

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 STATES OF AMERICA)

DOCUMENTARY EXHIBITS

SUBMITTED BY

THE UNITED STATES OF AMERICA

Volume I of II

Exhibits 1 to 22

20 JUNE 1995

**EXHIBITS TO THE MEMORIAL OF THE
UNITED STATES OF AMERICA**

- Exhibit 1. 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 (United Nations Document A/46/83-S/23317).
- Exhibit 2. United Nations Press Release: Security Council Condemns Destruction of Pan Am Flight 103 (United Nations Document SC/5057; 30 December 1988).
- Exhibit 3. United States Code, Title 28, Sections 1861 through 1869.
- Exhibit 4. United States Federal Rules of Criminal Procedure, Rules 6 through 9.
- Exhibit 5. Jury Selection Plan for the United States District Court for the District of Columbia (as amended through 9 September 1993).
- Exhibit 6. U.S. Department of Justice Memorandum: Summary of Criminal Procedure in Federal Criminal Cases in the United States.
- Exhibit 7. United States Code, Title 18, Section 32
(Destruction of aircraft or aircraft facilities).
- United States Code, Title 18, Section 844 (Malicious destruction of property used in or affecting interstate or foreign commerce, causing deaths).
- United States Code, Title 18, Section 2332
(Terrorist murders of United States nationals outside the United States; this section was codified as United States Code, Title 18, Section 2331 until October 29, 1992).
- United States Code, Title 18, Section 371
(Conspiracy to commit criminal offense).
- Exhibit 8. 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 (United Nations Document A/46/826-S/23307; 31 December 1991).

- Exhibit 9. Letter dated 20 December 1991 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General (United Nations Document A/46/827-S/23308; 31 December 1991).
- Exhibit 10. Letter dated 20 December 1991 from the Permanent Representative of France to the United Nations addressed to the Secretary-General (A/46/825-S/23306; 31 December 1991).
- Exhibit 11. 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 (United Nations Document A/46/828-S/23309; 31 December 1991).
- Exhibit 12. Letter dated 17 November 1991 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General (United Nations Document A/46/660-S/23226; 20 November 1991).
- Exhibit 13. Letter dated 20 November 1991 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General (United Nations Document A/46/844-S/23416; 13 January 1992).
- Exhibit 14. Letter dated 8 January 1992 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General (United Nations Document A/46/841-S/23396; 9 January 1992).
- Exhibit 15. Letter dated 17 January 1992 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council (United Nations Document S/23436; 17 January 1992).
- Exhibit 16. 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 (United Nations Document S/23441; 18 January 1992).
- Exhibit 17. Convention for the Suppression of Unlawful Acts Against the Safety of International Civil Aviation, done at Montreal on 23 September 1971.

- Exhibit 18. Resolution 731, United Nations Security Council, 3033rd meeting, 21 January 1992 (United Nations Document S/RES/731).
- Exhibit 19. Provisional Verbatim Record of the Three Thousand and Thirty Third Meeting of the Security Council (United Nations Document S/PV.3033; 21 January 1992).
- Exhibit 20. Report by the Secretary-General Pursuant to Paragraph 4 of Security Council Resolution 731 (United Nations Document S/23574; 11 February 1992).
- Exhibit 21. Further Report by the Secretary-General Pursuant to Paragraph 4 of Security Council Resolution 731 (United Nations Document S/23672; 3 March 1992).
- Exhibit 22. Provisional Verbatim Record of the Three Thousand and Sixty-Third Meeting of the Security Council (United Nations Document S/PV.3063; 31 March 1992).
- Exhibit 23. Resolution 748, United Nations Security Council, 3063rd meeting, 31 March 1992, (United Nations Document S/RES/748).
- Exhibit 24. Note by the President of the Security Council (United Nations Document S/24424; 12 August 1992).
- Exhibit 25. Note by the President of the Security Council (United Nations Document S/24925; 9 December 1992).
- Exhibit 26. Note by the President of the Security Council (United Nations Document S/25554; 8 April 1993).
- Exhibit 27. Note by the President of the Security Council (United Nations Document S/26303; 13 August 1993).
- Exhibit 28. 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 (United Nations Document A/48/314-S/26304; 13 August 1993).
- Exhibit 29. Letter dated 22 September 1993 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations Addressed to the Secretary-General (United Nations Document S/26500; 28 September 1993).

- Exhibit 30 United States cable dated 22 September 1993 from Washington, D.C. to United States Mission to the United Nations, New York.
- Exhibit 31. Letter dated 1 October 1993 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General (United Nations Document S/26523; 1 October 1993).
- Exhibit 32. Resolution 883, United Nations Security Council 3312th meeting, 11 November 1993, (United Nations Document S/RES/883).
- Exhibit 33. Provisional Verbatim Record of the Three Thousand Three Hundred and Twelfth Meeting of the Security Council (United Nations Document S/PV.3312; 11 November 1993).
- Exhibit 34. Resolution 286, United Nations Security Council, 1552nd meeting, 9 September 1970.
- Exhibit 35. Note by the President of the Security Council, (United Nations Document S/17554; 9 October 1985).
- Exhibit 36. Resolution 579, United Nations Security Council, 2637th meeting, 18 December 1985.
- Exhibit 37. Resolution 635, United Nations Security Council, 2869th meeting, 14 June 1989.
- Exhibit 38. Resolution 687, United Nations Security Council, 2981st meeting, 3 April 1991.
- Exhibit 39. Note by the President of the Security Council (United Nations Document S/23500; 31 January 1992).
- Exhibit 40. Statement by the President of the Security Council (United Nations Document S/PRST/1994/40; 29 July 1994).
- Exhibit 41. Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, Resolution 2625 (XXV), United Nations General Assembly, 1883rd Plenary Meeting, 24 October 1970.
- Exhibit 42. Aerial Hijacking or Interference with Civil Air Travel, Resolution 2645 (XXV), United Nations General Assembly, 1914th Plenary Meeting, 25 November 1970.

- Exhibit 43. Measures to Eliminate International Terrorism, Resolution 49/60, United Nations General Assembly, 84th Plenary Meeting, 9 December 1994 (United Nations Document A/RES/49/60; 17 February 1995).
- Exhibit 44. Note by the President of the Security Council (United Nations Document S/26861; 10 December 1993).
- Exhibit 45. Note by the President of the Security Council (United Nations Document S/PRST/1994/18; 12 April 1994).
- Exhibit 46. Note by the President of the Security Council... (United Nations Document S/PRST/1994/41; 5 August 1994).
- Exhibit 47. Note by the President of the Security Council (United Nations Document S/PRST/1994/76; 30 November 1994).
- Exhibit 48. Note by the President of the Security Council (United Nations Document S/PRST/1995/14; 30 March 1995).
- Exhibit 49. Letter dated 28 July 1994 from the Secretary-General addressed to the President of the Security Council (United Nations Document S/1994/900; 29 July 1994).
- Exhibit 50. Letter dated 9 December 1993 from the Chargé D'Affaires A.I. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General (United Nations Document S/26859; 10 December 1993).
- Exhibit 51. Letter dated 30 March 1995 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. (United Nations Document A/50/128-S/1995/247; 30 March 1995).
- Exhibit 52. Review of the Role of the International Court of Justice, Report of the Sixth Committee (United Nations Document A/8238; 11 December 1970).
- Exhibit 53. Review of the Role of the International Court of Justice, Report of the Sixth Committee (United Nations Document A/8568; 10 December 1971).

- Exhibit 54. M. Lachs, "The Revised Procedure of the International Court of Justice" in Essays on the Development of The International Legal Order, pp. 21, 31 (1980).
- Exhibit 55. E. Jiménez de Aréchaga, "The Amendments to the Rules of Procedure of the International Court of Justice," 67 American Journal of International Law, pp. 1, 11, and 13 (1973).
- Exhibit 56. G. Guyomar, Commentaire du Règlement de la Cour Internationale de Justice: Interprétation et Pratique, p. 371 (1972).
- Exhibit 57. Resolution 827, United Nations Security Council, 3217th meeting, 25 May 1993 (United Nations Document S/RES/827).
- Exhibit 58. Resolution 955, United Nations Security Council, 3453rd meeting, 8 November 1994 (United Nations Document S/RES/955).
- Exhibit 59. Letter dated 5 August 1994 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 (United Nations Document A/49/299-S/1994/938; 8 August 1994).
- Exhibit 60. S. Rosenne, The Law and Practice of the International Court, p. 70 (1985).
- Exhibit 61. T. Elsen, Litispence Between the International Court of Justice and the Security Council, p. 59 (1986)

Exhibit 1

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
(United Nations Document A/46/831-S/23317; 23 December 1991)



General Assembly Security Council

Distr.
GENERAL

A/46/831
S/23317
23 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 23 December 1991 from the Acting Permanent
Representative of the United States of America to the
United Nations addressed to the Secretary-General

I have the honour to enclose a copy of the indictment handed down by the United States District Court for the District of Columbia on 14 November in connection with the bombing of Pan Am flight 103 (see annex).

I would 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) Alexander F. WATSON
Acting Permanent Representative

ANNEX

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

UNITED STATES OF AMERICA	:	Criminal No.
	:	
v.	:	Grand Jury Original
	:	
ABDEL BASSET ALI AL-MEGRAHI,	:	Violations: 18 U.S.C. SS 371,
A/K/A ABDELBASET ALI MOHMED,	:	32, 34, 844(i), 2331, and 2
A/K/A ABDELBASET ALI MOHMED AL MEGRAHI,	:	(Conspiracy to Destroy a Civil
A/K/A "MR. BASET",	:	Aircraft of the United States, to
A/K/A AHMED KHALIFA ABDUSAMAD;	:	Destroy a Vehicle Used in Foreign
	:	Commerce by Means of an Explosive,
LAMEN KHALIFA FHIMAH,	:	to Kill Nationals of the United
A/K/A AL AMIN KHALIFA FHIMAH,	:	States Destroying a Civil
A/K/A "MR. LAMIN"	:	Aircraft; Destroying a Vehicle
	:	Used in Foreign Commerce by Means
	:	of an Explosive; Killing Nationals
	:	of the United States; Aiding and
	:	Abetting)

INDICTMENT

The Grand Jury charges that:

COUNT ONE

INTRODUCTION

At all times material to this Indictment, except as otherwise indicated:

1. The Socialist People's Libyan Arab Jamahiriya (hereinafter referred to as "Libya") was a nation located on the Mediterranean coast of North Africa.

2. The Jamahiriya Security Organization (hereinafter referred to as "JSO") was the Libyan intelligence service through which Libya conducted acts of terrorism against other nations and repressed the activities of Libyan dissidents abroad.

3. The JSO was divided into various administrations and sections, including the Technical Administration.

4. The Technical Administration's responsibilities included assisting other administrations within the JSO in developing technical equipment and to provide technical support to JSO operations in Libya and abroad.

5. In 1984-1985, Said Rashid Kisha (hereinafter referred to as Said Rashid) was the Assistant Manager of the Technical Administration of the JSO, and in 1985 requested Edwin Bollier of the Swiss firm of Meister et Bollier to develop timers for the Libyans.

6. From 1985, to on or about 1 January 1987, Said Rashid was the Director of the Operations Administration of the JSO.

7. The Operations Administration of the JSO was further divided into various sections including the Airline Security Section.

8. The Airline Security Section of the JSO was responsible for the following functions:

(a) Providing physical security for Libyan Arab Airlines (hereinafter referred to as "LAA") aircraft and passengers on domestic and international flights; and

(b) Overseeing the covert placement and intelligence operations of JSO officers as employees of Libyan Arab Airlines in various countries, including the Republic of Malta.

9. During the period while Said Rashid was the Director of the Operations Administration, ABDEL BASSET ALI AL-MEGRAHI was the Chief of the Airline Security Section.

10. Izzel Din Al Hinshiri (hereinafter referred to as Hinshiri) at various times material to this Indictment held the following positions: Libyan Minister of Transportation, Minister of Justice, Secretary General to the People's Committee for Justice in Libya, Director, and Assistant to the Director, of the Central Security Administration of the JSO.

11. At various times material to this Indictment, beginning in 1985 and continuing into 1986, Hinshiri received, and caused to be received on behalf of the JSO, 20 prototype digital electric timers, Model MST-13, capable of initiating an explosive device, which had been manufactured by the Swiss firm of Meister et Bollier.

12. Meister et Bollier, Ltd., Telecommunications, a/k/a MESO AG, was a company located in Zurich, Switzerland, which maintained a close business relationship with elements of the Libyan military and JSO as a manufacturer and supplier of technical equipment.

13. ABH was a Libyan front company which sublet office space in Zurich, Switzerland, from Meister et Bollier.

14. Badri Hasan was a citizen of Libya, who was associated along with ABDEL BASSET in the activities of ABH in Zurich, Switzerland.

15. At various times material in 1988, the Libyan JSO issued Semtex explosives containing the substances RDX and PETN, electric blasting caps or detonators, and MST-13 digital electric timers capable of initiating an explosion at a predetermined future time, to JSO operatives who engaged in covert terrorist operations outside of Libya, including in the Republic of Senegal.

16. Libyan Arab Airlines was the national airline of Libya and was utilized by the JSO to facilitate its acts of terrorism and repression.

17. Air Malta, the national airline of the Republic of Malta, was the handling agent for Libyan Arab Airlines flights to and from Luqa Airport, Malta, and as such utilized Air Malta luggage tags on luggage destined for Libyan Arab Airline flights.

18. Air Malta employees boarding passengers and luggage for Libyan Arab Airline flights were assisted by a representative of Libyan Arab Airlines.

19. The Defendant LAMEN KHALIFA FHIMAH, A/K/A AL AMIN KHALIFA FHIMAH, A/K/A "MR. LAMIN" (hereinafter referred to as "LAMEN FHIMAH"), was a citizen of Libya, and was utilized by the JSO in various cover positions, including at various times as the Station Manager and representative for Libyan Arab Airlines at Luqa Airport, Malta.

20. The Defendant LAMEN FHIMAH had access to Air Malta luggage tags and the Air Malta facilities used to board passengers and baggage for LAA flights from Luqa Airport, Malta.

21. The Defendant ABDEL BASSET ALI AL-MEGRAHI, A/K/A ABDELBASET ALI MOHMED, A/K/A ABDELBASET ALI MOHMED AL MEGRAHI, A/K/A "MR. BASET", A/K/A AHMED KHALIFA ABDUSAMAD (hereinafter referred to as "ABDEL BASSET"), was a citizen of Libya and was utilized by the JSO in various positions including as the Chief of the Airline Security Section, Operations Division, and as such was familiar with international airline security procedures.

22. On 21 December 1988, between 0850 and 0950 hours (CET), Libyan Arab Airlines Flight LN 147 to Tripoli, Libya, on which the Defendant ABDEL BASSET was travelling, was boarding at Luqa Airport, Malta, while Air Malta Flight KM-180 to Frankfurt, Germany, was also open for check-in between 0815 and 0915 hours, CET.

23. On 21 December 1988, Air Malta Flight KM-180 from Luqa Airport, Malta, arrived at approximately 1250 hours, Central Europe Time (CET), at Frankfurt Airport, Germany.

24. On 21 December 1988, at approximately 1600 hours, CET, Pan Am Flight 103A, with connecting service to London's Heathrow Airport and Pan Am Flight 103, departed Frankfurt, with an item of luggage that had been transferred from Air Malta Flight KM-180.

25. On 21 December 1988, between approximately 1740 hours and 1807 hours, GMT, luggage from Pan Am Flight 103A arriving from Frankfurt, Germany, was loaded onto Pan Am Flight 103 (United States aircraft number N739PA) at London's Heathrow Airport.

26. Pan American World Airways was an airline owned by a corporation created under the laws of a State of the United States and registered under Chapter 20, Title 49 of the United States Code, which airline flew its aircraft in commerce between the United States and other countries; and operated aircraft leased from and owned by a corporation created under the laws of the State of New York.

27. Pan American World Airways aircraft bearing number N739PA was a civil aircraft of the United States registered with the Federal Aviation Administration as required by Title 49 U.S.C. App., Section 1401, and operating within the special aircraft jurisdiction of the United States as defined by Title 49 U.S.C. App., Sec. 1301 (38).

28. On 21 December 1988, Pan American World Airways Flight 103 was operating in foreign air commerce between London's Heathrow Airport in the United Kingdom, and John F. Kennedy Airport in the United States of America.

29. On 21 December 1988, Pan American World Airways Flight 103 carried two hundred fifty-nine people (two hundred forty-three passengers and sixteen crew members) who were citizens of the following countries: United States of America, United Kingdom of Great Britain and Northern Ireland, Switzerland, France, Canada, Israel, Argentina, Sweden, Ireland, Italy, Hungary, South Africa, Germany, Spain, Jamaica, Philippines, India, Belgium, Trinidad, Japan and Bolivia.

30. On 21 December 1988, at approximately 7.03 p.m., GMT, Pan American World Airways Flight 103 broke apart in Scottish airspace at an altitude of 31,000 feet as the result of the detonation of an explosive device in its forward cargo hold.

31. As the result of the explosion, Pan American World Airways Flight 103 was destroyed and fell to earth, killing all two hundred fifty-nine passengers and crew, as well as eleven residents of the Scottish town of Lockerbie.

THE CONSPIRACY

32. From on or about the summer of 1985 to and including the date of the return of this Indictment, within the nations of Libya, Switzerland, Malta, Germany, the United Kingdom and elsewhere outside the United States of America, the Defendants ABDEL BASSET and LAMEN FHIMAH, together with others unknown to the Grand Jury, did unlawfully, wilfully and knowingly, conspire, combine and agree together and with others to commit terrorist acts against the United States of America and its citizens.

33. It was a part of the conspiracy that the Defendants and co-conspirators would and did place and cause to be placed a destructive device and substance in and upon Pan American World Airways Flight 103, an aircraft within the special aircraft jurisdiction of the United States and a civil aircraft used, operated, and employed in overseas and foreign air commerce; in violation of Title 18, United States Code, Sections 32(a)(2) and 2.

34. It was a further part of the conspiracy that the Defendants and co-conspirators would and did damage and destroy, by means of an explosive device, Pan American World Airways Flight 103, an aircraft in the special aircraft jurisdiction of the United States and a civil aircraft used, operated, and employed in overseas and foreign air commerce; in violation of Title 18, United States Code, Section 32(a)(1) and 2.

35. It was a further part of the conspiracy that the Defendants and co-conspirators would and did damage and destroy by means of an explosive device Pan American World Airways Flight 103, a vehicle used in foreign commerce and in an activity affecting foreign commerce; in violation of Title 18, United States Code, Section 844(i) and 2.

36. It was a further part of the conspiracy that the Defendants and co-conspirators would and did kill nationals of the United States while such nationals were outside the United States, the killings being murder as defined by Section 1111(a) of Title 18, United States Code; in violation of Title 18, United States Code, Sections 2331(a) and 2.

37. It was further a part of the conspiracy that the Defendants and co-conspirators would and did conceal the involvement of the Libyan JSO in terrorist acts against the United States and its citizens.

**THE MANNER AND MEANS USED BY THE CONSPIRATORS TO FURTHER
THE OBJECTS OF THE CONSPIRACY**

38. Among the means used by the Defendants and co-conspirators to further the objects of the conspiracy were the following:

(a) The Defendants and co-conspirators, as officers and operatives of the JSO, utilized the resources and facilities of the nation of Libya, including the JSO, to carry out their scheme to destroy an American aircraft by means of an explosive device and to kill passengers on board the aircraft.

(b) The Defendants and co-conspirators constructed and caused to be constructed an improvised explosive device consisting of plastic explosives containing the substances RDX and PETN, and an MST-13 prototype digital electronic timer, capable of initiating an explosion at a predetermined future time, which had been manufactured for and delivered to the Libyan JSO by the Swiss firm of Meister et Bollier during the period of 1985 to 1986 at the request of Said Rashid and Hinshiri.

