of those countries or an end to the harm inflicted on them.

Did the Council take into account the humanitarian needs of the Libyan civilians when it considered and opted for these enforcement measures? In this regard, we warn against rushing to adopt a resolution under Chapter VII against another Arab State with the aim of terrorizing its people.

(Mr. Al-Nima, Iraq)

It is common knowledge that the Libyan Arab Jamahiriya has officially expressed to the Secretary-General of the United Nations its readiness to cooperate in the implementation of resolution 731 (1992). This was restated in a communication addressed by the Secretary-General of the Arab League to the Secretary-General of the United Nations, Mr. Boutros Boutros-Ghali, on 29 March, a communication which included the facts that the competent Libyan authorities did not object to the two suspects' placing themselves voluntarily at the disposal of the Secretary-General of the Arab League and that Libya was ready to implement resolution 731 (1992) in the framework of international law, international legitimacy and the national sovereignty of the Libyan Arab Jamahiriya.

The Council of the Arab League in its three meetings, the most recent of which was held at the ministerial level, has expressed solidarity with Libya, on the basis of its belief in the justice and wisdom of the Libyan position.

Libya's position, which is sensible and which conforms with the United Nations Charter and the Montreal Convention, makes it incumbent on the Council to give it a chance to develop in such a way as to satisfy all the parties. We do not believe that harm will be done to international peace and security if the Council shows patience and persists in following up efforts to achieve the desired solution, especially since the International Court of Justice is considering the question and Libya has expressed in advance its acceptance of the Court's opinion.

Good intentions, patience and sincerity are sure to contain the crisis and lead to a sound solution to it. We oppose all forms of terrorism, regardless of the party perpetrating it. Iraq and its people, which have suffered for 20 long months from the unwarranted continued embargo and are

(Mr. Al-Nima, Iraq)

still sustaining it steadfastly and patiently, call on the Council to assess fairly and justly the seriousness of the implications of these enforcement measures for the fraternal Libyan people and not allow certain hegemonistic members to dictate its decisions.

The Security Council, the organ responsible for the maintenance of international peace and security, can be true to itself and fair to all parties in its resolutions and can truly be the repository of the hopes of all. It should not once more fall under the hegemony of one or two States that want to impose their domestic laws on the international community.

The PRESIDENT (interpretation from Spanish): I thank the representative of Iraq for his kind words addressed to me.

The next speaker is the representative of Uganda. I invite him to take a place at the Council table and to make his statement.

Mr. KARUKUBIRO KAMUNANWIRE (Uganda): Let me start by congratulating you, Sir, upon your accession to the presidency of the Security Council for this month. Uganda has full confidence in your ability and diplomatic skills in guiding the work of this body to a successful conclusion.

We also wish to thank your predecessor, the Permanent Representative of the United States, Ambassador Thomas Pickering, for presiding over the work of the Council during the past month.

This being the first time we have spoken in the deliberations of the Council since the beginning of the year, we take this opportunity to congratulate Mr. Boutros Boutros-Ghali on his election as Secretary-General of the United Nations. We also pay our tribute to Mr. Perez de Cuellar for his enormous contribution to the work of this Organization in the last 10 years.

We also wish to take this opportunity to welcome all the new members to the Security Council and wish them successful deliberations during their

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(Mr. Karukubiro Kamunanwire,  
Uganda)

tenure. Let me also take this opportunity to express our appreciation to those members whose term expired at the end of last year for their contribution.

As we join in participating in this debate, we wish to start by expressing our sincere and deepest condolences to the families and relatives of the victims of the fateful Pan American flight 103 and UTA flight 772. Uganda was particularly deeply grieved by the loss of Professor Brian Langlands, a British national who for over 30 years had headed the geography department at Makerere University. He was killed in the safety and security of his house by debris from the fateful Pan American flight 103 at Lockerbie.

Uganda condemns all acts of terrorism, including hijacking and skyjacking, by whomsoever they are perpetrated. Accordingly, Uganda condemns the Lockerbie incident involving the bombing of the Pan American flight and that of the French plane and expresses condolences to the bereaved families of the victims. We condemn the culprits, whosoever they may be, and believe that they should be brought to justice.

We would prefer the issue to be resolved peacefully in accordance with our belief in the peaceful resolution of international conflicts. This being the case, we welcomed as a positive step this issue's being brought before the International Court of Justice. Therefore, we appeal to all the parties to this conflict to follow this path. We also appeal to the parties to show understanding and cooperate fully with the proceedings of the International Court, including being ready to make available all relevant information to verify the case.

(Mr. Karukubiro Kamunanwire,  
Uganda)

Equally important, we wish to welcome the steps taken by both parties to get the United Nations involved and seized of the matter. Hence it is perhaps necessary and indeed imperative that the Secretary-General of the United Nations should continue to play a major pivotal role through his good offices to get to the bottom of the problem and to ensure its peaceful resolution.

It is thus our sincere hope that any decisions to emerge from this debate would give the Secretary-General the necessary means to achieve that objective in an amicable manner. We therefore urge all parties concerned to lend him the necessary support and to take this course of action.

The international community should show understanding for those countries that have significant bilateral economic relations with Libya, in accordance with Article 50 on the special economic problems arising from the carrying out of measures envisaged in the draft resolution now before the Council, for such countries may not be in a position to implement the draft resolution fully.

The PRESIDENT (interpretation from Spanish): I thank Ambassador Karukubiro Kamunanwire of Uganda for his kind words addressed to me.

I should like to inform the Council that I have received a letter dated 31 March 1992 from the Permanent Representative of Morocco to the United Nations, which reads as follows:

"I have the honour to request that the Security Council extend an invitation to His Excellency Mr. Ahmet Engin Ansay, Permanent Observer of the Organization of the Islamic Conference to the United Nations, to address the Council under rule 39 of its provisional rules of procedure in the course of the Council's consideration of the item on Libya currently on its agenda."

(The President)

That letter will be published as a document of the Security Council under the symbol S/23764. If I hear no objection, I shall take it that the Council agrees to extend an invitation under rule 39 to His Excellency Mr. Ahmet Engin Ansay.

There being no objection, it is so decided.

I invite His Excellency Mr. Ansay to take a place at the Council table and to make his statement.

Mr. ANSAY: Thank you, Mr. President, for giving me the opportunity to address this body for the second time this month.

The Organization of the Islamic Conference (OIC) has been following with increasing concern the accentuation of the crisis resulting from allegations implicating Libya in the explosion of Pan AM and UTA flights over Lockerbie and Niger, respectively.

Those concerns were conveyed, through Your Excellency, to the members of the Security Council by myself and by Ambassador Abdourahamane Hama, the Special Envoy of His Excellency Dr. Hamid Algabid, Secretary-General of the OIC, who visited New York earlier this month. I am indeed grateful to you for receiving the Special Envoy and for your deep understanding of the OIC's point of view regarding this matter.

As was explained by the Special Envoy and by the previous letters of the Secretary-General of the OIC, the Organization of the Islamic Conference has always vigorously denounced acts of international terrorism and remains firmly committed to working for the elimination of this phenomenon in all its forms and, in particular, to ensure the safety of international civil aviation. The Sixth Islamic Summit held last December at Dakar reaffirmed the unflinching

(Mr. Ansay)

determination of the States members of our Organization to cooperate sincerely to this effect with the international community in respect of international legality.

In this regard the Sixth Islamic Summit at Dakar noted with satisfaction the confirmation by Libya of its denunciation and condemnation of terrorism as well as its full preparedness to cooperate with a view to eradicating this scourge. The Summit reaffirmed its full solidarity with Libya and called for averting any economic or military action against it.

In order to help to clarify the situation to the satisfaction of all concerned, we have been in touch with the Libyan authorities at the highest level. The Government of Libya has not only given its firm assurances to cooperate in the matter but has also taken steps in this direction. In addition to instituting legal procedures of its own, it has demonstrated its readiness to cooperate with the judicial authorities of the United Kingdom and the United States with a view to establishing the facts in an objective and impartial manner.

Moreover, the Government of Libya has responded positively to all initiatives for finding a just and peaceful solution to this issue. Several countries and international organizations have urged the Governments of the United States, the United Kingdom and France to exercise restraint and to eschew a confrontational course, which could seriously impinge upon the peace and security of the region.

In view of the above, we were confident that this crisis could be resolved peacefully without any resort to punitive actions or measures against Libya. We are deeply concerned about the prospects of the Security Council's considering action against Libya under Chapter VII of the Charter. We



(Mr. Ansay)

understand that the draft resolution presented by some permanent members is seeking to impose sanctions and an air embargo against Libya. That, indeed, besides being unjustifiable given Libya's readiness to cooperate, would certainly be construed by many as a high-handed approach.

I feel it my duty to convey to the members of the Council our concerns about the imposition of sanctions against Libya. We are convinced that such a course of action will not help resolve the issue but will unfortunately and uselessly increase tension among members of the international community.

Our sentiments of deep sympathy and compassion for the families of the innocent victims of the tragic explosion of the Pan Am and UTA flights are still very fresh and very much valid. But equally valid are our feelings of solidarity and compassion with Libya and its people in the face of these disquieting prospects.

Those concerns I am conveying to the Council are of those millions and millions of Muslims around the world who are, in this holy month of Ramadan, praying for peace, love and justice for all peoples and nations. We firmly believe that this issue could indeed be resolved peacefully on the basis of respect for international legality.

While reiterating the principled position against terrorism of the Organization of the Islamic Conference, I would like to express the hope that the Council will proceed in the matter with due care and not impose any sanctions or embargo against Libya, especially since the latter is prepared to cooperate with the Council.

The PRESIDENT (interpretation from Spanish): It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. If I hear any objections, I shall take it that that is the case.

(The President)

There being no objection, it is so decided.

Before putting the draft resolution to the vote, I shall first call upon those members of the Council who wish to make statements before the voting.

Mr. JESUS (Cape Verde): As I stated last January in the Council when resolution 731 (1992) was adopted, Cape Verde strongly condemns any act of international terrorism wherever, whenever and by whomever perpetrated.

The tragedies of Pan American 103 and UTA 772 are blatant, murderous examples of the destructiveness and inhumane character of terrorism, which serves no purpose other than to cause the loss of innocent lives.

(Mr. Jesus, Cape Verde)

We joined the outcry of the community of nations in condemning these two terrorist-induced accidents and urged all those that have been engaged in this kind of macabre activity to discontinue it immediately and to abide by the basic civilized rules of human behaviour. We once again express our deepest feelings of sorrow for the victims' family members.

Last January, when the Council discussed this matter, my delegation voted in favour of resolution 731 (1992) to signify its firm condemnation of terrorism. Today, we are about to adopt a draft resolution on sanctions against Libya. The draft resolution poses some difficulties for us.

First, while we strongly believe that the individuals who perpetrated the horrible crimes that caused the tragic accidents of Pan American flight 103 and UTA flight 772 should be brought to justice and punished accordingly, we believe that the norms of international law have to be abided by. We believe it to be very important that the judicial body of this Organization - the International Court of Justice - have a role to play whenever a legal issue is at stake, as mentioned in paragraph 3 of Article 36 of the Charter. It would be more appropriate if the Council were to act after the International Court of Justice - which is now seized of this matter - had decided on what is the applicable law, if any, as to the issue of jurisdiction. Furthermore, and more importantly, as I explained in the process of the adoption of resolution 731 (1992) last January, the Constitution of Cape Verde does not allow the extradition of our own nationals. Therefore, it becomes difficult for us to endorse measures that could run counter to that constitutional principle of ours.

Secondly, we are of the view that sanctions are a measure that the Council should adopt only as a last resort, and that before sanctions are contemplated and decided upon, the Council, in conformity with the United

(Mr. Jesus, Cape Verde)

Nations Charter, should endeavour to exhaust all possibilities for a negotiated peaceful solution. In the current case, we believe that had we had more time a negotiated solution might have been worked out for the surrender of the two individuals.

For those reasons, we shall abstain in the voting on this draft resolution. We reiterate our strong condemnation of all acts of international terrorism and express our willingness to see the perpetrators of such crimes put on trial and punished in accordance with the law.

Mr. AYALA LASSO (Ecuador) (interpretation from Spanish): On 21 January this year, the Security Council unanimously adopted resolution 731 (1992), in which it urged the Government of Libya immediately to provide a full and effective response to the requests made by France, the United Kingdom and the United States of America with a view to determining responsibility for the terrorist acts against Pan American flight 103 and UTA flight 772.

At its meeting of 31 January last, the Security Council, with the participation of the Heads of State and Government of its members, expressed its deep concern over acts of international terrorism and emphasized the need for the international community to deal effectively with all such acts.

Resolution 731 (1992) included among its operative paragraphs a specific paragraph by virtue of which the Secretary-General is requested to seek the cooperation of the Libyan Government to provide a full and effective response to the requests made by France, the United Kingdom and the United States. In compliance with that provision, the Secretary-General sent a number of missions to Libya and took steps whose results were reported to the Security Council.

(Mr. Ayala Lasso, Ecuador)

The non-aligned countries have proposed many initiatives since the beginning of the year with a view to facilitating a negotiated solution to this grave and complex problem. We have found many difficulties on our path, but they have not weakened our resolve to obtain appropriate implementation of resolution 731 (1992) so that the Council would not be compelled to adopt further measures in this respect. Unfortunately, neither resolution 731 (1992), nor the statement of the Heads of State and Government adopted on 31 January, nor the diligent steps taken by the Secretary-General in implementation of paragraph 4 of that resolution, nor the tireless efforts of the members of the Non-Aligned Movement have thus far prompted Libya to comply with the requests made to it in resolution 731 (1992).

The draft resolution which the Council is considering constitutes strong pressure on Libya but, at the same time, a further opportunity for it to comply with resolution 731 (1992). If that should happen before 15 April, it is obvious that there would be no need to apply the sanctions provided for in the draft resolution. In this respect, Ecuador makes a special, friendly appeal to Libya to cooperate with the Security Council in clear and unequivocal terms. That would avoid the application of the measures provided for in paragraph 3 of the draft resolution.

I wish to inform the Security Council that on 27 March the Ministers of Foreign Affairs of the Rio Group, meeting in Buenos Aires, reiterated their firm and unanimous repudiation of terrorism from whatever source and described terrorism as an unacceptable means of political expression and as a factor conspiring against world peace and stability.

Ecuador hopes that all countries, in the face of the challenges posed by profound changes in the international scene, will contribute to laying the foundations of a new order in which violence and coercion will disappear;

(Mr. Ayala Lasso, Ecuador)

human rights and the rights of States are respected; we can live in an atmosphere of peace and security; cooperation between peoples and nations can flourish; and widespread progress is ensured through freedom and democracy.

My delegation will vote in accordance with the principles that we have just expressed.

Mr. MUMBENEGWI (Zimbabwe): Zimbabwe condemns in the strongest terms terrorism in all its forms. We are fully aware of the pain, the suffering and the carnage that it wreaks, and it is our belief that no cause or objective can ever justify it. Members of the international community must stand shoulder to shoulder in ensuring the eradication of terrorism, which is a threat to international peace and security. Zimbabwe was particularly outraged at the tragic and needless loss of innocent lives that resulted from the terrorist bombings of Pan American flight 103 and UTA flight 772.

(Mr. Mumbengegwi, Zimbabwe)

We wish to see those responsible brought to book. In explaining its vote before this Council two months ago, my delegation stated that resolution 731 (1992) sought to achieve two main objectives: to send a clear message that the international community is determined to deal firmly with terrorism, and to ensure that the perpetrators of the Pan Am and UTA bombings are brought to justice.

Zimbabwe and other non-aligned members of the Council, at the time resolution 731 (1992) was adopted, insisted that the Secretary-General be given a clear role in seeking a peaceful, diplomatic solution to the dispute between Libya and three members of the Council. It was Zimbabwe's understanding then that any further Council action on this matter would be guided by a report from the Secretary-General. That report is before us today. My Government has studied it very carefully and has taken particular note of its conclusions. While the Secretary-General could not report unequivocal success in his efforts to seek the cooperation of Libya in responding to the requests by three members of this Council, he has concluded that there has been a certain evolution of the position of the Government of Libya, and has advised that the Security Council should take this development into consideration in its further deliberations on the issue. We commend the Secretary-General for his report, for his efforts to resolve this crisis and for his advice.

Zimbabwe is on record as having consistently maintained that, as required by the Charter, all Security Council resolutions are binding and must be complied with. The Council is now about to decide on a draft resolution imposing certain measures on Libya under Chapter VII of the Charter. From the time this draft was first circulated, we have been carefully considering the

(Mr. Mumbengegwi, Zimbabwe)

question of whether invoking Chapter VII is the best route to take at this stage. I must state that my delegation feels enormous discomfort in invoking Chapter VII at this stage: not only would such action be hasty, it would also be in complete disregard of the wise counsel of the Secretary-General and it would overlook some pertinent provisions of the Charter. It is Zimbabwe's view that, in a case such as the one before us, recourse to the sanctions provisions of Chapter VII of the Charter should be considered only as a last resort, especially in view of their devastating effects not only on the targeted country's innocent civilian population but also on the region as a whole and beyond.

Chapter VI of the Charter provides for other means that should be pursued exhaustively before resorting to Chapter VII. We do not believe that these peaceful diplomatic means have been exhausted. Precipitate action under Chapter VII in these circumstances would call into question the Security Council's commitment to solving disputes first and foremost through negotiation, mediation, conciliation, arbitration, judicial settlement, resort to regional arrangements or other peaceful means, as provided for in the Charter of the United Nations.

The dispute which is the subject of the draft resolution before us is also the subject of consideration at the International Court of Justice at the Hague. The Charter provides that disputes of a legal nature should, as a general rule, be referred by the parties to the International Court of Justice. While there is no specific provision in the Charter that precludes parallel consideration of the matter by these two principal organs of our Organization, Zimbabwe believes that the authors of the Charter intended the



(Mr. Mumbengegwi, Zimbabwe)

two bodies to complement each other's efforts rather than proceed in a manner that could produce contradictory results.

By taking the Chapter VII route while this case is still pending before the world Court, the Security Council is risking a major institutional crisis. Such an institutional crisis, which is clearly avoidable, would not only undermine the prestige, credibility and integrity of the entire Organization but would also sap international confidence in the Security Council's capacity to execute, in a judicious and objective manner, its mandate as provided for in the Charter. We are convinced that it would have been in the best interests of institutional tidiness for the Security Council to await the outcome of the judicial proceedings at the International Court of Justice.

Zimbabwe attaches great importance to the rule of law in relations between States. As the body entrusted with the primary responsibility for the maintenance of international peace and security, the Council must attach due importance to international law, including international conventions. In explaining its vote at the time of the adoption of resolution 731 (1992), Zimbabwe stressed the relevance of the 1971 Montreal Convention to the matter before us. Libya and the three Council members involved are all parties to the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. Two of the Council members and Libya recognize the competence of the International Court of Justice under the terms of article 14 of that Convention to arbitrate in any matter concerning the interpretation or application of the Convention, as in the present case. For that reason, it is our view that the Council's deliberations could have benefited from the Court's pronouncement.

(Mr. Mumbengegwi, Zimbabwe)

Finally, this 15-member Council acts on behalf of a total of 175 States Members of the United Nations. This means that 160 States have placed their security, and possibly their very survival, in the hands of the 15. This is a solemn and heavy responsibility that each and every member of the Council carries. It is therefore of crucial importance that every decision taken by the Security Council be able to withstand the careful scrutiny of the 160 Member States on whose behalf the Council is expected to act. This is only possible if the Council insists on being guided in its decisions and actions by the Charter and other international conventions. Any approach that assumes that international law is created by majority votes in the Security Council is bound to have far-reaching ramifications which could cause irreparable harm to the credibility and prestige of the Organization, with dire consequences for a stable and peaceful world order.

Mr. GHAREKHAN (India): At the time of the adoption of resolution 731 (1992), I had the occasion to underscore, in unambiguous terms, India's strong condemnation and abhorrence of all forms of terrorism, particularly international terrorism, and State-sponsored or State-supported terrorism in all its varieties. This dictated our support for resolution 731 (1992). India has been a victim of such terrorism and is second to none in wanting it eliminated. We are fully committed to the struggle of the international community against this menace.

In my explanation of vote on resolution 731 (1992), I expressed the view that that resolution threw up complex and important questions warranting careful attention. Developments since then, in the course of efforts undertaken for its implementation, have vindicated that assessment. If anything, the issues involved may well become, by the adoption of the present draft resolution, even more complex.

My delegation and other non-aligned members of the Council actively encouraged and welcomed the incorporation in resolution 731 (1992) of its paragraph 4, through which the prestige and resources of the Secretary-General were called upon in the cause of peace. My delegation would like to place on record its deep appreciation to the Secretary-General for his efforts in the desired direction, as well as for his readiness to extend his good offices further. We should also like to acknowledge the endeavours made by the League of Arab States, at a high level, in trying to promote a peaceful solution. The non-aligned caucus in the Council, of which India has the honour of being the coordinator for this month, spared no effort to bring about a negotiated peaceful solution.

These efforts have not been entirely in vain. As has been brought out in the Secretary-General's report of 3 March,

(Mr. Gharekhan, India)

"there has been a certain evolution in the position ... [and] the Security Council may wish to consider this in deciding on its future course of action". (S/23672, para. 6)

My delegation is of the opinion that the Council's substantive actions should take into account the considered judgement of the Secretary-General, particularly on issues with broader or global implications, as also the general consensus of the membership of the United Nations. I believe that it is important, indeed essential, for the Security Council to take into account the prevailing sentiment among the membership as a whole of our Organization while taking such extremely significant decisions.

Since the Secretary-General's report was issued, there have been developments, by way of further evolution in the situation, which suggest that more time and patience in the pursuit of the current multidirectional efforts could have yielded better results. In our view, the gravity of the issues and of their implications, foreseen and unforeseen, warrant that no stone be left unturned in our quest for a solution that, on the one hand, upholds and reinforces goodwill, peace and cooperation in international affairs and, on the other, firmly serves to deter terrorism of all kinds.

A connected and important aspect is the definition of the circumstances under which the sanctions either would not come into force at all or would be lifted. The non-aligned members of the Council, as indeed several other delegations, explored with the cosponsors the injection of more precision into the relevant paragraphs. The cosponsors showed readiness to work with us in this respect. To our regret, however, it was not possible to remove the vagueness from the draft resolution on this particular point.

(Mr. Gharekhan, India)

In the present case, the judicial process has not yet run its full course. Because of the far-reaching potential of this case, the considered opinion of the International Court of Justice on the legal aspects of the issues involved can only serve the cause of international law and peace. A little delay on that account in the Security Council's moving on to the next stage of its action would, therefore, have merited positive consideration. It should be feasible for these two principal organs of the United Nations to function in tandem in a manner so as to reinforce and enhance each other's efficacy and prestige in the cause of international peace and security.

Article 50 of the Charter is intended as the acknowledgement of the Council's responsibility to alleviate special problems of third countries arising from their faithfully carrying out enforcement measures under Chapter VII. My delegation has reiterated this concern in the past and finds it necessary again to underscore the importance of this provision. In the light of past experience, we would have considered it essential that today's draft resolution include a clearer acknowledgement of this responsibility on the part of the Security Council, with a commitment to take concrete, practical and effective measures to address urgently all such problems brought to its notice.

Let me reiterate here that India will continue to strive, even at this stage, together with the non-aligned and other delegations, as indeed with the cosponsors, for the promotion of an early, negotiated solution to the political issues being addressed in the draft resolution. My delegation is convinced that the time available between now and 15 April must be fully utilized for this purpose. My delegation understands and supports the primary objective of the cosponsors - namely, to serve an unambiguous notice on all

(Mr. Gharekhan, India)

those engaged in acts of terrorism, directly or through material, political or moral assistance to terrorists, of the determination of the international community to combat terrorism and eradicate it from our midst. We have some differences with the cosponsors about the methods and means suggested at this stage but not with their motivation, as I have just mentioned.

For the reasons I have just explained, my delegation will abstain in the voting on the draft resolution contained in document S/23762.

Mr. LI Daoyu (China) (interpretation from Chinese): Since the adoption of resolution 731 (1992) by the Security Council, the United Nations Secretary-General, the Maghreb countries, the League of Arab States and some non-aligned countries have worked tirelessly to seek, through negotiations, a solution to the incidents of the bombing of Pan American flight 103 and UTA flight 772. We wish to express our appreciation and thanks for their efforts. The International Court of Justice has recently held hearings on this issue, which undoubtedly will help clarify the facts and ascertain the truth through investigations.

The Chinese Government always resolutely opposes and strongly condemns all forms of terrorism. We have on many occasions strongly condemned the terrorist activities in the incidents to which I have referred and expressed our deep sympathy for the victims and their families. China, like other countries, believes that due punishment should be meted out to terrorists. However, we also believe that the punishment of terrorism should be based on conclusive evidence and conform to international law and the relevant international conventions. China is in favour of conducting serious, thorough, fair and objective investigations of the bombing incidents, in

(Mr. Li Daoyu, China)

accordance with the United Nations Charter and the relevant principles of international law. And we agree that those convicted criminals should be duly punished. We stand for settling international disputes through peaceful consultations and support the continuation by the Secretary-General and other parties concerned of their good offices on this issue.

(Mr. Li Daoyu, China)

In principle we do not support the Security Council imposing sanctions against Libya, because sanctions will not help settle the question but will rather complicate the issue further, aggravate regional tension and have serious economic consequences for the countries concerned in the region. Some non-aligned members and a number of Arab States have expressed their grave concern over the sanction measures contained in the draft resolution. They have also put forward some constructive ideas for amendments. China supports their suggestions.

The Chinese delegation appeals to the parties concerned to continue their efforts, and calls on the Libyan side to adopt a cooperative attitude, so as to remove their differences through consultation and dialogue. We hope the Secretary-General will continue to play an active role. We sincerely hope the international community will continue to work for a fair and reasonable solution to this dispute, so that it will be possible to avoid implementing the sanction measures against Libya.

China will abstain in the voting on the draft resolution before the Council.

Mr. SNOUSSI (Morocco) (interpretation from French): When my country voted in favour of resolution 731 (1992) a little over two months ago, we sought to associate ourselves unambiguously and forcefully with the condemnation of acts of terrorism committed against civil aviation, acts that have caused the loss of so many lives. In keeping with the Charter of the United Nations, Morocco wanted to express its solidarity in the fight against violence, so that such acts - the remnants of a bygone age - might not be repeated.



(Mr. Snoussi, Morocco)

In that way and out of a concern for legality, my country worked within the non-aligned caucus to highlight the role of the Secretary-General and to ensure that resolution 731 (1992) would be implemented with strict compliance with international law. That is why we consciously sought to strengthen the role of the Secretary-General in this endeavour, in the knowledge that relations between Libya and the three other countries concerned were of a nature not conducive to easy implementation of the resolution, a resolution that both served as a warning and aimed at turning the page on an unfortunate chapter of history.

Despite its many and varied activities, the Security Council was not inactive on this front. In accordance with resolution 731 (1992), each of its members helped in the search for a solution.

On the strength of our long-standing friendship with the three sponsors of the resolution and with the Libyan people, my country for its part did its best to avoid the situation in which we find ourselves today. We had every hope that we could dissuade the sponsors from pursuing this procedure, just as we tried to convince the other party to cooperate fully in the implementation of resolution 731 (1992).

The League of Arab States made enormous efforts to promote a solution respectful of the spirit and the letter of the Charter. Through yesterday it tried in a constructive and positive spirit to close the gap between the Security Council and Libya. In that spirit, it focused its efforts on seeking a middle ground between the divergent positions. Today we are no less eager to continue our work at all levels, both with the Security Council and its President and with the Secretary-General. The League of Arab States intends

(Mr. Snoussi, Morocco)

to keep trying to persuade Libya to comply fully with resolution 731 (1992), and to persevere in its efforts to create conditions conducive to the complete implementation of that resolution.

While we have not yet succeeded in producing the elements that would be acceptable to all, everyone understands the point of and the reasons for our persistence. Since, like Libya, we belong to the Arab Maghreb Union, to Africa and to the Arab and Islamic world, we bear a fraternal duty. That duty obliges us to use every means to avoid the worst: to avoid the deterioration of the situation and the establishment of tensions and a lack of understanding that would last for a long time to come.

The long-standing and very solid relations that link us to the three countries concerned oblige us to counsel greater moderation and patience.

Our duty to the Security Council obliges us to undertake tireless action to help the Council continue its quest, first and foremost, to resolve the world's problems through conciliation, dialogue and diplomatic means.

Morocco was among the initiators of the many initiatives and contacts to achieve an honourable solution to this problem, and it has continued to join in those endeavours; we have decided today to give ourselves another chance by abstaining in the vote on the draft resolution before the Council.

By that position we mean to stress that we cannot and will not serve both as judge and as a factor for rapprochement among the various points of view which for the moment are so divergent. My country wants also to show that it has not given up hope that we can use the coming days to continue to work

(Mr. Snoussi, Morocco)

tirelessly, as we have for two months, both through direct contacts and within the framework of the Arab Maghreb Union and the League of Arab States, to achieve a solution acceptable to all.

As we have reiterated so often, Morocco has always condemned international terrorism. That is why we did not hesitate to associate ourselves unreservedly with resolution 731 (1992). None the less, we are entitled to repeat our concern that the Arab world may soon experience another trauma, the second in less than two years. That is why from today we shall resume our tireless efforts to persuade our Libyan brothers to take every step necessary to avoid sanctions.

Once more I call the attention of the sponsors of the draft resolution to Chapter VI of the Charter and its Article 33. There remains every reason for hope. On the very eve of today's meeting, certain positive results were nearly achieved, for we were convinced that the three countries concerned sought nothing other than a peaceful diplomatic solution, and we truly understood that Libya was ready to provide guarantees both of its position against international terrorism and of its full cooperation.

Unfortunately, we did not have enough time: time to put to the test all that good will and that sincere desire to work for peace and harmony. The magnitude of the situation deserved that. Morocco therefore still feels justified in calling upon all the members of the Council to join in this endeavour of good will, which cannot fail ultimately to benefit the entire international community.

The PRESIDENT (interpretation from Spanish): I now put to the vote the draft resolution contained in document S/23762.

A vote was taken by show of hands.

In favour: Austria, Belgium, Ecuador, France, Hungary, Japan, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela

Against: None

Abstaining: Cape Verde, China, India, Morocco, Zimbabwe

The PRESIDENT (interpretation from Spanish): The result of the voting is as follows: 10 votes in favour, none against and 5 abstentions.

The draft resolution has been adopted as resolution 748 (1992).

I now call on those members of the Council who wish to make statements following the voting.

Mr. PICKERING (United States of America): Over four months ago my Government, along with those of France and of the United Kingdom, provided the Security Council with evidence implicating the Government of Libya in the wanton destruction of two civilian airliners. This act resulted in the cold-blooded murder of 441 innocent civilians from over 30 countries. For Libya this act was no anomaly, but unfortunately part of a long, well-known history of support for terrorism and efforts to destabilize other Governments.

The evidence revealing Libya's involvement in these acts of terrorism indicates a serious breach of international peace and security. It fully justifies the adoption by this Council of measures pursuant to Chapter VII of the United Nations Charter.

We have called upon Libya to comply with the four requests included in resolution 731 (1992): turn over the two suspects in the bombing of Pan Am 103 for trial in either the United States or the United Kingdom and meet the demands of French justice; disclose all it knows about the bombings of Pan Am 103 and UTA flight 772; take concrete steps to cease its support for terrorism; and pay appropriate compensation.

Over two months ago this Council, acting on behalf of the international community, unanimously urged the Libyan Government to provide a full and effective response to the four demands. This resolution also makes clear the Council's decision that Libya should comply with those demands. As we sadly know, all efforts by the Secretary-General, the League of Arab States and indeed many others to bring about Libya's compliance have been blocked by Libya's continuing refusal to cooperate with the specific requests made in resolution 731 (1992).

(Mr. Pickering, United States)

The Security Council has now acted upon the sanctions resolution before us. The action we have taken is indeed most significant. At issue here is whether the international community is prepared to back up its own words with action and to demonstrate that it will protect itself against a State that engages in terrorism. The means chosen in this resolution are appropriate; these sanctions are measured, precise and limited. They are a multilateral, non-violent and peaceful response to violent and brutal acts. They are the response prescribed in the Charter as the appropriate next step for dealing with a threat to international peace and security. They are tailored to fit the offence - Libya's wanton and criminal destruction of civilian aviation - and designed to penalize the Government of Libya, not its neighbours or any other State.

By severing Libya's air links, by imposing an embargo on military matériel, by requiring military advisers, technicians and specialists to be withdrawn, and by restricting Libyan diplomats and other officials around the world, who have so often abused their status, the international community is sending two clear signals: first, that it will not tolerate such threats to international peace and security; and, secondly, that it is prepared to take concerted political action against the continuing defiance of international obligations and norms of behaviour represented by Libya's State-supported terrorism. That message is the surest guarantee that the United Nations Security Council, using its specific, unique powers under the Charter, will preserve the rule of law and ensure the peaceful resolution of threats to international peace and security, now and in the future.

(Mr. Pickering, United States)

It is an important message. It is a message that we must all hope Libya will take quickly to heart by complying with resolution 731 (1992) and honouring its obligation to foreign nationals in Libya. If it does so now it will bring this chapter to an end quickly. The pause in the implementation of the sanctions until 15 April gives Libya the opportunity to do this. The choice is now clearly and unavoidably up to Libya.

Sir David HANNAY (United Kingdom): Ten weeks ago, on 21 January, the Security Council adopted resolution 731 (1992), in which it urged the Libyan Government to comply with the requests of France, the United Kingdom and the United States as set out in documents before the Council. Ten weeks have passed, and the Libyan Government has taken no serious step towards compliance with these requests. It is now some four months since the requests were first made, and Libya continues to prevaricate, to seek by any means to evade its responsibilities and to impede action by this Council.

One of Libya's suggestions in recent days has been that compliance with the requests in resolution 731 (1992) should await the outcome of the proceedings instituted by Libya in the International Court of Justice. As the United Kingdom representative stated to the Court, we believe that Libya's application, while purporting to enjoin action by the United Kingdom against Libya, is in fact directed at interfering with the exercise by the Security Council of its rightful functions and prerogatives under the United Nations Charter. We consider that the Security Council is fully entitled to concern itself with issues of terrorism and the measures needed to address acts of terrorism in any particular case or to prevent it in the future. Any other view would undermine the primary responsibility for the maintenance of

(Sir David Hannay,  
United Kingdom)

international peace and security conferred on the Council by Article 24 of the Charter. It would thus seriously weaken the Council's ability to maintain peace and security in future circumstances which are unforeseen and unforeseeable.

My Government deeply appreciates the efforts that have been made by the Secretary-General and by many Governments, pursuant to Security Council resolution 731 (1992), to secure the Libyan Government's compliance with that resolution. We were especially grateful to the Arab Ministers who went to Tripoli last week to seek to persuade the Libyan leader to comply and hand over the accused so that they could stand trial. The three co-sponsors of the resolution have taken the greatest care to allow time for these efforts to bear fruit. Regrettably, it now seems clear - from the reports of the Secretary-General, from the outcome of the Arab Ministers' mission and from recent statements by the Libyan authorities - that, without further action by this Council, Libya has no intention of complying with resolution 731 (1992).

That is why we believe the Council now needs to take a further step. The resolution we have adopted today is in our view a proportionate and carefully measured response to the threat posed by the Libyan Government's actions in support of terrorism and its failure to respond positively to resolution 731 (1992). The sole objective of the sanctions imposed by this resolution is to secure compliance with paragraphs 1 and 2 thereof. The sanctions themselves are tailored precisely to this objective. They are limited to three precise areas: aviation, arms and Libyan Government overseas offices and officials. Given the tragic events that are the immediate background to the issue before the Council - the destruction of two aircraft in flight,



(Sir David Hannay,  
United Kingdom)

resulting in the deaths of 441 individuals of over 30 nationalities - it is entirely appropriate to require that, until the Libyan authorities have complied with resolution 731 (1992), air links with Libya be cut. Equally, given the nature of Libya's involvement with terrorism and the means it has employed, it is entirely appropriate to impose the arms ban and to require action against Libyan Government overseas missions, and especially Libyan Arab Airlines offices.

We have held extensive consultations with all the members of the Council, and the resolution takes account of a number of concerns that have been raised. For example, the exception for humanitarian flights has been designed so as to cover flights connected with the hadj.

(Sir David Hannay,  
United Kingdom)

References have been included at the request of certain neighbouring countries to the right of States enshrined in Article 50 of the Charter to consult the Council if they are confronted with special economic problems.

The sanctions will not be brought into force until 15 April. This pause will allow time for Libya to take steps that could avoid the imposition of sanctions completely. We hope, even at this late stage, that Libya will see reason and will comply with the requests.

The review clause in paragraph 13 of the resolution makes it clear that the Council will be ready to respond positively in the event of Libyan compliance. I must emphasize the very great importance my Government attaches to the requirement in paragraph 2 of the present resolution, which has two elements: first, a definitive commitment by Libya to cease all forms of terrorist activity and all assistance to terrorist groups and, secondly, prompt and concrete action by Libya to demonstrate its renunciation of terrorism. All members of the Council will, I am sure, understand why, in the case of Libya, a simple verbal commitment to renounce terrorism by itself is not adequate. We have heard such statements from Colonel Qaddafi in the past, yet the Libyan authorities have, by their own admission, continued afterwards to give direct assistance to terrorists. I would recall simply by way of example the case in 1973 when the ship Claudia was seized with a cargo of five tons of arms destined for the Provisional IRA, the murder in 1984 of policewoman Yvonne Fletcher by a shot fired from the Libyan People's Bureau in London and the incident in October 1987 when the ship Eksund was intercepted in the Bay of Biscay carrying 110 tons of weapons and explosives destined for the Provisional IRA.

(Sir David Hannay,  
United Kingdom)

The threat of Libyan terrorism is thus not fanciful; it is a reality. And it is not only the three countries that are sponsors of the resolution that are liable to suffer from it. As I have said, over 30 countries had nationals murdered in the Pan Am and UTA atrocities. Indeed, the whole world has an interest in combating terrorism. In the agreed statement at the summit meeting of the Council on 31 January the members of the Council expressed, in the context of their commitment to collective security, their deep concern over acts of international terrorism, and they emphasized

"the need for the international community to deal effectively with all such acts." (S/PV.3046, p. 144)

Terrorists often have as their objective the undermining of efforts, by the United Nations and others, to seek peaceful solutions to international disputes. They represent, in fact, one of the greatest threats to peace around the world, and that includes to peace in the Middle East. If terrorists gain the upper hand, the rule of law and international peace and security are directly endangered. By adopting this resolution the Security Council has acted in full conformity with its primary responsibility for the maintenance of international peace and security.

I would just add one further point. The Libyan Government has obligations towards foreign nationals living in Libya which it must meet. This includes allowing them freedom to leave if they so wish. We should regard it with the utmost seriousness if there were any restraint on that freedom.

In conclusion, I emphasize once again that we do not want to impose sanctions for their own sake. We had hoped they would not be necessary. We still hope they will not be necessary. There is still time, before 15 April,

(Sir David Hannay,  
United Kingdom)

for Colonel Qaddafi to take the steps required to avoid the implementation of sanctions.

Mr. MERIMEE (France)(interpretation from French): International terrorism is a scourge that poses a serious threat to international relations and jeopardizes the security of States. The Security Council must combat all forms of that scourge. Acts committed against international civil aviation are a particularly heinous manifestation of it.

Four hundred and forty-one victims from 30 countries perished in two acts of terrorism, one against Pan Am on 21 December 1988 and the other against UTA on 19 September 1989. My delegation's thoughts today are with the victims and their families. And it is against terrorism with regard to air transport that the resolution we have just adopted is concerned.

For months France, the United Kingdom and the United States have been demanding that Libya, several of whose nationals are the focus of serious allegations, contribute in an effective manner to the progress of justice. On 27 November each of the three Governments issued a communiqué addressed to the Libyan authorities and containing specific demands with regard to legal procedures and demanding that they implement them without delay. In the absence of any response from the Tripoli Government, the course chosen by the three countries has been that based on the rule of law, namely, the Security Council.

On 21 January the Council unanimously adopted a resolution urging the Libyan authorities to provide a full and effective response to the requests addressed to it to contribute to the elimination of international terrorism. That resolution was not complied with. The repeated efforts of the Secretary-General, of the League of Arab States and of Libya's neighbours have

(Mr. Mérimée, France)

been met with delaying tactics. In order not to reverse itself, the Security Council was therefore forced to adopt new measures to bring Libya to face up to its responsibilities. It has just done so by adopting resolution 748 (1992), of which France is a sponsor.

The sanctions imposed by this resolution against Libya are balanced and appropriate. They apply to three areas - arms, aviation and the personnel of diplomatic and consular missions - that can be used to support international terrorism.

These are therefore selective and fitting sanctions. They are not aimed at the Libyan people, who are not responsible for the actions of their leaders. Proof of this is the fact that, mindful of the importance of the religious pilgrimage to Mecca, the Council will provide the necessary authorizations for pilgrims wishing to go to Mecca to be able to do so.

In conclusion, my delegation wishes to stress that the resolution provides the Libyan leaders with a final deadline. The sanctions enacted will not enter into effect until 15 April. We hope that the Libyan authorities will make proper use of that delay.

Mr. HATANO (Japan): Japan is opposed to terrorism in all its forms. In an effort to clarify the facts surrounding the downing of Pan Am flight 103 and UTA flight 772, one of whose victims was a Japanese national, Japan has appealed repeatedly to the Libyan Government to comply with Security Council resolution 731 (1992). Many other Governments and many other international organizations, including our Secretary-General and the League of Arab States, have also tried to gain the cooperation of Libya. It is indeed regrettable that despite those endeavours Libya has so far not been able to provide a positive response to the requests.

(Mr. Hatano, Japan)

At the time resolution 731 (1992) was adopted on 21 January it was foreseen that the Security Council would be compelled to take further measures if Libya did not comply with it. Unfortunately, the subsequent developments in the situation call for the Council's adoption of a new resolution.

Japan is determined to continue to work for the solution of the difficult situation and for the elimination of international terrorism. Japan urges the Libyan Government to comply fully with the present Security Council resolution without much delay, possibly before 15 April. It is in the hope of gaining that compliance that my delegation has supported the adoption of the resolution.

Mr. ERDOS (Hungary) (interpretation from French): The crimes associated with international terrorism and leading to the loss of countless human lives throughout the world remain one of the most serious problems of our day. It is therefore only natural for the Security Council to deal with them very seriously and with an acute sense of responsibility. Accordingly, our Council is examining the acts of terrorism committed against Pan Am and UTA flights, because those acts constitute beyond any shadow of a doubt a threat to international peace and security.

Today, as we consider for the second time the fate of these Pan Am and UTA flights, we are compelled to note that, although over two months have passed since the adoption of Security Council resolution 731 (1992), Libya has yet to comply with its provisions. This is all the more regrettable since the United Nations Secretary-General, the League of Arab States and other countries have spared no effort to promote and facilitate the implementation of that resolution. All of this casts doubt on the value of statements expressing readiness to cooperate with the Security Council and professions of faith in the importance of national commitment and international cooperation in the struggle against terrorism.

Bearing in mind the vital significance of the subject before us today, as well as the credibility and authority of the United Nations, Hungary has felt and continues to feel that the Security Council must take further measures to ensure compliance with its own resolutions.

We are far from pleased about the application under Chapter VII of the Charter of sanctions against a State Member of the United Nations, and even less so in the case of a country with which we have had fruitful relations of economic cooperation. That is why we hope that the Libyan Government will respond to the requests contained in Security Council resolution 731 (1992)

(Mr. Erdos, Hungary)

and will make the appropriate commitment to renounce terrorism. We hope that the Libyan Government will take advantage of the period between now and mid-April to reconsider its position. We also venture to hope that it will see in the role that the Secretary-General of the United Nations is being called upon to play in this context, as well as in the possible activities of other States or groups of States, an opportunity to extricate itself from the present situation. For our part, we should like to see the Security Council meet as soon as possible, in accordance with the resolution that has just been adopted, to determine that the circumstances that led the Council to impose sanctions no longer exist; that would enable us to resume normal and regular contacts with Libya.

In that expectation, Hungary voted in favour of resolution 748 (1992), because we consider it necessary to act individually and collectively against any terrorist challenge, of any sort and from any source, to reject resolutely all complacency and complicity, and to do everything possible to put an end once and for all to this crime against humanity.

Mr. HOHENFELLNER (Austria): Austria's position on terrorism is clear, unwavering and unequivocal. We condemn vigorously all forms and all acts of terrorism and - since terrorism is a truly international problem which has to be combated internationally - we call on all members of the international community to join in the efforts to eliminate terrorism and to strengthen further their cooperation to that end on the global as well as the regional level. Terrorism is a most dangerous threat to international peace and security. That is why it is appropriate for the Security Council to deal firmly with the matter. Austria, as a party to all relevant instruments against terrorism, believes that action taken by the Council in this field should be guided by the principles enshrined in these conventions.



(Mr. Hohenfellner, Austria)

On 21 January 1992, on the occasion of the adoption of resolution 731 (1992), I called that resolution an important step in the internationally concerted action against the scourge of international terrorism, since it urged Libya to contribute to this task. I should like on behalf of Austria to commend all those who undertook efforts to bring about compliance by Libya with its obligations, and in particular the Secretary-General of the United Nations, the League of Arab States and various countries of the region concerned. Regrettably, Libya has still not implemented its obligations under that resolution. Hence, we voted in favour of resolution 748 (1992).

This resolution imposes certain sanctions on Libya designed to bring about Libyan compliance with its obligations under resolution 731 (1992). Sanctions are never a goal in themselves. They are not punishment; they are introduced in order to make a certain member of the international community comply with its obligations under the Charter of the United Nations. My country has always emphasized the importance of an adequate and balanced relationship between the objectives, on the one hand, and the ways and means to obtain these objectives, on the other.

Furthermore, it is evident that sanctions will have to be lifted once full implementation by the country concerned of its obligations has been achieved. That is why Austria has always stressed the necessity of establishing objective criteria for the provisions on the termination of sanctions. In this context, I should like to draw attention in particular to paragraphs 12 and 13 of resolution 748 (1992).

Paragraph 3 allows another 15 days before the application of sanctions against Libya takes place. We should like to reiterate our call upon Libya to use this time to fulfil its obligations.

Mr. LOZINSKY (Russian Federation) (interpretation from Russian): As was already stated by the representative of the Russian Federation in the Security Council when resolution 731 (1992) was adopted, Russia unequivocally and categorically condemns international terrorism, which poses an overt threat to our common security, and believes that all States should cooperate in establishing responsibility for the perpetration of terrorist acts.

Guided by the desire to ensure compliance with resolution 731 (1992) - which was unanimously adopted by the Security Council - without resort to enforcement action, the Russian Federation, together with many other States, has been trying for two months now to convince the Libyan authorities to heed the will of the international community. Unfortunately, these efforts, including the good offices of the Secretary-General of the United Nations, have not produced the desired results.

Accordingly, the Security Council had no alternative but to adopt another resolution providing for enforcement action to ensure compliance with the resolution it had previously adopted. Russia was compelled to proceed to this solution, although this was not easy for us in view of our long-standing friendly relations with Libya.

(Mr. Lozinsky, Russian Federation)

The Russian Government expects that Libya will take a realistic look at the situation and decide to comply with the wishes of the world community, and that it will put to good use the pause of goodwill established by the resolution and implement the Security Council resolution, in which case there will no longer be any need to enact sanctions.

Mr. NOTERDAEME (Belgium) (interpretation from French): Two months ago, Belgium voted in favour of resolution 731 (1992). Our vote today is part of the same logical pattern. Belgium has always condemned international terrorism in all its forms, whatever the attempts made to justify it. It therefore intends to give strong, constant support to all the efforts undertaken by the international community to combat the scourge of international terrorism. It is within this context, and this context alone, that the positive vote of my delegation has its motive. Indeed, the sanctions enacted today are clearly limited in scope; they are directly related to the acts of air terrorism behind resolution 731 (1992) and will remain in force only so long as the Libyan authorities do not comply with that resolution.

I wish to pay a particular tribute to the efforts of our Secretary-General, the Arab League and the non-aligned countries in trying to seek compliance on the part of the Libyan authorities with resolution 731 (1992). Unfortunately, these efforts have not yet yielded the hoped-for results, a fact which we regret, particularly in respect of the countries neighbouring Libya, which are thus exposed to the effects of a crisis to which they are not party.

Belgium is particularly pleased by the fact that the resolution incorporates various amendments submitted during the negotiations that have taken place in recent days. We see that provision has been made for a

(Mr. Noterdaeme, Belgium)

two-week delay, and we hope that that period will be put to good use by the Libyan authorities in order to respond to the injunctions of the Security Council. Belgium also notes that the committee set up by the resolution we have just adopted will be able to consider, on grounds of significant humanitarian need, any request for exemption from the embargo on flights.

Given Tripoli's attitude, it was necessary to preserve the credibility of our Council. Belgium hopes that this resolution will convince the Libyan authorities to cooperate actively in complying with resolution 731 (1992). Furthermore, we believe that today's vote should help to deter, in the future, any State from supporting terrorist organizations either directly or indirectly.

The PRESIDENT (interpretation from Spanish): In accordance with Council tradition, at the end of this meeting I wish to speak in my capacity as representative of Venezuela.

The Security Council, through resolution 731 (1992), has unanimously come out in favour of eliminating terrorism, and, in particular, has urged the Government of Libya to provide a complete and effective response to the requests submitted to it in order to determine responsibility for the terrorist acts committed against Pan Am flight 103 and UTA flight 772. The delegation of Venezuela has set out its position, pointing out that, as we see it, the cause of international peace and security requires a firm and resolute response against all manifestations of terrorism. On this occasion, we reiterate the contents of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations and the Declaration on the Strengthening of International Security adopted in General Assembly resolutions 2625 (XXV) and 2734 (XXV).

(The President)

I wish today to express my delegation's very special appreciation for the efforts of our Secretary-General, Boutros Boutros-Ghali, in seeking a negotiated solution with the Government of Libya that would avoid the application of sanctions. The repeated missions by his Special Envoy clearly made use of every possible diplomatic option. In this respect, we also wish to recognize the good offices deployed by the League of Arab States. We have no doubt that the mechanism sought in resolution 731 (1992) was perfectly incarnated in the person of the Secretary-General of the United Nations; the hierarchy he heads gave him the means he needs to carry out the mission of good offices the Council entrusted to him under resolution 731 (1992); and we deplore the fact that Libya has not availed itself of those good offices.

We now find ourselves in a situation of extreme complexity with implications of various kinds of which we are not unaware. In voting for resolution 748 (1992) today, we have borne very much in mind the circumstances and aspirations of the Libyan Government, but we have also borne very much in mind the aspirations of the 32 different nationalities to which the victims of the terrorist acts that led the Council to adopt resolution 731 (1992) belonged. We are also at one with the aspiration of the international community, which quite rightly desires acts of international terrorism not to go unpunished. To act otherwise, we believe, would encourage other such acts in future.

My delegation believes that this is not simply a matter which concerns Libya and the Security Council; it is a matter in which the international community is calling for justice in the midst of an institutional vacuum which the Security Council finds itself compelled to fill. That is its responsibility, and one which it is assuming today by adopting this resolution.

(The President)

Because of the need to strengthen the actions of the United Nations system as a whole, Venezuela reiterates the need for the system to be provided with legal mechanisms capable of dealing with the type of criminal activity now before the Council. Terrorism is a recurrent and unacceptable feature of the contemporary political scene; we reiterate our request that an international criminal court be set up to complement the International Court of Justice.

It is my delegation's understanding that both the Council and the International Court of Justice are independent of each other, and that each of these organs in the United Nations system must exercise its jurisdiction autonomously. It is important, however, that public opinion should understand that, although it would have been desirable for there to be a simultaneous decision by the two forums, the absence of such a simultaneous decision cannot inhibit the actions which the one or the other may take, and that their actions do not imply a disregard for their respective responsibilities.

Lastly, in connection with the scope of the sanctions regime authorized by this resolution, Venezuela wishes to make one more appeal to the Government of Libya, with which my country has diplomatic relations and with which we share economic interests, that Libya fulfil the provisions of resolution 731 (1992) before the 15 April 1992 deadline provided for in this latest resolution.

I now resume my function as President of the Security Council.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda. The Security Council will remain seized of the matter.

The meeting rose at 1.50 p.m.

# Annex 12

# Annex 13





Security Council

Distr.  
GENERAL

S/23574  
11 February 1992

ORIGINAL: ENGLISH

REPORT BY THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 4  
OF SECURITY COUNCIL RESOLUTION 731 (1992)

1. This report is being submitted pursuant to paragraph 4 of Security Council resolution 731 (1992), which requested the Secretary-General "to seek the cooperation of the Libyan Government to provide a full and effective response" to the requests referred to in that resolution.
2. Following consultations with the Libyan authorities, the Secretary-General sent Under-Secretary-General Vasilii Safronchuk as his Special Envoy to Libya on 25 January 1992. The next day, Mr. Safronchuk called on the Libyan leader, Colonel Qaddafi, and delivered to him a personal message from the Secretary-General together with the text of resolution 731 and the related records of the Security Council. In his message to Colonel Qaddafi, the Secretary-General noted that he was encouraged by the assurances given to him by Minister Jadalla Belgasem El-Talhi that Libya was ready to cooperate with him. Further, while expressing the earnest hope that the matter in question could be resolved quickly so that peace could prevail, the Secretary-General emphasized that he was acting under the terms of paragraph 4 of resolution 731 and not as a mediator between the Security Council and the Libyan authorities.
3. In responding, Colonel Qaddafi asked the Special Envoy to reiterate to the Secretary-General his readiness to cooperate with him. Following receipt of the charges against two Libyan nationals, Colonel Qaddafi stated that the Libyan authorities had immediately started legal proceedings against them and appointed a judge to try them. He added that the two Libyan nationals had hired lawyers to represent them. Colonel Qaddafi said that the Libyan judges would require further information and that this should be provided by the Governments of the United States and the United Kingdom. He further suggested that if those two Governments were dissatisfied with the Libyan judges, then they should send their own judges. With specific reference to the requests contained in resolution 731 (1992), Colonel Qaddafi stated that he could not take any action which would contravene the legal system of Libya. He suggested, however, that the Secretary-General invite to Libya judges from the United States, the United Kingdom and France, as well as representatives of the League of Arab States, the Organization of African Unity and the

Organization of the Islamic Conference to observe a trial in the event that the Libyan judges decided to try the two Libyan nationals.

4. After careful consideration of this response, the Secretary-General on 30 January 1992 once again received the Permanent Representative of Libya in New York and informed him that he would now need to report to the Security Council. The Permanent Representative indicated that he would like to have a further discussion with his leadership. He proposed to the Secretary-General to allow him five to six days during which he would fly to Tripoli and consult with his leadership on its final position. Upon returning from Tripoli, the Permanent Representative met the Secretary-General on 11 February and indicated that he was mandated by his leadership to convey the following reply:

(1) Libya had decided to accept "the French demands since they were in conformity with international law and did not infringe upon the sovereignty of Libya". Libya requested, therefore, that the Secretary-General inform the French Government of that decision. The Libyan authorities further requested that the Secretary-General either take the initiative of setting up a mechanism for the implementation of this aspect of the resolution or ask France and Libya to negotiate such a mechanism among themselves.

(2) As far as resolution 731 as a whole was concerned, Libya was ready to cooperate fully with the Security Council and with the Secretary-General "in the light of the statements made in the Security Council and in a way that would not infringe upon State sovereignty nor violate the Charter of the United Nations and principles of international law". It was thus his country's view that "a mechanism should be created for the implementation of resolution 731 and, therefore, Libya invited the Secretary-General to create such a mechanism or to call upon the parties concerned to discuss among themselves and eventually agree on the setting up of the mechanism in accordance with the spirit of resolution 731".

5. The Secretary-General explained to the Ambassador that his own role under resolution 731 was determined by the provisions of paragraph 4 of that resolution. He added, however, that he would inform the Security Council fully of the position of the Libyan authorities.