(c) The Defendants and co-conspirators caused the improvised explosive device to be concealed inside a portable radio cassette player.

(d) The Defendants and co-conspirators caused the radio cassette player to be placed inside a brown colored Samsonite Silhouette 4000 range suitcase.

(e) The Defendants and co-conspirators caused that suitcase to be packed with clothing, purchased in Malta, to provide the appearance of a normal travel bag.

(f) The Defendants and co-conspirators caused the suitcase, with the armed device concealed within it, to be placed in the stream of international airline passenger luggage at Luqa Airport in the Republic of Malta.

(g) The Defendants and co-conspirators utilized various false identities to enter Malta and other nations within which the conspiracy was carried out.

(h) The Defendants and co-conspirators utilized their knowledge and access gained as a result of their employment with Libyan Arab Airlines to circumvent and evade Maltese customs and airline security at Luqa Airport and elsewhere; and improperly obtained and utilized the Air Malta baggage tags to cause the interline transfer of the suitcase, containing the explosive device, to other aircraft.

(i) The Defendants and co-conspirators caused the suitcase containing the explosive device to be placed into the baggage compartment of Air Malta Flight KM-180 at Luqa Airport, Malta; caused the same suitcase to be transferred from Air Malta Flight KM-180 to Pan American World Airways Flight 103A in Frankfurt, Germany; caused the same suitcase to be further transferred to Pan American World Airways Flight 103 at Heathrow Airport, London, United Kingdom; caused the detonation of the explosive device during Pan American World Airways Flight 103's journey to the United States; and caused the destruction of Pan American World Airways Flight 103 and the death of two hundred seventy persons in the aircraft and on the ground.

OVERT ACTS

39. In order to further the conspiracy and to achieve its objectives, the following overt acts, among others, were committed in Libya, Switzerland, Malta, Germany, the United Kingdom, and elsewhere:

(a) In or about the summer of 1988, LAMEN FHIMAE stored a quantity of plastic explosive in his office at the Libyan Arab Airlines Station, Luqa Airport, Malta.

(b) In or about the fall of 1988, ABDEL BASSET flew from Tripoli, Libya, to Luqa Airport, Malta, on Libyan Arab Airlines.

(c) On or about 7 December 1988, ABDEL BASSET travelled from Libya to Malta.

(d) On or about 7 December 1988, ABDEL BASSET registered at the Holiday Inn, Sliema, Malta, using the name "ABDEL BASET A. MOHMED", a "FLIGHT DISPATCHER" (sic) for Libyan Arab Airlines.

(e) On or about 7 December 1988, in Sliema, Malta, ABDEL BASSET purchased items of clothing from Mary's House, a retail store located approximately 300 yards from the hotel in which ABDEL BASSET was staying.

(f) On or about 9 December 1988, ABDEL BASSET travelled from Malta to Zurich, Switzerland.

(g) On or about 15 December 1988, LAMEN FHIMAH made the following entries in his diary: "Abdel Basset is coming from Zurich with Salvu ..." and "take taggs [sic] from Air Malta."

(h) On or about 15 December 1988, LAMEN FHIMAH made an additional entry in the "Notes" section of his diary: "bring the tags from the Airport (ABDEL BASSET-ABDUL SALAM)."

(i) On or about 15 December 1988, LAMEN FHIMAH made an additional entry in his diary by writing letters "OK" adjacent to the notation: "ABDEL BASSET is coming from Zurich with Salvu ... take taggs [sic] from Air Malta."

(j) On or about 17 December 1988, ABDEL BASSET travelled from Zurich, Switzerland, to Luqa Airport, Malta, and then on to Tripoli, Libya.

(k) On or about 18 December 1988, LAMEN FHIMAH travelled from Malta to Libya for a meeting with ABDEL BASSET.

(l) On or about 20 December 1988, ABDEL BASSET travelled from Libya to Luqa Airport, Malta, utilizing the false identity of "AHMED KHALIFA ABDUSAMAD".

(m) On or about 20 December 1988, LAMEN FHIMAH travelled from Tripoli, Libya, to Luqa Airport, Malta, on the same flight as ABDEL BASSET.

→ (n) On or about 20 December 1988, the Defendants and co-conspirators brought a large, brown hard-sided Samsonite suitcase into Malta.

(o) On or about 20 December 1988, ABDEL BASSET had a meeting with LAMEN FHIMAH in Malta.

(p) On or about 20 December 1988, ABDEL BASSET registered at the Holiday Inn, Sliema, Malta, under the false name "AHMED KHALIFA ABDUSAMAD".

u (q) On 21 December 1988, at approximately 7.11 a.m., CET, ABDEL BASSET placed a telephone call to LAMEN FHIMAH from the Holiday Inn, Sliema, Malta.

(r) On 21 December 1988, ABDEL BASSET, travelling under an assumed name, departed Luqa Airport, Malta, on LAA Flight LN 147 to Tripoli, Libya.

(s) On 21 December 1988, between 0815 and 0915 hours, CET, the Defendants and co-conspirators unknown to the Grand Jury, caused a brown, hard-sided Samsonite suitcase containing an explosive device incorporating an MST-13 timer, previously manufactured for the JSO, to be introduced as part of the interline baggage in Air Malta Flight KM-180 to Frankfurt, Germany.

(t) On 21 December 1988, the Defendants and co-conspirators unknown to the Grand Jury, destroyed aircraft N739PA as charged in Count Three of this Indictment, the allegations of which are hereby re-alleged and incorporated by reference.

(u) On 21 December 1988, the Defendants and co-conspirators unknown to the Grand Jury, by means of fire and explosives destroyed aircraft N739PA, and as a direct result thereof caused the death of two hundred seventy persons as set forth in Counts Two and Three, the allegations of which are hereby re-alleged and incorporated by reference.

(v) On 21 December 1988, the Defendants and co-conspirators unknown to the Grand Jury, by means of fire and explosives destroyed aircraft N739PA, and as a direct result thereof, did murder one hundred eighty-nine nationals of the United States, as set forth in Counts Five through One Hundred Ninety-Three, the allegations of which are hereby re-alleged and incorporated by reference.

(Violation of Title 18, United States Code, Section 371)

COUNT TWO

1. The Grand Jury hereby re-alleges and incorporates by reference paragraphs One through Thirty-one of Count One of this Indictment.

2. On or about 21 December 1988, at Heathrow Airport, London, United Kingdom, and elsewhere, the Defendants ABDEL BASSET and LAMEN FHIMAH, together with others unknown to the Grand Jury, wilfully and unlawfully caused to be placed a destructive device and substance in and upon aircraft number N739PA, a civil aircraft of the United States used, operated, and employed in overseas and foreign air commerce by Pan American World Airways as Pan Am Flight 103, en route to the United States from Heathrow Airport, London, United Kingdom, resulting in the deaths of:

<u>Victim</u>	<u>Citizenship</u>
John Michael Gerard Ahern	USA
Sarah Margaret Aicher	USA
John David Akerstrom	USA
Ronald Ely Alexander	Swiss
Thomas Joseph Ammerman	USA
Martin Lewis Apfelbaum	USA
Rachel Marie Asrelsky	USA
Judith Ellen Atkinson	USA
William Garretson Atkinson III	USA
Elisabeth Nichole Avoyne	French
Jerry Don Avritt	USA
Clare Louis Bacciochi	British
Harry Michael Bainbridge	USA
Stuart Murray Barclay	Canadian
Jean Mary Bell	British
Julian MacBain Benello	USA
Lawrence Ray Bennett	USA
Philip Vernon Bergstrom	USA
Alistair David Berkley	USA
Michael Stuart Bernstein	USA
Steven Russell Berrell	USA
Noelle Lydie Berti-Campbell	USA
Surinder Mohan Bhatia	USA
Kenneth John Bissett	USA
Stephen John Boland	USA
Paula Marie Bouckley	USA
Glenn John Bouckley	British
Nicole Elise Boulanger	USA
Francis Boyer	French
Nicholas Bright	USA
Daniel Solomon Browner (Beer)	Israel
Colleen Renee Brunner	USA
Timothy Guy Burman	British
Michael Warren Buser	USA
Warren Max Buser	USA
Steven Lee Butler	USA
William Martin Cadman	USA
Hernan Luis Caffarone	Argentinian
Fabiana Caffarone	Argentinian
Valerie Canady	USA
Gregory Joseph Capasso	USA
Timothy Michael Cardwell	USA
Bernt Wilmar Carlsson	Swedish
Richard Anthony Cawley	USA
Frank Ciulla	USA
Theodora Eugenia Cohen	USA
Jason Michael Coker	USA
Eric Michael Coker	USA
Gary Leonard Colasanti	USA

<u>Victim</u>	<u>Citizenship</u>
Thomas Concannon	Irish
Bridget Concannon	Irish
Sean Concannon	British
Tracy Jane Corner	British
Scott Marsh Cory	USA
Willis Larry Coursey	USA
Patricia Mary Coyle	USA
John Binning Cummock	USA
Joseph Patrick Curry	USA
William Alan Daniels	USA
Gretchen Joyce Dater	USA
Shannon Davis	USA
Gabriele Della-Ripa	Italian
Joyce Christine Dimauro	USA
Gianfranca Dinardo	Italian
Peter Thomas Stanley Dix	Irish
Om Dikshit	Indian
Shanti Dixit	USA
David Scott Dornstein	USA
Michael Joseph Doyle	USA
Edgar Howard Eggleston III	USA
Siv Ulla Engstrom	Swedish
Turhan Ergin	USA
Charles Thomas Fisher IV	USA
Thomas Brown Flannigan	British
Kathleen Mary Flannigan	British
Joanne Flannigan	British
Clayton Lee Flick	British
John Patrick Flynn	USA
Arthur Jay Fondiler	USA
Robert Gerard Fortune	USA
Stacie Denise Franklin	USA
Paul Matthew Stephen Freeman	Canadian
Diane Ann Boatman-Fuller	USA
James Ralph Fuller	USA
Ibolya Robertne Gabor	Hungarian
Amy Beth Gallagher	USA
Matthew Kevin Gannon	USA
Kenneth Raymond Garczynski	USA
Paul Isaac Garrett	USA
Kenneth James Gibson	USA
William David Giebler	USA
Olive Leonora Gordon	British
Linda Susan Gordon-Gorgacz	USA
Anne Madelene Gorgacz	USA
Loretta Anne Gorgacz	USA
David Jay Gould	USA
Andre Nikolai Guevorgian	USA
Nicola Jane Hall	South African

<u>Victim</u>	<u>Citizenship</u>
Lorraine Frances Halsch	USA
Lynne Carol Hartunian	USA
Anthony Lacey Hawkins	British
Maurice Peter Henry	British
Dora Henrietta Henry	British
Pamela Blaine Herbert	USA
Rodney Peter Hilbert	USA
Alfred Hill	German
Katherine Augusta Hollister	USA
Josephine Lisa Hudson	British
Sophie Ailetta Miriam Hudson	French
Melina Kristina Hudson	USA
Karen Lee Hunt	USA
Roger Elwood Hurst	USA
Elisabeth Sophie Ivell	British
Khaled Mazir Jaafar	USA
Robert Van Houten Jeck	USA
Rachel Mary Elizabeth Jeffreys	British
Paul Avron Jeffreys	British
Kathleen Mary Jermyn	USA
Beth Ann Johnson	USA
Mary Lincoln Johnson	USA
Timothy Baron Johnson	USA
Christopher Andrew Jones	USA
Julianne Frances Kelly	USA
Jay Joseph Kingham	USA
Patricia Ann Klein	USA
Gregory Kosmowski	USA
Elka Etha Kuhne	German
Minas Christopher Kulukundis	British
Mary Lancaster	British
Ronald Albert Lariviere	USA
Maria Nieves Larracochea	Spanish
Robert Milton Leckburg	USA
William Chase Leyrer	USA
Wendy Anne Lincoln	USA
Alexander Lowenstein	USA
Lloyd David Ludlow	USA
Maria Theresia Lurbke	German
William Edward Mack	USA
Douglas Eugene Malicote	USA
Wendy Gay Malicote	USA
Elizabeth Lillian Marek	USA
Louis Anthony Marengo	USA
Noel George Martin	Jamaican
Diane Marie Maslowski	USA
William John McAllister	British
Lilibeth Tobila MacAloloooy	USA

<u>Victim</u>	<u>Citizenship</u>
Daniel Emmet McCarthy	USA
Robert Eugene McCollum	USA
Charles Dennis McKee	USA
Bernard Joseph McLaughlin	USA
James Bruce MacQuarrie	USA
Jane Susan Melber	USA
John Merrill	British
Suzanne Marie Miazga	USA
Joseph Kenneth Miller	USA
Jewel Courtney Mitchell	USA
Richard Paul Monetti	USA
Jane Ann Morgan	USA
Eva Ingeborg Morson	USA
Helga Rachael Mosey;	British
John Mulroy	USA
Sean Kevin Mulroy	USA
Ingrid Elisabeth Mulroy	Swedish
Mary Geraldine Murphy	British
Jean Aitken Murray	British
Karen Elizabeth Noonan	USA
Daniel Emmett O'Connor	USA
Mary Denice O'Neill	USA
Anne Lindsey Otenasek	USA
Bryony Elise Owen	British
Gwyneth Yvonne Margaret Owen	British
Robert Plack Owens	USA
Martha Owens	USA
Sarah Rebecca Owens	USA
Laura Abigail Owens	USA
Robert Italo Pagnucco	USA
Christos Michael Papadopoulos	USA
Peter Raymond Peirce	USA
Michael Cosimo Pescatore	USA
Sarah Susannah Buchanan Philippe	USA
Frederick Sandford Phillips	USA
James Andrew Campbell Pitt	USA
David Platt	USA
Walter Leonard Porter	USA
Pamela Lynn Posen	USA
William Fugh	USA
Crisostomo Estrella Quiguyan	Filipino
Rajesh Tarsis Priskel Ramses	Indian
Suruchi Rattan	USA
Anmol Rattan	USA
Garima Rattan	USA
Anita Lynn Reeves	USA
Mark Alan Rein	USA
Jocelyn Reina	USA

<u>Victim</u>	<u>Citizenship</u>
Diane Marie Rencevicz	USA
Louise Ann Rogers	USA
Janos Gabor Roller	Hungarian
Edina Roller	Hungarian
Isuzsanna Roller	Hungarian
Hanne Maria Root	Canadian
Saul Mark Rosen	USA
Andrea Victoria Rosenthal	USA
Daniel Peter Rosenthal	USA
Myra Josephine Royal	USA
Arnaud David Rubin	Belgian
Elyse Jeanne Saraceni	USA
Teresa Elizabeth Jane Saunders	British
Scott Christopher Saunders	USA
Johannes Otto Schaeuble	German
Robert Thomas Schlageter	USA
Thomas Britton Schultz	USA
Sally Elizabeth Scott	British
Amy Elizabeth Shapiro	USA
Mridula Shastri	Indian
Joan Sheanshang	USA
Irving Stanley Sigal	USA
Martin Bernard Carruthers Simpson	USA
Irja Syhnove Skabo	USA
Mary Edna Smith	USA
Cynthia Joan Smith	USA
James Alvin Smith	USA
Ingrid Anita Smith	British
Lynsey Anne Somerville	British
Rosaleen Leiter Somerville	British
Paul Somerville	British
John Somerville	British
John Charles Stevenson	British
Geraldine Anne Stevenson	British
Hannah Louise Stevenson	British
Rachel Stevenson	British
Charlotte Ann Stinnett	USA
Stacey Leanne Stinnett	USA
Michael Gary Stinnett	USA
James Ralph Stow	USA
Elia G. Stratis	USA
Anthony Selwyn Swan	Trinidadian
Flora MacDonald Margaret Swire	British
Marc Alex Tager	British
Hidekazu Tanaka	Japanese
Andrew Alexander Teran	Bolivian
Jonathan Ryan Thomas	USA
Lawanda Thomas	USA

<u>Victim</u>	<u>Citizenship</u>
Arva Anthony Thomas	USA
Mark Lawrence Tobin	USA
David William Trimmer-Smith	USA
Alexia Kathryn Tsairis	USA
Barry Joseph Valentino	USA
Thomas Floro Van-Tienhoven	Argentinian
Asaad Eidi Vejdany	USA
Milutin Velimirovich	USA
Nicholas Andreas Vrenios	USA
Peter Vulcu	USA
Raymond Ronald Wagner	USA
Janina Jozefa Waido	USA
Thomas Edwin Walker	USA
Kesha Weedon	USA
Jerome Lee Weston	USA
Jonathan White	USA
Stephanie Leigh Williams	USA
Brittany Leigh Williams	USA
George Waterson Williams	USA
Bonnie Leigh Williams	USA
Eric Jon Williams	USA
Miriam Luby Wolfe	USA
Chelsea Marie Woods	USA
Joe Nathan Woods	USA
Joe Nathan Woods, Jr.	USA
Dedera Lynn Woods	USA
Andrew Christopher Gillies-Wright	British
Mark James Zwynenburg	USA

(Violation of Title 18, United States Code, Sections 32(a)(2), 34 and 2)

COUNT THREE

1. The Grand Jury hereby re-alleges and incorporates by reference paragraphs One through Thirty-one of Count One of this Indictment.

2. On or about 21 December 1988, at an altitude of 31,000 feet, approximately in the vicinity of the town of Lockerbie, Scotland, and within the special aircraft jurisdiction of the United States, as defined by Title 49, United States Code Appendix, Section 1301(38), the Defendants ABDEL BASSET and LAMEN FHIMAR, together with others unknown to the Grand Jury, did wilfully and unlawfully damage and destroy, by means of an explosive device, aircraft number N739PA, a civil aircraft of the United States used, operated, and employed in overseas and foreign air commerce by Pan American World Airways as Pan Am Flight 103, en route to the United States from Heathrow Airport, London, United Kingdom, resulting in the deaths of two hundred seventy victims as specified in Count Two of this Indictment.

(Violation of Title 18, United States Code, Sections 32(a)(1), 34 and 2)

COUNT FOUR

1. The Grand Jury hereby re-alleges and incorporates by reference paragraphs One through Thirty-one of Count One of this Indictment.

2. On 21 December 1988, at an altitude of 31,000 feet, approximately in the vicinity of the town of Lockerbie, Scotland, the Defendants ABDEL BASSET and LAMEN FHIMAH, together with others unknown to the Grand Jury, did maliciously damage and destroy by means of an explosive, aircraft number N739PA, employed as Pan Am Flight 103, a vehicle used in foreign commerce, and in an activity affecting foreign commerce, which was en route to the United States from Heathrow Airport, London, United Kingdom.

3. On 21 December 1988, as a direct and proximate result of the damage and destruction of aircraft N739PA, above and within the town of Lockerbie, Scotland, and the surrounding area, the Defendants ABDEL BASSET and LAMEN FHIMAH, together with others unknown to the Grand Jury, did maliciously cause the deaths of the two hundred seventy persons identified in Count Two of this Indictment.

(Violation of Title 18, United States Code, Sections 844(i) and 2)

COUNTS FIVE THROUGH ONE HUNDRED NINETY-THREE

1. The Grand Jury hereby re-alleges and incorporates by reference paragraphs One through Thirty-one of Count One of this Indictment.

2. At all times material to the Indictment the persons identified as victims in Counts Five through One Hundred Ninety-Three were nationals of the United States as that term is defined by Title 8, United States Code, Section 1101(a)(22).