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# Annex 14



**Security Council**

Distr.  
GENERAL

S/23672  
3 March 1992

ORIGINAL: ENGLISH

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FURTHER REPORT BY THE SECRETARY-GENERAL PURSUANT TO  
PARAGRAPH 4 OF SECURITY COUNCIL RESOLUTION 731 (1992)

1. The present further report is being submitted pursuant to paragraph 4 of Security Council resolution 731 (1992), by which the Council requested the Secretary-General to seek the cooperation of the Libyan Government to provide a full and effective response to the requests referred to in that resolution.

2. Following the circulation of the Secretary-General's earlier report on this subject, 1/ the Secretary-General met with the Permanent Representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America on 17 February 1992. They requested the Secretary-General to convey to the Libyan leader, Colonel Muammar Qaddafi, Leader of the First of September Revolution, the following points on behalf of their Governments:

(a) The three Governments consider that the statement by the Libyan Government delivered to the Secretary-General of the United Nations through the Permanent Representative of the Libyan Arab Jamahiriya in New York, in which the Libyan Arab Jamahiriya expresses its readiness to abide by the Security Council resolution and to cooperate fully with their requests as referred to in resolution 731 (1992), represents a step forward only if it is supported by action;

(b) In this connection, the three Governments support the request of the French Government and would like to be informed of the mechanism by which the Libyan authorities will hand over the records and documentation requested, and whatever else may be requested by the French examining magistrate, and of where and when the Libyan authorities intend to do so;

(c) The Governments of the States in question would further like to know the time, place and modality of the hand-over by the Libyan authorities of the two persons charged and the information and evidence requested and the precise measures that the Libyan Government intends to take in order to end support for terrorism in all its forms;

(d) The three Governments have no objection to the hand-over of the suspects and the information requested taking place through the

Secretary-General of the United Nations in accordance with paragraph 4 of resolution 731 (1992);

(e) The three Governments believe that their requests are clear and precise and that they do not require further clarification;

(f) With regard to the question of compensation, the three States seek to obtain assurances from the Libyan Arab Jamahiriya with regard to its responsibility in this connection.

3. Following consultations with the Libyan authorities, the Secretary-General again sent Under-Secretary-General Vasiliy Safronchuk to Tripoli to convey to Colonel Qaddafi a second message containing the above points and he asked the Libyan Leader to give him a precise and detailed reply.

4. Mr. Safronchuk first met with Colonel Qaddafi on 24 February 1992. He then travelled to Geneva on 25 February in order to report to the Secretary-General Colonel Qaddafi's reaction to his message. He then returned to the Libyan Arab Jamahiriya and met again with Colonel Qaddafi on 27 February. In the course of the two meetings the head of the Libyan State made the following points:

(a) There are constitutional obstructions preventing Colonel Qaddafi or the Libyan administration from handing over Libyan citizens abroad for trial in the absence of an extradition treaty;

(b) He may address an appeal to the Libyan people through the People's Committee, which might result in the removal of these obstructions. He did not indicate how long it would take to overcome the existing constitutional hurdles;

(c) Once the constitutional problems were solved, the Libyan Arab Jamahiriya could be inclined to consider France as the possible venue for a trial of the Libyan citizens; however, France had not requested that any suspects be handed over to it for trial;

(d) Although the Libyan authorities could not forcibly hand over the suspects for trial in a foreign country, the suspects were free to hand themselves over voluntarily and the Government of the Libyan Arab Jamahiriya had no intention of preventing them from doing so;

(e) The possibility of handing over the suspects to the authorities of third countries for trial may be considered. In this context Malta or any Arab country were mentioned by the Libyan Leader;

(f) Improvement of bilateral relations between the Libyan Arab Jamahiriya and the United States would make it possible to hand over the two suspects to the United States authorities;

(g) The Libyan Arab Jamahiriya is prepared to cooperate in every way possible to put an end to terrorist activities and sever its relations with all groups and organizations that target innocent civilians. It will not allow its territory, citizens or organizations to be used in any way for carrying out terrorist acts directly or indirectly. It is prepared to punish most severely anyone proven to be involved in such acts;

(h) It is premature to discuss the question of compensation, which can result only from a civil court decision. However, the Libyan Arab Jamahiriya will guarantee the payment of compensation awarded as a result of responsibility of its suspected citizens if they are unable to pay it themselves;

(i) The Libyan Arab Jamahiriya agrees to the French request. As a means of giving effect to these requests, the Libyan Arab Jamahiriya agrees to act on the French proposal that a judge come to the Libyan Arab Jamahiriya to investigate the case as he may see fit. It agrees to provide the French judge with a copy of the minutes of the investigation carried out by the Libyan judge;

(j) The Secretary of the People's Committee for Foreign Liaison and International Cooperation of the Libyan Arab Jamahiriya, Mr. Ibrahim M. Bishari, on 27 February 1992 addressed a letter to the Secretary-General of the United Nations in which some of these points are reiterated (see annex I). The Secretary-General received a second letter from the Secretary on 2 March 1992 (see annex II, enclosure).

5. On 26 February, while in Geneva the Secretary-General met with a special envoy of Colonel Qaddafi, Mr. Yusef Debri, Head of Libyan Intelligence, with whom the entire situation was reviewed.

6. From the foregoing, it will be seen that while resolution 731 (1992) has not yet been complied with, there has been a certain evolution in the position of the Libyan authorities since the Secretary-General's earlier report of 11 February 1992. <sup>1/</sup> The Security Council may wish to consider this in deciding on its future course of action.

Notes

<sup>1/</sup> S/23574.

Annex I

Letter dated 27 February 1992 from the Secretary of the  
People's Committee for Foreign Liaison and International  
Cooperation of the Libyan Arab Jamahiriya addressed to  
the Secretary-General

[Original: Arabic]

Proceeding from the adherence of the Great Jamahiriya to the rules of international law and to respect for the provisions of the Charter of the United Nations,

In its desire to promote international peace and security, to strengthen friendly relations between States, to ensure stability in international relations, to condemn all modes of the threat or use of force and to condemn international terrorism,

Seeking to cooperate closely with the United Nations and its Secretary-General, and basing itself on the human rights covenants and laws that regard the right to litigation before a fair and impartial court as an essential guarantee of justice,

Understanding the role entrusted to the Secretary-General of the United Nations, and seeking to demonstrate its sincerity in meeting its international obligations,

The Jamahiriya, despite all the technical, legal and judicial difficulties raised by its national legislation, by international agreements, by the principles of sovereignty and by the Charter of the United Nations, with which we deem Security Council resolution 731 (1992) to be incompatible, nevertheless expresses its full readiness to cooperate with the Secretary-General of the United Nations in facilitating the task entrusted to him under paragraph 4 of Security Council resolution 731 (1992),

To that end, the Jamahiriya proposes the following mechanism:

1. It has no objection in principle to handing over the two suspects to the Office of the United Nations Development Programme in Tripoli for questioning.
2. The Secretary-General of the United Nations should undertake to form a legal committee made up of judges whose probity and impartiality are well attested in order to inquire into the facts, ascertain whether the charges made against the two suspects are well founded and conduct a comprehensive inquiry.
3. Should it become evident to the Secretary-General of the United Nations that the charge is well founded, the Jamahiriya will not oppose the hand-over of the two suspects, under his personal supervision, to a third party, while stressing that they should not again be handed over.

/...

4. The Secretary-General of the United Nations should endeavour to provide all legal and judicial guarantees for the conduct of a just and fair trial based on the International Bill of Human Rights and the principles of international law.

With regard to the French requests

Libya agrees to the French requests. As a means of giving effect to these requests, the Jamahiriya agrees to act on the French proposal that a magistrate should come to Libya to investigate the case in the manner that he deems fit. It agrees to provide the French magistrate with a copy of the minutes of the investigation carried out by the Libyan judge.

With regard to the issue of terrorism

The Jamahiriya affirms its outright condemnation of terrorism in all its forms and whatever its source, and it denies the allegations concerning its involvement in any terrorist acts. Accordingly, it is prepared to undertake the following:

1. The Jamahiriya, denying this allegation, has no objection to the Secretary-General or his representative investigating the facts in the Jamahiriya in order to refute or confirm it. The Jamahiriya undertakes to provide all the facilities and information that the Secretary-General or his representative may deem it necessary to have in order to arrive at the truth. The Jamahiriya is of the view that it is possible to draw up an agreement, or bilateral or multilateral agreements, designating the ways and means necessary for the elimination of international terrorism, and it is prepared to enter into bilateral or multilateral discussions to that end.
2. Libya expresses its readiness to cooperate in any matter that may put an end to terrorist activities and to sever its relations with all groups and organizations which target innocent civilians.
3. Libya shall not, under any circumstances, permit the use of its territory, its nationals or its institutions for the perpetration, directly or indirectly, of any terrorist acts, and it is prepared to impose the severest penalties on those against whom involvement in such acts can be proved.
4. Libya undertakes to respect the national choices of all States and to build its relations on a foundation of mutual respect and non-interference in internal affairs.

The proposals contained in this draft shall be binding on Libya if they are accepted by the other party. The results arrived at, whatever they may be, shall be binding on all, a new chapter shall be opened in relations between the two sides, State terrorism against Libya shall end, there shall be a halt to threats and provocations against it, its territorial integrity, its



sovereignty and the integrity of its territorial waters shall be guaranteed, the economic boycott shall be ended, its political choices shall be respected and its name shall finally be removed from the roster of terrorism.

With regard to compensation

Despite the fact that discussion of the question of compensation is premature, since it would only follow from a civil judgement based on a criminal judgement, Libya guarantees the payment of any compensation that might be incurred by the responsibility of the two suspects who are its nationals in the event that they were unable to pay.

The Jamahiriya stresses to the Secretary-General and to the Security Council that all parties must contribute to cooperation and not one party alone. To this day, despite all the cooperation that the Jamahiriya has evinced and has demonstrated in practice, the three States in question have not responded to its legitimate request for them to provide it with the dossiers of the investigation on the basis of which the parties concerned presume to make charges against the two suspects. Saddened as it is at the lack of cooperation on the part of these parties, it requests you and the Council to intercede with them in this matter.

In conclusion, the Jamahiriya appreciates your role and salutes your contribution, and it affirms once more its readiness to cooperate in such a manner as to ensure the success of your endeavours.

(Signed) Ibrahim M. BISHARI  
Secretary of the People's Committee for  
Foreign Liaison and International  
Cooperation

Annex II

Letter dated 2 March 1992 from the Permanent Representative of  
the Libyan Arab Jamahiriya to the United Nations addressed to  
the Secretary-General

[Original: Arabic]

I have the honour to transmit to you herewith the text of a letter  
addressed to you by Mr. Ibrahim M. Bishari, Secretary of the People's  
Committee for Foreign Liaison and International Cooperation.

(Signed) Ali Ahmed HOUDEIRI  
Permanent Representative

Enclosure

Letter from the Secretary of the People's Committee  
for Foreign Liaison and International Cooperation  
of the Libyan Arab Jamahiriya addressed to the  
Secretary-General

Since the announcement of the presumed suspicion of two Libyan nationals in the matter of the regrettable incident involving Pan Am flight 103 - in which innocent people were victims and with regard to which, as before, I can only express the grief invoked in me by the incident and by the victims who died in it - the popular authorities in the Jamahiriya have taken the measures required in such cases by the law and by international covenants. The United Kingdom and the United States, however, submitted to the competent Libyan authorities requests for the extradition of the two Libyan nationals for the purpose of bringing them to trial themselves, and they have constantly insisted, despite the proposals made by the competent authorities in the Jamahiriya, on requesting extradition and nothing else, thereby overstepping the limits of our domestic law and international rules and customs.

As you know, the United Kingdom and the United States convened a meeting of the Security Council on the regrettable aircraft incident and succeeded in having the Council adopt a resolution urging the Jamahiriya to respond to their requests with regard to the relevant legal procedures. Following the adoption of the resolution, the Jamahiriya announced that it would respond in a manner in keeping with its sovereignty and the rule of law, and it took practical steps for the implementation of the resolution as it related to legal investigations.

In this connection, I should like to say that the Jamahiriya, a State Member of the United Nations, did not refuse extradition in itself. The domestic institutions of the Jamahiriya, however, whether administrative or judicial, were faced with a legal obstacle, namely that the Libyan law which has been in force for more than 30 years does not permit the extradition of Libyan nationals. This is a law which is fully in keeping with all the world's legal systems. The competent authorities in the Jamahiriya could find nothing that would enable them to respond to the requests made by these States other than by violating the law, and this is something that cannot be done in any civilized State which is a Member of the United Nations. It is this that is the obstacle, and it is, as you can see, a legal obstacle and not by any means a political one. The Libyan authorities cannot bypass this legal obstacle or violate the rights of citizens protected by the law.

You are aware that the United Kingdom and the United States are intimating that they are about to convene another meeting of the Security Council in order to seek the adoption of another resolution on the same matter. It goes without saying that the convening of such a meeting and the adoption of a resolution, whatever its character might be, will change nothing. The legal obstacle indicated above will remain as it is, and it

cannot be altered by a decision of the Security Council, whether a recommendation or a binding resolution. It would be pointless to adopt such a resolution because of its futility and the impossibility of its implementation in light of the domestic law in force and of international rules and customs while the competent authorities proclaim that they have no objection to extradition or to trial in any locality.

I have sought to address this letter to you so that we may convey to you a picture of the legal situation as it really is. I should like to advise you, however, that the solution to this matter falls within the purview of the law and not elsewhere and that attempts to bypass the law, even by means of resolutions, binding or non-binding, would seem to be both unhelpful and unwarranted since there is no party that is deliberately raising objections. It is rather the law that has objections, and it is not rational to put pressure on the law by the adoption of resolutions by the Security Council or by any other body.

(Signed) Ibrahim M. BISHARI  
Secretary of the People's Committee  
for Foreign Liaison and International  
Cooperation

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# Annex 15



Security Council

Distr.  
GENERAL

S/23992  
22 May 1992

ORIGINAL: ENGLISH

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REPORT OF THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 8  
OF SECURITY COUNCIL RESOLUTION 748 (1992)

1. On 31 March 1992, the Security Council adopted resolution 748 (1992) in connection with its consideration of letters dated 20 and 23 December 1992 (S/23306, S/23307, S/23308, S/23309, S/23317) and reports submitted by the Secretary-General (S/23574 and S/23672) pursuant to paragraph 4 of Security Council resolution 731 (1992).

2. By resolution 748 (1992) the Security Council, acting under Chapter VII of the Charter of the United Nations, decided that, on 15 April 1992, all States should adopt measures pursuant to paragraphs 3 to 7 of the resolution unless the Council decided that the Libyan Arab Jamahiriya had complied with the terms of paragraphs 1 and 2 of the same resolution. At the same time, under paragraph 8, the Council requested all States to report to the Secretary-General by 15 May 1992 on the measures they had instituted for meeting their obligations under resolution 748 (1992).

3. The full text of paragraphs 1 to 8 of resolution 748 (1992) reads as follows:

[The Security Council,

...

Acting under Chapter VII of the Charter,]

1. Decides that the Libyan Government must now comply without any further delay with paragraph 3 of resolution 731 (1992) regarding the requests contained in documents S/23306, S/23308 and S/23309;

2. Decides also that the Libyan Government must commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and that it must promptly, by concrete actions, demonstrate its renunciation of terrorism;

3. Decides that on 15 April 1992 all States shall adopt the measures set out below, which shall apply until the Security Council decides that the Libyan Government has complied with paragraphs 1 and 2 above;

4. Decides also that all States shall:

(a) Deny permission to any aircraft to take off from, land in or overfly their territory if it is destined to land in or has taken off from the territory of Libya, unless the particular flight has been approved on grounds of significant humanitarian need by the Committee established by paragraph 9 below;

(b) Prohibit, by their nationals or from their territory, the supply of any aircraft or aircraft components to Libya, the provision of engineering and maintenance servicing of Libyan aircraft or aircraft components, the certification of airworthiness for Libyan aircraft, the payment of new claims against existing insurance contracts and the provision of new direct insurance for Libyan aircraft;

5. Decides further that all States shall:

(a) Prohibit any provision to Libya by their nationals or from their territory of arms and related material of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment and spare parts for the aforementioned, as well as the provision of any types of equipment, supplies and grants of licensing arrangements, for the manufacture or maintenance of the aforementioned;

(b) Prohibit any provision to Libya by their nationals or from their territory of technical advice, assistance or training related to the provision, manufacture or use of the items in (a) above;

(c) Withdraw any of their officials or agents present in Libya to advise the Libyan authorities on military matters;

6. Decides that all States shall:

(a) Significantly reduce the number and the level of the staff at Libyan diplomatic missions and consular posts and restrict or control the movement within their territory of all such staff who remain; in the case of Libyan missions to international organizations, the host State may, as it deems necessary, consult the organization concerned on the measures required to implement this subparagraph;

(b) Prevent the operation of all Libyan Arab Airlines offices;

(c) Take all appropriate steps to deny entry to or expel Libyan nationals who have been denied entry to or expelled from other States because of their involvement in terrorist activities;

7. Calls upon all States, including States not members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to 15 April 1992;

8. Requests all States to report to the Secretary-General by 15 May 1992 on measures they have instituted for meeting the obligations set out in paragraphs 3 to 7 above;

4. Immediately following the adoption of resolution 748 (1992), the Secretary-General transmitted the text of the resolution by telegram to the Ministers for Foreign Affairs of all States. Subsequently, on 3 April 1992, the Secretary-General addressed a note verbale to all States again transmitting the text of the resolution, drawing particular attention to paragraphs 1 to 10 thereof.

5. As of 15 May 1992, 55 replies were received pursuant to paragraph 8 of resolution 748 (1992). Each of the replies has been issued as a document of the Security Council in the chronological order of the communications, as indicated below:

Israel	20 April 1992	(S/23859)
Chad	21 April 1992	(S/23831)
United Kingdom	23 April 1992	(S/23847)
Spain	27 April 1992	(S/23865)
Norway	27 April 1992	(S/23910)
Nicaragua	30 April 1992	(S/23873)
Italy	30 April 1992	(S/23875)
Peru	4 May 1992	(S/23882)
France	7 May 1992	(S/23897)
Sweden	11 May 1992	(S/23907)
China	11 May 1992	(S/23908)
Australia	11 May 1992	(S/23919)
Kuwait	12 May 1992	(S/23914)
Austria	12 May 1992	(S/23920)



Denmark	12 May 1992	(S/23943)
Finland	12 May 1992	(S/23944)
India	13 May 1992	(S/23911)
Brazil	13 May 1992	(S/23916)
Greece	13 May 1992	(S/23932)
Czechoslovakia	13 May 1992	(S/23949)
Japan	13 May 1992	(S/23952)
Singapore	14 May 1992	(S/23921)
Botswana	14 May 1992	(S/23922)
Venezuela	14 May 1992	(S/23923)
United States	14 May 1992	(S/23931)
Hungary	14 May 1992	(S/23933)
Romania	14 May 1992	(S/23942)
Guyana	14 May 1992	(S/23950)
Jamaica	14 May 1992	(S/23951)
Republic of Korea	14 May 1992	(S/23953)
Cape Verde	14 May 1992	(S/23963)
New Zealand	14 May 1992	(S/23964)
Russian Federation	14 May 1992	(S/23965)
Belarus	14 May 1992	(S/23976)
Chile	14 May 1992	(S/23977)
Ukraine	14 May 1992	(S/23981)
Poland	15 May 1992	(S/23934)
Switzerland	15 May 1992	(S/23938)
Bulgaria	15 May 1992	(S/23939)
Belgium	15 May 1992	(S/23948)
Côte d'Ivoire	15 May 1992	(S/23958)
Malta	15 May 1992	(S/23959)
Netherlands	15 May 1992	(S/23960)
Portugal	15 May 1992	(S/23961)
Ireland	15 May 1992	(S/23962)
Portugal, on behalf of the European Community	15 May 1992	(S/23966)
Bangladesh	15 May 1992	(S/23967)

Colombia	15 May 1992	(S/23968)
Germany	14 May 1992	(S/23969)
Cyprus	15 May 1992	(S/23972)
Cuba	15 May 1992	(S/23978)
Mali	15 May 1992	(S/23979)
Philippines	15 May 1992	(S/23980)
Canada	15 May 1992	(S/23983)
Brunei Darussalam	15 May 1992	(S/23984)

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# Annex 16



**STATEMENT OF FACTS**

by

**THE LORD ADVOCATE,  
SCOTLAND**

in the case of

**Abdelbaset Ali Mohamed Al  
Megrahi**

and

**Al Amin Khalifa Fhimah**

(Conspiracy; Murder; and  
Contravention of the Aviation  
Security Act 1982, Section 2)

1. Pan American World Airways Flight PA103 took off from London Heathrow Airport at 18.25 hours on 21 December 1988, bound for Detroit via New York, John F Kennedy Airport. The aircraft was a Boeing 747 passenger aircraft of American registration. Flight PA103 had commenced at Frankfurt am Main, Federal Republic of Germany on a Boeing 727 passenger aircraft, from which 49 passengers transferred to the Boeing 747 aircraft at London Heathrow where they joined a further 194 passengers. There were 16 crew members on board the Boeing 747 aircraft.
2. At approximately 19.03 hours on 21 December 1988, while the Boeing 747 aircraft was in flight over the South of Scotland, an explosion occurred in the front cargo hold resulting in the break up and crash of the aircraft in and around the town of Lockerbie and the death of all 259 passengers and crew and of 11 residents of Lockerbie, who were killed when their houses were destroyed as a result of impact of wreckage and consequent fires.



3. Scientific examination of wreckage and material from the aircraft determined that
  - 3.1 the explosion occurred within a baggage container which contained luggage which had been transferred from the Boeing 727 aircraft from Frankfurt am Main and luggage which had been transferred from other flights into London Heathrow.
  - 3.2 the explosion had been caused by an Improvised Explosive Device contained within a hardshelled dark brown coloured Samsonite suitcase, which had been positioned among luggage which had been transferred from the Boeing 727 aircraft.
  - 3.3 the Improvised Explosive Device was a Toshiba radio cassette recorder within which had been concealed high performance plastic explosive, consistent with that manufactured under the brand name 'Semtex', and a system of electronic detonation controlled by an electronic timer.
  - 3.4 the Improvised Explosive Device was placed within the suitcase among clothing and an umbrella.
  
4. Luggage tagged so as to be transferred from the Boeing 727 aircraft to the Boeing 747 aircraft was not subject to examination at London, Heathrow Airport. The investigation has been unable to account for the Samsonite suitcase as relating to any passenger on the Boeing 727 or 747 aircraft but has accounted for all other luggage transferred from the Boeing 727 to the Boeing 747 aircraft at London Heathrow Airport. A single piece of luggage is recorded as having arrived at Frankfurt am Main Airport on 21 December 1988 from Air Malta flight KM180 and being thereafter transferred to the Boeing 727 Aircraft, where it appears to have been carried as unaccompanied luggage. It appears that the Samsonite suitcase was the single piece of luggage which was transferred from flight KM180 to the Boeing 727 aircraft at Frankfurt am Main and to the Boeing 747 aircraft at London Heathrow Airport. There was no general requirement for passengers to make a tarmac identification of baggage for flights from Luqa Airport to Europe and no X-ray facility for checked-in luggage examination there. It was possible to introduce luggage tagged with an Air Malta luggage tag to an Air Malta flight to Frankfurt am Main as unaccompanied baggage and for it thereafter to be transferred as



interline and online baggage through Frankfurt am Main and London Heathrow to a flight to New York John F Kennedy.

5. The timer which controlled the Improvised Explosive Device was one of 20 timers manufactured in 1985 in Switzerland by the company MEBO AG , Nova Park Hotel, Zurich, Switzerland to the order of Izz Al Din Al Hinshiri and Said Mohammed Abdallah Rashid, both senior officials of Amn al Jamahiriya, the External Security and Intelligence Service of Libya (ESO) and supplied by the company to such officials in Tripoli, Libya and at the Libyan People's Bureau, East Berlin, German Democratic Republic. The timers were designed to operate the detonators of explosive devices with great accuracy. Four timers were destroyed when being tested in conjunction with bombs at Sabha, in the Libyan desert in 1986 under the supervision of Nasser Ali Ashur, a member of the ESO. Of the 20 timers, 10 were designed by the manufacturers so as to be fitted by them within a rigid casing. The timer which was contained within the Improvised Explosive Device was one of the 10 timers so designed.
6. One of such timers was situated in 1987 or 1988 in an office occupied by Hinshiri in Tripoli.
7. One of such timers was seized in February 1988 together with high performance plastic explosives, a firearm and ammunition from Mansur Omran Sabir and Muhammad Ali Al-Nayil otherwise known as Marzouk, both Libyan nationals at Dakar Airport, Senegal. Sabir and Al-Nayil were released in June 1988 after negotiations conducted by a Libyan government emissary and, although the other items seized can be accounted for, there is no evidence as to the disposal of the timer.
8. Abdelbaset Ali Mohmed Al Megrahi is a senior official of the Libyan Intelligence Services. As such, he was head of security of the state owned Libyan Arab Airlines (LAA) throughout 1986 and was appointed director of the Centre for Strategic Studies, in Tripoli, on 1 January 1987. The Centre for Strategic Studies is part of the Directorate of Information, which in turn is one of the Directorates of the ESO. A large proportion of persons in managerial positions in LAA are officers of the ESO. One of Megrahi's duties was to set up front companies for the activities of the Libyan Intelligence Services abroad. Megrahi and another Libyan ESO official, Badri Hasan, who was formerly the Chairman of LAA, set up such a company known as



ABH, which rented office accommodation within the premises of MEBO AG and adjacent to their workshop between July 1987 and February 1989 and had a parent or associated company of the same name in Libya. The company had an exclusive distribution agreement with MEBO AG, but conducted no business with MEBO AG.

9. On 15 April 1986 the US Air Force bombed Tripoli following a bomb attack on 'La Belle' Discotheque, West Berlin on 5 April 1986. In June 1986 Rashid enquired about the possibility of sending a suitcase on a British Aircraft from Luqa Airport, probably to the United Kingdom. A reply confirming that this was possible was sent to him through Megrahi.
10. Al Amin (known as Lamin) Khalifa Fhimah was the Station Manager of LAA at Luqa Airport, Malta, from 14 October 1982 until October 1988, but his airside pass did not expire until 31 December 1988 and he continued in particular to have access to LAA premises and facilities. This allowed him access to areas including that where Air Malta flight KM180 was parked prior to and during passenger and load ingestion on 21 December 1988. As Station Manager he was aware of security arrangements at Luqa Airport. Fhimah had strong connections with the Libyan Intelligence Services and was closely associated with Megrahi. From September or October 1988 he was concerned along with Megrahi in setting up a Maltese company known as Med tours or Medtours Services Limited, a further front company of the ESO which conducted no active business. Megrahi left a large quantity of high performance plastic explosives in possession of Fhimah at the offices of LAA at Luqa Airport during or prior to 1986 and such explosives remained there until the latter part of 1988 when they were removed by officers of the Libyan Cultural Centre, Sliema, Malta and Fhimah was advised of that. Fhimah continued to purport to be employed by LAA and to exercise control of Medtours in Malta in 1991.
11. In the early evening of 7 December 1988 a person described as a Libyan purchased at random items of clothing and the umbrella, which have been identified as having been contained in the Samsonite suitcase, at the shop known as Mary's House, Tower Road, Sliema, Malta. The Libyan answers the description of Megrahi, who had arrived in Malta by air from Tripoli earlier that day using the name Abdelbaset Ali Mohmed, who stayed at the Holiday Inn, Sliema, approximately 300 metres from the shop, and was due to leave for Zurich on 8 December 1988. His departure was delayed by weather



until 9 December. The shopkeeper has assisted in the preparation of photofit and artist's impressions of the customer which resemble Megrahi. He later identified an earlier photograph of Megrahi as looking similar to the customer. He has stated that he believes that the same man returned to his shop on 21 or 22 September 1989 and purchased children's dresses. Megrahi was in Malta between 21 and 24 September 1989. The Libyan Cultural Centre, formerly the Libyan People's Bureau is situated in Tower Road, Sliema between the shop and the Holiday Inn.