3. On or about 21 December 1988, outside the United States, in the town of Lockerbie, Scotland, and vicinity, within the United Kingdom and elsewhere, the Defendants ABDEL BASSET and LAMEN FHIMAH, and others unknown to the Grand Jury, did willfully, deliberately, maliciously and with premeditation and malice aforethought kill one hundred eighty-nine nationals of the United States who were the passengers and crew of the aircraft, and whose identities are reflected in the table set forth below:

<u>Count</u>	<u>Victim</u>
FIVE	John Michael Gerard Ahern
SIX	Sarah Margaret Aicher
SEVEN	John David Akerstrom
EIGHT	Thomas Joseph Ammerman
NINE	Martin Lewis Apfelbaum
TEN	Rachel Marie Asrelsky
ELEVEN	Judith Ellen Atkinson
TWELVE	William Garretson Atkinson III

<u>Count</u>	<u>Victim</u>
THIRTEEN	Jerry Don Avritt
FOURTEEN	Harry Michael Bainbridge
FIFTEEN	Julian MacBain Benello
SIXTEEN	Lawrence Ray Bennett
SEVENTEEN	Philip Vernon Bergstrom
EIGHTEEN	Michael Stuart Bernstein
NINETEEN	Steven Russell Berrell
TWENTY	Noelle Lydie Barti-Campbell
TWENTY-ONE	Surinder Mohan Bhatia
TWENTY-TWO	Kenneth John Bissett
TWENTY-THREE	Stephen John Boland
TWENTY-FOUR	Paula Marie Bouckley
TWENTY-FIVE	Nicole Elise Boulanger
TWENTY-SIX	Nicholas Bright
TWENTY-SEVEN	Colleen Renee Brunner
TWENTY-EIGHT	Michael Warren Buser
TWENTY-NINE	Warren Max Buser
THIRTY	Steven Lee Butler
THIRTY-ONE	Valerie Canady
THIRTY-TWO	Gregory Joseph Capasso
THIRTY-THREE	Timothy Michael Cardwell
THIRTY-FOUR	Richard Anthony Cawley
THIRTY-FIVE	Frank Ciulla
THIRTY-SIX	Theodora Eugenia Cohen
THIRTY-SEVEN	Jason Michael Coker
THIRTY-EIGHT	Eric Michael Coker
THIRTY-NINE	Gary Leonard Colasanti
FORTY	Scott Marsh Cory
FORTY-ONE	Willis Larry Coursey
FORTY-TWO	Patricia Mary Coyle
FORTY-THREE	John Binning Cummock
FORTY-FOUR	Joseph Patrick Curry
FORTY-FIVE	William Alan Daniels
FORTY-SIX	Gretchen Joyce Dater
FORTY-SEVEN	Shannon Davis
FORTY-EIGHT	Joyce Christine Dimauro
FORTY-NINE	Shanti Dixit
FIFTY	David Scott Dornstein
FIFTY-ONE	Michael Joseph Doyle
FIFTY-TWO	Edgar Howard Eggleston III
FIFTY-THREE	Turhan Ergin
FIFTY-FOUR	Charles Thomas Fisher IV
FIFTY-FIVE	John Patrick Flynn
FIFTY-SIX	Arthur Jay Fondiler
FIFTY-SEVEN	Robert Gerard Fortune
FIFTY-EIGHT	Stacie Denise Franklin
FIFTY-NINE	Diane Ann Boatman-Fuller
SIXTY	James Ralph Fuller

<u>Count</u>	<u>Victim</u>
SIXTY-ONE	Amy Beth Gallagher
SIXTY-TWO	Matthew Kevin Gannon
SIXTY-THREE	Kenneth Raymond Garczynski
SIXTY-FOUR	Paul Isaac Garrett
SIXTY-FIVE	Kenneth James Gibson
SIXTY-SIX	William David Giebler
SIXTY-SEVEN	Linda Susan Gordon-Gorgacz
SIXTY-EIGHT	Anne Madelene Gorgacz
SIXTY-NINE	Loretta Anne Gorgacz
SEVENTY	David Jay Gould
SEVENTY-ONE	Andre Nikolai Guevorgian
SEVENTY-TWO	Lorraine Frances Halsch
SEVENTY-THREE	Lynne Carol Hartunian
SEVENTY-FOUR	Pamela Elaine Herbert
SEVENTY-FIVE	Rodney Peter Hilbert
SEVENTY-SIX	Katherine Augusta Hollister
SEVENTY-SEVEN	Melina Kristina Hudson
SEVENTY-EIGHT	Karen Lee Hunt
SEVENTY-NINE	Roger Elwood Hurst
EIGHTY	Khaled Nazir Jaafar
EIGHTY-ONE	Robert Van Houten Jeck
EIGHTY-TWO	Kathleen Mary Jermya
EIGHTY-THREE	Beth Ann Johnson
EIGHTY-FOUR	Mary Lincoln Johnson
EIGHTY-FIVE	Timothy Baron Johnson
EIGHTY-SIX	Christopher Andrew Jones
EIGHTY-SEVEN	Julianne Frances Kelly
EIGHTY-EIGHT	Jay Joseph Kingham
EIGHTY-NINE	Patricia Ann Klein
NINETY	Gregory Kosmowski
NINETY-ONE	Ronald Albert Lariviere
NINETY-TWO	Robert Milton Leckburg
NINETY-THREE	William Chase Leyrer
NINETY-FOUR	Wendy Anne Lincoln
NINETY-FIVE	Alexander Lowenstein
NINETY-SIX	Lloyd David Ludlow
NINETY-SEVEN	William Edward Mack
NINETY-EIGHT	Douglas Eugene Malicote
NINETY-NINE	Wendy Gay Malicote
ONE HUNDRED	Elizabeth Lillian Marek
ONE HUNDRED ONE	Louis Anthony Marengo
ONE HUNDRED TWO	Diane Marie Maslowski
ONE HUNDRED THREE	Lilibeth Tobila MacAlolooy
ONE HUNDRED FOUR	James Bruce MacQuarrie
ONE HUNDRED FIVE	Daniel Emmet McCarthy
ONE HUNDRED SIX	Robert Eugene McCollum
ONE HUNDRED SEVEN	Charles Dennis McKee
ONE HUNDRED EIGHT	Bernard Joseph McLaughlin

Count

Victim

ONE HUNDRED NINE	Jane Susan Melber
ONE HUNDRED TEN	Suzanne Marie Miasga
ONE HUNDRED ELEVEN	Joseph Kenneth Miller
ONE HUNDRED TWELVE	Jewel Courtney Mitchell
ONE HUNDRED THIRTEEN	Richard Paul Monetti
ONE HUNDRED FOURTEEN	Jane Ann Morgan
ONE HUNDRED FIFTEEN	Eva Ingeborg Morson
ONE HUNDRED SIXTEEN	John Mulroy
ONE HUNDRED SEVENTEEN	Sean Kevin Mulroy
ONE HUNDRED EIGHTEEN	Karen Elizabeth Noonan
ONE HUNDRED NINETEEN	Daniel Emmett O'Connor
ONE HUNDRED TWENTY	Mary Denice O'Neill
ONE HUNDRED TWENTY-ONE	Anne Lindsey Otenasek
ONE HUNDRED TWENTY-TWO	Robert Plack Owens
ONE HUNDRED TWENTY-THREE	Martha Owens
ONE HUNDRED TWENTY-FOUR	Sarah Rebecca Owens
ONE HUNDRED TWENTY-FIVE	Laura Abigail Owens
ONE HUNDRED TWENTY-SIX	Robert Italo Pagnucco
ONE HUNDRED TWENTY-SEVEN	Christos Michael Papadopoulos
ONE HUNDRED TWENTY-EIGHT	Peter Raymond Peirce
ONE HUNDRED TWENTY-NINE	Michael Cosimo Pescatore
ONE HUNDRED THIRTY	Sarah Susannah Buchanan-Philipps
ONE HUNDRED THIRTY-ONE	Frederick Sandford Phillips
ONE HUNDRED THIRTY-TWO	James Andrew Campbell Pitt
ONE HUNDRED THIRTY-THREE	David Platt
ONE HUNDRED THIRTY-FOUR	Walter Leonard Porter
ONE HUNDRED THIRTY-FIVE	Pamela Lynn Posen
ONE HUNDRED THIRTY-SIX	William Pugh
ONE HUNDRED THIRTY-SEVEN	Suruchi Rattan
ONE HUNDRED THIRTY-EIGHT	Anmol Rattan
ONE HUNDRED THIRTY-NINE	Garima Rattan
ONE HUNDRED FORTY	Anita Lynn Reeves
ONE HUNDRED FORTY-ONE	Mark Alan Rein
ONE HUNDRED FORTY-TWO	Jocelyn Reina
ONE HUNDRED FORTY-THREE	Diane Marie Rencevicz
ONE HUNDRED FORTY-FOUR	Louise Ann Rogers
ONE HUNDRED FORTY-FIVE	Saul Mark Rosen
ONE HUNDRED FORTY-SIX	Andrea Victoria Rosenthal
ONE HUNDRED FORTY-SEVEN	Daniel Peter Rosenthal
ONE HUNDRED FORTY-EIGHT	Myra Josephine Royal
ONE HUNDRED FORTY-NINE	Elyse Jeanne Saraceni
ONE HUNDRED FIFTY	Scott Christopher Saunders
ONE HUNDRED FIFTY-ONE	Robert Thomas Schlageter
ONE HUNDRED FIFTY-TWO	Thomas Britton Schultz
ONE HUNDRED FIFTY-THREE	Amy Elizabeth Shapiro
ONE HUNDRED FIFTY-FOUR	Joan Sheanshang
ONE HUNDRED FIFTY-FIVE	Irving Stanley Sigal
ONE HUNDRED FIFTY-SIX	Martin Bernard Carruthers-Simpson

<u>Count</u>	<u>Victim</u>
ONE HUNDRED FIFTY-SEVEN	Irja Syhnove Skabo
ONE HUNDRED FIFTY-EIGHT	Mary Edna Smith
ONE HUNDRED FIFTY-NINE	Cynthia Joan Smith
ONE HUNDRED SIXTY	James Alvin Smith
ONE HUNDRED SIXTY-ONE	Charlotte Ann Stinnett
ONE HUNDRED SIXTY-TWO	Stacey Leanne Stinnett
ONE HUNDRED SIXTY-THREE	Michael Gary Stinnett
ONE HUNDRED SIXTY-FOUR	James Ralph Stow
ONE HUNDRED SIXTY-FIVE	Elia G. Stratis
ONE HUNDRED SIXTY-SIX	Jonathan Ryan Thomas
ONE HUNDRED SIXTY-SEVEN	Lawanda Thomas
ONE HUNDRED SIXTY-EIGHT	Arva Anthony Thomas
ONE HUNDRED SIXTY-NINE	Mark Lawrence Tobin
ONE HUNDRED SEVENTY	David William Trimmer-Smith
ONE HUNDRED SEVENTY-ONE	Alexia Kathryn Tsairis
ONE HUNDRED SEVENTY-TWO	Barry Joseph Valentino
ONE HUNDRED SEVENTY-THREE	Asaad Eidi Vejdany
ONE HUNDRED SEVENTY-FOUR	Milutin Velimirovich
ONE HUNDRED SEVENTY-FIVE	Nicholas Andreas Vrenios
ONE HUNDRED SEVENTY-SIX	Peter Vulcu
ONE HUNDRED SEVENTY-SEVEN	Raymond Ronald Wagner
ONE HUNDRED SEVENTY-EIGHT	Janina Jozefa Waido
ONE HUNDRED SEVENTY-NINE	Thomas Edwin Walker
ONE HUNDRED EIGHTY	Kesha Weedon
ONE HUNDRED EIGHTY-ONE	Jerome Lee Weston
ONE HUNDRED EIGHTY-TWO	Jonathan White
ONE HUNDRED EIGHTY-THREE	Stephanie Leigh Williams
ONE HUNDRED EIGHTY-FOUR	Brittany Leigh Williams
ONE HUNDRED EIGHTY-FIVE	George Waterson Williams
ONE HUNDRED EIGHTY-SIX	Bonnie Leigh Williams
ONE HUNDRED EIGHTY-SEVEN	Eric Jon Williams
ONE HUNDRED EIGHTY-EIGHT	Miriam Luby Wolfe
ONE HUNDRED EIGHTY-NINE	Chelsea Marie Woods
ONE HUNDRED NINETY	Joe Nathan Woods
ONE HUNDRED NINETY-ONE	Joe Nathan Woods, Jr.
ONE HUNDRED NINETY-TWO	Dedera Lynn Woods
ONE HUNDRED NINETY-THREE	Mark James Zwynenburg

(Violation of Title 18, United States Code, Sections 2331 and 2)

A TRUE BILL:

Foreperson.

(Signed) G. B. Stephens
Attorney for the United States in
and for the District of Columbia

Exhibit 2

United Nations Press Release: Security Council Condemns
Destruction of Pan Am Flight 103
(United Nations Document SC/5057; 30 December 1988)

United Nations

Press Release

Department of Public Information · Press Section · New York

SC/5057

30 December 1988

SECURITY COUNCIL CONDEMNS DESTRUCTION OF PAN AM FLIGHT 103

Calls on All States 'to Assist in Apprehension And Prosecution of Those Responsible for This Criminal Act'

The following statement was made today on behalf of the members of the Security Council by Council President Hideo Kagami (Japan):

The members of the Security Council share the outrage of the Secretary-General expressed in his statement on 29 December and strongly condemn the destruction of Pan American flight 103 on 21 December, which resulted in the loss of hundreds of lives.

They convey their deepest sympathy to the families and friends of those who died as a result of this tragedy.

They call on all States to assist in the apprehension and prosecution of those responsible for this criminal act.

They consider 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.

They encourage the International Civil Aviation Organization (ICAO) to continue its efforts to promote civil aviation security, including universal acceptance of and strict compliance with conventions on the safety of international civil aviation.

* * * *

Exhibit 3

United States Code, Title 28, Sections 1861 through 1869

1995 EDITION
FEDERAL
CIVIL JUDICIAL
PROCEDURE and RULES

as amended to February 1, 1995

Rules of Civil Procedure
Rules of Judicial Panel on Multidistrict Litigation
Rules—Habeas Corpus Cases
Rules—Motion Attacking Sentence
Rules of Evidence
Rules of Appellate Procedure
Rules of the Supreme Court

Title 28, Judiciary and Judicial Procedure

Appendices:

App. I—Act June 25, 1948, c. 646, §§ 2 to 39

App. II—Judicial Personnel Financial Disclosure
Requirements [Repealed]

App. III—Development of Mechanisms for Resolving Minor
Disputes [Codified]

App. IV—Bankruptcy Reform Act of 1978—Transition Provisions

Title 5, Government Organization and Employees

App. VI—Financial Disclosure Requirements of Federal
Personnel

Consolidated Index

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CHAPTER 121—JURIES; TRIAL BY JURY

- Sec.
 1861. Declaration of policy.
 1862. Discrimination prohibited.
 1863. Plan for random jury selection.
 1864. Drawing of names from the master jury wheel; completion of juror qualification form.
 1865. Qualifications for jury service.
 1866. Selection and summoning of jury panels.
 1867. Challenging compliance with selection procedures.
 1868. Maintenance and inspection of records.
 1869. Definitions.
 1870. Challenges.
 1871. Fees.
 1872. Issues of fact in Supreme Court.
 1873. Admiralty and maritime cases.
 1874. Actions on bonds and specialties.
 1875. Protection of jurors' employment.
 1876. Trial by jury in the Court of International Trade.
 1877. Protection of jurors.
 1878. Optional use of a one-step summoning and qualification procedure.

§ 1861. Declaration of policy

It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes.

It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose.

(June 25, 1948, c. 646, 62 Stat. 951; Sept. 9, 1957, Pub.L. 85-315, Part V, § 152, 71 Stat. 638; Mar. 27, 1968, Pub.L. 90-274, § 101, 82 Stat. 54.)

§ 1862. Discrimination prohibited

No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States or in the Court of International Trade on account of race, color, religion, sex, national origin, or economic status.

(June 25, 1948, c. 646, 62 Stat. 952; Mar. 27, 1968, Pub.L. 90-274, § 101, 82 Stat. 54; Oct. 10, 1980, Pub.L. 96-417, Title III, § 302(c), 94 Stat. 1739.)

REVISION NOTES

This section makes provision for specific exemption of classes of citizens usually excused from jury service in the interest of the public health, safety, or welfare. The inclusion in the jury list of persons to exempted usually serves only to waste the time of the court.

§ 1863. Plan for random jury selection

(a) Each United States district court shall devise and place into operation a written plan for random selection of grand and petit jurors that shall be designed to achieve the objectives of sections 1861 and 1862 of this title, and that shall otherwise comply with the provisions of this title. The plan shall be placed into operation after approval by a reviewing panel consisting of the members of the judicial council of the circuit and either the chief judge of the district whose plan is being reviewed or such other active district judge of that district as the chief judge of the district may designate. The panel shall examine the plan to ascertain that it complies with the provisions of this title. If the reviewing panel finds that the plan does not comply, the panel shall state the particulars in which the plan fails to comply and direct the district court to present within a reasonable time an alternative plan remedying the defect or defects. Separate plans may be adopted for each

division or combination of divisions within a judicial district. The district court may modify a plan at any time and it shall modify the plan when so directed by the reviewing panel. The district court shall promptly notify the panel, the Administrative Office of the United States Courts, and the Attorney General of the United States, of the initial adoption and future modifications of the plan by filing copies therewith. Modifications of the plan made at the instance of the district court shall become effective after approval by the panel. Each district court shall submit a report on the jury selection process within its jurisdiction to the Administrative Office of the United States Courts in such form and at such times as the Judicial Conference of the United States may specify. The Judicial Conference of the United States may, from time to time, adopt rules and regulations governing the provisions and the operation of the plans formulated under this title.

(b) Among other things, such plan shall—

(1) either establish a jury commission, or authorize the clerk of the court, to manage the jury selection process. If the plan establishes a jury commission, the district court shall appoint one citizen to serve with the clerk of the court as the jury commission: *Provided, however,* That the plan for the District of Columbia may establish a jury commission consisting of three citizens. The citizen jury commissioner shall not belong to the same political party as the clerk serving with him. The clerk or the jury commission, as the case may be, shall act under the supervision and control of the chief judge of the district court or such other judge of the district court as the plan may provide. Each jury commissioner shall, during his tenure in office, reside in the judicial district or division for which he is appointed. Each citizen jury commissioner shall receive compensation to be fixed by the district court plan at a rate not to exceed \$50 per day for each day necessarily employed in the performance of his duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of such duties. The Judicial Conference of the United States may establish standards for allowance of travel, subsistence, and other necessary expenses incurred by jury commissioners.

(2) specify whether the names of prospective jurors shall be selected from the voter registration lists or the lists of actual voters of the political subdivisions within the district or division. The plan shall prescribe some other source or sources of names in addition to voter lists where necessary to foster the policy and protect the rights secured by sections 1861 and 1862 of this title. The plan for the District of Columbia may require the names of prospective jurors to be selected from the city

directory rather than from voter lists. The plans for the districts of Puerto Rico and the Canal Zone may prescribe some other source or sources of names of prospective jurors in lieu of voter lists, the use of which shall be consistent with the policies declared and rights secured by sections 1861 and 1862 of this title. The plan for the district of Massachusetts may require the names of prospective jurors to be selected from the resident list provided for in chapter 234A, Massachusetts General Laws, or comparable authority, rather than from voter lists.

(3) specify detailed procedures to be followed by the jury commission or clerk in selecting names from the sources specified in paragraph (2) of this subsection. These procedures shall be designed to ensure the random selection of a fair cross section of the persons residing in the community in the district or division wherein the court convenes. They shall ensure that names of persons residing in each of the counties, parishes, or similar political subdivisions within the judicial district or division are placed in a master jury wheel; and shall ensure that each county, parish, or similar political subdivision within the district or division is substantially proportionally represented in the master jury wheel for that judicial district, division, or combination of divisions. For the purposes of determining proportional representation in the master jury wheel, either the number of actual voters at the last general election in each county, parish, or similar political subdivision, or the number of registered voters if registration of voters is uniformly required throughout the district or division, may be used.

(4) provide for a master jury wheel (or a device similar in purpose and function) into which the names of those randomly selected shall be placed. The plan shall fix a minimum number of names to be placed initially in the master jury wheel, which shall be at least one-half of 1 per centum of the total number of persons on the lists used as a source of names for the district or division; but if this number of names is believed to be cumbersome and unnecessary, the plan may fix a smaller number of names to be placed in the master wheel, but in no event less than one thousand. The chief judge of the district court, or such other district court judge as the plan may provide, may order additional names to be placed in the master jury wheel from time to time as necessary. The plan shall provide for periodic emptying and refilling of the master jury wheel at specified times, the interval for which shall not exceed four years.

(5)(A) except as provided in subparagraph (B), specify those groups of persons or occupational

classes whose members shall, on individual request therefor, be excused from jury service. Such groups or classes shall be excused only if the district court finds, and the plan states, that jury service by such class or group would entail undue hardship or extreme inconvenience to the members thereof, and excuse of members thereof would not be inconsistent with sections 1861 and 1862 of this title.

(B) specify that volunteer safety personnel, upon individual request, shall be excused from jury service. For purposes of this subparagraph, the term "volunteer safety personnel" means individuals serving a public agency (as defined in section 1203(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.

(6) specify that the following persons are barred from jury service on the ground that they are exempt: (A) members in active service in the Armed Forces of the United States; (B) members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession; (C) public officers in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.

(7) fix the time when the names drawn from the qualified jury wheel shall be disclosed to parties and to the public. If the plan permits these names to be made public, it may nevertheless permit the chief judge of the district court, or such other district court judge as the plan may provide, to keep these names confidential in any case where the interests of justice so require.

(8) specify the procedures to be followed by the clerk or jury commission in assigning persons whose names have been drawn from the qualified jury wheel to grand and petit jury panels.

(c) The initial plan shall be devised by each district court and transmitted to the reviewing panel specified in subsection (a) of this section within one hundred and twenty days of the date of enactment of the Jury Selection and Service Act of 1968. The panel shall approve or direct the modification of each plan so submitted within sixty days thereafter. Each plan or modification made at the direction of the panel shall become effective after approval at such time thereafter as the panel directs, in no event to exceed

ninety days from the date of approval. Modifications made at the instance of the district court under subsection (a) of this section shall be effective at such time thereafter as the panel directs, in no event to exceed ninety days from the date of modification.

(d) State, local, and Federal officials having custody, possession, or control of voter registration lists, lists of actual voters, or other appropriate records shall make such lists and records available to the jury commission or clerks for inspection, reproduction, and copying at all reasonable times as the commission or clerk may deem necessary and proper for the performance of duties under this title. The district courts shall have jurisdiction upon application by the Attorney General of the United States to compel compliance with this subsection by appropriate process.

(June 25, 1948, c. 646, 62 Stat. 952; Mar. 27, 1968, Pub.L. 90-274, § 101, 82 Stat. 54; Apr. 6, 1972, Pub.L. 92-269, § 2, 86 Stat. 117; Nov. 2, 1978, Pub.L. 95-572, § 2(a), 92 Stat. 2453; Nov. 19, 1988, Pub.L. 100-702, Title VIII, § 802(b), (c), 102 Stat. 4657, 4658; Oct. 29, 1992, Pub.L. 102-572, Title IV, § 401, 106 Stat. 4511.)

§ 1864. Drawing of names from the master jury wheel; completion of juror qualification form

(a) From time to time as directed by the district court, the clerk or a district judge shall publicly draw at random from the master jury wheel the names of as many persons as may be required for jury service. The clerk or jury commission may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheel. Any list so

prepared shall not be disclosed to any person except pursuant to the district court plan or pursuant to section 1867 or 1868 of this title. The clerk or jury commission shall mail to every person whose name is drawn from the master wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk or jury commission by mail within ten days. If the person is unable to fill out the form, another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in a form, the clerk or jury commission shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the clerk or jury commission within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk or jury commission forthwith to appear before the clerk or jury commission to fill out a juror qualification form. A person summoned to appear because of failure to return a juror qualification form as instructed who personally appears and executes a juror qualification form before the clerk or jury commission may, at the discretion of the district court, except where his prior failure to execute and mail such form was willful, be entitled to receive for such appearance the same fees and travel allowances paid to jurors under section 1871 of this title. At the time of his appearance for jury service, any person may be required to fill out another juror qualification form in the presence of the jury commission or the clerk or the court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the clerk or jury commission may be noted on the juror qualification form and transmitted to the chief judge or such district court judge as the plan may provide.

(b) Any person summoned pursuant to subsection (a) of this section who fails to appear as directed shall be ordered by the district court forthwith to appear and show cause for his failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance with the summons may be fined not more than \$100 or imprisoned not more than three days, or both. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than \$100 or imprisoned not more than three days, or both.

(June 25, 1948, c. 646, 62 Stat. 952; Mar. 27, 1968, Pub.L. 90-274, § 101, 82 Stat. 57; Nov. 19, 1988, Pub.L. 100-702, Title VIII, § 803(a), 102 Stat. 4658.)

§ 1865. Qualifications for jury service

(a) The chief judge of the district court, or such other district court judge as the plan may provide, on his initiative or upon recommendation of the clerk or jury commission, shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or exempt, or to be excused from jury service. The clerk shall enter such determination in the space provided on the juror qualification form and in any alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

(b) In making such determination the chief judge of the district court, or such other district court judge as the plan may provide, shall deem any person qualified to serve on grand and petit juries in the district court unless he—

(1) is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district;

(2) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

(3) is unable to speak the English language;

(4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

(5) has a charge pending against him for the commission of, or has been convicted in a State or Federal court of record of, a crime punishable by imprisonment for more than one year and his civil rights have not been restored.

(June 25, 1948, c. 646, 62 Stat. 952; Mar. 27, 1968, Pub.L. 90-274, § 101, 82 Stat. 58; Apr. 6, 1972, Pub.L. 92-269, § 1, 86 Stat. 117; Nov. 2, 1978, Pub.L. 95-572, § 3(a), 92 Stat. 2453; Nov. 19, 1988, Pub.L. 100-702, Title VIII, § 803(b), 102 Stat. 4658.)

§ 1866. Selection and summoning of jury panels

(a) The jury commission, or in the absence thereof the clerk, shall maintain a qualified jury wheel and shall place in such wheel names of all persons drawn from the master jury wheel who are determined to be qualified as jurors and not exempt or excused pursuant to the district court plan. From time to time, the jury commission or the clerk shall publicly draw at random from the qualified jury wheel such number of names of persons as may be required for assignment to grand and petit jury panels. The jury commission or the clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel.

(b) When the court orders a grand or petit jury to be drawn, the clerk or jury commission or their duly designated deputies shall issue summonses for the required number of jurors.

Each person drawn for jury service may be served personally, or by registered, certified, or first-class mail addressed to such person at his usual residence or business address.

If such service is made personally, the summons shall be delivered by the clerk or the jury commission or their duly designated deputies to the marshal who shall make such service.

If such service is made by mail, the summons may be served by the marshal or by the clerk, the jury commission or their duly designated deputies, who shall make affidavit of service and shall attach thereto any receipt from the addressee for a registered or certified summons.

(c) Except as provided in section 1865 of this title or in any jury selection plan provision adopted pursuant to paragraph (5) or (6) of section 1863(b) of this title, no person or class of persons shall be disqualified, excluded, excused, or exempt from service as jurors: *Provided*, That any person summoned for jury service may be (1) excused by the court, or by the clerk under supervision of the court if the court's jury selection plan so authorizes, upon a showing of undue hardship or extreme inconvenience, for such period as the court deems necessary, at the conclusion of which such person either shall be summoned again for jury service under subsections (b) and (c) of this section or, if the court's jury selection plan so provides, the name of such person shall be reinserted into the qualified jury wheel for selection pursuant to subsection (a) of this section, or (2) excluded by the court on the ground that such person may be unable to render impartial jury service or that his service as a juror would be likely to disrupt the proceedings, or (3) excluded upon peremptory challenge as provided by law, or (4) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown, or (5) excluded upon determination by the court that his service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (5) of this subsection unless the judge, in open court, determines that such is warranted and that exclusion of the person will not be inconsistent with sections 1861 and 1862 of this title. The number of persons excluded under clause (5) of this subsection shall not exceed one per centum of the number of persons who return executed jury qualification forms during the period, specified in the plan, between two consecutive fillings of the master jury wheel. The names of persons excluded under clause (5) of this subsection, together with detailed explanations for the exclusions, shall be forwarded immediately to the judicial council of the circuit, which shall have the power to make any appropriate order, prospective or retroactive, to redress any misapplication of clause (5) of this subsection, but otherwise exclusions effectuated under such clause shall not be subject to challenge under the provisions of this title. Any person excluded from a particular jury under clause (2), (3), or (4) of this subsection shall be eligible to sit on another jury if the basis for his initial exclusion would not be relevant to his ability to serve on such other jury.

(d) Whenever a person is disqualified, excused, exempt, or excluded from jury service, the jury commission or clerk shall note in the space provided on his juror qualification form or on the juror's card

drawn from the qualified jury wheel the specific reason therefor.

(e) In any two-year period, no person shall be required to (1) serve or attend court for prospective service as a petit juror for a total of more than thirty days, except when necessary to complete service in a particular case, or (2) serve on more than one grand jury, or (3) serve as both a grand and petit juror.

(f) When there is an unanticipated shortage of available petit jurors drawn from the qualified jury wheel, the court may require the marshal to summon a sufficient number of petit jurors selected at random from the voter registration lists, lists of actual voters, or other lists specified in the plan, in a manner ordered by the court consistent with sections 1861 and 1862 of this title.

(g) Any person summoned for jury service who fails to appear as directed shall be ordered by the district court to appear forthwith and show cause for his failure to comply with the summons. Any person who fails to show good cause for noncompliance with a summons may be fined not more than \$100 or imprisoned not more than three days, or both.

(June 25, 1948, c. 646, 62 Stat. 952; May 24, 1949, c. 139, § 96, 63 Stat. 103; Mar. 27, 1968, Pub.L. 90-274, § 101, 82 Stat. 58; Dec. 11, 1970, Pub.L. 91-543, 84 Stat. 1408; Nov. 2, 1978, Pub.L. 95-572, § 2(b), 92 Stat. 2453; Jan. 12, 1983, Pub.L. 97-463, § 2, 96 Stat. 2531; Nov. 19, 1988, Pub.L. 100-702, Title VIII, § 801, 102 Stat. 4657.)

§ 1867. Challenging compliance with selection procedures

(a) In criminal cases, before the voir dire examination begins, or within seven days after the defendant discovered or could have discovered, by the exercise of diligence, the grounds therefor, whichever is earlier, the defendant may move to dismiss the indictment or stay the proceedings against him on the ground of substantial failure to comply with the provisions of this title in selecting the grand or petit jury.

(b) In criminal cases, before the voir dire examination begins, or within seven days after the Attorney General of the United States discovered or could have discovered, by the exercise of diligence, the grounds therefor, whichever is earlier, the Attorney General may move to dismiss the indictment or stay the proceedings on the ground of substantial failure to comply with the provisions of this title in selecting the grand or petit jury.

(c) In civil cases, before the voir dire examination begins, or within seven days after the party discovered or could have discovered, by the exercise of diligence, the grounds therefor, whichever is earlier, any party may move to stay the proceedings on the ground of substantial failure to comply with the provisions of this title in selecting the petit jury.

(d) Upon motion filed under subsection (a), (b), or (c) of this section, containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with the provisions of this title, the moving party shall be entitled to present in support of such motion the testimony of the jury commissioner or clerk, if available, any relevant records and papers not public or otherwise available used by the jury commissioner or clerk, and any other relevant evidence. If the court determines that there has been a substantial failure to comply with the provisions of this title in selecting the grand jury, the court shall stay the proceedings pending the selection of a grand jury in conformity with this title or dismiss the indictment, whichever is appropriate. If the court determines that there has been a substantial failure to comply with the provisions of this title in selecting the petit jury, the court shall stay the proceedings pending the selection of a petit jury in conformity with this title.

(e) The procedures prescribed by this section shall be the exclusive means by which a person accused of a Federal crime, the Attorney General of the United States or a party in a civil case may challenge any jury on the ground that such jury was not selected in conformity with the provisions of this title. Nothing in this section shall preclude any person or the United States from pursuing any other remedy, civil or criminal, which may be available for the vindication or enforcement of any law prohibiting discrimination on account of race, color, religion, sex, national origin or economic status in the selection of persons for service on grand or petit juries.

(f) The contents of records or papers used by the jury commission or clerk in connection with the jury selection process shall not be disclosed, except pursuant to the district court plan or as may be necessary in the preparation or presentation of a motion under subsection (a), (b), or (c) of this section, until after the master jury wheel has been emptied and refilled.

pursuant to section 1863(b)(4) of this title and all persons selected to serve as jurors before the master wheel was emptied have completed such service. The parties in a case shall be allowed to inspect, reproduce, and copy such records or papers at all reasonable times during the preparation and pendency of such a motion. Any person who discloses the contents of any record or paper in violation of this subsection may be fined not more than \$1,000 or imprisoned not more than one year, or both.

(June 25, 1948, c. 646, 62 Stat. 953; Sept. 2, 1957, Pub.L. 85-259, 71 Stat. 583; Mar. 27, 1968, Pub.L. 90-274, § 101, 82 Stat. 59.)

§ 1868. Maintenance and inspection of records

After the master jury wheel is emptied and refilled pursuant to section 1863(b)(4) of this title, and after all persons selected to serve as jurors before the master wheel was emptied have completed such service, all records and papers compiled and maintained by the jury commission or clerk before the master wheel was emptied shall be preserved in the custody of the clerk for four years or for such longer period as may be ordered by a court, and shall be available for public inspection for the purpose of determining the validity of the selection of any jury.

(June 25, 1948, c. 646, 62 Stat. 953; Mar. 27, 1968, Pub.L. 90-274, § 101, 82 Stat. 60.)

§ 1869. Definitions

For purposes of this chapter—

(a) "clerk" and "clerk of the court" shall mean the clerk of the district court of the United States, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of functions under this chapter;

(b) "chief judge" shall mean the chief judge of any district court of the United States;

(c) "voter registration lists" shall mean the official records maintained by State or local election officials of persons registered to vote in either the most recent State or the most recent Federal general election, or, in the case of a State or political subdivision thereof that does not require registration as a prerequisite to voting, other official lists of persons qualified to vote in such election. The term shall also include the list of eligible voters maintained by any Federal examiner pursuant to the Voting Rights Act of 1965 where the names on such list have not been included on the official registration lists or other official lists maintained by the appropriate State or local officials. With respect to the districts of Guam and the Virgin Islands, "voter registration lists" shall mean the official records maintained by territorial election officials of persons registered to vote in the most recent territorial general election;

(d) "lists of actual voters" shall mean the official lists of persons actually voting in either the most recent State or the most recent Federal general election;

(e) "division" shall mean: (1) one or more statutory divisions of a judicial district; or (2) in statutory divisions that contain more than one place of holding court, or in judicial districts where there are no statutory divisions, such counties, parishes, or similar political subdivisions surrounding the places where court is held as the district court plan shall determine: *Provided*, That each county, parish, or similar political subdivision shall be included in some such division;

(f) "district court of the United States", "district court", and "court" shall mean any district court established by chapter 5 of this title, and any court which is created by Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title;

(g) "jury wheel" shall include any device or system similar in purpose or function, such as a properly programmed electronic data processing system or device;

(h) "juror qualification form" shall mean a form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States, which shall elicit the name, address, age, race, occupation, education, length of residence within the judicial district, distance from residence to place of holding court, prior jury service, and citizenship of a potential juror, and whether he should be excused or exempted from jury service, has any physical or mental infirmity impairing his capacity to serve as juror, is able to read, write, speak, and understand the English language, has pending against him any charge for the commission of a State or Federal criminal offense punishable by imprisonment for more than one year, or has been convicted in any State or Federal court of record of a crime punishable by imprisonment for more than one year and has not had his civil rights restored. The form shall request, but not require, any other information not inconsistent with the provisions of this title and required by the district court plan in the interests of the sound administration of justice. The form shall also elicit the sworn statement that his responses are true to the best of his knowledge. Notarization shall not be required. The form shall contain words clearly informing the person that the furnishing of any information with respect to his religion, national origin, or economic status is not a prerequisite to his qualification for jury service, that such information need not be furnished if the person finds it objectionable to do so, and that information concerning race is required solely to enforce nondiscrimination in jury selection and has no bearing on an individual's qualification for jury service.

(i) "public officer" shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office;

(j) "undue hardship or extreme inconvenience", as a basis for excuse from immediate jury service under section 1866(c) (1) of this chapter, shall mean great distance, either in miles or traveltime, from the place of holding court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a

juror when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service;

(k) "publicly draw", as referred to in sections 1864 and 1866 of this chapter, shall mean a drawing which is conducted within the district after reasonable public notice and which is open to the public at large under the supervision of the clerk or jury commission, except that when a drawing is made by means of electronic data processing, "publicly draw" shall mean a drawing which is conducted at a data processing center located in or out of the district, after reasonable public notice given in the district for which juror names are being drawn, and which is open to the public at large under such supervision of the clerk or jury commission as the Judicial Conference of the United States shall by regulation require; and

(l) "jury summons" shall mean a summons issued by a clerk of court, jury commission, or their duly designated deputies, containing either a pre-printed or stamped seal of court, and containing the name of the issuing clerk imprinted in pre-printed, type, or facsimile manner on the summons or the envelopes transmitting the summons.

(June 25, 1948, c. 646, 62 Stat. 953; Oct. 16, 1963, Pub.L. 88-139, § 2, 77 Stat. 248; Mar. 27, 1968, Pub.L. 90-274, § 101, 82 Stat. 61; July 29, 1970, Pub.L. 91-358, Title I, § 172(b), 84 Stat. 590; Sept. 29, 1972, Pub.L. 92-437, § 1, 86 Stat. 740; Nov. 2, 1978, Pub.L. 95-572, §§ 3(b), (4), 92 Stat. 2453; Nov. 6, 1978, Pub.L. 95-598, Title II, § 243, 92 Stat. 2671; Nov. 14, 1986, Pub.L. 99-650, § 3, 100 Stat. 3641; Nov. 19, 1988, Pub.L. 100-702, Title VIII, §§ 802(a), 804, 102 Stat. 4657, 4658.)

Exhibit 4

United States Federal Rules of Criminal Procedure, Rules 6
through 9

1995 EDITION
FEDERAL
CRIMINAL CODE
and
RULES

as amended to February 1, 1995

Rules of Criminal Procedure
Rules Governing Habeas Corpus Cases
Rules Governing Motion Attacking Sentence
Rules of Evidence
Rules of Appellate Procedure
Rules of Supreme Court of the United States

Title 18, Crimes and Criminal Procedure
App. I—Unlawful Possession or Receipt of Firearms
App. II—Interstate Agreement on Detainers
App. III—Classified Information Procedures Act
Title 15, Section 1644, Fraudulent Use of Credit Cards
Title 21, Chapter 13, Drug Abuse Prevention and Control
Title 26, Chapter 53, Machine Guns, Destructive Devices, and
Certain Other Firearms
Sections 7201 to 7217—Procedure & Administration,
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Title 28, Chapter 58, United States Sentencing Commission
Chapter 153, Habeas Corpus
Chapter 175, Civil Commitment and Rehabilitation of
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Title 31, Chapter 53, Subch. II, Records and Reports on Monetary
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III. INDICTMENT AND INFORMATION

Rule 6. The Grand Jury

(a) Summoning Grand Juries.

(1) Generally. The court shall order one or more grand juries to be summoned at such time as the public interest requires. The grand jury shall consist of not less than 16 nor more than 23 members. The court shall direct that a sufficient number of legally qualified persons be summoned to meet this requirement.