12. In early December 1988 Hinshiri and Hasan attempted to order a further 40 such timers from the member of MEBO AG, who had delivered timers in 1985, but MEBO AG were unable to fulfil the order.
13. The member of MEBO AG travelled to Tripoli on 18 December 1988 with 40 commercially purchased 'Olympus' timers, to which some modifications had been made and arranged for their delivery to Hinshiri.
14. At a meeting on 19 December 1988 at the ESO office where the member of MEBO AG had delivered MEBO timers in 1985 and where he had been introduced to Megrahi by Hinshiri in 1986, Hinshiri refused to purchase the 'Olympus' timers from him. A further meeting was arranged for that evening at Megrahi's house/office. The member of MEBO AG was taken to premises which he believed to be that house/office. He caught sight of a group of 6 to 10 men in a room, including two members of the Libyan Intelligence Services, Abdallah Senussi, the then Director of Operations Administration of the ESO and who had overall control of the Centre for Strategic Studies and Ashur, who had supervised the tests in the desert in 1986. He was not admitted to any meeting there and left the premises without contact with Hinshiri or Megrahi. Fhimah travelled to Tripoli on 18 December 1988 for a meeting with Megrahi and both returned to Malta on 20 December 1988.
15. The member of MEBO AG uplifted the timers from Hinshiri's office on 20 December 1988 and returned with them to Zurich. Between Christmas 1988 and the New Year he checked the programming of these timers, which had a seven day capacity and discovered that one only had been set, for Wednesday at 19.30 hours. The Wednesday





following 18 to 20 December 1988 was 21 December 1988 and the explosion near Lockerbie occurred at approximately 19.03 hours on that date. After 22 January 1989 the member of MEBO AG was approached in East Berlin by a Libyan official to whom he had delivered five of the MEBO timers in 1985 and asked if he had noticed anything unusual about the timers which he had returned with to Zurich from Tripoli.

16. During 1988 Megrahi had the use of a number of official Libyan passports, including

No. 110286 in the name Abdelbaset A Mohamed, which he used in all journeys to and from Malta and Switzerland in that name in 1988

No. 755973 in the name Abdelbaset A Mohamed which he used in his journey to Czechoslovakia on 9 December 1988 and while there between 9 and 16 December 1988, although travelling to and from Malta and Switzerland using the first passport

No. 332351 in the name Ahmed Khalifa Abdusamad, which he used in journeys to Malta in 1987 and 1988

Despite his position as Director of the Centre for Strategic Studies, Megrahi described himself for immigration and hotel registration purposes as a flight dispatcher (*sic*) with LAA, but when travelling as Ahmed Khalifa Abdusamad described himself for those purposes as an employee. On 8 October 1988 he entered Malta from Tripoli as Abdelbaset Ali Mohamed and thereafter on 10 October 1988 travelled to Prague via Rome, remaining until 18 October. His hotel account was paid for by the Libyan Arab Jamarihiya Military Procurement Office, Prague.

On 7 December 1988, prior to the purchase of the clothing, he entered Malta by air from Tripoli as Abdelbaset Ali Mohamed, apparently carrying no checked baggage and stayed at the Holiday Inn, Sliema, Malta.



On 9 December 1988 he travelled by air from Malta to Zurich and from there to Prague as Abdelbaset Ali Mohmed, remaining until 16 December. His hotel account was paid for by the Libyan People's Bureau, Prague.

On 16 December 1988 he travelled by air from Prague to Zurich and stayed overnight in Zurich before returning by air to Tripoli via Malta as Abdelbaset Ali Mohmed. He spent 2 hours 50 minutes in Malta and apparently checked three items of baggage on the flight to Tripoli.

On 20 December 1988 he travelled by air from Tripoli to Malta as 'Ahmed' and entered Malta as Ahmed Khalifa Abdusamad.

17. Fhimah kept a diary in Malta containing references to Megrahi as Abdelbaset and Abdel Baset Al Magrahi, including telephone numbers in Tripoli. In his diary he has made, in Arabic, entries dated 15 December 1988:

'Abdel Baset is coming from Zurich with Salvu' and  
'\*take TAGGS from the Maltese Airlines OK'.

and has separately noted:

'Bring the TAGS from the Airport (Abdel Baset, Abdul Salam)'.

The words 'TAGGS', 'TAGS' and 'OK' were written in the Roman alphabet.

The removal of luggage tags from Luqa Airport was prohibited. LAA staff could not legally obtain possession of Air Malta luggage tags, other than while assisting Air Malta staff in their legitimate duties. Luggage tags were essential to enable a piece of luggage to travel unaccompanied and interline through its chosen route.

18. Fhimah travelled by air to Tripoli on 18 December 1988 for a meeting with Megrahi and he and Megrahi returned to Malta on the same Air Malta flight from Tripoli on 20 December 1988 arriving at 17.15 hours, when Megrahi was travelling as 'Ahmed' or Ahmed Khalifa Abdusamad. Neither appears to have had any checked baggage.



19. On the evening of 20 December 1988 Fhimah, who was with Megrahi, was seen to remove a dark brown coloured hardshelled suitcase, similar in description to the Samsonite suitcase, from a luggage carousel carrying the luggage from the incoming Air Malta flight from Tripoli and walk with it through the Customs area.

On the evening of 20 December 1988 Megrahi and Fhimah visited the house of a Maltese national who was concerned in setting up the 'Medtours' company.

Megrahi checked in to the Holiday Inn, Sliema on 20 December 1988, giving his company as AH Co, Benghazi, but claimed the LAA discount.

20. A telephone call was made from Megrahi's room at the Holiday Inn to Fhimah's flat at 3 St John's Flat, Mosta, Malta at 07.11 hours on 21 December 1988 before Megrahi checked out.
21. Although there was a desk open for LAA flight LN147 to Tripoli, Megrahi checked in for that flight as 'Ahmed' at a desk which was only officially open for passengers for Air Malta flight KM220 to Cairo, but at which the member of the Air Malta check-in staff allowed him to check in. The LAA representative present when he checked in would have been able to deal with any luggage tags. There was a 25 minute overlap in the time for checking in for flight LN147 (08.50 to 09.50 hours) and for Air Malta flight KM180 to Frankfurt (08.15 to 09.15 hours). The time for checking in of flight KM220 to Cairo was 08.35 to 09.35 hours. Between 08.50 and 09.15 hours all three flights were checking in and luggage could be accepted for ingestion in all or any of them. Megrahi embarked on the journey to Tripoli as Ahmed Khalifa Abdusamad.
22. Fhimah returned to Tripoli on 29 December 1988.
23. It is inferred that, acting in concert with others, Megrahi and Fhimah
- 23.1 caused the Improvised Explosive Device to be set to be detonated by the electronic timer
- 23.2 placed the Improvised Explosive Device among the clothing and umbrella within the Samsonite suitcase



23.3 caused the suitcase to be tagged with a baggage tag so as to enable it to be carried on Air Malta flight KM180 on 21 December 1988 and thereafter to interline onto other aircraft without a relevant passenger

23.4 caused the suitcase to be carried on flight KM180 to Frankfurt am Main Airport and there to be transferred as interline baggage to Pan American World Airways flight PA103 on the Boeing 727 aircraft and carried thereon to London Heathrow Airport and there in turn to be transferred as online baggage to Pan American World Airways flight PA103 on the Boeing 747 aircraft to New York John F Kennedy Airport

and caused the Improvised Explosive Device to explode on board the Boeing 747 aircraft, in flight over the South of Scotland near Lockerbie, destroying the aircraft and murdering the 259 occupants and 11 residents of Lockerbie.

EDINBURGH  
13 November 1991

# Annex 17

UNTO THE HONOURABLE THE SHERIFF OF SOUTH STRATHCLYDE, DUMFRIES AND GALLOWAY AT DUMFRIES

13 November ..... 1991

THE PETITION OF

THE PROCURATOR FISCAL of Court for the Public Interest:

*HUMBLY SHEWETH,*

That from information received by the Petitioner, it appears, and he accordingly charges, that

ABDELBASET ALI MOHMED AL MEGRAHI and

AL AMIN KHALIFA FHIMAH,

whose present whereabouts are unknown but who are believed to be within Libya

between 1 January 1985 and 21 December 1988, both dates inclusive at the premises occupied by him Abdelbaset Ali Mohamed Al Megrahi and by the Libyan Intelligence Services, in Tripoli, Libya, at a special forces training area, Sabha, Libya, at the premises occupied by the firm MEBO AG at the Novapark Hotel, Zurich, Switzerland, at the Holiday Inn and the Libyan Cultural Centre, both in Sliema, Malta, at the house occupied by him Al Amin Khalifa Fhimah at 3 St John's Flat, Mosta, Malta, at Luqa Airport, Malta and at the Libyan People's Bureau, East Berlin, German Democratic Republic and elsewhere in Libya, Malta, Switzerland, Czechoslovakia and the German Democratic Republic, to the Petitioner unknown and elsewhere to the Petitioner unknown,

being members of the Libyan Intelligence Services, and in particular being respectively the head of security of Libyan Arab Airlines and thereafter Director of the Centre for Strategic Studies, Tripoli, Libya and the Station Manager of Libyan Arab Airlines in Malta

did/

DUMFRIES 13 November 1991  
Certified a true copy

  
Sheriff Clerk Depute

SGD JAMES T. MacDOUGALL  
Procurator Fiscal

did conspire together and with others to further the purposes of the Libyan Intelligence Services by criminal means, namely the commission of acts of terrorism directed against nationals and the interests of other countries and in particular the destruction of a civil passenger aircraft and murder of its occupants

and, in pursuance of said conspiracy, while acting in concert together and with others

(a) between 1 January 1985 and 31 December 1985, both dates inclusive, at the said premises occupied by MEBO AG, in Zurich, aforesaid, at the said premises of said Libyan Intelligence Services, in Tripoli, aforesaid, at the said Libyan People's Bureau, East Berlin aforesaid and elsewhere to the Petitioner unknown, they did order, cause to be manufactured and obtain from the said firm of MEBO AG twenty electronic timers capable of detonating explosive devices;

(b) between 1 January 1985 and 31 July 1986, both dates inclusive at the said special forces training area at Sabha, Libya they did cause the effectiveness of such timers to be tested in conjunction with explosives;

(c) between 20 March 1986 and 31 December 1988, both dates inclusive, within the offices of Libyan Arab Airlines at Luqa Airport, Malta and at the said Libyan Cultural Centre, Sliema, aforesaid and elsewhere in Malta they did have in their possession and under their control a quantity of high performance plastic explosive;

(d) between 31 July 1987 and 21 December 1988, both dates inclusive within the said premises occupied by MEBO AG, in Zurich aforesaid they did establish and maintain a pretended business under the name ABH as a cover for the operations of said Libyan Intelligence Services;

(e) on 20 February 1988 at Dakar Airport, Senegal they did cause one of said timers, together with other components of an improvised explosive device including a quantity of high performance plastic explosive and a firearm and ammunition to be introduced into Senegal for terrorist purposes;

(f) between 1 September 1988 and 21 December 1988, both dates inclusive at Eucharistic Congress Road, Malta they did establish and maintain a pretended business to be known as and under the name of Med Tours or Medtours Services Limited, as a cover for the operations of said Libyan Intelligence Services;

(g)/

SGD JAMES T. MacDOUGALL  
Procurator Fiscal

CLERK OF THE COURT  
Certified a true copy

  
Sheriff Clerk Deput

(g) between 1 and 20 December 1988, both dates inclusive, at the said premises occupied by MEBO AG, in Zurich aforesaid, at the said premises occupied by him Abdelbaset Ali Mohamed Al Megrahi and by the said Libyan Intelligence Services, in Tripoli aforesaid, and elsewhere in Switzerland and Libya they did order and attempt to obtain delivery of forty further such timers from the said firm of MEBO AG;

(h) between 1 and 21 December 1988, both dates inclusive, at Luqa Airport, Malta or elsewhere in Malta they did unlawfully acquire airline luggage tags;

(i) on 7 December 1988 in the shop premises known as Mary's House at Tower Road, Sliema, Malta they did purchase a quantity of clothing and an umbrella;

(j) on 20 December 1988 at Luqa Airport, Malta said Abdelbaset Ali Mohamed Al Megrahi did enter Malta using a passport in the false name of Ahmed Khalifa Abdusamad and they did cause a suitcase to be introduced to Malta;

(k) on 20 and 21 December 1988 said Abdelbaset Ali Mohamed Al Megrahi did reside at the Holiday Inn, Sliema, Malta under the false identity of Ahmed Khalifa Abdusamad; and

(l) on 21 December 1988 at Luqa Airport, aforesaid they did place or cause to be placed on board an aircraft of Air Malta flight KM180 to Frankfurt am Main Airport, Federal Republic of Germany said suitcase or a similar suitcase containing such clothing and umbrella and an improvised explosive device containing high performance plastic explosive concealed within a radio cassette recorder and programmed to be detonated by one of said electronic timers, having tagged or caused such suitcase to be tagged so as to be carried by aircraft from Frankfurt am Main aforesaid via London, Heathrow Airport to New York, John F Kennedy Airport, United States of America;

and such suitcase was thus carried to Frankfurt am Main Airport aforesaid and there placed on board an aircraft of Pan American World Airways flight PA103A and carried to London, Heathrow Airport aforesaid and there, in turn, placed on board an aircraft of Pan American World Airways flight PA103 to New York, John F Kennedy Airport aforesaid;

and said improvised explosive device detonated and exploded on board said aircraft flight PA103 while in flight near to Lockerbie, Scotland whereby the aircraft was destroyed and the wreckage crashed to the ground and the 259 passengers and crew named in Schedule 1 hereof and the 11 residents of Lockerbie aforesaid named in Schedule 2 hereof were killed and they did murder them.

OR/

SGD JAMES T. MacDOUGALL  
*Procurator Fiscal*

DUMFRIES 17 NOV 1991  
Certified a true copy

  
Sheriff Clerk Depute



OR ALTERNATIVELY

(2) being members of said Libyan Intelligence Services as above libelled and having, while acting in concert with others, formed a criminal purpose to destroy a civil passenger aircraft and murder the occupants and having obtained possession of and tested the effectiveness of electronic timers and being in possession of and having under their control a quantity of high performance plastic explosive all as above libelled, while acting in concert together and with others

(a) between 31 July 1987 and 21 December 1988, both dates inclusive, within the said premises occupied by MEBO AG, in Zurich aforesaid they did establish and maintain a pretended business under the name ABH as a cover for the operations of said Libyan Intelligence Services;

(b) between 1 September 1988 and 21 December 1988, both dates inclusive at Eucharistic Congress Road, Malta they did establish and maintain a pretended business to be known as and under the name of Medtours or Med Tours Services Limited as a cover for the operations of said Libyan Intelligence Services;

(c) between 1 and 20 December 1988, both dates inclusive, at the said premises occupied by MEBO AG, in Zurich aforesaid, at the said premises occupied by him Abdelbaset Ali Mohmed Al Megrahi and by the said Libyan Intelligence Services, in Tripoli aforesaid, and elsewhere in Switzerland and Libya they did order and attempt to obtain delivery of forty further such timers from the said firm of MEBO AG;

(d) between 1 and 21 December 1988, both dates inclusive, at Luqa Airport, Malta or elsewhere in Malta they did unlawfully acquire airline luggage tags;

(e) on 7 December 1988 in the shop premises known as Mary's House at Tower Road, Sliema, Malta they did purchase a quantity of clothing and an umbrella;

(f) on 20 December 1988 at Luqa Airport, Malta said Abdelbaset Ali Mohmed Al Megrahi did enter Malta using a passport in the false name of Ahmed Khalifa Abdusamad and they did cause a suitcase to be introduced to Malta;

(g) on 20 and 21 December 1988 said Abdelbaset Ali Mohmed Al Megrahi did reside at the Holiday Inn, Sliema, Malta under the false identity of Ahmed Khalifa Abdusamad; and

(h)/

SHERRIFFS DEPARTMENT  
Certified a true copy

*James T. MacDougall*  
Sheriff Clerk Depute

SGD JAMES T. MacDOUGALL  
Procurator Fiscal

(h) on 21 December 1988 at Luqa Airport, aforesaid they did place or cause to be placed on board an aircraft of Air Malta flight KM180 to Frankfurt am Main Airport, Federal Republic of Germany said suitcase or a similar suitcase containing such clothing and umbrella and an improvised explosive device containing high performance plastic explosive concealed within a radio cassette recorder and programmed to be detonated by one of said electronic timers, having tagged or caused such suitcase to be tagged so as to be carried by aircraft from Frankfurt am Main aforesaid via London, Heathrow Airport to New York, John F Kennedy Airport, United States of America;

and such suitcase was thus carried to Frankfurt am Main Airport aforesaid and there placed on board an aircraft of Pan American World Airways flight PA103A and carried to London, Heathrow Airport aforesaid and there, in turn, placed on board an aircraft of Pan American World Airways flight PA103 to New York, John F Kennedy Airport aforesaid;

and said improvised explosive device detonated and exploded on board said aircraft flight PA103 while in flight near to Lockerbie, Scotland whereby the aircraft was destroyed and the wreckage crashed to the ground and the 259 passengers and crew named in Schedule 1 hereof and the 11 residents of Lockerbie aforesaid named in Schedule 2 hereof were killed and they did murder them

*OR ALTERNATIVELY*

(3) being members of said Libyan Intelligence Services and having, while acting in concert with others, formed a criminal purpose to destroy a civil passenger aircraft and murder the occupants and having obtained possession of and tested the effectiveness of electronic timers and being in possession of and having under their control a quantity of high performance plastic explosive all as above libelled, they did on and between the dates and at the places in charge 2 above libelled, by the means there libelled, unlawfully and intentionally destroy said aircraft in service and commit on board said aircraft in flight acts of violence which were likely to and did endanger the safety of said aircraft, in respect that they did murder said persons:

CONTRARY to the Aviation Security Act 1982, Section 2(1) and (5)

SGD JAMES T. MacDOUGALL  
Procurator Fiscal

17  
1001  
1001

*James T. MacDougall*  
SGD

In order, therefore, that the said Accused may be dealt with according to Law,

MAY it please your Lordship to grant Warrant to Officers of Law to search for and apprehend the said Accused

ABDELBASET ALI MOHMED AL MEGRAHI and

AL AMIN KHALIFA FHIMAH

and meantime, if necessary, to detain them in a police station house or other convenient place and to bring them for examination in respect of the above charges; thereafter grant Warrant to imprison them within the Prison of Dumfries therein to be detained for further examination or until liberated in due course of Law: Further, to grant Warrant to search the person, repositories, and domicile of the said Accused, and the house or premises in which they may be found, and to secure, for the purpose of precognition and evidence, all writs, evidents, and articles found therein tending to establish guilt or participation in the crimes foresaid, and for that purpose to make patent all shut and lockfast places; and also to grant Warrant to cite Witnesses for precognition and to make production for the purposes foresaid of such writs, evidents and articles pertinent to the case as are in their possession: Further, to recommend to the Judges of other Counties and Jurisdictions to grant the Warrant of Concurrence necessary for enforcing that of your Lordship within their respective territories; or to do further or otherwise as to your Lordship may seem meet.

According to Justice, &c.

SGD JAMES T. MacDOUGALL  
Procurator Fiscal

13 November 1991 - The Sheriff having considered the foregoing Petition, grants Warrant to Officers of Law to search for, apprehend and bring for examination the said Accused


ABDELBASET ALI MOHMED AL MEGRAHI and

AL AMIN KHALIFA FHIMAH

and meantime, if necessary, to detain them in a police station or other convenient place, as also to search, secure, and cite for precognition and to open shut and lockfast places, all as craved: Further, recommends Judges of other Counties and Jurisdictions to grant any Warrant of Concurrence necessary for enforcing this Warrant within their respective territories.

SGD K. G. BARR


SCHEDULE/

NOV 13 1991  
SHERIFF CLERK  
  
SHERIFF CLERK

SCHEDULE 1

1. John Michael Gerard Ahern, 127 Sherman Avenue, Rockville Centre, New York 11570, United States of America
2. Sarah Margaret Aicher, 30E Stanhope Gardens, London
3. John David Akerstrom, 6822 Ryan Road, Medina, Ohio 44256, United States of America
4. Ronald Ely Alexander, 425 East 58th Street, New York, New York 10022, United States of America
5. Thomas Joseph Ammerman, 2 Forrest Avenue, Old Tappan, New Jersey 07676, United States of America
6. Martin Lewis Apfelbaum, 2505 18th Street, Philadelphia, Pennsylvania 19103, United States of America
7. Rachel Marie Asrelsky, 605 Water Street, New York, New York 10002, United States of America
8. Judith Ellen Bernstein or Atkinson, Flat 3, 32 Cranley Gardens, South Kensington, London
9. William Garretson Atkinson III, Flat 3, 32 Cranley Gardens, South Kensington, London
10. Elisabeth Nicole Marie Avoyne, 2 Avenue Francois Patrocle, 78290 Croissy Sur Seine, France
11. Jerry Don Avritt, 14031 Bexley Street, Westminster, California 92683, United States of America
12. Clare Louise Bacciochi, aged 19 years, 21 Hillside, Kingsbury, Tamworth, Warwickshire
13. Harry Michael Bainbridge, 9 Marisa Court, Montrose, New York 10548, United States of America
14. Stuart Murray Barclay, Honey Hill Farm, Barnard, Vermont 05031, United States of America
- 15./

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15 JUL 1991  
  
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15. Jean Mary Crispin or Bell, The Silver Suite, Mellor House, Charles Street, Windsor, Berkshire
16. Julian MacBain Benello, 143 Longwood Avenue, Apartment 4, Brookline, Massachusetts 02146, United States of America
17. Lawrence Ray Bennett, 2828 McKinley Street, Chelsea, Michigan 48118, United States of America
18. Philip Vernon Bergstrom, 400 South Lake Street, Apartment 9, CMA Forest Lake, Minnesota 55025, United States of America
19. Alistair David Berkley, 30 Sutton Square, London
20. Michael Stuart Bernstein, 6012 Cairn Terrace, Bethesda, Maryland 20817, United States of America
21. Steven Russell Berrell, aged 20 years, 1216 South Ninth Street, Fargo, North Dakota 58103, United States of America
22. Noelle Lydie Berti, 1 Rue D'Armenomville, Paris, France 754017
23. Surinder Mohan Bhatia, 810 Camino Real Road, 202 Redondo Beach, Los Angeles, California 90277, United States of America
24. Kenneth John Bissett, 120 East Hartsdale Avenue, Apartment 1K, Hartsdale, New York 10530, United States of America
25. Diane Ann Boatman-Fuller, 58 Swinburn Court, Blannedowne Road, Denmark Hill, London
26. Stephen John Boland, aged 20 years, 4 Century Road, Nashua, New Hampshire 03060, United States of America
27. Glenn John Bouckley, 7300 Cedarpost Road, Apartment C1, Liverpool, New York 13088, United States of America
28. Paula Marie Alderman or Bouckley, 7300 Cedarpost Road, Apartment C1, Liverpool, New York 13088, United States of America
29. Nicole Elise Boulanger, 46 Worthington Avenue, Shrewsbury, Massachusetts 01545, United States of America
- 30./

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30. Francis Boyer, 4 Place De L'Eperon, Lotissement, Auzeville, Toulosane 31320, France
31. Nicholas Bright, 7 Beals Street, Brookline, Massachusetts 02146, United States of America
32. Daniel Solomon Browner (Beer), Kibbutz, Parod, Northern Israel
33. Colleen Renee Brunner, aged 20 years, 7164 Parkside Drive, Hamburg, New York 14075, United States of America
34. Timothy Guy Burman, 49A Hotham Road, London
35. Michael Warren Buser, 99 Teaneck Road, Ridgefield Park, New Jersey 07660, United States of America
36. Warren Max Buser, 169 Hillman Avenue, Glenrock, New Jersey 07452, United States of America
37. Steven Lee Butler, 1141 South Clarkson Street, Denver, Colorado 80210, United States of America
38. Willliam Martin Cadman, 13 Surrendale Place, London
39. Fabiana Benvenuto or Caffarone, 21 Donne Place, London
40. Herman Luis Caffarone, 21 Donne Place, London
41. Valerie Canady, 127 Jackson Avenue, South Park, Morgantown, West Virginia 26505-6567, United States of America
42. Gregory Joseph Capasso, 1841 East 33rd Street, Brooklyn, New York 11234, United States of America
43. Timothy Michael Cardwell, RD1, Box 203, Cresco, Pennsylvania 18326, United States of America
44. Bernt Wilmar Carlsson, Apartment 30, 207 West 106th Street, New York, New York 10025, United States of America
45. Richard Anthony Cawley, 241 Central Park West, New York, New York 10024, United States of America
46. Frank Ciulla, 29 Clifford Drive, Parkridge, New Jersey 97656, United States of America
- 47./

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*[Handwritten signature]*

47. Theodora Eugenia Cohen, aged 20 years, 67 Wisconsin, Long Island, New York 11561, United States of America
48. Eric Michael Coker, aged 20 years, 137 Hilltop Road, Mendham, New Jersey 07945, United States of America
49. Jason Michael Coker, aged 20 years, 137 Hilltop Road, Mendham, New Jersey 07945, United States of America
50. Gary Leonard Colasanti, aged 20 years, 60 Garfield Road, Melrose, Massachusetts 02176, United States of America
51. Bridget Mulroy or Concannon, 20 Nuffield Drive, Banbury, Oxfordshire
52. Sean Concannon, aged 16 years, 20 Nuffield Drive, Banbury, Oxfordshire
53. Thomas Concannon, 20 Nuffield Drive, Banbury, Oxfordshire
54. Tracey Jane Corner, aged 17 years, 12 Springfield Avenue, Millhouses, Sheffield
55. Scott Marsh Cory, aged 20 years, 25 Chadwick Drive, Old Lyme Court, Connecticut 06371, United States of America
56. Willis Larry Coursey, 307 Cresham Drive, San Antonio, Texas 78218, United States of America
57. Patricia Mary Coyle, aged 20 years, 62 Seiter Hill Road, Wallingford, Connecticut 06492, United States of America
58. John Binning Cummock, 271 Vistamar Street, Coral Gables, Florida 33143, United States of America
59. Joseph Patrick Curry, 885B Beach Street, Fort Devens, Massachusetts 01433, United States of America
60. William Alan Daniels, 20 Sweet Briar Court, Belle Mead, New Jersey 08502, United States of America
61. Gretchen Joyce Dater, aged 20 years, 27 Mohawk Drive, Ramsey, New Jersey 07446, United States of America
62. Shannon Davis, aged 19 years, 32 Isinglass Road, Shelton, Connecticut 06484, United States of America
- 63./

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*[Handwritten Signature]*  
Sheriff

63. Gabriele Della-Ripa, 406 Plainfield Avenue, Floral Park, New York 11001, United States of America
64. Om Dikshit, 2955 Wylie Drive, Fairborn, Ohio 45324, United States of America
65. Joyce Christine Dimauro, 352 East 18th Street, New York, New York 10003, United States of America
66. Gianfranca Dinardo, Flat 4, 24 Cranley Gardens, South Kensington, London
67. Peter Thomas Stanley Dix, 52 Coborn Road, Bow, London
68. Shanti Devi or Dixit, 2955 Wylie Drive, Fairborn, Ohio 45324, United States of America
69. David Scott Dornstein, 7703 Seminole Avenue, Philadelphia, Pennsylvania 19126, United States of America
70. Michael Joseph Doyle, 17 Arcadia Drive, Voorhees, New Jersey 08043, United States of America
71. Edgar Howard Eggleston III, RD4, Box 296A, Glen Falls, New York 12801, United States of America
72. Siv Ulla Engstrom, 6 Rays Avenue, Windsor, Berkshire
73. Turhan Ergin, 97 Cliffmore Road, West Hartford, Connecticut 06105, United States of America
74. Charles Thomas Fisher IV, 19 Beaufort Gardens, Flat 4, Chelsea, London
75. Clayton Lee Flick, 68 Rugby Road, Binley Woods, Coventry
76. John Patrick Flynn, 10 West Lake Drive, Montville, New Jersey 07045, United States of America
77. Arthur Jay Fondiler, 9 Seymour Place, West Armonk, New York 10504, United States of America
78. Robert Gerard Fortune, 34-05 80th Street, Jackson Heights, New York 11372, United States of America
79. Stacie Denise Franklin, aged 20 years, 1366 Thomas Avenue, San Diego, California 92109, United States of America
- 80./

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80. Paul Matthew Stephen Freeman, 19 Manor Mansions, Belsize Grove, London
81. James Ralph Fuller, 351 Lonepine Court, Bloomfield Hills, Michigan 48013, United States of America
82. Ibolya Robertne Drucker or Gabor, Wesselenyi 6, Budapest, Hungary
83. Amy Beth Gallagher, 246 Vista, Pointe Claire, Quebec, Canada
84. Matthew Kevin Gannon, 611 North Ardmore, Los Angeles, California 90004, United States of America
85. Kenneth Raymond Garczynski, 1673 Hudson Avenue, North Brunswick, New Jersey 08902, United States of America
86. Paul Isaac Garrett, 482 Cross Street, Napa, California 94559, United States of America
87. Kenneth James Gibson, aged 20 years, 6/502 Infantry Army Post Office, New York, New York 09742, United States of America
88. William David Giebler, 52 Radcliffe Square, London
89. Andrew Christopher Gillies-Wright, 5 Esher Mews, Mitcham, Surrey
90. Olive Leonora Gordon, 182 William Bonney Estate, London
91. Linda Susan Gordon-Gorgacz, 5 Devere Gardens, Kensington, London
92. Anne Madelene Chaback or Gorgacz, 5 East Wallace Avenue, Apartment 201, Newcastle, Pennsylvania 16101, United States of America
93. Loretta Anne Gorgacz, 5 East Wallace Avenue, Apartment 201, Newcastle, Pennsylvania 16101, United States of America
94. David Jay Gould, 5883 Bartlett Street, Pittsburg, Pennsylvania 15217, United States of America
95. Andre Nikolai Guevorgian, 8 Carpenter Place, Sea Cliff, Long Island, New York 11579, United States of America
96. Nicola Jane Hall, 34 Second Avenue, Illovo, Sandton 2196, South Africa
- 97./

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*J. Young*  
Sheriff Clerk Dumfries

97. Lorraine Frances Buser or Halsch, 24 Camborne Circle, Fairport, New York 14450, United States of America
98. Lynne Carol Hartunian, 5 Tamarack Lane, Schenectady, New York 12309, United States of America
99. Anthony Lacey Hawkins, 805 East 21st Street, Brooklyn, New York 11210, United States of America
100. Pamela Elaine Herbert, aged 19 years, 378 Parkway Drive, Battle Creek, Michigan 49017, United States of America
101. Rodney Peter Hilbert, 117 South Congress Street, Newtown, Pennsylvania 18940, United States of America
102. Alfred Hill, Heimenhofenstrasse 3, 8972 Sonthofen, West Germany
103. Katherine Augusta Hollister, aged 20 years, 64-11 99th Street, Apartment 604, Rego Park, New York 11374, United States of America
104. Josephine Lisa Hudson, Flat 4, Arton Wilson House, North Wing, Roehampton Lane, London
105. Melina Kristina Hudson, aged 16 years, 124 Lancaster Street, Albany, New York 12210, United States of America
106. Sophie Ailette Miriam Hudson, 14 Rue Therese, Paris 75001, France
107. Karen Lee Hunt, aged 20 years, 477 Maplewoods Lane, Webster, New York 14580, United States of America
108. Roger Elwood Hurst, 43 Lake Riconda Drive, Ringwood, New Jersey 07456, United States of America
109. Elizabeth Sophie Ivell, aged 19 years, 24 High Street, Roberts Bridge, East Sussex
110. Khaled Nazir Jaafar, aged 20 years, 6519 Manor Street, Dearborn, Michigan 48126, United States of America
111. Robert van Houten Jeck, 145 Lake Drive, Mountain Lakes, New Jersey 07046, United States of America
112. Paul Avron Jeffreys, 8 Orchard Cottages, Clifton Road, Kingston Upon Thames, Surrey
- 113./

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DUMFRIES  
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DUMFRIES

113. Rachel Mary Elizabeth Jones or Jeffreys, 8 Orchard Cottages, Clifton Road, Kingston Upon Thames, Surrey
114. Kathleen Mary Jermyn, aged 20 years, 35 Sheridan Place, Staten Island, New York 10312, United States of America
115. Beth Ann Johnson, 226 Wren Drive, Greensburg, Pennsylvania 15601, United States of America
116. Mary Lincoln Johnson, 18 Adams Lane, Wayland, Massachusetts 01778, United States of America
117. Timothy Baron Johnson, 2024 West Lake Avenue, Neptune Township, New Jersey 07753, United States of America
118. Christopher Andrew Jones, aged 20 years, Courts Lane, Claverack, New York 12513, United States of America
119. Julianne Frances Kelly, aged 20 years, 31 Massachusetts Avenue, Dedham, Massachusetts 02026, United States of America
120. Jay Joseph Kingham, 10821 Stanmore Drive, Potomac, Maryland 20854, United States of America
121. Patricia Ann Klein, 1108 Hamilton Avenue, Trenton, New Jersey 08629, United States of America
122. Gregory Kosmowski, 3253 Tipisco Lake Road, Milford, Michigan 48042, United States of America
123. Elke Etha Kuhne, Langensalza Strasse 20, 3 Hanover, West Germany
124. Minas Christopher Kulukundis, 6 Shalcomb Street, London
125. Ronald Albert Lariviere, 200 North Pickett Street, Apartment 903, Alexandria, Virginia 22304, United States of America
126. Maria Nieves Larracochea, Castello 83, Madrid 28006, Spain
127. Robert Milton Leckburg, 601 Plainfield Avenue, Piscatawa, New Jersey 08854, United States of America
128. William Chase Leyrer, 52 Maple Avenue, Bayshore, New York 11706, United States of America
- 129./

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*James T. MacDougall*

129. Wendy Anne Lincoln, 294 Notch Road, North Adams, Massachusetts 01247, United States of America
130. Alexander Lowenstein, 24 Old Orchard Road, Mendham Township, Morristown, New Jersey 07960, United States of America
131. Lloyd David Ludlow, Headquarters HQ Company, 4th Brigade, Army Post Office, New York, New York 09185, United States of America
132. Maria Theresia Lurbke, Arnsberger Strasse 47, 5983 Balve-Beckum, West Germany
133. James Bruce MacQuarrie, 32 North Road, Kensington, New Hampshire 03833, United States of America
134. William John McAllister, 124 Peregrine Road, Sunbury on Thames, Middlesex
135. Daniel Emmet McCarthy, 127 92nd Street, Brooklyn, New York 11209, United States of America
136. Robert Eugene McCollum, 1248 Thomas Road, Wayne, Pennsylvania 19087, United States of America
137. Charles Dennis McKee, HOS USA Intelligence Section Command, Arlington Hall Station, Virginia 22212, United States of America
138. Bernard Joseph McLaughlin, 108 Norwood Avenue, Cranston, Rhode Island 02905, United States of America
139. Lilibeth Tobila Macalooloy, Morfelder Strasse 97, 6092 Kelsterbach, West Germany
140. William Edward Mack, 202 East 92nd Street, New York, New York 10128, United States of America
141. Douglas Eugene Malicote, 97th Signal Battalion, Army Post Office, New York, New York 02028, United States of America
142. Wendy Gay Forsyth or Malicote, 97th Signal Platoon, US Army Base, Mannheim, West Germany
143. Elizabeth Lillian Marek, 202 West 92nd Street, New York, New York 10025, United States of America
144. Louis Anthony Marengo, 1579 Stoney Creek Drive, Rochester, Michigan 48063, United States of America
- 145./


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145. Noel George Martin, also known as Joseph Emmanuel Barzey, 1 Ashdon House, North Old Road, Clapton, Gloucestershire
146. Diane Marie Maslowski, 130 Prospect Road, Haddonfield, New Jersey 08033, United States of America
147. Jane Susan Melber, 17 Melrose Gardens, Burnt Oak, Middlesex
148. John Merrill, 1 Heath Hall, High Street, Baldock, Hertfordshire
149. Suzanne Marie Miazga, RD1, Box 221, Benton Road, Marcy, New York 13403, United States of America
150. Joseph Kenneth Miller, 381 Westwood Road, Woodmere, New York 11598, United States of America
151. Jewel Courtney Mitchell, 1154 Union Street, Brooklyn, New York 11225, United States of America
152. Richard Paul Monetti, aged 20 years, 1615 Longfellow Drive, Cherry Hill, New Jersey 08003, United States of America
153. Jane Ann Morgan, Flat 1, 10 Brompton Square, London
154. Eva Ingeborg Fuchs or Morson, 185 East 85th Street, New York, New York 10028, United States of America
155. Helga Rachael Mosey, aged 19 years, 42 Titford Road, Oldbury, Warley, West Midlands
156. Ingrid Elisabeth Svensson or Mulroy, Kamnarsvagen 9L126, 22246 Lund, Sweden
157. John Mulroy, 35 Cherrywood Drive, East North Port, New York 11731, United States of America
158. Sean Kevin Mulroy, Kamnarsvagen, 9L126, 22246 Lund, Sweden
159. Mary Geraldine Murphy, 1 Cranebrook Manor Road, Twickenham, Middlesex
160. Karen Elizabeth Noonan, aged 20 years, 11901 Glenmill Road, Potomac, Maryland 20854, United States of America
161. Daniel Emmett O'Connor, 17 Lawley Street, Dorchester, Massachusetts 02122, United States of America
- 162./

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DICTIONARY 10 11 1991  
  
 J. Young

162. Mary Denice O'Neill, 1675 Metropolitan Avenue, Bronx, New York 10462, United States of America
163. Anne Lindsey Otenasek, 110 Tunbridge Road, Baltimore, Maryland 21212, United States of America
164. Bryony Elise Owen, aged 1 year, 59 Chelsea Park, Easton, Bristol
165. Gwyneth Yvonne Margaret Owen, 59 Chelsea Park, Easton, Bristol
166. Laura Abigail Owens, aged 8 years, 101 Rockingham Road, Cherry Hill, New Jersey 08034, United States of America
167. Martha Ives or Owens, 101 Rockingham Road, Cherry Hill, New Jersey 08034, United States of America
168. Robert Plack Owens, 101 Rockingham Road, Cherry Hill, New Jersey 08034, United States of America
169. Sarah Rebecca Owens, aged 14 years, 101 Rockingham Road, Cherry Hill, New Jersey 08034, United States of America
170. Robert Italo Pagnucco, Oscaleta Road, South Salem, New York 10590, United States of America
171. Christos Michael Papadopoulos, 217 Harborview, North Lawrence, New York 12938, United States of America
172. Peter Raymond Peirce, 860 East Boundry Street, Perrysburg, Ohio 43551, United States of America
173. Michael Cosimo Pescatore, 5482 Banbery Drive, Medina, Solon, Ohio 44139, United States of America
174. Sarah Susannah Buchanan Philipps, aged 20 years, 78 Hull Street, Newtonville, Massachusetts 02160, United States of America
175. Frederick Sandford Phillips, 12 Van Lee Drive, Little Rock, Arkansas 72205, United States of America
176. James Andrew Campbell Pitt, 96 College Street, South Hadley, Massachusetts 01075, United States of America
177. David Platt, 76 Belfast Avenue, Staten Island, New York 10306, United States of America

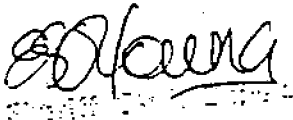
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178. Walter Leonard Porter, 85 Remsen Avenue, Brooklyn, New York 11212, United States of America
179. Pamela Lynn Posen, aged 20 years, 88 Haviland Road, Harrison, New York 10528, United States of America
180. William Pugh, 103 South Claremont Avenue, Margate City, New Jersey 08402, United States of America
181. Crisostomo Estrella Quiguyan, 37 Park View, Monks Park, Wembley, London
182. Rajesh Tarsis Priskel Ramses, 10 Eastfield Court, Eastile Road, Leicester
183. Anmol Rattan, aged 2 years, 24301 Panama, Warren, Michigan 48091, United States of America
184. Garima Dixit or Rattan, 24301 Panama, Warren, Michigan 48091, United States of America
185. Suruchi Rattan, aged 3 years, 24301 Panama, Warren, Michigan 48091, United States of America
186. Anita Lynn Reeves, 801 Fairlawn Avenue, Apartment 4, Laurel, Maryland 20707, United States of America
187. Mark Alan Rein, 220 East 63rd Street, New York, New York 10021, United States of America
188. Jocelyn Reina, 732 Great Western Road, Isleworth, Middlesex
189. Diane Marie Rencevicz, 325 West Union Street, Burlington, New Jersey 08016, United States of America
190. Louise Ann Rogers, 3508 Sundown Farms Way, Olney, Maryland 20832, United States of America
191. Edina Roller, aged 5 years, Vac, Koto Utca 7, H-2600, Hungary
192. Janos Gabor Roller, Vac, Koto Utca 7, H-2600, Hungary
193. Zsuzsanna Pisak or Roller, Vac, Koto Utca 7, H-2600, Hungary
194. Hanne Maria Maijala or Root, 20 West 72nd Street, Apartment 609, New York, New York 10023, United States of America
- 195./

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195. Saul Mark Rosen, 116 Burnham Road, Morris Plains, New Jersey 07950, United States of America
196. Andrea Victoria Rosenthal, 784 Park Avenue, New York, New York 10021, United States of America
197. Daniel Peter Rosenthal, aged 20 years, 36 Hamilton Avenue, Staten Island, New York 10301, United States of America
198. Myra Josephine Royal, 30 Clitherow Avenue, Hanwell, London
199. Arnaud David Rubin, 68 Avenue Des Croix Du Feu, Waterloo 1410, Belgium
200. Elyse Jeanne Saraceni, aged 20 years, Mews Room 17, 1 Park Crescent Mews East, London
201. Scott Christopher Saunders, 2996 Macungie Road, Macungie, Pennsylvania 18062, United States of America
202. Teresa Elizabeth Jane Wilson or Saunders, 124 Peregrine Road, Sunbury on Thames, Middlesex
203. Johannes Otto Schaeuble, Kappellenweg 6, 7407 Rottenburg, Wurlingen, West Germany
204. Robert Thomas Schlageter, aged 20 years, 814 West Shore Road, Warwick, Rhode Island 02889, United States of America
205. Thomas Britton Schultz, aged 20 years, 142 Wilton Road, Ridgefield, Connecticut 06877, United States of America
206. Sally Elizabeth Scott, 4 Woodvale Lane, Huntington, New York 11743, United States of America
207. Amy Elizabeth Shapiro, 77 Brook Run Lane, Stamford, Connecticut 06905, United States of America
208. Mridula Shastri, Room 1, St Johns College, 11 St Johns Street, Oxford
209. Joan Lichtenstein or Sheanshang, 4 East 89th Street, New York, New York 10128, United States of America
210. Irving Stanley Sigal, 120 East Delaware Avenue, Pennington, New Jersey 08574, United States of America
- 211./

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*MacDougall*





227. Flora MacDonald Margaret Swire, William Goodenough House, Mecklenburgh Square, Bloomsbury, London
228. Marc Alex Tager, 3 Cedars Close, Hendon, London
229. Hidekazu Tanaka, Flat 6, 110 Gloucester Terrace, London
230. Andrew Alexander Teran, aged 20 years, Pearson College, Yale University, New Haven, Connecticut 06520, United States of America
231. Arva Anthony Thomas, aged 17 years, 14075 Marlowe, Detroit, Michigan 48227, United States of America
232. Jonathan Ryan Thomas, aged 2 months, 15838 Harden Circle, Southfield, Michigan 48075, United States of America
233. Lawanda Coleman or Thomas, 15838 Harden Circle, Southfield, Michigan 48075, United States of America
234. Mark Lawrence Tobin, 36 St Pauls Road, North Hempstead, New York 11550, United States of America
235. David William Trimmer-Smith, 222 East 56th Street, Apartment 5A, New York, New York, 10022, United States of America
236. Alexia Kathryn Tsairis, aged 20 years, 379 Vance Avenue, Franklyn Lakes, New Jersey 07417, United States of America
237. Barry Joseph Valentino, 119 Haight Street, Apartment 16, San Francisco, California 94102, United States of America
238. Tomas Floro van Tienhoven, Jose C Paz, 738 Accassuso, Buenos Aires, Argentina, and also at 11 Argyll Road, London
239. Asaad Eidi Vejdany, 32 Somerset Drive South, Great Neck, New York 11020, United States of America
240. Milutin Velimirovich, 33 Dorset Way, Heston, Hounslow, Middlesex
241. Nicholas Andreas Vrenios, aged 20 years, 6628 32nd Street, NW Washington DC 20015, United States of America
242. Peter Vulcu, 1541 Overlook, Alliance, Ohio 44601, United States of America
- 243./

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243. Raymond Ronald Wagner, 165 Pennington-Harbourton Road, Pennington, New Jersey 08534, United States of America
244. Janina Jozefa Rusniak or Mitka or Waido, 2257 North Lavergne Avenue, Chicago, Illinois 60639, United States of America
245. Thomas Edwin Walker, 192 Taylor Street, Wallaston, Quincy, Massachusetts 02170, United States of America
246. Kesha Weedon, aged 20 years, 2525 Aqueduct Avenue, Bronx, New York 10468, United States of America
247. Jerome Lee Weston, 3134 Eastern Parkway, Baldwin, Long Island, New York 11510, United States of America
248. Jonathan White, 11229 Blix Street, North Hollywood, California 91620, United States of America
249. Bonnie Leigh Rafferty or Williams, 516th Engineer Company, Army Post Office, New York, New York 09165, United States of America
250. Brittany Leigh Williams, aged 2 months, 516th Engineer Company, Army Post Office, New York, New York 09165, United States of America
251. Eric Jon Williams, 516th Engineer Company Army Post Office, New York, New York 09165, United States of America
252. George Waterson Williams, 305 Garnett Road, Joppa, Maryland 21085, United States of America
253. Stephanie Leigh Williams, aged 1 year, 516th Engineer Company, Army Post Office, New York, New York 09165, United States of America
254. Miriam Luby Wolfe, aged 20 years, 120 Kennedy Drive, Severna Park, Maryland 21146, United States of America
255. Chelsea Marie Woods, aged 10 months, Apartment 1151, 6750 Vogelweh Housing, West Germany
256. Deder Lynn Copeland or Woods, Apartment 1151, 6750 Vogelweh Housing, West Germany
- 257./

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Sheriff

- 257. Joe Nathan Woods, Apartment 1151, 6750 Vogelweh Housing, West Germany
- 258. Joe Nathan Woods Jr, aged 2 years, Apartment 1151, 6750 Vogelweh Housing, West Germany
- 259. Mark James Zwynenburg, 151 Foxwood Road, West Nyack, New York 10994, United States of America

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SCHEDULE 2/

EXHIBIT  
SCHEDULE 2/



SGD JAMES T. MacDOUGALL

SCHEDULE 2

1. Joanne Flannigan, aged 10 years, 16 Sherwood Crescent, Lockerbie, Dumfriesshire
2. Kathleen Mary Doolan or Flannigan, 16 Sherwood Crescent, Lockerbie, Dumfriesshire
3. Thomas Brown Flannigan, 16 Sherwood Crescent, Lockerbie, Dumfriesshire
4. Dora Henrietta Moffat or Henry, Arranmore, 13 Sherwood Crescent, Lockerbie, Dumfriesshire
5. Maurice Peter Henry, Arranmore, 13 Sherwood Crescent, Lockerbie, Dumfriesshire
6. Mary Browell or Lancaster, 11 Sherwood Crescent, Lockerbie, Dumfriesshire
7. Jean Aitken Murray, Westerly, 14 Sherwood Crescent, Lockerbie, Dumfriesshire
8. John Somerville, 15 Sherwood Crescent, Lockerbie, Dumfriesshire
9. Lynsey Anne Somerville, aged 10 years, 15 Sherwood Crescent, Lockerbie, Dumfriesshire
10. Paul Somerville, aged 13 years, 15 Sherwood Crescent, Lockerbie, Dumfriesshire
11. Rosaleen Leiter Hanney or Somerville, 15 Sherwood Crescent, Lockerbie, Dumfriesshire

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# Annex 18

## SUMMARY OF SCOTTISH CRIMINAL PROCEDURE IN MURDER CASES

1. Criminal Procedure in Scotland in respect of serious crimes, including murder, involves trial on indictment before a Judge and a Jury of fifteen persons. All trials for murder must take place before the High Court of Justiciary ("the High Court"), which is the Supreme Criminal Court in Scotland, and are normally presided over by one Judge. The High Court also sits as a Court of Criminal Appeal, normally presided over by three (different) Judges. The High Court may sit as a trial Court anywhere in Scotland, but sits almost continuously in Glasgow and Edinburgh. The Court of Appeal sits only in Edinburgh. High Court judges are appointed by the Queen on the recommendation of the Government, but enjoy complete independence from Government and can only be removed from office for misbehaviour and following a vote by both Houses of Parliament of the United Kingdom. None has been removed since before the Union of the Parliaments of Scotland and England in 1707.
  
2. Prosecutions for serious crime in Scotland are brought by the public prosecutor. Although the High Court may grant leave to a private prosecutor who has been affected by a criminal act to bring criminal proceedings where the public prosecutor has declined to prosecute, such cases are very rare, only two having been brought to trial this century. In practice, all criminal proceedings are at the instance of the public prosecutor. Criminal indictments are brought in the name of and on the authority of the Lord Advocate as the chief public prosecutor for Scotland.
  
3. The Lord Advocate is a Law Officer of the Crown and legal adviser in Scotland to the Government, as well as the head of the public prosecution service. However, in his responsibility for decision making in relation to criminal investigations and proceedings he acts independently of, and is not subject to direction by, the Government of the day. The Lord Advocate, together with his deputy, the Solicitor General for Scotland, and thirteen Advocate Deputes, appointed by him, collectively constitute Crown Counsel in Scotland. Advocate Deputes are experienced Court lawyers usually appointed for a term of three years. They are not political appointees. Prosecutions before the High Court of Justiciary are conducted by Crown Counsel. Crown Counsel are based at the Crown Office in Edinburgh which is also the Headquarters of the Procurator Fiscal Service, the public prosecution service in Scotland.

4. The Procurator Fiscal is the local representative of the Lord Advocate and is the public prosecutor acting within a defined geographical district. There are 49 Procurators Fiscal in Scotland. The Procurator Fiscal is a career prosecutor appointed by the Lord Advocate of the day and his appointment does not terminate on a change of Government. Primary responsibility for criminal investigation and for the institution of criminal proceedings in Scotland lies with the Procurator Fiscal.
5. The Procurator Fiscal is under a duty to investigate all suspicious deaths and is entitled to direct the police to conduct enquiries on his behalf.
6. In cases where accused persons are to be found beyond the United Kingdom, the Procurator Fiscal is required to report the evidence to Crown Counsel before any efforts are made to apprehend the accused and no request may be made for the surrender or extradition of an accused person without the authority of Crown Counsel. In cases of particular importance or complexity, the Procurator Fiscal reports to Crown Counsel during the investigation of the case and is subject to their direction.
7. The initial stages of serious criminal proceedings are instituted by the Procurator Fiscal before the Sheriff Court, which is the local Court having jurisdiction in the geographical district for which the Procurator Fiscal has responsibility. The Judge presiding over the Sheriff Court is the Sheriff, who is a legally qualified Judge having extensive jurisdiction in respect of criminal and civil matters. The Sheriff presides over criminal trials, without a Jury, in less serious cases, and with a Jury in all but the most serious cases. The Sheriff is not empowered to preside at the trial on a charge of murder.
8. Criminal proceedings in respect of all serious charges, including murder, are normally instituted by the Procurator Fiscal presenting a petition to the Sheriff setting forth a criminal charge or charges and applying for a warrant for the arrest of the accused. The warrant enables police officers to arrest the accused and bring him before the Sheriff on the next weekday following his arrest within Scotland. Prior to being brought before the Sheriff the accused is served with a copy of the petition containing the criminal charge or charges and is entitled to a private interview with a lawyer (known as a Solicitor) qualified to appear before the Sheriff. An accused person who has been arrested on warrant is detained in police custody until his first appearance before



the Sheriff.

9. The accused may instruct a solicitor of his choice or, if he has no solicitor, may choose to be represented by a duty solicitor acting under the legal aid scheme. Free legal aid is available at all stages of criminal proceedings in Scotland to ensure the legal representation of accused persons who are not able to meet the expense of instructing lawyers on their behalf.
  
10. The Scottish legal profession is an independent profession comprising (a) solicitors who are qualified to appear in the Sheriff Court and some of whom have a right of audience in the High Court and (b) advocates ('Counsel'), who are qualified to appear in all Courts. Persons accused of murder in the High Court have the services of a solicitor and normally of at least two advocates. Accused persons may choose whom they wish to act for them. In practice, persons charged with murder are normally represented by the most experienced advocates specialising in criminal law. One of these will usually be a Queen's Counsel, ie. a member of the Senior Bar which is the corps of the most experienced Counsel in Scotland. The Faculty of Advocates (the professional body to which all Counsel belong) will always ensure that a person accused of murder has the services of Senior Counsel if this is desired.
  
11. The initial court appearance of the accused takes place in private before the Sheriff. The accused is accompanied and represented by his solicitor. At this hearing the Procurator Fiscal may move to conduct a judicial examination, which is presided over by the Sheriff and at which the accused person may be questioned by the Procurator Fiscal concerning matters averred (ie. alleged) in the charge or charges and as to the alleged making of any confession to or in the hearing of police officers. The purpose of a Judicial Examination is to elicit any denial, explanation, justification or comment in respect of such matters and to give the accused the opportunity to state any category of defence and the nature and particulars of that defence. The accused is entitled to consult his solicitor before answering any question and is entitled to decline to answer any question. Comment may only be made at the subsequent trial in relation to any refusal to answer questions in the event that the accused or any witness called on his behalf in evidence avers something which could have been stated appropriately in answer to a question put to him at judicial examination. A

verbatim record is made of a judicial examination.

12. At the initial hearing the Procurator Fiscal may also move for committal of the accused to prison "for further examination" (ie. pending a further appearance) and the accused will thereafter be detained for a period not exceeding 10 days before being brought back for a further appearance before the Sheriff. The procedure of judicial examination can take place at the initial appearance before the Sheriff or at any time during the ensuing 10 days. Furthermore, the accused may at any time, if he wishes, appear before the Sheriff in private, in the presence of his solicitor and the Procurator Fiscal, to make a judicial declaration in regard to the charge or charges against him. The Procurator Fiscal may move to conduct a judicial examination in relation to what is said in such a declaration on the same basis as mentioned above. A verbatim record is also made of a judicial declaration. Judicial declarations are seldom made, but the procedure enables an accused person to give early notice to the courts and prosecuting authorities of matters which might not otherwise be known to them.
13. The accused will, not later than 10 days after his initial court appearance, be brought back before the Sheriff for a further appearance in private, at which stage the Procurator Fiscal will move for his committal to prison until he is liberated in due course of law. This is known as "full committal" or "committal for trial" and remands the accused pending trial. The Procurator Fiscal is required to obtain the instructions of Crown Counsel before moving for full committal in any case of murder and Crown Counsel are required to be satisfied, before instructing the Procurator Fiscal to proceed to move for full committal, that there is a case to answer which could be established by corroborated evidence. In the case of most serious crimes the accused person may apply for bail at any stage, but the Sheriff cannot grant bail in murder cases.
14. At all stages following the initial appearance of the accused before the Sheriff, the accused is detained in prison and has extensive rights to communication and consultation in private with legal advisers for the purpose of preparation of his defence.
15. An accused person who has been fully committed cannot be detained for longer than 80 days unless an indictment is served on him during that period. He cannot be detained for longer than 110 days unless the trial of his case has commenced within

that period. While it is open to the prosecutor to apply to the High Court for extension of the periods of 80 and 110 days, in practice such extensions are normally only granted to the prosecutor where some exceptional circumstance has arisen preventing the commencement of the trial or where the High Court has postponed the trial to allow the defence more time for preparation.