(2) Alternate Jurors. The court may direct that alternate jurors may be designated at the time a grand jury is selected. Alternate jurors in the order in which they were designated may thereafter be impanelled as provided in subdivision (g) of this rule. Alternate jurors shall be drawn in the

same manner and shall have the same qualifications as the regular jurors, and if impanelled shall be subject to the same challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges as the regular jurors.

(b) Objections to Grand Jury and to Grand Jurors.

(1) Challenges. The attorney for the government or a defendant who has been held to answer in the district court may challenge the array of jurors on the ground that the grand jury was not selected, drawn or summoned in accordance with law, and may challenge an individual juror on the ground that the juror is not legally qualified. Challenges shall be made before the administration

Rule 6

RULES OF CRIMINAL PROCEDURE

of the oath to the jurors and shall be tried by the court.

(2) **Motion to Dismiss.** A motion to dismiss the indictment may be based on objections to the array or on the lack of legal qualification of an individual juror, if not previously determined upon challenge. It shall be made in the manner prescribed in 28 U.S.C. § 1867(e) and shall be granted under the conditions prescribed in that statute. An indictment shall not be dismissed on the ground that one or more members of the grand jury were not legally qualified if it appears from the record kept pursuant to subdivision (c) of this rule that 12 or more jurors, after deducting the number not legally qualified, concurred in finding the indictment.

(c) **Foreperson and Deputy Foreperson.** The court shall appoint one of the jurors to be foreperson and another to be deputy foreperson. The foreperson shall have power to administer oaths and affirmations and shall sign all indictments. The foreperson or another juror designated by the foreperson shall keep record of the number of jurors concurring in the finding of every indictment and shall file the record with the clerk of the court, but the record shall not be made public except on order of the court. During the absence of the foreperson, the deputy foreperson shall act as foreperson.

(d) **Who May Be Present.** Attorneys for the government, the witness under examination, interpreters when needed and, for the purpose of taking the evidence, a stenographer or operator of a recording device may be present while the grand jury is in session, but no person other than the jurors may be present while the grand jury is deliberating or voting.

(e) **Recording and Disclosure of Proceedings.**

(1) **Recording of Proceedings.** All proceedings, except when the grand jury is deliberating or voting, shall be recorded stenographically or by an electronic recording device. An unintentional failure of any recording to reproduce all or any portion of a proceeding shall not affect the validity of the prosecution. The recording or reporter's notes or any transcript prepared therefrom shall remain in the custody or control of the attorney for the government unless otherwise ordered by the court in a particular case.

(2) **General Rule of Secrecy.** A grand juror, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the government, or any person to whom disclosure is made under paragraph (3)(A)(ii) of this subdivision shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules. No obligation of secrecy may be imposed on any person

except in accordance with this rule. A knowing violation of Rule 6 may be punished as a contempt of court.

(3) **Exceptions.**

(A) Disclosure otherwise prohibited by this rule of matters occurring before the grand jury, other than its deliberations and the vote of any grand juror, may be made to—

(i) an attorney for the government for use in the performance of such attorney's duty; and

(ii) such government personnel (including personnel of a state or subdivision of a state) as are deemed necessary by an attorney for the government to assist an attorney for the government in the performance of such attorney's duty to enforce federal criminal law.

(B) Any person to whom matters are disclosed under subparagraph (A)(ii) of this paragraph shall not utilize that grand jury material for any purpose other than assisting the attorney for the government in the performance of such attorney's duty to enforce federal criminal law. An attorney for the government shall promptly provide the district court, before which was impaneled the grand jury whose material has been so disclosed, with the names of the persons to whom such disclosure has been made, and shall certify that the attorney has advised such persons of their obligation of secrecy under this rule.

(C) Disclosure otherwise prohibited by this rule of matters occurring before the grand jury may also be made—

(i) when so directed by a court preliminarily to or in connection with a judicial proceeding;

(ii) when permitted by a court at the request of the defendant, upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury;

(iii) when the disclosure is made by an attorney for the government to another federal grand juror; or

(iv) when permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of state criminal law, to an appropriate official of a state or subdivision of a state for the purpose of enforcing such law.

If the court orders disclosure of matters occurring before the grand jury, the disclosure shall be made in such manner, at such time, and under such conditions as the court may direct.

(D) A petition for disclosure pursuant to subdivision (e)(3)(C)(i) shall be filed in the district where the grand jury convened. Unless the hearing is ex

parte, which it may be when the petitioner is the government, the petitioner shall serve written notice of the petition upon (i) the attorney for the government, (ii) the parties to the judicial proceeding if disclosure is sought in connection with such a proceeding, and (iii) such other persons as the court may direct. The court shall afford those persons a reasonable opportunity to appear and be heard.

(E) If the judicial proceeding giving rise to the petition is in a federal district court in another district, the court shall transfer the matter to that court unless it can reasonably obtain sufficient knowledge of the proceeding to determine whether disclosure is proper. The court shall order transmitted to the court to which the matter is transferred the material sought to be disclosed, if feasible, and a written evaluation of the need for continued grand jury secrecy. The court to which the matter is transferred shall afford the aforementioned persons a reasonable opportunity to appear and be heard.

(4) **Sealed Indictments.** The federal magistrate judge to whom an indictment is returned may direct that the indictment be kept secret until the defendant is in custody or has been released pending trial. Thereupon the clerk shall seal the indictment and no person shall disclose the return of the indictment except when necessary for the issuance and execution of a warrant or summons.

(5) **Closed Hearing.** Subject to any right to an open hearing in contempt proceedings, the court shall order a hearing on matters affecting a grand jury proceeding to be closed to the extent necessary to prevent disclosure of matters occurring before a grand jury.

(6) **Sealed Records.** Records, orders and subpoenas relating to grand jury proceedings shall be kept under seal to the extent and for such time as is necessary to prevent disclosure of matters occurring before a grand jury.

(f) **Finding and Return of Indictment.** An indictment may be found only upon the concurrence of 12 or more jurors. The indictment shall be returned by the grand jury to a federal magistrate judge in open court. If a complaint or information is pending against the defendant and 12 jurors do not concur in finding an indictment, the foreperson shall so report to a federal magistrate judge in writing forthwith.

(g) **Discharge and Excuse.** A grand jury shall serve until discharged by the court, but no grand jury may serve more than 18 months unless the court extends the service of the grand jury for a period of six months or less upon a determination that such extension is in the public interest. At any time for cause shown the court may excuse a juror either

temporarily or permanently, and in the latter event the court may impanel another person in place of the juror excused.

(As amended Feb. 28, 1966, eff. July 1, 1966; Apr. 24, 1972, eff. Oct. 1, 1972; Apr. 26, 1976, eff. Aug. 1, 1976; July 30, 1977, Pub.L. 95-78, § 2(a), 91 Stat. 319; Apr. 30, 1979, eff. Aug. 1, 1979; Apr. 28, 1983, eff. Aug. 1, 1983; Pub.L. 98-473, Title II, § 215(f), Oct. 12, 1984, 98 Stat. 2016; Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 9, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993.)

Subd. (e)(3)(C)(IV) of this Rule Applicable to Offenses Committed Prior to Nov. 1, 1987

Subd. (e)(3)(C)(IV) of this rule as in effect prior to amendment by Pub.L. 98-473 read as follows:

(iv) when permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of state criminal law, to an appropriate official of a state or subdivision of a state for the purpose of enforcing such law.

For applicability of sentencing provisions to offenses, see Effective Date and Savings Provisions, etc., note, section 235 of Pub.L. 98-473, as amended, set out under section 3551 of Title 18, Crimes and Criminal Procedure. See also Codification note below.

Rule 7. The Indictment and the Information

(a) **Use of Indictment or Information.** An offense which may be punished by death shall be prosecuted by indictment. An offense which may be

punished by imprisonment for a term exceeding one year or at hard labor shall be prosecuted by indictment or, if indictment is waived, it may be prosecuted by information. Any other offense may be prosecuted by indictment or by information. An information may be filed without leave of court.

(b) **Waiver of Indictment.** An offense which may be punished by imprisonment for a term exceeding one year or at hard labor may be prosecuted by information if the defendant, after having been advised of the nature of the charge and of the rights of the defendant, waives in open court prosecution by indictment.

(c) **Nature and Contents:**

(1) **In General.** The indictment or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the attorney for the government. It need not contain a formal commencement, a formal conclusion or any other matter not necessary to such statement. Allegations made in one count may be incorporated by reference in another count. It may be alleged in a single count that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means. The indictment or information shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged therein to have violated.

(2) **Criminal Forfeiture.** No judgment of forfeiture may be entered in a criminal proceeding unless the indictment or the information shall allege the extent of the interest or property subject to forfeiture.

(3) **Harmless Error.** Error in the citation or its omission shall not be ground for dismissal of the indictment or information or for reversal of a conviction if the error or omission did not mislead the defendant to the defendant's prejudice.

(d) **Surplusage.** The court on motion of the defendant may strike surplusage from the indictment or information.

(e) **Amendment of Information.** The court may permit an information to be amended at any time before verdict or finding if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced.

(f) **Bill of Particulars.** The court may direct the filing of a bill of particulars. A motion for a bill of particulars may be made before arraignment or within ten days after arraignment or at such later time as the court may permit. A bill of particulars may be

amended at any time subject to such conditions as justice requires.

(As amended Feb. 28, 1966, eff. July 1, 1966; Apr. 24, 1972, eff. Oct. 1, 1972; Apr. 30, 1979, eff. Aug. 1, 1979; Mar. 9, 1987, eff. Aug. 1, 1987.)

Rule 8. Joinder of Offenses and of Defendants

(a) **Joinder of Offenses.** Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

(b) **Joinder of Defendants.** Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

Rule 9. Warrant or Summons Upon Indictment or Information

(a) **Issuance.** Upon the request of the attorney for the government the court shall issue a warrant for each defendant named in an information supported by a showing of probable cause under oath as is required by Rule 4(a), or in an indictment. Upon the request of the attorney for the government a summons instead of a warrant shall issue. If no request is made, the court may issue either a warrant or a summons in its discretion. More than one warrant or summons may issue for the same defendant. The clerk shall deliver the warrant or summons to the marshal or other person authorized by law to execute or serve it. If a defendant fails to appear in response to the summons, a warrant shall issue. When a defendant arrested with a warrant or given a summons appears initially before a magistrate judge, the magistrate judge shall proceed in accordance with the applicable subdivisions of Rule 5.

(b) Form.

(1) **Warrant.** The form of the warrant shall be as provided in Rule 4(c)(1) except that it shall be signed by the clerk, it shall describe the offense charged in the indictment or information and it shall command that the defendant be arrested and brought before the nearest available magistrate judge. The amount of bail may be fixed by the court and endorsed on the warrant.

(2) **Summons.** The summons shall be in the same form as the warrant except that it shall summon the defendant to appear before a magistrate judge at a stated time and place.

(c) Execution or Service; and Return.

(1) **Execution or Service.** The warrant shall be executed or the summons served as provided in Rule 4(d)(1), (2) and (3). A summons to a corporation shall be served by delivering a copy to an officer or to a managing or general agent or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the corporation's last known address within the district or at its principal place of business elsewhere in the United States. The officer executing the warrant shall bring the arrested person without unnecessary delay before the nearest available federal magistrate judge or, in the event that a federal magistrate judge is not reasonably available, before a state or local judicial officer authorized by 18 U.S.C. § 3041.

(2) **Return.** The officer executing a warrant shall make return thereof to the magistrate judge or other officer before whom the defendant is brought. At the request of the attorney for the government any unexecuted warrant shall be returned and cancelled. On or before the return day the person to whom a summons was delivered for service shall make return thereof. At the request of the attorney for the government made at any time while the indictment or information is pending, a warrant returned unexecuted and not cancelled or a summons returned unserved or a duplicate thereof may be delivered by the clerk to the marshal or other authorized person for execution or service.

[(d) **Remand to United States Magistrate for Trial of Minor Offenses**] (Abrogated Apr. 28, 1982, eff. Aug. 1, 1982).

(As amended Apr. 24, 1972, eff. Oct. 1, 1972; Apr. 22, 1974, eff. Dec. 1, 1975; July 31, 1975, Pub.L. 94-64, § 3(d), 89 Stat. 370; Dec. 12, 1975, Pub.L. 94-149, § 5, 89 Stat. 806; Apr. 30, 1979, eff. Aug. 1, 1979; Apr. 28, 1982, eff. Aug. 1, 1982; Apr. 22, 1993, eff. Dec. 1, 1993.)

Exhibit 5

Jury Selection Plan for the United States District Court for the
District of Columbia
(as amended through 9 September 1993)



**JURY SELECTION PLAN
FOR THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MODIFIED PLAN
FOR THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS
(As Amended Through September 9, 1993)

A. Responsibility For Plan Operation

Jurors shall be selected by the Clerk of Court (Clerk) in accordance with this Jury Plan and under the guidance of the Chief Judge.

B. Source of Names for Master Jury Wheel

The judges of the Court find pursuant to 28 U.S.C. 1863(b) (2) that while the Registered Voters Master File of the District of Columbia Board of Elections represents a fair cross-section of the community in this district, an even greater number of citizens will be eligible for jury service if supplemental sources are also employed. In order to broaden the base from which potential jurors shall be chosen, therefore, the court approves a source list compiled by merging the Registered Voters Master File of the District of Columbia Board of Elections or its supporting computer tape file, with the computer tape file maintained by the District of Columbia Department of Motor Vehicles of individuals 18 years and older who hold a driver's license, learner's permit, or valid identification card issued by the Department of Motor Vehicles. This merged list will hereafter be referred to as the "Source List".

It is agreed that the District Court's needs are substantially less than those of the D.C. Superior Court's and that a goal of operating two separate jury systems in the District of Columbia is not to have jurors summoned by both Courts at the same time; therefore, the D.C. Superior Court's data systems operation shall pull randomly from the merged source list the number of names of jurors the D.C. Superior Court finds sufficient for their needs and the random remainder shall constitute the source list for the U.S. District Court.

C. Maintaining the Master Jury Wheel

The judges of the court find it advantageous to use a properly programmed electronic data processing system to maintain the master jury wheel and perform other clerical services related to the jury system. Accordingly, the court authorizes the Clerk to make such arrangements and procure such assistance as necessary to establish an electronic data system, or a combination manual and electronic records system, to perform, in a manner that complies with sub-section 1 below, the following functions:

- merger of the D.C. Board of Elections' Registered Voters Master file with the D.C. Department of Motor Vehicles file of individuals 18 years and older who

hold a driver's license, learner's permit, or valid identification card issued by the Department of Motor Vehicles

- selection of names from this merged source list for inclusion in the master wheel
- selection of names from the master wheel for automatic addressing of jury questionnaires
- selection of names from the qualified wheel for issuance of summonses to jurors
- storing of names and addresses in the master jury wheel or names and addresses in the qualified wheel, in such physical forms as magnetic tapes, or magnetic disks
- preparing lists of juror names, index cards, summonses, and other records as are needed or required by law

1. Formula for names selection procedure

Described below is a selection procedure for the master jury wheel which the court finds shall result in the drawing of names proportionally representing a cross-section of all parts of the District. According to this procedure, applicable to the initial drawing as well as such additional drawings as may from time to time be necessary, the first name selected shall be taken from a randomized starting point (number) in the source list and the additional names shall then be picked at regular file intervals to be determined by a quotient (see (b) below) so spaced as to insure that before the drawing is completed it will have traversed the entire file.

a. Volume of names to be taken. For the first drawing of names for the master wheel the total quantity of names taken shall be sufficient to satisfy estimated juror needs for at least the ensuing six months but may cover needs of up to two years should the Clerk so decide. In no event, however, should the quantity of names placed in the master jury wheel be less than one thousand.

b. Determining a "quotient". After the number of names to be taken in any given drawing from the master wheel has been determined, the Clerk, or persons under the supervision of the Clerk who operate the electronic data system for the court, will divide the total number of names in the computer tape file by that number. The result is referred to herein as the "quotient". For example, if the clerk should determine that to supply court jury requirements for 12 months it will need 8,000 names in the master wheel, and if there is a total of 64,000 names in the source list the

"quotient" to be used would be 64,000/8,000, or 8, and every 8th name would then be taken for the master wheel.

c. Determining a "starting number". After determining the "quotient" the Clerk shall establish a starting number. This number will locate from among names found at the beginning of the source list the first name to be selected. The starting number will be publicly drawn by lot from numbered cards placed in a jury drum or box. Consecutively numbered cards used for this drawing should begin with a card numbered "one" and end with a card having the same number as the "quotient". As an example of how both "starting number" and "quotient" are used, if we suppose the quotient to be 8 and the starting number drawn to be 4, the first name chosen would be the 4th, the second name chosen would be the 12th, the third would be the 20th, etc., until the end of the file of names was reached.

d. Alternative of selecting names by manual methods. If an emergency need arises to select juror names manually from the source list, the choosing of names shall be by counting names down the list, either in a numerical sequence if the names are numbered or - if they are not numbered - in any other logical consistent sequence. For this counting and selecting process the entire list must be traversed and the specific names picked will be according to the established "quotient" and "starting number" formula described above. In lieu of making an actual physical count of names, a measuring device that expresses name intervals in terms of inches of space on a page may be used providing it substantially approximates the desired "quotient" intervals that an actual name count would produce.

D. Emptying and Replenishing the Master Jury Wheel

The Jury Plan's policy is to permit a reasonable margin of flexibility in the time chosen for the emptying and replenishing of the master wheel. The decision as to exact timing shall be made by the Clerk, based primarily upon his judgment and knowledge of three principal factors: namely, (1) when the supporting files of the source list are next to be updated; (2) how many names in the master wheel would have to be thrown out; and (3) the need for current names and addresses. In any event, the time interval for emptying and replenishing the master wheel shall not exceed four years.

When the master wheel is emptied the existing qualified wheel will continue to be used until an adequate number (to be determined by the Clerk) of persons from the new master wheel have been qualified. At that time the old qualified wheel will be emptied and a new qualified wheel created.

E. Qualifying Jurors and the "Qualified Jury Wheel"

From time to time as the need arises the Clerk shall cause to be drawn from the master wheel by electronic data processing procedures, the names and addresses of persons to whom questionnaires will be sent for the purpose of examining their qualifications for jury service. Determination of the number of names to be drawn shall be based upon anticipated juror needs. For any of these drawings names will be taken by using the same selection formula discussed under "C" above. The names and addresses of persons so selected shall be listed in alphabetical order.

Jury qualification questionnaires will be mailed to the names selected at such times as the Clerk finds administratively convenient.

After examination of the completed questionnaires the Clerk will recommend to the Court whether the person is unqualified for jury service, or exempt, or to be excused from jury service in accordance with the requirements of the statute and this Jury Plan. Final determinations respecting the qualification of individual persons will be noted on the questionnaire form. The record of names and addresses of persons who are determined to be qualified as jurors and not exempt pursuant to this plan shall constitute the "qualified wheel".

F. Summoning and Assignment of Jurors

Once each month, or more or less frequently if necessary, at times to be determined by the Court, the Clerk shall publicly draw, or cause to be drawn, one at a time and without previous examination the names of such numbers of persons for petit and grand jury service as may be directed by the Chief Judge. This drawing of names from the "qualified wheel" may also be done by using electronic data processing procedures. If the electronic data processing procedures are used, the same general formula for arriving at a "quotient" and "starting number" described above should be used. However, when there are special drawings during the month, for jurors needed over and above the quantity obtained in the main drawing, the "starting number" need not be publicly drawn by lot but, instead, may be determined by persons operating the data processing equipment who will simply use the first name in the computerized "qualified wheel" as the starting name, or who will take as the first name any name the location of which can be easily defined in programming terms. The program for the name selection will then proceed to traverse the entire file, according to the "quotient" interval, for the selection of the total number of names required for the special drawing. Persons so chosen will be summoned to appear for service as grand or petit jurors for a specific period.

When all persons summoned for service as jurors in this Court have been directed to serve, each will report to the Clerk for assignment by lot to the various jury courts for service on a case by case basis when called for by the respective courts. At the conclusion of each case such jurors will again report to the Clerk for reassignment by lot to another case.