16. The indictment is the charging document upon which the accused is brought to trial. It must be served not less than 29 clear days before the trial date. The indictment contains full details of the charges, a list of the witnesses who are to be called by the prosecutor and a list of the documents and other articles on which the prosecutor intends to rely in Court at the trial. Copies of all the documents which the prosecutor intends to use in Court are supplied to the defence free of charge. The defence are also given facilities for examination of the actual documents and all other items which are to be produced in evidence. The defence also have the right to interview and take statements from the prosecution witnesses. The defence are required to give notice to the prosecutor of witnesses for the defence and documents and articles to be used by them, not later than two days prior to the trial.
  
17. The decision to serve an indictment and to proceed to trial is taken by Crown Counsel following the consideration of a report by the Procurator Fiscal, submitted after full committal and any judicial examination of the accused. At this stage, the Procurator Fiscal reports on a confidential basis to Crown Counsel as to his investigation of the case, including enquiries which have been carried out by the police on his behalf, and on private interviews of witnesses carried out by the Procurator Fiscal. The Procurator Fiscal is bound professionally to investigate any possible defence to the criminal charges and all evidence which is favourable to the accused and to include all such material in his report to Crown Counsel. Crown Counsel are required to consider whether it is in the public interest for an indictment to be served on the accused and whether the evidence available is sufficient to entitle a Jury to convict the accused of the crimes charged or which it is proposed should be included in an indictment. If Crown Counsel are satisfied that there is sufficient evidence to justify proceeding further they instruct the preparation and service of an indictment. The indictment is prepared by legal staff of the Crown Office on behalf of Crown Counsel and is signed by one of Crown Counsel on behalf of the Lord Advocate.

18. Trials in the High Court are conducted before a Jury of 15 lay persons, drawn from a list prepared by the Clerk of Court, an independent officer of the Court, from the general public. Parties to criminal proceedings may object, by giving reasons, to particular jurors and may also, without any reason being given, object to up to three jurors. Otherwise, the jurors are as drawn by lot. The trial Judge is responsible for ensuring that the trial is conducted fairly and for dealing with points of law and procedure arising at the trial, but the verdict on the facts is reached by the Jury alone. The Jury in Scotland may arrive at their verdict unanimously or by majority, but at least eight of them must be in favour of a verdict of guilty before a person can be convicted. There are two verdicts of acquittal in Scotland: not guilty and not proven. There is no technical legal distinction between the two verdicts, both of which are verdicts of complete acquittal, the effect of which is that the accused cannot in any circumstances be tried again for the offence.

19. It has been stated on the highest authority that the system of criminal justice in Scotland depends essentially upon the proposition that jurors called to try an accused person should arrive in the Jury box without knowledge or impressions of facts, or alleged facts, relating to the crime charged<sup>1</sup>.

It has also been emphasised by the High Court that it is undesirable for evidence gathered by the police to be put into the public domain by the criminal authorities prior to the trial of the case<sup>2</sup>.

20. While proceedings are active within the meaning of the Contempt of Court Act 1981, the publication of material which creates a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced may constitute contempt of court, regardless of the intention of the publisher, and may be punished as contempt of court by the High Court. Proceedings are active for the purposes of the Contempt of Court Act 1981 for a period of 12 months, beginning with the date of

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<sup>1</sup> H.M.A. -v- Newsgroup Newspapers Limited and others 1989 S.C.C.R. 156, 162 per Lord Justice-General Emslie; Cf Commentaries on the Law of Scotland Respecting Crimes, D Hume (1844) i.384

<sup>2</sup> Hall -v- Associated Newspapers Limited 1979 J.C. 1, 16 per Lord Justice -General Emslie and H.M.A. -v- Geo Outram and Company 1980 J.C. 51, 56 per Lord Justice-General Emslie.

the grant of an arrest warrant and, although they cease to be active unless the accused is arrested during that period, they become active again when he is arrested and remain active until the conclusion of the proceedings. The prosecutor or the accused may bring any apparently offending publication to the attention of the High Court and the trial Judge may act ex proprio motu in respect of contempt of court by punishing the contempt and prohibiting publication of material held to be in contempt. In practice, the Scottish Courts go to considerable lengths to deal with and restrain prejudicial media reporting during criminal proceedings and in particular during criminal trials.

21. Criminal trials in Scotland take place in public in open court and in the presence of the accused, who may only be excluded for disorderly conduct or where there is an issue relating to the insanity of the accused and where the defence does not object to the case proceeding in his absence. In any event the accused is entitled to be legally represented throughout the trial.
22. Accused persons in Scotland are presumed to be innocent until proven guilty by the prosecutor. The burden of proof is on the prosecutor throughout a criminal trial and the standard of proof is proof beyond reasonable doubt. By the law of Scotland, no person may be convicted on evidence of one witness or evidence from only one source and essential facts must be established by corroborated evidence - that is evidence from two independent sources.
23. There is no burden of proof on the defence in criminal proceedings, nor is there a requirement for corroboration of evidence led on behalf of the accused. The accused must be acquitted if the Jury have a reasonable doubt as to his guilt. Although there is no burden on the defence, the defence is required to give notice, prior to the trial, of special defence of alibi, incrimination, self defence or insanity or of an intention to lead evidence calculated to exculpate the accused by incriminating a co-accused.
24. Criminal trials normally commence with the reading of the indictment to the Jury, followed by the reading of special defence, if any. There are no opening speeches to the Jury and the prosecutor calls witnesses to give oral evidence as to the facts of the case. These witnesses are examined by the prosecutor, cross-examined by Counsel

for the defence and re-examined by the prosecutor. In general, evidence in Scotland must be led by oral testimony.

25. On the conclusion of the leading of evidence for the prosecution it is open to the defence to submit to the trial Judge that there is no case to answer - that is, that there is insufficient evidence in law to justify the conviction of the accused. If the Judge agrees with that submission, he finds the accused not guilty in respect of the offence which is the subject of the submission and the accused cannot be tried again for the offence. If no such submission is made or if the Judge considers that there is sufficient evidence to justify conviction it is then open to the defence to lead the evidence of witnesses, including the accused, but there is no obligation to call any witnesses and there is no obligation to call the accused as a witness.
26. There is an absolute right of silence for the accused throughout criminal procedure in Scotland and if the accused chooses not to give evidence at his trial it is not open to the Judge or the prosecutor to ask him any questions.
27. At the conclusion of the evidence the prosecutor and defence Counsel address the Jury. The trial Judge then delivers his "Charge" to the Jury. This takes the form of oral directions on the law to be applied, and the Judge is required to direct the Jury on the presumption of innocence, the burden of proof on the prosecution, the standard of proof which must be achieved by the prosecutor and the necessity for there to be corroborated evidence on material facts put forward by the prosecutor. The Judge is also required to direct the Jury that there is no burden of proof on the defence and that they must acquit the accused if they have a reasonable doubt as to whether the case against him has been proved.
28. There is no requirement in law for any hearing in the High Court before the trial date, but it is open to any party to request preliminary hearings before the High Court to deal with any motion for postponement of the trial or to deal with points of procedure or issues relating to the evidence in the case, such as whether particular facts can be agreed. Among the matters which the accused can raise at a preliminary hearing are any claim that it would be oppressive for proceedings to continue against him because of prejudicial pre-trial publicity. The accused may, with the leave of the Court, appeal

against any decision taken by a Judge at a preliminary hearing.

29. The sentence on conviction of murder is fixed by law and is life imprisonment. It is open to the trial Judge to recommend a minimum period during which a person convicted of murder should not be released, but otherwise the eventual date of the release of the accused is determined by the Secretary of State for Scotland on the advice of the independent Parole Board for Scotland.
  
30. A person who has been convicted on indictment may appeal to the High Court sitting as the Court of Criminal Appeal, which has power to set aside the verdict of the Jury and quash the conviction, substitute an amended verdict of guilty or grant authority to bring a new prosecution (ie. for a re-trial) if it is satisfied that there has been a miscarriage of justice. At all stages of any appeal procedure the accused is entitled to legal representation.

# Annex 19



**STATEMENT OF LEGAL PROVISIONS CONCERNING OFFENCES  
UNDER SCOTS LAW**

1. In Scotland, the crimes of conspiracy and murder are not contained in any statutory provisions but have long been recognised and punished by the criminal courts under the common law, which has developed from decisions of the High Court of Justiciary and statements of authoritative writers. In the absence of legislation to the contrary, the jurisdiction of the Scottish criminal Courts is limited to crimes committed in Scotland, but a crime may be held to have been committed in Scotland either if there has been conduct in Scotland which amounts to a crime there or there has been conduct abroad which has had as its result an actus reus (ie. criminal event) in Scotland.
  
2. Conspiracy is, according to the law of Scotland, the agreement of two or more persons to effect any criminal purpose, whether as their ultimate aim, or only as a means to it and the crime is complete as soon as agreement is reached. A criminal purpose is one which if attempted or achieved by action on the part of an individual would itself constitute a crime by the law of Scotland. Once two persons are brought together as conspirators they are each liable for all the acts done in furtherance of the conspiracy. A person convicted of conspiracy in Scotland is liable to a fine of any amount or imprisonment for any period up to life imprisonment.
  
3. Murder is, according to the law of Scotland, constituted by any wilful act causing the destruction of life, whether intending to kill, or displaying such wicked recklessness as to imply a disposition depraved enough to be regardless of consequences. A person convicted of murder in Scotland is liable to imprisonment for life.
  
4. Section 2 of the Aviation Security Act 1982, a statute of the United Kingdom Parliament, provides as follows
  - (1) It shall, subject to subsection (4) below, be an offence for any person unlawfully and intentionally—

- (a) to destroy an aircraft in service or so to damage such an aircraft as to render it incapable of flight or as to be likely to endanger its safety in flight; or
- (b) to commit on board an aircraft in flight any act of violence which is likely to endanger the safety of the aircraft.

(2) It shall also, subject to subsection (4) below, be an offence for any person unlawfully and intentionally to place, or cause to be placed, on an aircraft in service any device or substance which is likely to destroy the aircraft, or is likely so to damage it as to render it incapable of flight or as to be likely to endanger its safety in flight; but nothing in this subsection shall be construed as limiting the circumstances in which the commission of any act—

- (a) may constitute an offence under subsection (1) above, or
- (b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling or procuring, or being art and part in, the commission of such an offence.

(3) Except as provided by subsection (4) below, subsections (1) and (2) above shall apply whether any such act as is therein mentioned is committed in the United Kingdom or elsewhere, whatever the nationality of the person committing the act and whatever the State in which the aircraft is registered.

(4) Subsections (1) and (2) above shall not apply to any act committed in relation to an aircraft used in military, customs or police service unless—

- (a) the act is committed in the United Kingdom, or
- (b) where the act is committed outside the United Kingdom, the person committing it is a United Kingdom national.

(5) A person who commits an offence under this section shall be liable, on conviction on indictment, to imprisonment for life.

(6) In this section 'unlawfully' —

- (a) in relation to the commission of an act in the United Kingdom, means so as (apart from this Act) to constitute an offence under the law of the part of the United Kingdom in which the act is committed, and
- (b) in relation to an act outside the United Kingdom, means so that the commission of the act would (apart from this Act) have been an offence under the law of England and Wales if it had been committed in England and Wales or of Scotland if it had been committed in Scotland.

(7) In this section 'act of violence' means—

- (a) any act done in the United Kingdom which constitutes the offence of murder, attempted murder, manslaughter, culpable homicide or assault or an offence under section 18, 20, 21, 22, 23, 24, 28 or 29 of the Offences against the Person Act 1861 or under section 2 of the Explosive Substances Act 1883, and
- (b) any act done outside the United Kingdom which, if done in the United Kingdom, would constitute such an offence as is mentioned in paragraph (a) above.'

5. The law of Scotland makes no distinction between commission and accession and by the common law of Scotland anyone who gives counsel or assistance to or otherwise acts in previous concert with the principal or who is guilty of concert, assistance or participation in the crime, which is known as 'art and part' guilt, is liable to be convicted of the crime. 'Art and part' guilt applies not only to common law crimes but also to contraventions of statutes and Section 216(2) of the Criminal Procedure (Scotland) Act 1975 provides as follows:

'Without prejudice to subsection (1) above or to any express provision in any enactment having the like effect to this subsection, any person who aids, abets, counsels, procures or incites any other person to commit an offence against the provisions of any enactment shall be guilty of an offence and shall be liable on conviction, unless the enactment otherwise requires, to the same punishment as might be imposed on conviction of the first-mentioned offence.'



Security Council

PROVISIONAL

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11 November 1993

ENGLISH

PROVISIONAL VERBATIM RECORD OF THE THREE THOUSAND  
THREE HUNDRED AND TWELFTH MEETING

Held at Headquarters, New York,  
on Thursday, 11 November 1993, at 11.30 a.m.

President: Mr. JESUS

(Cape Verde)

Members:

Brazil  
China  
Djibouti  
France  
Hungary  
Japan  
Morocco  
New Zealand  
Pakistan  
Russian Federation  
Spain  
United Kingdom of Great Britain  
and Northern Ireland  
United States of America  
Venezuela

Mr. SARDENBERG  
Mr. LI Zhaoxing  
Mr. OLHAYE  
Mr. MERIMEE  
Mr. ERDÖS  
Mr. MARUYAMA  
Mr. SNOUSSI  
Mr. KEATING  
Mr. MARKER  
Mr. VORONTSOV  
Mr. YAÑEZ BARNUEVO  
  
Sir David HANNAY  
Mrs. ALBRIGHT  
Mr. TAYLHARDAT

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The meeting was called to order at 12.10 p.m.

ADOPTION OF THE AGENDA

The agenda was adopted.

LETTERS DATED 20 AND 23 DECEMBER 1991, FROM FRANCE, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE UNITED STATES OF AMERICA (S/23306, S/23307, S/23308, S/23309 and S/23317)

The PRESIDENT: As agreed in the Council's prior consultations, I should like to state, in connection with the agenda just adopted, that the current formulation overtakes the earlier two formulations under which this item has been discussed, namely, items 168 and 173 of the list of matters of which the Security Council is seized; that list is contained in document S/25070. Since those items have been subsumed under the present item, they will accordingly be deleted from the list of matters contained in document S/25070.

I should like to inform the Council that I have received letters from the representatives of Egypt, the Libyan Arab Jamahiriya and Sudan, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Elhouderi (Libyan Arab Jamahiriya) took a place at the Council table; Mr. Elaraby (Egypt) and Mr. Yasin (Sudan) took the places reserved for them at the side of the Council Chamber.

The PRESIDENT: The Security Council will now resume its consideration of the item on its agenda.

The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/26701, which contains the text of a draft resolution submitted by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

I should like to draw the attention of the members of the Council to the following other documents: S/26304, letter dated 13 August 1993 from the representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General; S/26500, S/26523, S/26604 and S/26629, letters dated 22 September and 1, 18 and 22 October 1993, respectively, from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General.

The first speaker is the representative of the Libyan Arab Jamahiriya, on whom I now call.

Mr. ELHOUDERI (Libyan Arab Jamahiriya) (interpretation from Arabic): I congratulate you on your assumption of the presidency of the Security Council this month and commend the efforts made by your predecessor. I do hope that the Security Council will be able to really and truly discharge its functions in line with the purposes and principles of the United Nations

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Jamahiriya)

Charter, and to conduct itself in a manner that is compatible with the law and the public interest of the international community. I do hope that bias and special interests will not be given the upper hand and that the Council will steer clear of selectivity and double standard.

The Security Council meets today not to consider a matter that threatens international peace and security but to consider a draft resolution that seeks the intensification of the sanctions which have been imposed on the Libyan Arab Jamahiriya by the Council's resolution 748 (1992). Prior to this meeting, the Council had automatically renewed those sanctions four times over a period of 15 months. So, why intensify the sanctions now? The pretext which the three countries have repeated ad infinitum is the allegation that the Libyan Arab Jamahiriya has not complied with Security Council resolution 731 (1992). However, the truth of the matter is that the Libyan Arab Jamahiriya has fully responded to Security Council resolution 731 (1992). The only point that remains outstanding is the problem that arose from the demand by the United States of America and the United Kingdom that the two alleged suspects be extradited. This is a problem that remains unsolved because of a legal wrangle over which country has the competence in law to try the two persons accused of involvement in the bombing of Pan Am flight 103 over Lockerbie, Scotland.

Essentially, this is a question that is definitively settled by the provisions of the Montreal 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. The Libyan Arab Jamahiriya, the United States and the United Kingdom are all parties to that Convention, which, from the start, stipulates jurisdiction regarding the trial of the accused to the Libyan Arab Jamahiriya. That was the view of the Libyan Arab



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Jamahiriya from the very beginning. Accordingly, it acted within that competence as soon as it received the indictments issued by the three countries, which have been circulated as official documents of the General Assembly and the Security Council. Libya announced at the time that it would deal with the indictments constructively and, forthwith, referred them to the Libyan judicial authorities. A judge was appointed to investigate the matter and he started his preliminary investigation by placing the two accused under preventive custody. The United States and the United Kingdom were accordingly notified and were requested to cooperate with the Libyan judicial authorities either by allowing the Libyan judge access to the records of their investigations or by fixing a date for carrying out the necessary investigation. In order to create an atmosphere of trust, to ensure that the proper procedures be followed during the investigation and the trial and to underscore fairness and neutrality, Libya proposed to Mr. Vasiliy Safronchuck, the personal envoy of the Secretary-General, during his visit to Tripoli on 26 January 1992, that the two countries send their own judges, or that the Secretary-General call on judges from certain countries, as well as representatives from the League of Arab States, the Organization of African Unity and the Organization of the Islamic Conference, to observe the trial. However, the American and British authorities refused to cooperate with the Libyan authorities.

The intransigence of the two countries, their refusal to apply the provisions of the 1971 Montreal Convention and their insistence on the extradition of the two persons to either one of them hampered the proper procedure of the trial of the two accused. The two countries also refused to submit the case to arbitration, as the Convention stipulates for disputes arising over the

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interpretation or application of its provisions. As a result, the Libyan Arab Jamahiriya took the question of the application of the Convention's rules to the International Court of Justice. The matter is still pending before the Court.

Notwithstanding my country's repair to the International Court of Justice and the natural need to await its verdict, we have spared no effort in seriously seeking a solution that would be in consonance with the provisions of the law. My country had proposed to request the International Court of Justice to ascertain the validity of the accusations levelled at the two Libyan nationals and suggested that they be surrendered to the office of the United Nations Development Programme (UNDP) in Tripoli for investigation. Libya also proposed that the Secretary-General form a legal committee composed of fair and neutral judges to investigate the facts of the case, make sure that the allegations against the accused were serious ones and conduct a comprehensive investigation.

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Libya declared that if the Secretary-General concluded that the accusations were justified, the Libyan Arab Jamahiriya would not object to the extradition of the two accused, under the personal supervision of the Secretary-General, to a third party, on condition that they may not be re-extradited to any other party. All these proposals fell on deaf ears and were met by insistence on extraditing the two accused - without any legitimate justification, be it in law or in treaty provision - to either the United States of America or Scotland.

We did not extradite the two accused because that is against our laws. The laws of most countries, if not all countries, prohibit such extradition unless there is a treaty or convention regulating such matters between the countries concerned. There are no bilateral treaties between the Libyan Arab Jamahiriya and either the United States or the United Kingdom. There is, however, a multilateral convention that clearly and accurately regulates actions related to attacks against international civil aviation, namely the 1971 Montreal Convention. All of us are parties to that convention. Regrettably, the United States and the United Kingdom declined to comply with the provisions of the said convention and insisted, merely on the basis of their own personal wishes, on the extradition of the two accused to either one of the two countries. We wish to draw attention here to the gravity of involving the Security Council in this game whereby States are forced to surrender their own citizens to other States.

The pretext used by the two countries to circumvent the 1971 Montreal Convention is that they have no faith in Libya's ability to try its own citizens. This claim gives the impression that only their judicial systems are trustworthy, despite events and evidence which suggest the contrary. Suffice it to recall areas of

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deficiency in the American judicial system which were revealed by the Rodney King trial in Los Angeles. Furthermore, a report issued by the Gallup Institute and published by a European newspaper reveals that 61 per cent of Britons do not think they could get a fair trial in Britain. A recent trial in Old Bailey, in Britain, also disclosed another aspect of the British judicial system when a judge suspended the trial of three detectives because of the amount and intensity of publicity surrounding the case, and because the media had portrayed the defendants as the perpetrators of the crimes for which they were being tried. This prompted the British newspaper *The Guardian* to ask on 12 October 1993, in an editorial entitled "Fair Trial, Fair Sense",

"Why do the Libyan suspects in the Lockerbie incident fear trial in Scotland, although British ministers and officials confirm that they would receive a fair trial?"

The paper called on the ministers to look into the ruling of the Old Bailey judge and said that the two conditions related to the Old Bailey case apply to the two Libyans. Indeed the Libyans receive even more publicity than the Old Bailey defendants whenever the politicians and journalists rehash the Pan Am incident over Lockerbie. The paper went on to say that the Libyans have indeed compelling reasons to complain.

Moreover, the information gathered by the two countries should not be accepted at face value as irrefutable facts. The United States had previously claimed, on the strength of its own information gathering, that the Libyan Arab Jamahiriya was responsible for the Berlin nightclub incident. On the strength of that information, the United States sent its state-of-the-art planes, at night and carrying the most advanced weapons of destruction, to bomb the cities of Tripoli and Benghazi and the

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home of the Leader, killing dozens of innocent people. A trial later proved that the Libyan Arab Jamahiriya had nothing to do with the incident and completely exonerated it. You may also recall that the General Assembly of the United Nations condemned that aggression in its resolution 41/38 (1986), which acknowledged the right of the families of the victims to receive compensation, something which the United States has thus far refused to do. This was an instance of blatant aggression in which military force was used and which jeopardized international peace and security. As such, the Security Council should have considered it. The Council failed to do so because the three States, sponsors of the draft resolution before you today, resorted to the power of veto.

Another example of the fallibility of the information gathered by the agencies of those countries can be found in United Nations General Assembly document (A/48/477) concerning the United States insistence on inspecting the Chinese ship "Yin He" in order to look for two chemicals used in the manufacture of chemical weapons. The document states that

"The 'Yin He' incident is the sole making of the United States side as a result of its erroneous act based on its false intelligence." (A/48/477, annex I, para. 2)

China's insistence that the ship did not carry the two chemicals was to no avail. The United States insisted on inspecting the ship and China insisted that that should be done only in a neutral country. A careful inspection of all containers on the ship proved categorically that the two chemicals were not in the ship's cargo. Is it strange then, in light of the obvious legal nature of this issue, that the Libyan Arab Jamahiriya refuses to surrender the two suspects? And in view of the clear evidence and the definitive

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facts, is it strange for Libya to call for the trial to be held in a neutral country?

Despite all of this, Libya submitted the question to the People's Basic Congresses (which has the power to take decisions) in their second session for 1992. Following detailed discussions, the People's Congresses adopted the following decision in relation to the extradition of the two suspects:

"The Basic People's Congresses affirm their adherence to the Libyan Criminal Code and the Libyan code of Criminal Procedure. They raise no objection to the conduct of the investigation and the trial through the seven-member Committee established by the League of Arab States or through the United Nations before a just and impartial court to be agreed upon."

On this basis, my country declared its readiness to enter into negotiations, under the supervision of the Secretary-General of the United Nations, with the countries concerned, with a view to holding the trial in a neutral country which could be agreed upon by the parties to the dispute and which could provide all the necessary guarantees. The Secretary-General of the United Nations was notified of this step on 8 December 1992, but, like previous attempts, this one was rejected by the parties concerned. In its letter to the Secretary-General of the United Nations on 28 July 1993, my country confirmed that it was willing to discuss the procedures and arrangements relating to the trial of the two accused, with the mission the Secretary-General was about to send to Libya. It thus becomes clear that out of our desire to reach a reasonable solution and despite the fact that the 1971 Montreal Convention gives Libya the right to try the two suspects before Libyan courts - a question that is still pending before the International Court of Justice - the Libyan position has been

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extremely flexible. On the other side, there is the rigid and intransigent position based on nothing more than the logic of force.

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The extradition of the two accused was one of the demands made by the three countries. It was demanded also that Libya should take full responsibility for the acts of the two Libyan officials, submit all information it has on the crime and pay appropriate compensation. Do these demands conform to the principles included in various human-rights instruments? Could these two countries treat their own citizens in the same manner they want Libya to treat the Libyans? What logic and what legal system would call on a defendant to submit self-incriminating evidence, bear the responsibility for an allegation made against him and pay compensation, all before any investigation or trial had been undertaken? Then we are told that the sanctions will not be lifted unless the Libyan Arab Jamahiriya fully and effectively complies with these demands. This begs the question: who would decide that such effective and full compliance has taken place? The answer: no one other than the two countries themselves. There is no logic or legal process. It is clear that force, and force alone, is the logic and the process.

Added to this are the Draconian demands aimed at portraying Libya as a country that does not comply with Security Council resolutions and that violates international laws. Consequently, sanctions may be imposed and tightened against Libya. Notwithstanding the strange character of these demands, my country has shown extreme flexibility and has declared its readiness to pay proper compensation if it is proven responsible for this incident.

In its search for a satisfactory solution, the Libyan Arab Jamahiriya did not stop at invoking the law and calling for recourse to judicial authorities. It unilaterally resorted to the International Court of Justice, which is the principal judicial organ of the United Nations. It also talked to the



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Secretary-General of the United Nations, confirming to him its full readiness to cooperate with him and asking that he play a bigger role in helping all the parties to find a reasonable and satisfactory solution.

Libya also contacted other countries and other organizations to which it belongs. All of them expressed their deep concern at the escalation of the crisis between Libya and the United States of America, the United Kingdom and France, as well as at the threat of the imposition of additional sanctions and the use of force in relations between countries. They called for a peaceful settlement of the crisis and appealed to the Security Council to review resolution 748 (1992) and, in recognition of Libya's initiatives aimed at settling the crisis, to lift the embargo imposed on Libya.

In this respect, I should like to recall the resolution adopted by the Council of Ministers of the Organization of African Unity (OAU) at its fifty-eighth ordinary session, which was held in Cairo. That resolution expresses appreciation for the efforts and initiatives taken by Libya in order to settle the crisis peacefully. The third operative paragraph of the resolution reads:

"Expresses its grave concern at the escalation of the crisis and the threats of additional sanctions and the use of force as a pattern of relations among states, in violation of the Charters of the Organization of African Unity and the United Nations as well as international laws and norms". (A/48/322, annex I, p. 47)

In paragraph 5 of the same resolution, the OAU Council of Ministers urges the Security Council to reconsider its resolution and lift the embargo imposed on Libya, in recognition of the positive initiatives Libya has taken in handling the crisis.

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Within the context of our efforts to address this problem, my country submitted to the Secretary-General, on 11 September 1993, a memorandum that contained points relating to its legal position vis-à-vis resolutions 731 (1992) and 748 (1992). In that memorandum, Libya asked questions based on the assumption that the two accused would challenge the charges levelled at them and voluntarily agree to stand trial before a foreign court. The memorandum also asked for clarifications and safeguards relating to the foreign country concerned. On 24 September 1993, my country received the Secretary-General's answers to the questions concerning the two accused.

Although we have not received all the answers, the Secretary-General was notified on 29 September 1993 that we had given the two suspects the answers to the questions about them. We confirmed to him that the safeguards he offered were sufficient and acceptable, and that the Libyan Arab Jamahiriya, following the receipt of those guarantees, would not object to the appearance of the two suspects before the Scottish judiciary and would even urge them to appear. We expressed to the Secretary-General our belief that only one step remained in order to resolve this crisis that has gone on for several years: the acceptance by the two suspects, their families and their attorneys of the necessity of appearing before the court. In those two letters, contained in document S/26523, we emphasized that we would deal with the French demands with the same determination with which we had been dealing with the American and British demands.

As the Council knows, the defence team, which includes legal counsellors of several different nationalities, including British and American attorneys, held several meetings in Tripoli on 8 and 9 October 1993. The two accused themselves attended some of those

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meetings and confirmed their intention to appear before a fair court based on valid legal procedures and a comprehensive investigation, notwithstanding their right, under national and international law, to remain in Libya. The counsellors discussed the inalienable rights of any defendant: the right to a fair trial before an unbiased court, the right to be presumed innocent and the right to have sufficient time to prepare a defense after being notified of the charges and the evidence the prosecution intends to present in support of those charges. These are rights included in the legislation of all countries and contained in the International Covenant on Civil and Political Rights. All of us are parties to this Covenant, which entered into force on 23 March 1976.