The names of any persons who have been summoned and then have been temporarily excused or have not served shall be resummoned when the reason for their excuse or not serving ends.

G. Grounds for Exemption or Excuse

1. **Exemptions.** The following classes of persons shall be exempt from jury service, it being found that such exemptions are in the public interest and not inconsistent with Title 28, United States Code, Sections 1861 and 1862:

- a. Members in active service in the Armed Forces
- b. Members of the fire and police departments of the United States and the District of Columbia
- c. Public officers in the executive, legislative or judicial branch of the government of the United States, or government of the District of Columbia, who are either elected to public office or directly appointed by one elected to office.

2. **Grounds of Excuse.** The following classes of persons shall be excused from jury service when the individual requests excuse, it being found that jury service by such classes would entail undue hardship or extreme inconvenience to the members thereof, and excuse of members thereof would not be inconsistent with 28 U.S.C. 1861 and 1862:

- a. Persons over 70 years of age
- b. Persons who have served as grand or petit jurors in the District Court for the District of Columbia within two years as specified in 28 U.S.C. 1866(e)
- c. Volunteer safety personnel who serve without compensation as firefighters or members of a rescue squad or ambulance crew for a "public agency".

H. Maintenance of Records. The contents of the master jury box and the qualified jury box which have become inactive as hereinbefore stated and all related records regarding the qualifications, selection, and use of jurors shall be preserved by the Clerk for a period of four years from the date of inactivity and be available for public inspection in that office during regular business hours for the purpose of determining the validity of the selection of any jury.

I. Court Orders. Any currently effective order of the Court granting authority to the Clerk to exempt and excuse persons in the categories specified above from service as grand or petit juror and to grant temporary excuses to prospective grand and petit jurors on the grounds of undue hardship or extreme inconvenience is made a part hereof.

J. One-Step Summoning and Qualification Procedure

This Court has chosen to adopt a one-step summoning and qualification procedure, as authorized by Section 403 of Pub.L.No.102-572, 28 U.S.C. § 1878, in lieu of two separate procedures otherwise provided for by the Jury Selection and Service Act. The Court shall ensure that this procedure does not violate the policies and objectives set forth in sections 1861 and 1862 of Title 28.

Exhibit 6

U.S. Department of Justice Memorandum: Summary of Criminal
Procedure in Federal Criminal Cases in the United States

SUMMARY OF CRIMINAL PROCEDURE IN FEDERAL
CRIMINAL CASES IN THE UNITED STATES

1. In the United States of America, both the federal government and the states have jurisdiction to prosecute criminal offenses. Whether a crime may be prosecuted by a state or by the federal government depends on whether the conduct is a violation of a federal or state law which often depends on the nature of the offense. The prosecution of crimes involving the killing of nationals of the United States outside the territory of the United States, and the destruction by means of an explosive of a civil aircraft registered in the United States which is engaged in foreign commerce, is exclusively a matter of federal jurisdiction. In the United States the investigation and prosecution of federal criminal offenses is the exclusive responsibility of the executive branch of government. Prosecutors, investigating or "special" agents, and police officers are members of the executive branch, not the judicial branch. In the United States there are no investigating judges

investigation of federal criminal offenses is limited to the exercise of judicial functions.

2. The executive agency of the federal government with the responsibility to prosecute federal crimes is the United States Department of Justice. The Department of Justice is headed by the Attorney General, who is appointed by the President of the United States and is a member of his cabinet. The appointment of the Attorney General is subject to confirmation by the United States Senate. The Attorney General serves at the pleasure of the President. The Attorney General is the chief federal law enforcement officer of the United States. All federal prosecutors are part of the United States Department of Justice, and along with all employees of the Federal Bureau of Investigation (FBI) are subject to the supervision of the Attorney General.

3. At the Department of Justice in Washington, D.C., the Attorney General is assisted by a number of officials, also appointed by the President, who are in charge of the Divisions responsible for the administration of specialized areas of United States Law. Each Division is headed by an Assistant Attorney General. Administration of federal criminal law is the responsibility of the Assistant Attorney General for the Criminal

Division. The Criminal Division is further divided into a number of Sections. The Terrorism and Violent Crime Section of the Criminal Division is responsible for the administration of the federal criminal laws proscribing the killing of nationals of the United States abroad, as well as terrorist crimes such as conspiracies to destroy, by means of explosives, civil aircraft engaged in foreign commerce.

4. The prosecution of federal criminal cases in the United States District Courts is the responsibility of the United States Attorney in the relevant geographical district of the United States. Each United States Attorney is appointed by the President for a four year term, is subject to confirmation by the United States Senate, and reports to the Attorney General. There are 94 United States District Courts, and consequently 94 United States Attorneys, one assigned to represent the United States in each judicial district. Each United States Attorney has a number of Assistant United States Attorneys, who are not political appointees, and who represent the United States of America in litigation in the United States District Courts. Trial Attorneys employed by the Department of Justice also prosecute cases in the District Courts, and frequently do so in conjunction with Assistant United States Attorneys. The trial of federal offenses

generally takes place before the United States District Court in the geographical district in which the crime was committed. In the case of federal crimes involving the deaths of U.S. nationals or the destruction of U.S. civil aircraft committed outside the territorial jurisdiction of the United States by offenders not then found in the United States and who have not previously resided in the United States, an indictment or charge may be filed in the District of Columbia by the United States Attorney for the District of Columbia. In the event the defendants are surrendered for prosecution in the United States, the trial would be held in the United States District Court for the District of Columbia.

5. The primary responsibility for the investigation of crimes involving the death of U.S. nationals abroad and the destruction of U.S. civil aircraft engaged in foreign commerce by means of explosives resides with the Federal Bureau of Investigation (FBI). The FBI is part of the United States Department of Justice, and the Director of the FBI reports to the Attorney General. The FBI, headquartered in Washington, D.C., has field Divisions which provide investigative support to United States Attorneys located throughout the United States. The Laboratory Division of the FBI, includes an Explosives Unit

staffed by Special Agent Examiners, who have been qualified as forensic experts in matters relating to crimes involving explosive devices.

6. The United States Constitution provides that no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment¹ or indictment of a Grand Jury. The Federal Rules of Criminal Procedure provide that an offense which may be punished by imprisonment for a term exceeding one year or at hard labor shall be prosecuted by indictment, unless indictment is waived. The offenses with which the defendants are accused in this case are all felonies punishable by more than a year's imprisonment, and consequently were brought by indictment returned by a Grand Jury of the United States District Court for the District of Columbia. Further, before an indictment for killing nationals of the United States, outside the United States, in violation of Title 18 United States Code, Section 2331, can be returned, the Attorney General of the United States,

¹ The term "presentment" refers to written notice by a grand jury of any offense, from their own knowledge or observation without any bill of indictment laid before them by the government attorney. It is in effect an instruction that an indictment be drawn. All indictments returned by a grand jury are required by the Federal Rules of Criminal Procedure to be signed by the Attorney for the United States. This process formally initiates the prosecution in the name of the United States.

or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, must certify in writing that, in the judgment of the certifying official, such offense was intended to coerce, intimidate, or retaliate against a government or civilian population.

7. The Federal Rules of Criminal Procedure provide that an indictment shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the attorney for the government, typically by the United States Attorney for that District. Violations of specific statutes are referred to as "counts" or charges. It is required that the indictment state for each count the official or customary citation of the statute which the defendant is alleged to have violated. It may be alleged in a single count that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means.

8. Two or more offenses may be charged in the same indictment in a separate count for each offense, if the offenses charged are of the same or similar character, or are based on the same act or transactions or connected together or constituting parts of a common scheme or plan.

9. Two or more defendants may be charged in the same indictment if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

10. The principal function of the modern federal grand jury is to decide whether to approve or "return" an indictment proposed by a federal prosecutor charging federal felony violations. To make that decision, the grand jury must determine from the evidence presented whether a crime has been committed, and if there is probable cause to return an indictment charging one or more individuals with the commission of the crime. In furtherance of its principal function of deciding whether to approve indictments, the grand jury may also perform an investigative function for which its powers are broad. It can compel the sworn testimony of witnesses and the production of documentary and other physical evidence subject to very few limitations. In complex cases the grand jury's investigative role is essential. Although a prosecutor, working together with an investigative agency generally directs such investigation, the prosecutor and investigative agency alone cannot compel the

testimony of witnesses and the production of documentary and other physical evidence. They must work together with the grand jury to secure evidence that would not otherwise be available.

11. The secrecy of grand jury proceeding is governed by Rule 6(e) of the Federal Rules of Criminal Procedure, which except in certain specified circumstances prohibits the disclosure of matters occurring before a grand jury unless so directed by a court preliminarily to or in connection with a judicial proceeding.

12. A federal grand jury consists of at least 16, but not more than 23, United States citizens, who are at least 18 years of age, and who have lived for a period of one year within the judicial district where they are asked to serve. In practice grand juries do not draft their own proposed indictments. The prosecutors responsible for presenting the case to the grand jury typically advise the grand jury about the relevant law and prepare a proposed indictment for the grand jury to consider. The grand jury is under no obligation to return the indictment prepared by the prosecutors, and may choose to return an indictment for only some of the charges suggested, or not to return an indictment at all. An indictment may be found or "returned" only upon the concurrence of 12 or more jurors. The

grand jury conducts its deliberations and voting on indictments in secret, and outside the presence of the prosecutor or grand jury reporter. After the grand jury has voted, it physically appears in open court before a United States Magistrate Judge and returns the indictment as a "True Bill." The return of the indictment establishes probable cause that the defendants have committed the crimes alleged. When the indictment is returned, the government attorney moves the magistrate judge to issue arrest warrants to bring the defendants before the court.

13. At the lowest level of the federal judiciary are the 94 United States District Courts. The judges in the district courts are either United States District Court judges or magistrate judges. Magistrate judges, who are appointed for a term of years, have more limited jurisdiction than district court judges, who are appointed by the President, confirmed by the U.S. Senate, and who serve for life. District court judges are not subject to removal unless impeached by the U.S. Senate. The trial of the indictment in this case would be before a United States District Court Judge and a jury, unless trial by jury was waived by the defendants and the United States. Prior to trial, however, certain proceedings take place in the United States District Court before magistrate judges.

14. A law enforcement officer who arrests a defendant on a warrant issued following the return of an indictment by a grand jury is required to bring that person without unnecessary delay before the nearest available federal magistrate judge. At this initial appearance before the magistrate judge, the defendant is not required to plead to an offense not triable before a United States magistrate judge. The magistrate judge will advise the defendant of the nature of the charges. If not already represented by counsel the magistrate judge will advise the defendant of his right to retain counsel, inquire of his ability to afford counsel, and in the event that the defendant is unable to afford counsel, appoint counsel to represent him. In the District of Columbia, defense counsel employed by the Federal Public Defender or private members of the Bar of the District of Columbia are frequently appointed to represent indigent defendants in complex criminal cases. The magistrate judge will also inform the defendant that he is not required to make any statement and that any statement made by the defendant may be used against him. Once counsel has been appointed the magistrate judge will next address the release or detention of the defendant pending trial, which is governed by the Bail Reform Act, codified in Title 18 United States Code, Sections 3141-3145.

15. The magistrate judge is required to hold a detention hearing upon the motion of the government attorney in a case that involves a crime of violence or for which the maximum punishment is life imprisonment or death, in order to determine whether any conditions of release will reasonably assure the appearance of the person, and protect the safety of the community. The hearing shall be held immediately upon the persons first appearance before the judicial officer, unless that person seeks a continuance.

16. If following a detention hearing the magistrate judge finds by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant at trial, or finds by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of the community, or any person, the defendant will be ordered held without bond. An order by a magistrate judge detaining a defendant for trial is reviewable before a United States District Court Judge. An order by a District Court judge denying release pending trial, is a collateral matter which may be further appealed to a United States Circuit Court of Appeals.

17. Following the initial appearance and bail determination before the magistrate judge, the defendant is arraigned, usually before the district court judge to whom the case has been randomly assigned. Arraignments are conducted in open court, and consist of reading or summarizing the indictment previously furnished to the defendant and calling upon the defendant to plead thereto. A defendant may plead not guilty, guilty, or with the consent of the court, nolo contendere (no contest). If the defendant pleads not guilty, then the court sets a trial date. If the defendant has been detained without bail, the trial shall commence within ninety days of the beginning of such detention or designation of high risk by the government. Under the Speedy Trial Act, 18 U.S.C. § 3161 et seq., various periods of delay enumerated in §3161(h) are excluded in computing this ninety day period.

18. The period following arraignment in complex cases often involves extensive pretrial motion litigation under the Federal Rules of Criminal Procedure and various statutes governing the discovery by the defense of evidence in the possession of the government. Other than pleas of not guilty, guilty or nolo contendere, common law challenges to the indictment have been abolished, and all challenges which can be raised before trial

must now be raised by motion to dismiss or to grant appropriate relief under the Federal Rules of Criminal Procedure. Any defense, objection or request which is capable of determination without trial of the general issue, may be raised before trial by motion. The following motions must be raised before trial: (a) defenses and objections based on the institution of the prosecution; defects in the indictment (other than failure to show jurisdiction in the court or to state an offense); motions to suppress evidence; requests for discovery under Rule 16; or requests for severance of charges or defendants under Rule 14.

19. Prior to trial the defendant is required, upon written demand of the attorney for the government, to give notice of an intention to raise the defense of alibi. The defendant is required to provide the names and addressees of the witnesses upon whom the defendant intends to rely to establish that the defendant was elsewhere at the time of the commission of the crime.

20. Rule 16 of the Federal Rules of Criminal Procedure provides for extensive pretrial discovery by the defendant of the evidence within the custody or control of the government. Such discoverable materials which must be made available for inspection or copying by the defense include: all statements by

the defendant to a government agent; the defendant's prior criminal record; documents and tangible objects which are material to the preparation of the defendant's defense, or are intended for use as evidence at trial by the government, or belong to the defendant; reports of scientific tests material to the preparation of the defense or which are intended for use by the government as evidence in the government's case in chief at trial; and a summary of any anticipated expert witnesses' testimony which describes the expert's opinions, the bases and the reasons therefor and the witnesses qualifications.

21. The prosecution is further required by a long line of decisions of the Supreme Court of the United States, to disclose any information or evidence which is material to the issue of guilt or innocence of the defendant, or is material to the degree of punishment.

22. The destruction of an aircraft of the United States, in which death has resulted in violation of Title 18, United States Code, Section 32 is subject to the death penalty or life imprisonment pursuant to Section 34 of that Title. Whether or not the death penalty is sought, because the offense has the potential to be a "capital offense" the accused has other statutory protections. Title 18, United States Code, Section

3005, provides that upon request of the defendant, the court shall promptly appoint two defense counsel, one of whom shall be learned in the law applicable to capital cases, who shall have free access to the accused at all reasonable hours. In addition, the defendant is afforded the right to have the same process of the court available to the prosecution to compel witnesses to appear on his defense. In contrast to the practice in non-capital federal cases, in which the prosecution is not required to disclose the identity of its witnesses, the accused is given a list of government witnesses three days prior to trial.

23. Felony cases are required to be tried by jury in the United States District Court, unless the defendant waives the right to a jury trial in writing, with the approval of the court and the consent of the government. In a case tried without a jury the court makes a general finding of guilty or not guilty, and upon request before the general finding, finds the facts specially. A trial, or petit jury, is composed of 12 citizens who are chosen from a panel, or venire, summoned at random according to the jury selection plan established in the relevant district. At any time before the verdict the parties may stipulate in writing with the approval of the court that a valid verdict may be returned by a jury of less than 12, should the

court have found it necessary to excuse one or more jurors for just cause after the trial commences. After the jury has retired to deliberate if the court has found it necessary to excuse a juror for just cause, and even in the absence of a stipulation by the parties, the court has discretion to permit a valid verdict to be returned by the 11 remaining jurors. While Rule 24 of the Federal Rules of Criminal Procedure provides that the court may permit the defendant or the defendant's attorney and the government attorney to conduct an examination of prospective jurors, the practice in the United States District Court for the District of Columbia is for the court to conduct this inquiry with questions submitted by the parties. There is no limitation on the number of challenges for cause. If the offense charged is punishable by death, each side is permitted 20 preemptory jury challenges. In non-capital felony cases the defense is entitled to 10 preemptory challenges, while the government is only entitled to six preemptory challenges.

24. The function of the jury in the trial of federal criminal case is to determine what the facts are in that case. The jury is the sole judge of the facts and they alone decide the credibility of the witnesses and the weight to be given the evidence presented. Jurors are instructed by the court to

determine the facts without fear, sympathy or favoritism, and not to be improperly influenced by anyone's race, ethnic origin or gender. At all times the burden of proof remains on the prosecution to prove the defendant guilty beyond a reasonable doubt. The burden never shifts to the defense, and the defendant has no obligation to testify or offer any evidence. No inference may be drawn by the jury because of the defendant's failure to testify or offer other evidence. The prosecution is precluded from making any reference to the defendant's failure to testify or offer a defense. The standard for conviction on an offense, as courts are required to instruct, is that it is necessary for the jurors to unanimously find that the prosecution has proven each and every element of the offense charged beyond a reasonable doubt.

25. The function of the United States District Court Judge is to conduct the trial in an orderly, fair and efficient manner; to rule on questions of law and the admissibility of evidence under the Federal Rules of Evidence; and to instruct the jury on the law applicable to the case. Trials, other than jury deliberations, are conducted in public, and the defendant has the right to be present and represented by counsel at all stages of the trial.

26. The trial of a federal criminal case has distinct phases consisting of the prosecution's (or "the government's") case in chief, the defense case, government rebuttal, final argument, jury instruction, jury deliberation, jury verdict, and judgment.

27. The prosecution's case in chief begins after a jury has been empaneled and sworn. The prosecution is then required to make an opening statement summarizing the evidence which will be presented to prove the specific counts of the indictment is outlined. The prosecution is required to set forth sufficient anticipated testimony to establish a prima facie case. The defense can make an opening statement at this time, or can reserve its opening statement until the close of the prosecution's case.

28. The presentation of evidence is accomplished by calling witnesses, who are sworn to testify truthfully, and who give their evidence in response to direct examination by the prosecutor. Objections to the authenticity, relevance, materiality, and admissibility of evidence, competency of witnesses, and the scope of expert testimony, are legal issues ruled upon by the trial judge. All witnesses are subject to cross examination by opposing counsel. The prosecution can then

enquire on re-direct examination into those new areas opened up by the defense on cross examination, which may lead to re-cross by the defense. All prior statements by the witness concerning the subject matter of his testimony are subject to production by the prosecution. The government is also required to turn over any material bearing on the credibility of the witness which would aid the defense in impeaching the witness.

29. At the conclusion of the presentation of evidence in its case in chief, the prosecution will "rest." At that point the court is required on the motion of the defendant, or on its own motion, to grant a judgment of acquittal on one or more charges if the evidence is insufficient to sustain a conviction as a matter of law. The standard applied is whether, viewing the evidence in the light most favorable to the prosecution, a reasonable jury could find the defendant guilty beyond a reasonable doubt. If the defendant's motion for judgment of acquittal is not granted at this time, the defendant may offer evidence without having reserved the right. The court may also reserve decision on the motion for judgment of acquittal, proceed with the trial, submit the case to the jury and decide the motion either before the jury returns a verdict of guilty or is discharged without having returned a verdict. If the jury

returns a verdict of guilty or is discharged without having reached a verdict, a motion for judgment of acquittal may be made or renewed within seven days after the jury is discharged.

30. At the conclusion of the testimonial phase of a trial, usually after the prosecution has offered evidence to rebut defense evidence, both sides have an opportunity to argue the case to the jury. The prosecution begins by summarizing only the evidence which the jury has heard, and arguing the inferences which can reasonably be drawn from the evidence. The jury's recollection controls and what the prosecutor says is not itself evidence. In this phase, which is called "opening argument," the prosecutor concludes by asking the jury to find the defendant guilty beyond a reasonable doubt. The defense counsel then has an opportunity to address the jury. The defense argument can be, and usually is, an attack on the credibility of the government's witnesses and strength of the government's case. The defense is given wide latitude in demonstrating that the government has failed to prove the defendant's guilt beyond a reasonable doubt. The defense, although it has no obligation to offer any evidence, if such evidence has been offered, can argue that the defense evidence has negated the government's case. The defense, if it chooses, can also argue that because the burden of proof is on

if such evidence has been offered, can argue that the defense evidence has negated the government's case. The defense, if it chooses, can also argue that because the burden of proof is on the government to prove the defendant guilty beyond a reasonable doubt, the defendant has no obligation to offer any evidence, and should be acquitted because of the presumption of innocence. Following the conclusion of the defense argument the prosecution is given an opportunity to argue in rebuttal to the jury.

31. Before the jury retires to deliberate, the district court judge instructs or "charges" the jury based upon standard codified charges as well as requested instructions submitted by the parties. The practice is for both sides to submit proposed jury instructions prior to final argument, and for the judge to furnish counsel with copies of the charge which will be given to the jury. The defense can preserve for appeal any objections to the charge, or failure to give requested instructions. The jury is always instructed on the burden of proof, the presumption of innocence, that the indictment is not evidence, what evidence may be considered, that they are sole judges of the facts and the weight to be given to the testimony of the witnesses, the elements of the offenses which the government must prove beyond a reasonable doubt, and the requirement for unanimity of verdict.

each defendant on each count of the indictment in which they are charged. If there are two or more defendants, the jury at any time during deliberations may return a verdict or verdicts with respect to a defendant or defendant as to whom it has agreed; if the jury cannot agree with respect to all, the defendant or defendants as to whom it does not agree may be tried again. When a verdict is returned in open court, and before it is recorded, the defendant may request that each juror be polled. If upon the poll there is not a unanimous concurrence the jury may be directed to retire for further deliberations or may be discharged.

32. If the jury returns a verdict of not guilty, the defendant is then discharged, and cannot be retried on that offense. If the jury returns a verdict of guilty, the court will set a tentative date for the imposition of sentence, and will determine whether the defendant will remain at liberty or be further detained pending appeal.

33. For crimes committed after November 1, 1987, the imposition of sentence is governed by the Sentencing Reform Act of 1984, which abolished parole, and which is codified at 18 U.S.C. §§ 3551-3742 and 18 U.S.C. §§ 991-998. Under the Sentencing Reform Act the trial judge determines the sentence

from within a range of sentences provided for by the United States Sentencing Commission Guidelines. Prior to the imposition of sentence a Presentence Investigation Report is prepared by the United States Probation Office for the geographic district, which sets forth the defendant's background, criminal history, impact on the victim(s), applicable Sentencing Guidelines, computation in months of imprisonment of Guideline Sentence Range within the statutory maximum, and any basis for departure from the Guideline Range. The contents of the report are disclosed to the defendant and his counsel, time is permitted for them to file objections, and a sentencing hearing is held, at which evidence may be taken before the judge resolves the objections and makes written findings.

34. Before imposing a sentence on a defendant, the court must verify that the defendant and his counsel have read and discussed the presentence report, and he must give the defendant and his counsel an opportunity to comment on the report. The defendant's counsel must be given an opportunity to speak on behalf of the defendant. The court must address the defendant personally and determine whether the defendant wishes to personally make a statement and present any information in mitigation of the sentence. The judge must also afford the

attorney for the U.S. Government an opportunity equivalent to that of the defendant's to address the court on what constitutes an appropriate sentence. If the crime for which the sentence is to be imposed is a crime of violence, as is the case here, the court must personally address the family members and relatives of deceased victims, permit them to be present at the sentencing hearing, and determine whether they wish to make a statement or present any information in relation to the sentence. After imposing sentence in a case which has gone to trial on a plea of not guilty, the defendant must advise the defendant of his right to appeal. After imposing sentence in any case, the court must advise the defendant of his right to appeal the sentence. If the defendant is unable to pay the cost of an appeal the judge will advise him that he may seek leave to appeal in forma pauperis, and thereby be able to appeal without paying court costs. A written judgment of conviction which sets forth the verdict, the adjudication and the sentence of the court is signed by the judge and entered by the clerk of court.

35. The defendant has a statutory right of appeal from a conviction in the District Court to a United States Court of Appeals, which is also referred to as a Circuit Court. The appeal may be based on pretrial or trial rulings by the district

court, prosecutorial errors, jurisdiction, statutory defects or the sufficiency of the evidence. The court of appeals is a court of review, and not a trial de novo. There are 12 Circuit Courts of Appeal which hear appeals from criminal cases over a particular geographic area or "Circuit." The relevant circuit for appeals from the United States District Court for the District of Columbia, is the United States Court of Appeals for the District of Columbia Circuit, which also sits in Washington, D.C.

36. Appeals in the Circuit Courts are heard by panel of three Circuit Court judges. At the appellate level, the attorneys for government and the defense file written briefs based upon the record of proceedings the district court. The panel of Circuit Court Judges will subsequently hear oral argument, in which both sides are represented by counsel, and questions are frequently posed to counsel. After oral argument the case is submitted for decision which requires a vote of two of the three judges for affirmance or reversal. The majority will then file a written opinion setting forth the basis for the decision. Either party may petition the full court to rehear the case with a suggestion that the case be reheard en banc. A party does not have a right to have the case heard before the

full court, which in the case of the District of Columbia Circuit consists of 11 judges in regular service, and these hearings are infrequent.

37. A defendant whose conviction has been affirmed by a panel circuit judges, and who has either not sought rehearing en banc, or had his petition denied, may petition the Supreme Court of the United States to review the decision of the United States Circuit Court. The petition, called a "Writ of Certiorari," and is not an appeal of right, and must demonstrate a Constitutional or federal issue meriting review. If the Supreme Court determines to hear the case it will grant the Petition for Writ of Certiorari, and the case proceeds through briefing and oral argument on the merits. If the petition is denied, the decision of the circuit court below is affirmed.

Exhibit 7

United States Code, Title 18, Section 32 (Destruction of aircraft
or aircraft facilities)

United States Code, Title 18, Section 844 (Malicious destruction
of property used in or affecting interstate or foreign commerce,
causing deaths)

United States Code, Title 18, Section 2332 (Terrorist murders of
United States nationals outside the United States; this section
was codified as United States Code, Title 18, Section 2331 until
October 29, 1992)

United States Code, Title 18, Section 371 (Conspiracy to commit
criminal offense)

1995 EDITION
FEDERAL
CRIMINAL CODE
and
RULES

as amended to February 1, 1995

Rules of Criminal Procedure
Rules Governing Habeas Corpus Cases
Rules Governing Motion Attacking Sentence
Rules of Evidence
Rules of Appellate Procedure
Rules of Supreme Court of the United States

Title 18, Crimes and Criminal Procedure
 App. I—Unlawful Possession or Receipt of Firearms
 App. II—Interstate Agreement on Detainers
 App. III—Classified Information Procedures Act
Title 15, Section 1644, Fraudulent Use of Credit Cards
Title 21, Chapter 13, Drug Abuse Prevention and Control
Title 26, Chapter 53, Machine Guns, Destructive Devices, and
 Certain Other Firearms
 Sections 7201 to 7217—Procedure & Administration,
 Crimes
Title 28, Chapter 58, United States Sentencing Commission
 Chapter 153, Habeas Corpus
 Chapter 175, Civil Commitment and Rehabilitation of
 Narcotic Addicts
Title 31, Chapter 53, Subch. II, Records and Reports on Monetary
 Instruments Transactions
Title 41, Sections 51 to 58, Anti-kickback Act of 1986
Title 46 App., Chapter 38, Maritime Drug Law Enforcement
Title 49, Sections 1155, 46306 to 46316, & 46501 to 46507,
 Federal Aviation Criminal Penalties

Consolidated Index

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§ 32. Destruction of aircraft or aircraft facilities

(a) Whoever willfully—

(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be placed or such making or causing to be made is likely to endanger the safety of any such aircraft;

(3) sets fire to, damages, destroys, or disables any air navigation facility, or interferes by force or violence with the operation of such facility, if such fire, damaging, destroying, disabling, or interfering is likely to endanger the safety of any such aircraft in flight;

(4) with the intent to damage, destroy, or disable any such aircraft, sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft;

(5) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft;

(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight; or

(7) attempts to do anything prohibited under paragraphs (1) through (6) of this subsection;

shall be fined under this title or imprisoned not more than twenty years or both.

(b) Whoever willfully—

(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight;

(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight; or

(4) attempts to commit an offense described in paragraphs (1) through (3) of this subsection;

shall, if the offender is later found in the United States, be fined under this title or imprisoned not more than twenty years, or both.

(c) Whoever willfully imparts or conveys any threat to do an act which would violate any of paragraphs (1) through (5) of subsection (a) or any of paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution shall be fined under this title or imprisoned not more than five years, or both.

(Added July 14, 1956, c. 595, § 1, 70 Stat. 539, and amended Oct. 12, 1964, Pub.L. 98-473, Title II, § 2013(b), 98 Stat. 2187; Nov. 18, 1968, Pub.L. 100-690, Title VII, § 7016, 102 Stat. 4396; Sept. 13, 1994, Pub.L. 103-322, Title XXXIII, § 330016(1)(O), (S), 108 Stat. 2148.)

§ 844. Penalties

(a) Any person who violates subsections (a) through (i) of section 842 of this chapter shall be fined under this title or imprisoned not more than ten years, or both.

(b) Any person who violates any other provision of section 842 of this chapter shall be fined under this title or imprisoned not more than one year, or both.

(c)(1) Any explosive materials involved or used or intended to be used in any violation of the provisions of this chapter or any other rule or regulation promulgated thereunder or any violation of any criminal law of the United States shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of (including any person having an interest in) the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

(A) the property has not been used or involved in a violation of law; or

(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.

(d) Whoever transports or receives, or attempts to transport or receive, in interstate or foreign commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years, or fined under this title, or both; and if personal injury

results to any person including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not more than twenty years or fined under this title, or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

(e) Whoever, through the use of the mail, telephone, telegraph, or other instrument of commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of fire or an explosive shall be imprisoned for not more than five years or fined under this title, or both.

(f) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be imprisoned for not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,¹ or both; and if personal injury results to any person including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not more than twenty years, or fined under this title, or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

(g)(1) Except as provided in paragraph (2), whoever possesses an explosive in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, except with the written consent of the agency, department, or other person responsible for the management of such building or airport, shall be imprisoned for not more than five years, or fined under this title, or both.

(2) The provisions of this subsection shall not be applicable to—

(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this

chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Research and Special Projects Administration for the handling of hazardous materials pursuant to chapter 51 of title 49.

(h) Whoever—

(1) uses fire or an explosive to commit any felony which may be prosecuted in a court of the United States, or

(2) carries an explosive during the commission of any felony which may be prosecuted in a court of the United States,

including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for 5 years but not more than 15 years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for 10 years but not more than 25 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.

(i) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,¹ or both; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not more than 40 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,¹ or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment. No person shall be prosecuted, tried, or punished for any noncapital offense under this subsection unless the indictment is

found or the information is instituted within 7 years after the date on which the offense was committed.

(j) For the purposes of subsections (d), (e), (f), (g), (h), and (i) of this section, the term "explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of section 232 of this title, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.

(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or from any permittee shall be fined under this title, imprisoned not more than 10 years, or both.

(m) A person who conspires to commit an offense under subsection (h) shall be imprisoned for any term of years not exceeding 20, fined under this title, or both.

(Added Pub.L. 91-452, Title XI, § 1102(a), Oct. 15, 1970, 84 Stat. 956, and amended Pub.L. 97-298, § 2, Oct. 12, 1982, 96 Stat. 1319; Pub.L. 98-473, Title II, § 1014, Oct. 12, 1984, 98 Stat. 2142; Pub.L. 100-690, Title VI, § 6474(a), (b), Nov. 18, 1988, 102 Stat. 4379, 4380; Pub.L. 101-647, Title XXXV, § 3522, Nov. 29, 1990, 104 Stat. 4924; Pub. L. 103-272, § 5(e)(7), July 5, 1994, 108 Stat. 1374; Pub.L. 103-322, Title VI, § 60003(a)(3), Title XI, §§ 110504(b), 110509, 110515(b), 110518(b), Title XXXII, §§ 320106, 320917(a), Title XXXIII, §§ 330016(1)(H), (K), (L), (N), Sept. 13, 1994, 108 Stat. 1969, 2016, 2018, 2020, 2111, 2129, 2147, 2148.)

¹ So in original.

§ 2331. Definitions

As used in this chapter—

(1) the term "international terrorism" means activities that—

(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping; and

(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

(2) the term "national of the United States" has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

(3) the term "person" means any individual or entity capable of holding a legal or beneficial interest in property; and

(4) the term "act of war" means any act occurring in the course of—

(A) declared war;

(B) armed conflict, whether or not war has been declared, between two or more nations; or

(C) armed conflict between military forces of any origin.

(Added Pub.L. 102-572, Title X, § 1003(a)(3), Oct. 29, 1992, 106 Stat. 4521.)

§ 2332. Criminal penalties

(a) Homicide.—Whoever kills a national of the United States, while such national is outside the United States, shall—

(1) if the killing is murder (as defined in section 1111(a)), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;

(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both; and

(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than three years, or both.

(b) Attempt or conspiracy with respect to homicide.—Whoever outside the United States attempts to kill, or engages in a conspiracy to kill, a national of the United States shall—

(1) in the case of an attempt to commit a killing that is a murder as defined in this chapter, be fined under this title or imprisoned not more than 20 years, or both; and

(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

(c) Other conduct.—Whoever outside the United States engages in physical violence—

(1) with intent to cause serious bodily injury to a national of the United States; or

(2) with the result that serious bodily injury is caused to a national of the United States;

shall be fined under this title or imprisoned not more than five years, or both.

(d) Limitation on prosecution.—No prosecution for any offense described in this section shall be undertaken by the United States except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions that, in the judgment of the certifying official, such offense was

intended to coerce, intimidate, or retaliate against a government or a civilian population.

(e) Redesignated (d)

(Added Pub.L. 99-399, Title XII, § 1202(a), Aug. 27, 1986, 100 Stat. 896, § 2331, and amended Pub.L. 101-519, § 132(b), Nov. 5, 1990, 104 Stat. 2250; Pub.L. 102-27, Title IV, § 402, Apr. 10, 1991, 105 Stat. 155; Pub.L. 102-136, § 126, Oct. 25, 1991, 105 Stat. 643; renumbered § 2332 and amended Pub.L. 102-572, Title X, § 1003(a)(1), (2), Oct. 29, 1992, 106 Stat. 4521; Pub.L. 103-322, Title VI, § 60022, Sept. 13, 1994, 108 Stat. 1980.)

§ 371. Conspiracy to commit offense or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

(As amended Sept. 13, 1994, Pub.L. 103-322, Title XXXIII, § 330016(1)(L), 108 Stat. 2147.)

Exhibit 8

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
(United Nations Document A/46/826-S/23307; 31 December 1991)



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GENERAL ASSEMBLY
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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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(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 Mohmed 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 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.

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.

Exhibit 9

Letter dated 20 December 1991 from the Permanent Representative
of the United States of America to the United Nations addressed
to the Secretary-General
(United Nations Document A/46/827-S/23308; 31 December 1991)



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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.

Exhibit 10

Letter dated 20 December 1991 from the Permanent Representative
of France to the United Nations addressed to the
Secretary-General
(United Nations Document A/46/825-S/23306; 31 December 1991)



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SECURITY COUNCIL
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MEASURES TO PREVENT INTERNATIONAL
TERRORISM WHICH ENDANGERS OR
TAKES INNOCENT HUMAN LIVES OR
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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.

Exhibit 11

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
(United Nations Document A/46/828-S/23309; 31 December 1991)



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AND STUDY OF THE UNDERLYING
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HUMAN LIVES, INCLUDING THEIR OWN,
IN AN ATTEMPT TO EFFECT RADICAL
CHANGES

SECURITY COUNCIL
Forty-sixth year

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

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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.

Exhibit 12

Letter dated 17 November 1991 from the Permanent Representative
of the Libyan Arab Jamahiriya to the United Nations addressed to
the Secretary-General
(United Nations Document A/46/660-S/23226; 20 November 1991)



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STRENGTHENING OF SECURITY AND COOPERATION
IN THE MEDITERRANEAN REGION

SECURITY COUNCIL
Forty-sixth year

Letter dated 17 November 1991 from the Permanent Representative
of the Libyan Arab Jamahiriya to the United Nations addressed
to the Secretary-General

I have the honour to transmit herewith a letter addressed to you by Mr. Ibrahim M. Bishari, Secretary of the People's Committee of the People's Bureau for Foreign Liaison and International Cooperation concerning the British and United States statements accusing what they called "Libyan elements" of responsibility for the distressing incident of the crash of a United States Pan Am aircraft in 1988.

I should be grateful if you would have this letter circulated as an official document of the General Assembly under agenda item 67, and of the Security Council.

(Signed) Ali Ahmed ELHOUEIRI
Permanent Representative

Annex

Letter from the Secretary of the People's Committee of the
People's Bureau for Foreign Liaison and International
Cooperation to the Secretary-General

You have undoubtedly followed the statements issued by the Governments of the United Kingdom and the United States of America accusing what they have called "Libyan elements" of responsibility for the distressing incident of the crash of the Pan Am aircraft in 1988. While we are astonished at the issuance of such statements and the strong language in which they are couched at a time when the world is witnessing an international détente that has led to renunciation of the use of such language and such random flinging of accusations, while we are astonished at that, we warn that such statements stem from a premeditated intention to accuse the Great Jamahiriya and undertake aggression against it. They unquestionably represent a great threat to peace and security, not only in the region but throughout the world.

We categorically deny that the Great Jamahiriya had any association with that incident or that the Libyan authorities have any knowledge of its perpetrators, and we reaffirm our condemnation of international terrorism in all its forms and extend the sympathy of the Libyan Arab people to the families of the victims of the incident and express its solidarity with them.

The Great Jamahiriya is a small, developing country. It is subjected to false accusations by the United States of America and the United Kingdom and, consequently, reserves its right to self-defence before the United Nations. At the same time, it affirms its belief in the peaceful settlement of disputes, as provided for in Article 33, paragraph 1, of the Charter, which provides that the parties to any dispute "shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement ...". The Great Jamahiriya is willing to resolve any difference between it and the United States of America and the United Kingdom by the means provided for in this Article.

The threatening language contained in the statements by the Governments of the United States of America and the United Kingdom are incompatible with the spirit of the age in which we live, the age of détente and peaceful coexistence, and is no longer the language of communication and dialogue between civilized nations. The alternative is adherence to the purposes and principles of the Charter of the United Nations. I hereby affirm that the competent authorities in the Great Jamahiriya adhere to the provisions of the Charter, particularly with regard to the peaceful settlement of disputes. We in the Great Jamahiriya are amazed that the Governments of States that are permanent members of the Security Council should direct such baseless accusations against a small State such as Libya.

Through you, Sir, we call upon the United States of America and the United Kingdom to resort to the language of dialogue and the logic of law, wisdom and reason, as provided for in the Charter. You will perceive, as you have in the past perceived, the extent of the Great Jamahiriya's readiness to cooperate in the conduct of any neutral and honest enquiry.

Raising issues as a means of propaganda and escalating them in this way without making any official contacts with the Libyan authorities and making insinuations and threats regarding the adoption of economic measures against the Great Jamahiriya before completion of the legal procedures, confirms our suspicion that these States seek only to intimidate us. It also recalls their interventions in the course of events that we have mentioned.