The defence attorneys were deeply concerned over the possible prejudicial effect the publicity in the United States and Scotland would have on the prospective jurors and about the absence of the usual arrangements for extradition because of the prosecution's refusal to reveal the evidence it intends to use in the trial. The defence attorneys believe that this refusal greatly limits their ability to defend the case properly.

On the basis of a request made by the defence counsel, my country contacted Switzerland for permission to hold the trial there, and contacts between Libya and Switzerland are continuing to that end.

The negative impact of media publicity surrounding the case is not limited to prospective jurors but has also been extended to defence attorneys. We have witnessed a ferocious attack against an American lawyer when it was thought that he might participate in giving council to the two accused. Obstacles were also put in the way of another American lawyer who participated in the Tripoli

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meeting of the defense counsellors. It thus becomes clear that the concerns of the defence attorneys are rational and justified.

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The Secretary-General of the United Nations and members of the Security Council have been informed of the results of these meetings.

In addition, the Secretary of the General People's Committee for Foreign Liaison and International Cooperation - the Foreign Minister of Libya - during his stay in New York, conducted wide consultations involving most members of the Security Council and the Secretary-General of the United Nations. Our Foreign Minister explained the developments of the crisis and confirmed our determination to implement Security Council resolution 731 (1992).

All of this demonstrates that serious efforts are being made in relation to the trial of the two accused. It also proves that we are not procrastinating or marking time, as the two countries claim. Marking time is not in our interests, as it is our people who are suffering the adverse effects of the sanctions. We are interested in seeing this trial held as soon as possible. No one should forget that we received answers to some of our questions on 24 September 1993 and that the defence lawyers for the suspects met on 8 and 9 October 1993.

As for the French demands, the Libyan Arab Jamahiriya did not see in them anything that runs counter to the law. Intensive contacts and talks between the judicial authorities of both the Libyan Arab Jamahiriya and France were held with a view to reaching a determination of responsibility for the explosion of the aircraft on UTA flight 772. The Libyan and French investigative judges met several times, and the French judge saw the minutes of the investigation undertaken by the Libyan judge. It was agreed that the French judge would come to Libya to continue his investigation. Contacts between the two countries are already under way with a view to enabling the French judge to complete this endeavour. I

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believe that had the French judge not chosen a military destroyer as a means of transport to Libya our response to the French demands would have led to encouraging results.

Only three months and a few days after the adoption of Security Council resolution 731 (1992), the three countries managed to get the Security Council to adopt its resolution 748 (1992), in which the question of terrorism was widely and artificially included. It contained an exceptional accusation, on which was based an unprecedented air and diplomatic embargo. All of this was done with unprecedented speed and decisiveness, and in violation of many provisions of the United Nations Charter.

It is obvious that the three countries succeeded in making the Council compress the whole phenomenon of international terrorism into the Lockerbie and UTA incidents. The Libyan Arab Jamahiriya has been linked intentionally with the phenomenon of international terrorism so that the three countries may be able to achieve their goals. If it is claimed that the Security Council wants to devote special attention to civil-aviation incidents, the Council should also have looked into the incidents involving the Korean, Iranian, Libyan and Cuban civil aircraft, to avoid appearing selective in its work or being accused of applying double standards.

However, let us look at the position of the Libyan Arab Jamahiriya on this matter. My country, which has endured terrorism in the recent past and still suffers today, declared, in a letter to the Secretary-General of the United Nations on 11 May 1992 (S/23918), its unequivocal condemnation of international terrorism in all its forms, regardless of its source. Libya confirmed that there are no terrorist training camps, terrorist organizations or terrorist groups on its soil. We called for the dispatch of a committee of the Security Council, the United Nations Secretariat

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or any other competent United Nations body, to verify this at any time. My country also declared that it will never permit the direct or indirect use of its territory, citizens or institutions in the perpetration of any terrorist acts and that it is ready to punish severely those who are proved to have been involved in such acts.

The Libyan Ministry of Foreign Affairs issued a statement confirming the contents of this letter, and the statement was circulated as an official Security Council document (S/23917). My country reaffirmed its position in its letter dated 8 December 1992 (S/24961) to the Secretary-General. In a letter dated 28 July 1993 to the Secretary-General, Libya stated its readiness to receive a mission of the Secretary-General's choice to verify the non-existence of alleged terrorist training camps on its soil. In addition, my country actively cooperated with Britain in respect of that country's special requests.

However, none of this has been sufficient for the three countries, which have refused to send a mission to verify the non-existence of camps and other facilities. Thus they hope to keep the terrorism charge hanging over Libya like the sword of Damocles and to justify the continuation and intensification of the sanctions. They base their case on the pretext that Libya has not complied with Security Council resolutions, and they rely on an enigmatic phrase to the effect that Libya knows what is required of it.

What more can Libya do? What should Libya do to persuade the three countries to stop levelling such allegations and accusations? Will the three countries respond to Libya's request for a mission to verify that there is no basis for such allegations?

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The sanctions, which have been imposed because of a legal dispute, into which the question of terrorism was deftly inserted have severely hurt our people in all aspects of their lives and have had a negative impact on our development plans. We have submitted to the Security Council 14 documents detailing the harm caused to various sectors. I shall not repeat the contents of those documents, but I should like to refer specifically to the adverse effects of the prohibition on the export to Libya of spare parts, engineering services and maintenance required for Libyan aircraft and their components. These adverse effects impact on a vital sector that is indispensable to a vast country that depends largely on air transport.

The United States of America and the United Kingdom are not satisfied with the sanctions contained in resolution 748 (1992). They have been trying, under the auspices of the Committee established by that resolution, to widen the scope of the sanctions, using transparent pretexts and rigid positions. This includes the success of the two countries in widening the scope of the sanctions through the Committee's rejection of cooperation between the International Atomic Energy Agency and Libya for the establishment of a laboratory at the Centre for Agricultural Research in Tripoli to analyze the effects of agricultural insecticides on the health of human beings, animals and plants. It includes also the Committee's refusal, without explanation, of the humanitarian request concerning the transport of Libyan citizens to locations abroad - using Libyan aircraft - for medical treatment. These patients included cases of coma, quadruple paralysis, brain concussion resulting from traffic accidents and sudden health deterioration necessitating advanced medical treatment. One of them was a young girl of six, named Safaa Ali Abdel Rasoul, who



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died at Tripoli Central Hospital as a result of complications arising from her illness.

In view of the Committee's abuse of its mandate, the competent authorities had to move other emergency cases, using various modes of conveyance, including land, sea and air transport. This resulted in patients' having to endure long, hard journeys, as is outlined in the memorandum sent to the Committee by the Libyan mission on 18 August 1993.

One of the Council's main reasons for the establishment of this Committee was to facilitate consideration of the requests submitted by countries for approval of flights for essential humanitarian purposes. The repeated refusal of requests for permission to move seriously ill persons - arbitrary refusals, with no reasons given to justify them - nullifies the resolution's only humanitarian gesture. Furthermore, these repeated refusals continue to severely harm innocent people. This can be neither the intention nor the objective of the United Nations. The three countries have not limited themselves to expanding the scope of the sanctions, but have extended this behaviour to include the Committee's methods of work, putting it on a consensus basis that runs counter to the provisions of the Charter and the Security Council's provisional rules of procedure.

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Selection of the harshest sanctions, which are not commensurate with a legal dispute, attempts by the three countries to expand them, and to exert continuous pressure on the Security Council to impose yet more sanctions, prompt us to wonder about the real reasons behind this ferocious campaign against the Libyan Arab Jamahiriya. The three Governments, while closing every door that could lead to a solution to the crisis either in regard to the trial of the two accused or to the verification of the allegations that the Libyan Arab Jamahiriya supports international terrorism, declared, in their tripartite statement of 12 August 1993, that they had no "hidden agenda". The United States of America and the United Kingdom intentionally refused to answer Libya's specific questions related to international terrorism and the lifting of the sanctions. Even when one of the two countries hinted at the possibility of suspending or lifting the sanctions, the answers have been vague and conducive to suspicion rather than to confidence. The bottom line is that the whole issue remains the preserve of the two countries.

The draft resolution now before the Council, document S/26701, repeats the very same grave legal mistake of both resolutions 731 (1992) and 748 (1992) in that it links Libya to international terrorism on no other basis but the suspicions that have been created regarding two Libyan nationals on the basis of reports by intelligence agencies. This constitutes an a priori judgement that has not been substantiated by any evidence up to this point. They want the draft resolution to be adopted under Chapter VII of the Charter on a matter which should have been dealt with by the Council under Chapter VI, due to the fact that the issue in question is a legal dispute over which country has competence to

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try the two accused, a dispute which is essentially settled by the provisions of the 1971 Montreal Convention.

This draft resolution has no justification whatsoever, especially since we are approaching the final phase in the settlement of the dispute. Moreover, it contains more unprecedented sanctions. It is an attempt to destroy the Libyan economy by adversely impacting on our people's only source of income, as well as on the civil aviation structure on which my country depends for transportation. The paragraphs of the draft resolution include provisions which prove beyond doubt that its sponsors do have a hidden agenda. Otherwise, what is the meaning of operative paragraph 4, which calls for depositing the financial revenues from the sale of oil and agricultural produce in separate bank accounts? And what is the meaning of operative paragraph 16 which refers to the suspension of sanctions and their reimposition within 90 days?

The sponsors of the draft resolution insist on ignoring the decisions of regional and other organizations on the matter and turn a deaf ear to their points of view by stating in operative paragraph 15 that all Member States should encourage Libya to respond fully and effectively to these requests. The States we refer to have already expressed their views in the resolutions adopted by the Arab Maghreb Union, the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference, and the Non-Aligned group. None the less, there is an insistence on ignoring all these decisions and resolutions. We would like to know the relationship between the maintenance of international peace and security and the contents of operative paragraphs 8, 11 and 12. Does this not constitute an interference in the minute internal affairs of States and does it not,

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therefore, constitute an obstruction of justice in those States in addition to being an imposition of a strange kind of tutelage over them, all because of a dispute over the venue where two accused persons should stand trial? In operative paragraph 16 what then is the meaning of the phrase:

"... the Libyan Government has ensured the appearance of those charged with the bombing of Pan Am 103 for trial before the appropriate United Kingdom or United States court ..."?

Once again we should like to draw attention to the dangers of involving the Security Council in the question of extradition, which is a sensitive and complicated legal issue that requires the conclusion of bilateral or multilateral agreements following negotiations between the States concerned. To involve the Council in questions such as these would set a dangerous precedent. The harm caused by this draft will not be limited to the Libyan people alone, but will extend to neighbouring and European countries whose interests are linked to ours. It will have adverse effects on the overall process of foreign investment. These harmful effects will undermine the security and stability of our region, which, at this time, is in dire need of security and stability.

The draft resolution constitutes a blatant violation of the provisions of the United Nations Charter and the norms of international law. Should it be adopted as it stands and in this manner, it will represent a dangerous turning point in the work of the Council, and constitute clear proof that the Council does not work on behalf of all the Members of the United Nations, but in accordance with the wishes of one or two countries.

The continuance and intensification of sanctions will not solve the problem. It will even complicate it. What we have here is a dispute that could have been easily resolved had the three

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countries complied with the provisions of the 1971 Montreal Convention. Now we have two positions: the position of the Libyan Arab Jamahiriya, which is supported by law and the provisions of international conventions, and the position of the three countries, which is based only on their claims and allegations. While the position of the former is characterized by great flexibility, the position of the latter is rigid and intransigent, based only on allegations and undisclosed reasons linking Libya to the international terrorism phenomenon which has been under consideration by the United Nations for many, many years. As a result, the Security Council has been hastily pushed into action under Chapter VII instead of Chapter VI of the Charter, imposing harsh sanctions which are not commensurate with the dispute at hand.

We do not want to underestimate the seriousness of the two incidents which caused the loss of innocent lives, because we too have been burned by the fire of international terrorism, but we want to put things in the right context and perspective, using an objective approach and avoiding the use of exaggeration and excess as others do. We do not want to cover up anything related to the two accused or to procrastinate in order to waste time. We never disagreed as to the principle of the trial. The disagreement has been, and still is, on the venue of the trial. The two suspects and their attorneys do not disagree as to the principle of the trial, but want a place where neutrality and fairness can be guaranteed and where the proper procedures and arrangements for such a trial can be made. The Libyan Arab Jamahiriya will continue its sincere efforts to find a solution to this problem within the framework of respect for the principles of international law and the provisions of the relevant international instruments.

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Furthermore, Libya considers that its efforts will achieve this end if the three countries abandon their policies of pressure and threats and respond to the language of dialogue and understanding which my country advocates and pursues. If the Security Council plays a positive role in a collective spirit, lifts the sanctions that only complicate this matter further, and assists the parties concerned to follow the right, peaceful path, it will have made an important contribution towards the achievement of that goal.

My country will continue to do its utmost to cooperate with the Secretary-General of the United Nations in order to reach a final solution of this problem.

The PRESIDENT: I thank the representative of the Libyan Arab Jamahiriya for his kind words addressed to me.

The next speaker is the representative of Egypt. I invite him to take a place at the Council table and to make his statement.

Mr. ELARABY (Egypt) (interpretation from Arabic): Allow me at the outset to extend to you, Sir, my congratulations on presiding over the Security Council for this month. I am confident that your great diplomatic skills and personal qualities, which are well known to all, will benefit the Council's work. I should also like to extend to your predecessor, Ambassador Sardenberg, our thanks for the skill with which he steered the Council's work last month.

Egypt has followed with great interest and concern the developments relating to the two criminal acts that resulted in the loss of hundreds of lives, namely Pan Am flight 103 over Lockerbie, and the bombing of UTA 772. There can be no doubt that safeguarding the safety and security of civil aviation are prerequisites of today's world. Egypt supports fully all international efforts designed to eradicate the destructive phenomenon of terrorism completely. Egypt has expressed its deep concern over the incidents and condoled with the families of the victims of those two incidents.

According to the provisions of international law, all who perpetrate such crimes must be identified and brought to justice. When the crime is proved, the penalty must follow, again according to the provisions and principles of international law. Equal rights and duties under the law and equal application of international law form the basis for the criteria upon which the contemporary international legal system rests.

The international community has condemned all acts of terrorism in all its forms on more than one occasion. The

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principal objective of the Council's adoption of resolutions 731 (1992) and 748 (1992) was to attempt to obtain the facts underlying those two incidents and to determine where the responsibility lies with regard to the terroristic acts against Pan American flight 103 and UTA flight 772.

My delegation, therefore, regrets that the truth and the facts with regard to those two acts have not yet been clarified and that no progress has been made in arriving at the truth clearly and unambiguously, despite the resolutions adopted by the Security Council and the unremitting efforts made by the United Nations Secretary-General, which my Government greatly appreciates, and in spite of the intensive bilateral contacts Egypt has made to find a suitable formula that would allow for implementation of the two resolutions.

Egypt has scrupulously abided by the resolutions adopted by the Security Council because we are fully convinced of the need to respect all resolutions adopted by the Council in line with the Charter. We call upon all the members of the international community to abide by that fundamental principle without exception and without resort to double standards when confronting the various issues with which the Security Council addresses.

Egypt, in the active role it has continued to play in attempting to contain the crisis arising from the Lockerbie incident and prevent the escalation of tension has never lost sight of any of the vital elements that might lead to a breakthrough in the situation, foremost among which is the opportunity for justice to take its course and for an unambiguous decision to be reached with regard to the responsibility of the perpetrators of such acts. At the same time, Egypt has sought to spare the region any further escalation of tension in a manner that would have deleterious effects on the interests of the fraternal people of Libya and on



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their aspirations after prosperity and development, in the first instance, and on the stability and prosperity of the peoples of neighbouring countries at a time when ever-greater hopes for peace, justice and stability in the region seem about to be realized after long years of struggle, tension and armed conflict.

The Security Council is to vote today on a draft resolution aimed at finding a solution to the problem created by the two incidents, the Lockerbie flight and UTA 772, by intensifying economic sanctions against Libya. Here, we have a question: Will the tightening of sanctions lead to the truth? Egypt would have preferred further efforts and further contacts in an attempt to implement the resolutions adopted by the Council, for the intensification of sanctions will surely have a negative impact on the innocent and not necessarily lead to the truth regarding those two incidents.

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For this reason, Egypt calls upon the Security Council to keep in sight all the consequences that will impact negatively on the people of Libya and on the neighbouring peoples of the region. Article 50 of the Charter stipulates that any State which finds itself confronted with special economic problems arising from the carrying out of enforcement measures against any State shall have the right to consult the Security Council. This means that the Council should today consider alleviating the economic suffering of Libya and of its neighbours that would arise from the adoption of the draft resolution under consideration.

Despite the expected adoption of the draft resolution on today's agenda, Egypt will continue to deploy its efforts, in cooperation with all the parties concerned, in order to reach as soon as possible a solution to this crisis that would safeguard the interests of all and provide for the full implementation of the Security Council's resolutions, which should be respected and implemented.

The PRESIDENT: I thank the representative of Egypt for his kind words addressed to me.

The next speaker is the representative of Sudan, who wishes to make a statement in his capacity as Chairman of the Group of Arab States for the month of November. I invite him to take a place at the Council table and to make his statement.

Mr. YASIN (Sudan) (interpretation from Arabic): I wish to thank you, Sir, and through you the members of the Security Council, for giving me the opportunity to speak, on behalf of the Sudan and the States members of the League of Arab States, on the important issue before the Council today. I seize this opportunity to congratulate you most sincerely on your accession to the presidency of the Security Council for this month, the work of which is replete with highly significant issues.

(Mr. Yasin, Sudan)

I also wish to congratulate your predecessor, Ambassador Sardenberg, the permanent representative of Brazil, who discharged his duties as President last month in an able and commendable manner.

The crisis between the Libyan Arab Jamahiriya on the one hand and the United States of America, France and the United Kingdom on the other, concerning the downing of Pan Am 103 and UTA 772, has been dealt with by the Council for three full years. This crisis figured prominently in the news media in a manner that qualifies it to be considered as one of the most important legal disputes between States both in terms of the principles involved and of its position within the framework of international law. It is also an important case in terms of the requirements of justice, such as the availability of evidence, neutrality and the removal of any extraneous factors that might affect the case and consequently the course of justice and, concomitantly, the nature of the verdict.

The Council is today dealing with an item that has become established on its agenda. This is an inescapable reality that must be addressed. However, this should be done in consonance with the spirit of the Charter and especially on the basis of Article 33 of Chapter VI of the Charter. It is relevant to point out here, from the outset, that we appreciate the fact that this dispute is legal in nature and belongs in the courts and institutions directly concerned, and not in the Security Council, which is not mandated by the Charter to exercise such a function. Now that the Council is seized of this matter, the matter has, of necessity, become a political dispute which we are uncertain as to whether it could be addressed properly in its correct context. Here we should think of similar conflict situations which could arise in the future and for dealing with which the international community should establish appropriate rules.

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The entire international community has been saddened by these two tragedies. We condole with the families of the victims and we associate ourselves with those who condemn the perpetrators of these two hideous crimes. We also unconditionally condemn terrorism in all its aspects. In this context, let us review the course of events and positions since the Council first began its consideration of this case.

The Council adopted resolution 731 (1992), which imposed specific sanctions against the Libyan Arab Jamahiriya. It periodically reviews these sanctions, on the basis of cooperation or non-cooperation of the Libyan Arab Jamahiriya with the Council. It is curious that this resolution is based on Chapter VII of the Charter, which addresses situations of aggression that threaten international peace and security. This does not apply to the current dispute between Libya and the three aforementioned States which is a legal dispute that has to do with the extradition of two accused Libyan nationals. Such a dispute should be dealt with in a court of law, and specifically by the International Court of Justice. Alternatively, it should be addressed in conformity with Chapter VI of the Charter.

Having found itself caught up in these events, how did Libya respond? It responded comprehensively, with the aim of arriving at the truth concerning these two regrettable incidents. It called for a legal, objective and neutral investigation regarding the accusations levelled at its two Libyan nationals. It expressed its full willingness to accept the judgment of the International Court of Justice in the relevant case of competence now before the World Court. It declared itself ready to consider any other proposals made in conformity with the principles of law and Libyan sovereignty. It expressed its eagerness to respond to international efforts aimed at resolving the conflict through

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negotiations mediation and legal settlement, in accordance with  
Article 33 of the United Nations Charter.

(Mr. Yasin, Sudan)

It expressly condemned terrorism and stated its willingness to cooperate with any party or with any international effort to eliminate that phenomenon.

It declared its willingness for the two accused Libyan nationals to surrender themselves voluntarily to the Secretary-General of the League of Arab States. It stated that in the meantime it would be willing to find a practicable way of implementing resolution 731 (1992) in the context of international law and justice and national sovereignty.

Libya also reaffirmed its commitment to implement the findings of the International Court of Justice and its acceptance of Security Council resolution 731 (1992) in all its aspects. It expressed its willingness to cooperate with the Secretary-General of the United Nations with respect to the legal aspects of the resolutions in question and with respect to conducting a neutral investigation or having recourse to a neutral court or international court. Moreover, Libya took steps to implement that undertaking; it called upon the United Nations to send a fact-finding mission and solemnly undertook to pay compensation in the event that it was found responsible for the incident.

It accepted all the demands calling for the trial of the two accused and undertook to do all it could in the event that they refused to place themselves before the court they are required to submit to, and that despite the objection of the defence counsel of the accused and despite the fact that that would not conform with national and international laws applicable in such cases.

As a regional forum, the Arab League Council includes the Arab States located in a sensitive area. By its mandate, it deals with all issues of importance to the States of the region. It

(Mr. Yasin, Sudan)

pronounces itself on those issues and on the aspirations of those States and is committed to acting in the interests of its members. The Arab League Council reacts to events in the region and expresses its views on them. The matter before the Security Council today directly concerns a State member of the League of Arab States.

In conformity with its responsibilities and its commitment to peace and security in the region, the Arab League Council has stated its increasing interest in this conflict and its willingness to provide its good offices and cooperate with the Secretary-General of the United Nations and the Security Council in resolving this deteriorating conflict.

In that context, the Arab League Council has formed a seven-member committee under the chairmanship of the Secretary-General of the League of Arab States; the members are the Foreign Ministers of Mauritania, Morocco, Algeria, Tunisia, Libya, Egypt and Syria. The committee was charged with following developments and making the necessary contacts; it was to spare no effort to stop the escalation of the crisis and find just and peaceful solutions in conformity with the rules of international law, justice and the relevant international treaties.

The Middle East stands at the threshold of new prospects. Everyone hopes to see the culmination of new steps to achieve a just, lasting and comprehensive peace; this demands self-restraint and the avoidance of any action that could escalate or multiply tensions. In dealing with the crisis, the League of Arab States was therefore careful to base itself on the United Nations Charter, which stipulates that all international disputes should be settled

(Mr. Yasin, Sudan)

by peaceful means and without endangering international peace and security, and especially on Article 52 of the Charter.

The seven-member League of Arab States committee has submitted its report to the Secretary-General of the League; this was approved by the Arab League Council at its one-hundredth session, held in September 1993 in Cairo. In its report the committee attached importance to the positive proposals included in Libya's memorandum dated 11 September 1992 addressed to the Secretary-General of the United Nations, which contained new elements that would help find a settlement through dialogue and negotiation. The committee voiced its concern at and its rejection of a policy of escalating threats and denials pursued by the three parties, and called for a response to the positive initiatives and efforts, including the important Libyan memorandum submitted to the Secretary-General.

The committee expressed its determination to continue its efforts and its contacts with the Secretary-General and the members of the Security Council with a view to preventing an escalation of the crisis and to fostering constructive, positive dialogue towards an appropriate settlement.

The committee charged the Secretary-General of the League of Arab States with intensifying his efforts and his contacts with all parties to the crisis and with the Secretary-General of the United Nations with a view to reaching a fair settlement based on the principles of international law and the need to safeguard Libyan sovereignty.

I have gone into such detail with a view to stressing the good intentions of the Libyan Arab Jamahiriya and the efforts of the League of Arab States and its Secretary-General,



(Mr. Yasin, Sudan)

Mr. Ahmed Esmat Abdel Meguid, and to underscore our sincere wish to resolve this conflict within the framework of law and the sovereignty of States. The Arab countries have always sought justice and equality in all their dealings, and have refrained from applying double standards in dealing with issues. The Non-Aligned Movement and regional groupings including the Organization of the Islamic Conference and the Organization of African Unity have expressed their concern with respect to the difficulties faced by the Libyan people as a result of the implementation of resolutions 731 (1992) of 21 January 1992 and 748 (1992). The people of Libya have been subjected to actions that have crippled its economic growth; these have assailed vulnerable groups such as children, the ill and the aged. They have deprived the Libyan Arab Jamahiriya of its legitimate right to contact the outside world by means of available communication channels; this has hurled it back to a time when communications were extremely difficult.

The impact of the siege has gone beyond the people of Libya to affect neighbouring countries with social and cultural links to that people. Article 50 of the Charter can be of only minimal help to those who are suffering as a result of the implementation of these resolutions.

All of this occurs as a result of the implementation of resolutions that appear to uphold the rules and to apply justice but that are not based on the legal justifications that are traditional for fairness.

(Mr. Yasin, Sudan)

The draft resolution before this distinguished gathering, in our opinion, is not the best way to end the dispute. It will lead to negative results: it could shake the confidence of the smaller countries in this Council's neutrality when dealing with controversial matters and because of overlapping competence of the mechanisms engaged in the settlement of international disputes, it could pave the way for international and regional conflicts through the prevention of action by the mechanisms that are closely related to the issues.

The invariable principles and rules of justice and public law are violated when an adversary is judge and jury and when the accused is not presumed innocent until proven guilty. The interpretation of legal texts and especially of the Charter is the duty and competence of the courts, and there is no way for any other body to arrogate that competence to itself except by force.

The mechanisms for the settlement of disputes and the preservation of international peace and security constantly can fall victim to the impact of negative information by the media. This leads to the absence of any guarantee for a fair trial that would guarantee for the accused the right to appear before a neutral court, to be presumed innocent until proven guilty as well as the right to thoroughly and sufficiently prepare their defence after being informed of the charges levelled at them and of the evidence presented by the prosecution.

We leave this meeting with a feeling of immense sorrow at the lack of a clear vision regarding an important issue such as this one, an issue which relates to the application of the norms of justice and to respect for the sovereignty and sacredness of the law and respect for the Charter which we have all accepted. The Charter is binding because it stands for reconciliation between

(Mr. Yasin, Sudan)

nations and is a voluntary contract between those who are parties to it. It is upheld and its provisions are enforced so long as it is used for the purposes it was formulated for.

The PRESIDENT: I thank the representative of the Sudan for his kind words addressed to me.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear no objection, I shall take it that that is the case.

There being no objection, it is so decided.

I therefore put to the vote the draft resolution in document S/26701.

A vote was taken by show of hands.

In favour: Brazil, Cape Verde, France, Hungary, Japan, New Zealand, Russian Federation, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela

Against: None

Abstaining: China, Djibouti, Morocco, Pakistan

The PRESIDENT: The result of the voting is as follows: 11 votes in favour, none against, and 4 abstentions. The draft resolution has been adopted as resolution 883 (1993).

In view of the lateness of the hour, I intend to suspend the meeting now. With the concurrence of the members of the Council, the meeting will resume at 3.30 this afternoon.

The meeting was suspended at 1.35 p.m. and resumed at 3.50 p.m.

The PRESIDENT: I shall now call on those members of the Council who wish to make statements following the vote.

Mrs. ALBRIGHT (United States of America): The resolution we have adopted today demonstrates for all to see that this Council is steadfast in its opposition to international terrorism. The journey to this resolution has not been easy. But the path of justice rarely is.

Citizens of 30 nations fell victim to the terrorist attacks that destroyed flights Pan Am 103 and UTA 772. Nearly two years ago, the Council adopted resolution 731 (1992). Put simply, the Libyan Government has refused to heed that resolution. Since then, Libya has spared no effort to break this Council's resolve. It has sought through intermediaries, surreptitious offers, and spurious promises to compromise the will of the international community - and to stave off today's action.

The Council can be proud that Libya's efforts to stop this resolution have failed. Terrorism is a challenge to every nation in the world. My Government, in response, is determined to pursue justice. And the pursuit of justice must, when necessary, include mandatory sanctions of the Security Council.

The fight against international terrorism must be a collective effort. In working with the Governments of the United Kingdom and France, the United States has led that effort. We have worked closely with every member of the Council. The resolution is balanced and precisely targeted. Its hallmarks are an assets freeze, a limited equipment embargo against the Libyan oil industry and the tightening of earlier sanctions imposed under resolution 748 (1992). To those who say it is not strong enough, I ask this: Why did Libya try so hard to stop this resolution if the sting of its new sanctions is so mild?

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(Mrs. Albright, United States)

Libya knows what it must do to comply. We await the turnover of those indicted for the bombing of Pan Am 103. We await the Libyan Government's cooperation with the French judiciary. We await compensation for the victims of Libyan terrorism. And we await the Libyan Government's clear and confirmed renunciation of terrorism.

(Mrs. Albright,  
United States)

The United States has long imposed national sanctions against Libya that go far beyond those adopted by the Council. Still, the United States has committed itself to proceeding fairly and equitably in the process leading to our vote today. We have considered and respected the views of those countries whose economic interests at stake might exceed our own. This resolution is directed at Libya, and Libya alone. For each day that passes without the Libyan Government's compliance, the Libyan people will pay a greater price.

Let me emphasize a broader point. By strengthening sanctions today, the Security Council has again shown the flexibility of sanctions as a diplomatic tool; and the more we demonstrate that this Council can impose, lift, suspend or strengthen sanctions at will, the better the sanctions stick can serve our diplomacy.

The tragic attacks against Pan Am 103 and UTA 772 struck at innocent victims. Their families have awaited our response. Today the Council is responding. We must now await Libyan compliance, but we shall do so determined to persevere until justice is done.

Mr. MERIMEE (France) (interpretation from French): It is regrettable that today our Council has had to adopt a resolution tightening sanctions against Libya.

It is almost 20 months since the Security Council requested, in resolutions 731 (1992) and 748 (1992), that that State commit itself concretely and definitively to cease all forms of terrorism and all assistance to terrorist groups; that it hand over the two suspects in the attack on Pan Am 103; that it fully meet the requests of the French magistrate in charge of the investigation into the attack on UTA 772; and, finally, that it provide all the evidence and all the information available to it regarding these two crimes.

(Mr. Mérimée, France)

Our three Governments had thought they could expect a swift settlement of this very painful matter, thus making it possible for the families of the 441 victims of the attacks against the Pan Am and UTA flights to obtain justice at last.

My delegation would like to express its great appreciation to the Secretary-General, whose considerable efforts have been thwarted by the evident bad faith of the Libyan authorities. They have repeatedly made declarations of intent and have systematically been evasive when the time came to act.

In their desire to reach a successful outcome, my Government and the Governments of the United Kingdom and the United States, despite everything, decided to give that country a final chance to prove its good will by complying with its obligations before 1 October 1993. Unfortunately, the Libyan authorities have shown yet again that they only desire to play for time, and they continue their delaying tactics and their obstruction.

We consider that the Libyan Government has sought literally to take advantage of our Council. There is a clear contradiction between the letters dated 29 September and 1 October 1993 to the Secretary-General from Libya's Foreign Minister and Colonel Qaddafi's latest positions, which close the door to any solution. Libya may still hope to have it believed that it is prepared to do what the Security Council expects of it, but no one can be duped any longer.

It was essential to respond. That is why we calmly but resolutely consulted the other members of the Council about strengthening the sanctions.

We are now, much to our regret, caught up in the logic of escalation. My Government hopes that this reinforcement of the sanctions, albeit moderate, will make the authorities in Tripoli understand that the resolve of the international community and

(Mr. Mérimée, France)

the Security Council is unflagging and that they will not be satisfied by the indefinite continuation of the status quo.

The three sponsors of the resolution have been accused of having a hidden agenda against the Libyan regime. The text of the resolution that our Council has just adopted shows that that is not so, and it paves the way for a speedy solution. If the Libyan Government cooperates effectively with my country's judicial authorities in the UTA 772 case, and if it hands over to the competent courts the two suspects in the attack on Pan Am 103, the Council will immediately be able to adopt a resolution suspending the implementation of all the sanctions.

This is no empty offer. The entire mechanism set up by resolution 731 (1992), resolution 748 (1992) and today's resolution would cease to apply in those circumstances, and only a Security Council resolution would reactivate it, if necessary.

We hope, however, that after this first decisive step Libya will be anxious to achieve full reintegration into the international community. All it would have to do would be to comply with its other obligations. The report then submitted by the Secretary-General would allow the Security Council to take a decision on the formal and final lifting of the sanctions regime.

Finally, I express the hope that the Libyan authorities will heed our Council's message and will take the just measures expected of them by the families of the victims.

Sir David HANNAY (United Kingdom): It is now some 20 months since the adoption of Security Council resolution 748 (1992) and nearly five years since the destruction of Pan Am 103 over Lockerbie. The Libyan Government is still failing to comply with Security Council resolutions and to recognize the determination of the international community to fight international terrorism. That has left no alternative to further sanctions.



(Sir David Hannay,  
United Kingdom)

The objectives of the sponsors remain strictly limited. They are to secure justice for the victims of Pan Am 103 and UTA 772 and to ensure that such atrocities do not happen again. Central to these objectives is that the two men accused of the Lockerbie bombing should stand trial in Scotland or the United States and that the demands of French justice regarding the UTA case be met.

My Prime Minister and Foreign Secretary have repeatedly given assurances that if the two Lockerbie suspects went to Scotland they would receive a fair trial, with the full protection afforded by Scottish legal procedures. I now reiterate those assurances. My Ministers have also made it clear that we are pursuing no hidden agenda. Our agenda is set out in Security Council resolutions 731 (1992), 748 (1992) and the present resolution - no more and no less.

The new resolution adopts a carefully balanced approach. Thus, in addition to the stick of further sanctions, there is also a carrot: if the Secretary-General reports to the Council that the Libyan Government has ensured the appearance of those charged with the Lockerbie bombing before the appropriate United States or Scottish court and has satisfied the French judicial authorities with respect to the bombing of UTA 772, then the Security Council will review the sanctions with a view to suspending them immediately. We see this suspension of sanctions as a preliminary to their being lifted immediately Libya has complied fully with resolutions 731 (1992) and 748 (1992). This new element, which was not present in resolution 748 (1992), is designed to make it clear that sanctions are not intended to punish; they are intended to bring Libya to compliance, and no more than that.

The resolution contains a grace period before the sanctions come into effect. There has already, in our view, been too much

(Sir David Hannay,  
United Kingdom)

delay and prevarication by the Government of Libya. But, since our sole aim is to resolve this issue, and not to impose sanctions for the sake of sanctions, we have agreed to the grace period. We hope Libya will take advantage of this extra time to hand over the two Lockerbie suspects and satisfy the demands of French justice. Then the new sanctions would never need to go into effect and the existing ones could be suspended.

We are particularly grateful to members of the Council, to the Secretary-General and to a number of other Members of the United Nations for supporting these resolutions and for seeking to persuade the Libyan Government to comply with them. We hope they will continue their efforts. It is important not only to secure justice for the victims of Pan Am 103 and UTA 772, but also to send a clear message to current and would-be terrorists and sponsors of terrorism: terrorism is a blight that the international community will neither condone nor tolerate, and it is not cost-free.

Mr. SARDENBERG (Brazil): The action taken today by the Security Council involves determination of the existence of a threat to international peace and security as a result of two incidents of the utmost gravity, as it involves a number of legal questions that have been the subject of controversial debate within and outside this Council.

The terrorist attacks against Pan Am flight 103 on 21 December 1988, which caused the deaths of 270 people, and against UTA flight 772 on 19 September 1989, in which 171 people were killed, caused the deepest outrage and sadness in Brazil. Those abominable, senseless, criminal acts have received the strongest moral and political condemnation. And it could not have been otherwise.

Indeed, such crimes call for resolute and effective action so that the persons responsible for them may be appropriately prosecuted and punished. This demand for justice is not only that of the families and friends of the victims of those crimes; it is widely shared by the whole international community and is very much the wholehearted sentiment of the Brazilian Government.

Brazil's support for the resolution that has just been adopted is an expression, in specific and clearly exceptional circumstances, of our unswerving commitment to international cooperation to eradicate the scourge of international terrorism. That is, in our assessment, the political thrust of this resolution, and that is what has received our support.

It is our view that all resolutions of the Security Council must be complied with. Resolutions 731 (1992) and 748 (1992) - both adopted at a time when Brazil was not a member of the Security Council - are no different. The fact that those resolutions deal

(Mr. Sardenberg, Brazil)

with a uniquely serious and complex case of international terrorism makes it all the more important and urgent for this Council to enforce compliance with its previous decisions on the matter. The resolution now adopted is directly linked to those previous decisions, whose implementation it is intended to promote.

It is also our view that the strong measures of sanction that this Council is empowered to impose under Chapter VII of the Charter constitute a last resort, to be used only in exceptionally grave circumstances that involve a clear and direct threat to international peace and security. It was thus only after carefully pondering the extremely serious nature of the case before us, as well as the negative consequences that would ensue should the Council be unable to act, that we decided to cast a positive vote on this resolution.

Having explained the reasons for our political support for the resolution, I wish to stress that our positive vote was cast without prejudice to our position on various aspects of a legal nature that are involved in the actions taken by the Council in relation to this case. In this connection, I wish to place several points on record.

It is our considered view that efforts to combat and prevent acts of international terrorism must be based on strong and effective international cooperation on the basis of the relevant principles of international law and the existing international Conventions relating to the various aspects of the problem of international terrorism. The basic imperative in the prevention of terrorist acts of an international nature - as expressed, for example, in resolution 44/29 of the United Nations General Assembly - is that States must invariably fulfil their obligations

(Mr. Sardenberg, Brazil)

under international law and take effective and resolute measures to prevent such acts, in particular by ensuring the apprehension and prosecution or extradition of the perpetrators of terrorist acts.

The need to strengthen international cooperation in accordance with those principles remains unchanged. As provided for in Article 24 (2) of the Charter, the Security Council is bound to discharge its responsibilities in accordance with the purposes and principles of the United Nations. That means also that decisions taken by the Council, including decisions under Chapter VII, have to be construed in the light of those purposes and principles, which, inter alia, require respect for the principles of justice and international law.

As was noted by some delegations in statements made in this Council on 21 January 1992, upon the adoption of resolution 731 (1992), the exceptional circumstances on which this case is based make it clear that the action taken by the Council seeks to address a specific political situation and is clearly not intended to establish any legal precedent - especially not a precedent that would question the validity of time-honoured rules and principles of international law or the appropriateness of different domestic legislations with respect to the prevention and elimination of international terrorism.

We are convinced that the imposition of sanctions must always be linked to the performance of limited, concrete and very specific acts that are made mandatory by decisions of the Security Council. Such acts must be specifically set out by the Council so that the State on which sanctions are imposed may be able to know in advance, and beyond all doubt, that the sanctions will be lifted as soon as those specific requirements are met. This was the view we expressed, in connection with operative paragraph 16 of the

(Mr. Sardenberg, Brazil)

resolution, in the consultations undertaken by the sponsors, and it is the view we shall take when it comes to the practical application of that paragraph.

Since this is the first time Brazil is addressing this question in a formal meeting of the Security Council, we believe we should refer to our position in relation to the results of the investigations that provide the basis for the requests referred to in resolutions 731 (1992) and 748 (1992), as well as in the resolution we have just adopted. The Brazilian Government has studied carefully the documents submitted to the Security Council by the States that have conducted those investigations. As the Security Council cannot pass judgement on the merits of a criminal case, we understand that the action taken by the Council is aimed exclusively at addressing a political problem involving a threat to international peace and security. It cannot be construed in a manner inconsistent with the presumption of innocence.

We note that operative paragraphs 3, 5 and 6 of the resolution set forth decisions requiring measures by States to prohibit certain acts by their nationals or from their territory. It is the understanding of the Brazilian Government that the words "their nationals", in that context, are to be interpreted as meaning persons under their jurisdiction. It is clear that the decisions set out in those paragraphs do not require or authorize States to take any measures beyond their respective jurisdictions.

We understand that the initiatives that Member States are called upon to take to encourage the Libyan Government to respond effectively to Council resolutions, as expressed in operative paragraph 15, are initiatives such as those that have been carried out by States so far, in the manner of good offices, to facilitate

(Mr. Sardenberg, Brazil)

talks and diplomatic contacts leading to a peaceful solution of this problem.

I also wish to indicate that my delegation is fully aware of the need to address the consequences that may arise for third countries from the measures provided for in this resolution should the sanctions come into force. We therefore attach great importance to operative paragraph 10 of the resolution, which entrusts to the Committee established by resolution 748 (1992) the task of examining possible requests for assistance under Article 50 of the Charter. As a member of the Security Council and of that Committee, Brazil will be attentive to this problem and will be ready to work with other delegations to seek effective ways of dealing with this problem.

The question of ways and means of giving effect to the provisions of Article 50 goes well beyond this particular case. As there is an increasing number of cases in which sanctions are applied, there is also a proportionate need to examine ways in which the United Nations can ensure more effective application of Article 50.

Brazil voted in favour of this resolution in the hope that it will not be necessary for the sanctions to come into force. It is indeed our hope that the period between now and 1 December, when the new sanctions are to come into effect, will be profitably utilized by the States involved - in particular, by Libya - to achieve an early negotiated solution in full conformity with Security Council resolutions. We encourage the Secretary-General to continue his efforts to facilitate such a solution.

Mr. LI Zhaoxing (China) (interpretation from Chinese):

Peace is the common aspiration of people all over the world, and terrorist activities in any form are a great threat to people's peaceful lives. Since the tragic crashing of the Pan Am 103 and UTA 772 flights, the Chinese Government has on many occasions strongly condemned these terrorist acts and expressed its profound sympathy to the bereaved families and the victim countries. We have always held that comprehensive, fair and objective investigations should be conducted and that convicted criminals should be duly punished in accordance with the principles and provisions of the United Nations Charter and relevant international conventions.



(Mr. Li Zhoaxing, China)

The disputes between States, no matter how complicated they are, should be settled peacefully by diplomatic and political means. We are opposed to the indiscriminate imposition of sanctions on a country in the name of the United Nations. We made our position clear, when resolution 748 (1992) was adopted by the Council, that in principle China was not in favour of imposing sanctions on Libya. Under the current changing circumstances we are still not in favour of maintaining, let alone intensifying, sanctions against Libya. In our view, the only effective means that can lead to a solution of this question is negotiation and consultation. To intensify sanctions against Libya will not help to settle the question; on the contrary, it may further complicate the matter, make the Libyan people suffer more, and create even greater economic difficulties for the neighbouring and other countries concerned. Therefore, the Chinese delegation was unable to support the resolution adopted by the Council today.

Recently, the Libyan side has shown certain flexibility and is willing to encourage the suspects to appear before the Scottish courts. It has also expressed its intention to negotiate with the parties concerned to settle some specific issues. This positive gesture demonstrates that as long as the parties concerned show sincerity and are able to negotiate in a calm manner there will always be hope for a peaceful solution to the dispute.

Organizations such as the Organization of African Unity, the League of Arab States and the Movement of Non-Aligned Countries have also expressed their willingness to contribute to the settlement of the crisis that resulted from the above-mentioned air crashes, and they have already made unremitting efforts and achieved certain results. Therefore, more time should be given for their continuing efforts. We believe that these organizations,

(Mr. Li Zhoaxing, China)

with their more frequent contacts and exchanges with the party concerned, are in a better position to promote the settlement of this question and will be able to play a more positive role.

In order to bring an end to the crisis and ease the tension, the Secretary-General has overcome many difficulties and has been tireless in his mediating efforts. These efforts should also continue so as to help the parties concerned remove their differences and settle the remaining issues at an early date.

At the present stage, while recognizing the difficulties we are facing in solving the problems, we should also be aware of the existing opportunities. As long as we allow sufficient time for diplomatic efforts and have enough patience there is hope for a compromise acceptable to all, thus avoiding the imposition of upgraded sanctions and their adverse consequences. We therefore strongly urge the parties concerned to adopt an attitude of flexibility and compromise in order to create the necessary conditions for a final settlement.

Mr. VORONTSOV (Russian Federation) (interpretation from Russian): The Russian delegation supported the draft resolution adopted by the Council, which was sponsored by the United Kingdom, the United States and France, since it fully concurs with its reiteration of the resolve of the Security Council to eradicate international terrorism.

In combating this evil, which has become the real blight or leprosy of the twentieth century, there can be no vacillation. Combating international terrorism and violence is for us a key tenet deriving, not only from the moral underpinnings of the policy of a new Russia, but unfortunately from the realities of the contemporary world. We are therefore anxious to work and to cooperate with the world community in putting an end to acts of

(Mr. Vorontsov, Russian Federation)

international terrorism which, as appropriately emphasized in the resolution just adopted, is essential for the maintenance of international peace and security.

We are deeply convinced that Security Council resolutions 731 (1992) and 748 (1992), adopted with a view to bringing to justice those accused of planting an explosive device on board Pan Am flight 103 and UTA flight 772, must be implemented. The suspects must be brought to trial, and until that happens the sanctions mechanism should continue in effect.

As far as the nature of the sanctions is concerned, the Russian Federation attaches particular importance to that provision in the resolution which affirms:

"... that nothing in this resolution affects Libya's duty scrupulously to adhere to all of its obligations concerning servicing and repayment of its foreign debt;" (resolution 883 (1993), para. 11)

We believe that this is an extremely important provision, the purpose of which is to ensure that as a result of the additional sanctions imposed on Libya, the interests of other States would be harmed as little as possible.

We hope that Tripoli will treat the resolution we have adopted with all due seriousness, will draw the necessary conclusions, and shortly - it has until 1 December - take steps to comply with the legitimate demands of the Security Council. That will, initially, make it possible immediately to suspend the sanctions and then to consider the question of lifting them completely. It is our belief that that is in the interests of both Libya and the entire international community.

Mr. YAÑEZ BARNUEVO (Spain) (interpretation from Spanish):

The Security Council has just adopted a resolution which we had hoped would not have become necessary. Unfortunately, a year and a half after their adoption, resolutions 731 (1992) and 748 (1992) have still not been properly complied with. Despite the determined efforts of the Secretary-General, to whom we wish to express our special appreciation, and the efforts of States and organizations, particularly the League of Arab States, which are interested in a speedy solution of the crisis, we must note that Libya has not fully complied with the demands set forth in Security Council resolutions 731 (1992) and 748 (1992).

In those circumstances, the adoption of a new resolution was inevitable. First, it is necessary to ensure respect for the obligation imposed by the United Nations Charter on all Member States to comply with decisions of the Security Council. Secondly, the events that led to resolutions 731 (1992) and 748 (1992) are particularly serious. The attacks against commercial flights of Pan Am and UTA are horrendous crimes, which caused numerous innocent victims, and their presumed perpetrators must be brought to justice.

As the representative of Brazil has pointed out, the Security Council is taking action in order to deal with a decision that affects international peace and security, without prejudice to the principle of the presumption of innocence as regards the persons concerned. These are the reasons that prompted my delegation to vote in favour of resolution 883 (1993), which has just been adopted by the Council. This resolution, though as firm and vigorous as is necessary to attain its objective - namely to ensure compliance with the Council's requirements - nevertheless contains an element of flexibility providing an appropriate way out of the

(Mr. Yañez Barnuevo, Spain)

crisis if there is sufficient will on the part of the Libyan authorities to do so.

It is true that through this resolution new sanctions are imposed upon Libya, but it is also true that mechanisms are provided to suspend them and also to lift all the sanctions established immediately, once there is compliance with the requirements of the Council. Moreover, a time period is established which would make it possible to avoid the entry into force of the new measures if Libya fulfils its obligations by 1 December next.

(Mr. Yañez Barnuevo, Spain)

We would now encourage the Secretary-General to redouble his efforts, which were so close to bearing fruit, until it does so. We also encourage the States and organizations that can contribute to finding a solution to the crisis to lend the Secretary-General their cooperation.

At the same time, we would urge the Libyan Government to pursue the course set forth in its letters of 29 September and 1 October 1993. We were encouraged by the assurance given the Council today by the Permanent Representative of Libya that his Government will continue to cooperate with the Secretary-General in seeking a definitive solution to the problem.

To that end, the Libyan authorities must comply with the provisions of paragraph 16 of resolution 883 (1993), just adopted, and in particular must do everything necessary to ensure that the two persons charged with the bombing of Pan Am flight 103 do indeed appear before the Scottish courts, as well as to satisfy the requests of French judicial authorities with respect to the bombing of UTA flight 772.

In the unfortunate event that that does not take place by 1 December and the new measures therefore enter into force, the Council undertakes in the resolution just adopted to consider the economic problems that may confront States particularly affected by the implementation of those measures. Similarly, under the resolution the Council instructs the Committee established by resolution 748 (1992) to examine possible requests for assistance that may be submitted by such States under the provisions of Article 50 of the Charter and to make recommendations to the President of the Security Council for appropriate action. The Council thus continues a practice followed in other cases in which

(Mr. Yañez Barnuevo, Spain)

enforcement measures were adopted that could have a negative effect on the economies of Member States, a practice that will undoubtedly facilitate cooperation by those States in implementing such measures and that my country wholeheartedly supports.

Spain sincerely hopes that we will not reach that point. We hope that Libya will comply with the Council's requirements, thereby resolving a crisis that is causing considerable harm not only to the Libyan people but to other peoples, including my own, in the Mediterranean region, which is not exempt from problems that need to be approached through international cooperation in a North-South context. Some very hopeful initiatives that have been launched in recent years have been affected by this crisis. We would hope that the situation will be resolved as soon as possible for the sake of the full development of that much-needed cooperation between the two shores of the Mediterranean for the benefit of their peoples and of the international community.

Mr. ERDÖS (Hungary) (interpretation from French): Hungary vigorously and unreservedly condemns all forms of international terrorism. We are deeply convinced that the international community must do everything, within the framework of global and regional cooperation, to combat and eradicate that serious phenomenon, which knows no borders. This position of principle determines Hungary's attitude towards the problem with which we are dealing today: the terrorist acts perpetrated against the Pan Am and UTA flights. We regret that, because of delaying tactics and unkept promises and the growing gap between verbal statements and concrete actions, this item is still on the Council's agenda. We regret that for the third time the Council has had to meet to review the situation. The reason for this is Libya's failure, despite persistent efforts by the Secretary-

(Mr. Erdős, Hungary)

General, the countries members of the Arab League, and other States concerned, to comply with Security Council resolutions 731 (1992) and 748 (1992), adopted, respectively, in January and March last year.

It is clear that the Council had no choice but to adopt new measures to ensure respect for its two earlier resolutions. At the same time, as in other similar cases, we cannot conceal our regret that we have had to have recourse to Chapter VII of the Charter to tighten the sanctions imposed on a Member State of the Organization, particularly since that State is a country with which Hungary has long had mutually advantageous economic cooperation.

We would hope that the Libyan Government will make use of the period between now and 1 December, the date on which the resolution we have just adopted will enter into force, to comply with the relevant Security Council resolutions, which might make it unnecessary to implement today's resolution. We should also like to draw attention to paragraph 16 of the resolution, under which the Council expresses its readiness to review the sanction measures with a view to suspending and, possibly, lifting them. We are confident that Libya will make use of all available possibilities to extricate itself from the present situation and thereby enable the Security Council to determine that the circumstances that caused the imposition of such measures against that country have ceased to exist.

In that spirit, and for those reasons, Hungary decided to vote in favour of resolution 883 (1993), in the hope that the day is not too far off when it will be possible to restore normal relations with Libya in every sphere.



Mr. TAYLHARDAT (Venezuela) (interpretation from Spanish):  
Venezuela condemns terrorism in all its forms, regardless of its sponsors or the causes that are alleged to justify it, be they political, economic, social, religious or of any other kind. That is a position my country has consistently upheld in all international forums.

Accordingly, we have supported international measures and initiatives aimed at combating and eradicating that hateful form of struggle. Terrorism is a cowardly act, one that cloaks itself in anonymity, sacrifices human life and wreaks destruction to achieve its goals, with total contempt for the most basic individual rights.

As is pointed out in General Assembly resolution 44/29, acts of international terrorism not only result in irreparable loss of human life and in material damage but also have a deleterious effect on international relations because of the harm they do to international peace and security. This is reflected in the resolution we have just adopted, which has its roots in deplorable acts of terrorism whose scope has led the international community, represented in the Security Council, to adopt measures to ensure that those charged with such abominable actions are brought to justice and punished to the full extent of the law.

My delegation would have preferred that the situation referred to in the resolution just adopted be resolved without the need to resort to the application of such severe measures as those set forth in it.

Venezuela was heartened when, as noted in the seventh preambular paragraph of resolution 883 (1993), the Government of Libya stated its intention to encourage those charged with the bombing of Pan Am flight 103 to appear for trial and its willingness to cooperate with the French authorities in elucidating the case of the bombing of UTA flight 772.

(Mr. Taylhardat, Venezuela)

Unfortunately, those charged did not appear. This fact, together with the lack of a full and effective response to the requests and decisions contained in Security Council resolutions 731 (1992) and 748 (1992), has led the Council to adopt today's resolution, which provides for new and more drastic measures. The purpose of these measures is to demonstrate the international community's firm resolve to punish those guilty of committing acts of terrorism.

In voting in favour of resolution 883 (1993), my delegation hopes and trusts that the alleged perpetrators of these acts will appear before the competent court before the expiration of the deadline set for the entry into force of the measures provided for in the resolution.

We appeal to all the parties involved in this problem to continue to demonstrate the spirit of compromise they have shown so far in the quest for a solution in harmony with the spirit and purpose of the various resolutions adopted by the Council on this subject.

In conclusion, we express to the Secretary-General our gratitude for the important role he has played in regard to this problem. We believe that he has not yet exhausted all his possibilities for action and we trust that he will continue to exert efforts to secure the cooperation of the Libyan Arab Jamahiriya in the quest for a solution that will render unnecessary the implementation of the measures provided for in this resolution and lead to the lifting of the measures imposed by previous resolutions of the Council.

Mr. MARUYAMA (Japan): Since last year, many Governments and organizations, including the League of Arab States, as well as the Secretary-General of the United Nations, have been trying to

(Mr. Maruyama, Japan)

gain the cooperation of Libya in an effort to clarify the facts surrounding the downing of Pan Am flight 103 and UTA flight 772, among whose victims was a Japanese national.

Japan, which is strongly opposed to terrorism in all its forms, has appealed repeatedly to the Libyan Government to comply with Security Council resolutions 731 (1992) and 748 (1992). It is indeed regrettable that, despite such endeavours, Libya has failed to comply with the Security Council's requirements and has continuously tried to avoid its international obligations through equivocation and delay.

Last year, at the time that resolutions 731 (1992) and 748 (1992) were adopted, it was understood that the Security Council would be compelled to take further measures if Libya did not comply with them. Now, unfortunately, the Council has had no choice but to adopt further measures to gain Libya's compliance.

Japan urges the Libyan Government to comply fully with the relevant Security Council resolutions without further delay. It is in the hope of gaining this compliance that my delegation supported the adoption of this new resolution. In the meantime, Japan remains committed to efforts to find a solution to this difficult situation and, indeed, to eliminate all forms of international terrorism.

Mr. MARKER (Pakistan): Pakistan has consistently and vigorously condemned terrorism in all its forms and manifestations. This includes the abominable acts perpetrated against Pan Am flight 103 and UTA flight 772.

Pakistan has always also upheld the sanctity of the resolutions of the General Assembly and the Security Council and has consistently supported complete and faithful adherence to them.

(Mr. Marker, Pakistan)

We have therefore scrupulously abided by the terms of Security Council resolution 748 (1992).

We regret that the sincere and dedicated efforts that were undertaken by the Secretary-General of the United Nations and a number of well-intentioned Governments to find an amicable solution to the problem of meeting the requirements of Security Council resolution 731 (1992) appear to have been unsuccessful. However, we have not lost hope and feel that these endeavours should continue.

The PRESIDENT: There are no further names on the list of speakers. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 4.45 p.m.