In conclusion, we affirm to you our condemnation of international terrorism in all its forms, to which Libya has fallen victim more than once. In 1983 a Libyan civilian aircraft was downed, and in 1986 the Great Jamahiriya was subjected to direct military aggression.

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

Exhibit 13

Letter dated 20 November 1991 from the Permanent Representative
of the Libyan Arab Jamahiriya to the United Nations addressed to
the Secretary-General
(United Nations Document A/46/844-S/23416; 13 January 1992)



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SECURITY COUNCIL
Forty-seventh 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: (a) REPORT OF THE SECRETARY-GENERAL;
(b) CONVENING, UNDER THE AUSPICES OF THE
UNITED NATIONS, OF AN INTERNATIONAL CONFERENCE
TO DEFINE TERRORISM AND TO DIFFERENTIATE IT
FROM THE STRUGGLE OF PEOPLES FOR NATIONAL
LIBERATION

Letter dated 20 November 1991 from the Permanent Representative
of the Libyan Arab Jamahiriya to the United Nations addressed
to the Secretary-General*

I have the honour to transmit to you herewith the text of a letter addressed to you by Mr. Ibrahim Muhammad Bishari, Secretary of the People's Committee for Foreign Liaison and International Cooperation, concerning the statements made by the Governments of the United Kingdom and the United States accusing what they call "Libyan elements" of responsibility for the distressing incident in which a Pan Am aircraft crashed in 1988 and concerning

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S/23416

English

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the fact that those statements contain accusations and threats at a time when international relations are undergoing a relaxation of tensions and there is a spirit of accord among members of the international community based on constructive dialogue and mutual respect.

I should be grateful if you would have this letter and its annex circulated as a document of the United Nations.

(Signed) Ali Ahmed ELHOUEIRI
Permanent Representative

ANNEX

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

You have no doubt noted the statements made by the Governments of the United Kingdom and the United States accusing what they call "Libyan elements" of responsibility for the distressing incident in which a Pan Am aircraft crashed over Scotland in 1988, while we have declared our astonishment that such statements of accusation and threat are being issued at a time when international relations are witnessing a concord among States that is promoting the value of dialogue.

Such official statements by the United States Department of Justice, the official spokesman for the White House and the British Foreign Secretary indicate a premeditated intention of and a carefully considered plan for aggression against the Libyan people.

Successive United States administrations have persistently intervened in Libya's internal affairs with a view to forcibly changing its popular political and social regime, bringing all possible pressures to bear on it, conspiring against the political and social choices it has made and intimidating it. This has, on many occasions, reached the point of aggression on false pretexts that lack any material and tangible evidence.

In the political, economic and military confrontation that has been imposed upon it, Libya has challenged United States administrations, before American and world public opinion, to produce tangible, material evidence to corroborate their accusations. On each occasion, however, United States administrations have failed to produce such tangible, material evidence and have evaded confronting the truth that lies behind the falsity of their allegations.

I

In 1986, the United States Administration invented false pretexts, unsupported by any tangible and material evidence, and falsely and slanderously accused Libya of responsibility for the bombing of a Berlin nightclub and for a bombing incident at Rome airport. It embarked on treacherous military aggression at night - without awaiting the outcome of any inquiry - against the Libyan people while they were peacefully and tranquilly asleep and thereby showed contempt for all moral and humanitarian values. It killed innocent children, old people and citizens, destroyed schools, hospitals and kindergartens and brought psychological terror into the hearts of sleeping children, old people and women with its treacherous and unwarranted aggression.

It subsequently became clear from the results of inquiries into those two incidents that Libya had no association with them. Nevertheless, the United States Administration expressed no regret for its aggression, and it was as if the people killed were no more than a flock of sheep, despite the fact that the world, as represented by international and regional organizations and by democratic forces, condemned the aggression, exonerated the Libyan people and expressed its condolences and its solidarity with the families of the dead and wounded in a whole series of international resolutions, including:

General Assembly resolution 41/38 of 20 November 1986;

The resolution of the eighth Summit Conference of the Movement of Non-Aligned Countries, held at Harare in 1986;

The Declaration of the Assembly of Heads of State and Government of the Organization of African Unity at its twenty-second ordinary session in July 1986;

Communiqué No. 21 of the Islamic Summit Conference at its session held in Kuwait in 1987.

II

The United States is exploiting the current international situation to set itself up as a world government and an international policeman determining what is true and what is false and defining ethics and good conduct. Now, it suddenly surprises us and the whole world by fabricating new and groundless pretexts and by falsely and slanderously accusing Libya once again, three years after the crash of a United States Pan Am aircraft into which the United States Administration has conducted an inquiry.

Libya has heard, just as the world has heard, the statements of some United States and British leaders denying that Libya has any association with this incident and directing their suspicions against other parties. The United States of America has, however, with the power of one capable of doing so, endeavoured to refute the accusations made against other parties and to exculpate them. It has accused Libya, which it had previously exonerated, perhaps because of something in Libyan policy that does not please the United States Administration, with the premeditated intention of engaging in aggression in order to change the popular democratic regime by force, a popular political regime of which the United States Administration does not approve, thereby violating the provisions of the Charter of the United Nations prohibiting the threat or use of force and calling for the peaceful solution of problems between States by means of dialogue.

The United States Administration is once again inventing false accusations unsupported by any material, tangible evidence. It is jumping to conclusions and it is deciding for aggression, as has been said by United States and British leaders. Once more, we challenge the United States Administration and the British Government, before American, British and world public opinion, to produce convincing material, tangible evidence.

Furthermore, when the General People's Committee for Justice learned from the People's Committee for Foreign Liaison that it had received a note from the British Government in which accusations were made against "two Libyans", it proceeded to appoint a judge to inquire into the accusations made. The General People's Committee for Justice requested the United States Administration and the British Government to nominate lawyers to monitor the fairness and propriety of the inquiry. It also requested international humanitarian organizations to nominate lawyers to ascertain the propriety and fairness of the inquiry and the desire of the Great Jamahiriya to establish the truth as it was and not as it was seen or desired by the United States and British Governments. This corroborates the sincerity of our intentions and our unconditional readiness to cooperate in order to establish the truth.

The Great Jamahiriya declares its readiness to cooperate to the full with any impartial international judicial authority, because we are the victim in this matter. If, however, it is a matter of another premeditated act of aggression on the part of the United States Administration and the British Government with the intention of penalizing Libya, changing its popular political and social regime by force and punishing it for the political positions it has adopted, then we expect the Security Council and General Assembly of the United Nations, the international community, those peoples and governments that cherish justice and peace and world public opinion to stand by Libya in defence of its rights and in defence of the Charter of the United Nations. The Charter guarantees the equality of peoples and their right to make their own political and social choices, a right that is enshrined in religious laws and is guaranteed by international law.

In placing before you these facts and stating our point of view, we look forward to the adoption of a collective position that will put a halt to this repeated aggression against the Libyan people. We reserve our right, with your support, to defend ourselves in accordance with Article 51 of the Charter of the United Nations. We are appreciative of your role in the maintenance of peace and security and in the creation of a world in which great and small, powerful and weak are equal.

(Signed) Ibrahim Muhammad BISHARI
Secretary of the People's Committee
for Foreign Liaison and International
Cooperation

Exhibit 14

Letter dated 8 January 1992 from the Permanent Representative of
the Libyan Arab Jamahiriya to the United Nations addressed to the
Secretary-General

(United Nations Document A/46/841-S/23396; 9 January 1992)



General Assembly Security Council

Distr.
GENERAL

A/46/841
S/23396.
9 January 1992
ENGLISH
ORIGINAL: ARABIC

GENERAL ASSEMBLY

Forty-sixth session

Agenda items 69 and 125

PROTECTION AND SECURITY OF SMALL STATES

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

- (a) REPORT OF THE SECRETARY-GENERAL
- (b) CONVENING, UNDER THE AUSPICES OF THE
UNITED NATIONS, OF AN INTERNATIONAL
CONFERENCE TO DEFINE TERRORISM AND TO
DIFFERENTIATE IT FROM THE STRUGGLE OF
PEOPLES FOR NATIONAL LIBERATION

SECURITY COUNCIL

Forty-seventh year

Letter dated 8 January 1992 from the Permanent Representative
of the Libyan Arab Jamahiriya to the United Nations addressed
to the Secretary-General

I have the honour to transmit to you herewith a letter addressed to you
by Mr. Ibrahim M. Bishari, Secretary of the People's Committee of the People's
Bureau for Foreign Liaison and International Cooperation.

I should be grateful if you would have the present letter and its annex
circulated as a document of the General Assembly, under agenda items 69 and
125, and of the Security Council.

(Signed) Ali Ahmed ELHOUEIRI
Permanent Representative

ANNEX

The People's Committee of the People's Bureau for Foreign Liaison and International Cooperation has taken note of the statements issued on 20 December 1991 and circulated as documents of the General Assembly and the Security Council at the request of the permanent representatives of France, the United Kingdom and the United States of America. Having studied these statements, it is evident to us that they are merely a repetition of the allegations and accusations made against my country that we have already denied categorically and with regard to which we have repeatedly urged that any material and tangible evidence that might confirm them should be produced. In this context, my country would like to reaffirm its condemnation of terrorism in all its forms, inasmuch as it has been its prime victim. Perhaps the international community still recalls the deliberate downing of a Libyan civil aircraft over Sinai in 1973. Perhaps it also still recalls the United States military attack on peaceable Libyan cities in 1986, in which there were hundreds of innocent civilian victims, on the pretext that Libya was responsible for the bombing of a Berlin nightclub. It was subsequently made public that Libya was innocent of any involvement in that incident, but the United States expressed no regret and did not provide the compensation endorsed by the General Assembly of the United Nations and by other international and regional organizations.

It is our fear that this campaign to mar my country's good repute and deceive world public opinion is merely a preliminary to renewed aggression against Libya. If it is merely a matter of inquiring into the two incidents in which the United States and French passenger aircraft were drowned, then my country has already expressed its readiness to cooperate with the parties concerned. It entrusted two judges with the task of conducting an inquiry and gathering information, and they have already embarked on that inquiry. With regard to those against whom charges have been made, they have taken all the measures that accord with the Libyan Code of Criminal Procedure promulgated in 1953, including contact with the competent judicial authorities in the three countries in question, which have, however, refused to respond to the judges' request. If, on the other hand, it is simply a question of a difference of legal opinion regarding the authority that has jurisdiction in the inquiry, then we do not believe that the language of threats and menaces that has been used by the three countries in their statements is called for. International law on the question is clear and explicit, and it shows that the Libyan judicial authorities are those that have jurisdiction, and this involves no great difficulty.

Despite the foregoing, aware as we are of the international dimensions and ramifications of the incidents invoked and of the large number of countries that are concerned parties and despite the fact that we are fully persuaded of the impartiality and fairness of the administration of justice in

Libya, we have nevertheless, in a desire to convince the other parties of our good faith, offered our acceptance in principle of a fair and impartial international inquiry into the matter or of recourse to the International Court of Justice, the major judicial instrument of the United Nations, for a decision on the question of conflicting jurisdictions. It is a source of regret that the three countries have rejected all of these offers. When they came together on the position they have adopted, they resorted to politicizing the issue by submitting it to the Security Council. We, however, affirm that submission of the matter to the Security Council has no basis either in the Charter of the United Nations or in international law, which does not stipulate that the Security Council has the power to consider judicial cases involving individuals.

If it is a matter of political differences between the three countries and Libya, then the differences must be discussed on the basis of the Charter of the United Nations, which does not endorse aggression or the threat of aggression but rather calls for the resolution of differences by peaceful means. Libya has expressed its readiness to pursue any peaceful means that the three countries may desire for the resolution of existing differences. We should like, through you, to offer the following:

1. To enter into dialogue with the three countries, either directly or through the United Nations, with a view to resolving any political dispute between us and the parties concerned.
2. To invite the parties, if it is maintained that a legal conflict exists, to reach agreement on its resolution through international judicial authorities, including the International Court of Justice and in accordance with its Statute.
3. To urge the three countries to provide the Libyan judges entrusted with the investigation into these two regrettable incidents with an official copy of the records of the investigation, concerning which they have already submitted requests to the authorities concerned in those countries.

My country is a victim of international terrorism and of terrorist groups, since the United States is training and arming terrorists for the purpose of murdering innocent civilians. It is maintaining terrorist camps and compelling Libyan army prisoners to work against their people and, from practitioners of an honourable military calling, it is converting them into terrorists.

A/46/841
S/23396
English
Page 4

Libya has affirmed and now reaffirms a position of principle that is fully committed to the provisions of the Charter of the United Nations relating to the settlement of disputes between States. Libya has expressed its complete readiness to cooperate with all parties to the present dispute for the resolution of that dispute by peaceful means, as explicitly required by Chapter VI, Article 33, of the Charter of the United Nations.

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

Exhibit 15

Letter dated 17 January 1992 from the Permanent Representative of
the Libyan Arab Jamahiriya to the United Nations addressed to the
President of the Security Council
(United Nations Document S/23436; 17 January 1992)



Security Council

Distr.
GENERAL

S/23436
17 January 1992

ORIGINAL: ENGLISH

LETTER DATED 17 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, in my capacity as the Chairman of the Arab Group for the month of January, to enclose the text of Resolution No. 5158 adopted by the Council of the Arab League on 16 January 1992 concerning the recent accusations directed against the Libyan Arab Jamahiriya.

I would greatly appreciate if you may kindly circulate the text of this resolution as a document of the Security Council.

(Signed) Ali A. ELHOUDERI
Chairman, Arab Group for January
Permanent Representative
Libyan Arab Jamahiriya

Annex

Resolution adopted by the Council of the League of Arab States,
at its resumed session, on 16 January 1992

[Original: Arabic]

The Council of the League of Arab States, meeting in resumed special session on Thursday, 16 January 1991,

Recalling its resolution 5156 of 5 December 1991 concerning the American-British accusations against the Great Socialist Libyan Arab People's Jamahiriya,

Welcoming the genuine cooperation shown by the Great Jamahiriya with regard to the ongoing inquiries relating to the distressing incidents involving the United States Pan Am aircraft and the French UTA aircraft,

Stressing the importance of cooperation by the parties concerned through legal channels with a view to bringing the truth to light and of the adoption of the legal measures necessary to ensure the achievement of that end,

DECIDES

1. To express once more its support for the Great Socialist People's Libyan Arab Jamahiriya and its commendation of the Jamahiriya's assiduous desire to uncover the facts relating to the distressing incidents involving the United States Pan Am aircraft and the French UTA aircraft.
2. To reaffirm the provisions of paragraph 2 of its resolution 5156 of 5 December 1991 calling for the establishment of a joint commission of the United Nations and the League of Arab States; and to entrust the Secretary-General of the League with the task of establishing contact with the United Nations so that its Secretary-General may offer his mediation to all the parties concerned with a view to devising a peaceful settlement to the problem.
3. To urge all the parties concerned to provide the facilities necessary for the performance of the commission's task.
4. To urge the Security Council to resolve the conflict by negotiation, mediation and judicial settlement in accordance with the provisions of Article 33 of Chapter VI of the Charter of the United Nations.
5. To request the Secretary-General to follow up the implementation of this resolution by any means that he deems appropriate; and to consider the Council as being in continuous session in order to monitor developments regarding the issue.

(RES/S/5158, 16 January 1992)

Exhibit 16

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
(United Nations Document S/23441; 18 January 1992)



Security Council

Distr.
GENERAL

S/23441
18 January 1992
ENGLISH
ORIGINAL: ARABIC

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

Exhibit 17

Convention for the Suppression of Unlawful Acts Against the
Safety of International Civil Aviation, done at Montreal on
23 September 1971



Treaty Series

*Treaties and international agreements
registered
or filed and recorded
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1975

I. Nos. 14109-14123

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au Secrétariat de l'Organisation des Nations Unies*

UNITED NATIONS • NATIONS UNIES

No. 14118

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.

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.

CONVENTION¹ 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

¹ 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):

State	<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	1973 (L)
	28 March	1973 (W)
	20 March	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	1973 (L)
	30 July	1973 (M)
	15 August	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	1973 (W)
	18 April	1973 (L)
	28 April	1973 (M)
	13 July	1973 a (L,M,W)
Finland..... (With effect from 12 August 1973)		
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	1973 (M)
	29 June	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)

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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)

State	Date of deposit of instrument of ratification or accession (A) at London (L), Moscow (M) or Washington (W)	
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)
(With effect from 2 August 1973)	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 1973)		
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 Depository 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 Depository 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 Depository Governments pursuant to Article 102 of the Convention on International Civil Aviation (Chicago, 1944).¹

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

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

¹ 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, pp. 209; vol. 740, p. 21, and vol. 893, p. 117.

CONVENTION¹ POUR LA RÉPRESSION D'ACTES ILLICITES DIRIGÉS CONTRE LA SÉCURITÉ DE L'AVIATION CIVILE

Les Etats Parties à la présente Convention,

Considérant que les actes illicites dirigés contre la sécurité de l'aviation civile compromettent la sécurité des personnes et des biens, gênent sérieusement l'exploitation des services aériens et minent la confiance des peuples du monde dans la sécurité de l'aviation civile,

Considérant que de tels actes les préoccupent gravement,

Considérant que, dans le but de prévenir ces actes, il est urgent de prévoir des mesures appropriées en vue de la punition de leurs auteurs,

Sont convenus des dispositions suivantes :

Article 1^{er}. 1. Commet une infraction pénale toute personne qui illicitement et intentionnellement :

- a) Accomplit un acte de violence à l'encontre d'une personne se trouvant à bord d'un aéronef en vol, si cet acte est de nature à compromettre la sécurité de cet aéronef;
- b) Détruit un aéronef en service ou cause à un tel aéronef des dommages qui le rendent inapte au vol ou qui sont de nature à compromettre sa sécurité en vol;

¹ Entrée en vigueur le 26 janvier 1973 à l'égard des Etats suivants, au nom desquels un instrument de ratification ou d'adhésion avait été déposé auprès des Gouvernements des Etats-Unis d'Amérique, du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord ou de l'Union des Républiques socialistes soviétiques, soit 30 jours après la date (27 décembre 1972) du dépôt des instruments de ratification de dix Etats signataires ayant participé à la Conférence de Montréal, conformément à l'article 15, paragraphe 3 :

<i>Etat</i>	<i>Date du dépôt de l'instrument de ratification ou d'adhésion (a) à Londres (L), Moscou (M) ou Washington (W)</i>	
Afrique du Sud*	30 mai	1972 (W)
Bésil*	24 juillet	1972 (L, M, W)
Canada	19 juin	1972 (L)
	20 juin	1972 (W)
	23 juillet	1972 (M)
Espagne	30 octobre	1972 (W)
Etats-Unis d'Amérique	1 novembre	1972 (W)
	15 novembre	1972 (L)
	22 novembre	1972 (M)
Guyane	21 décembre	1972 a (W)
Hongrie*	27 décembre	1972 (L, M, W)
Israël	30 juin	1972 (L)
	6 juillet	1972 (W)
	10 juillet	1972 (M)
Malawi*	21 décembre	1972 a (W)
Mali	24 août	1972 a (W)
Mongolie*	5 septembre	1972 (W)
	14 septembre	1972 (L)
	20 octobre	1972 (M)
Niger	1 septembre	1972 (W)
Panama	24 avril	1972 (W)
République de Chine	27 septembre	1972 (W)
République démocratique allemande*	9 juin	1972 (M)
Tchad	12 juillet	1972 (L, W)
	17 août	1972 (M)
Trinité-et-Tobago	9 février	1972 (W)
Yougoslavie	2 octobre	1972 (L, M, W)

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- c) Place ou fait placer sur un aéronef en service, par quelque moyen que ce soit, un dispositif ou des substances propres à détruire ledit aéronef ou à lui causer des dommages qui le rendent inapte au vol ou qui sont de nature à compromettre sa sécurité en vol;
- d) Détruit ou endommage des installations ou services de navigation aérienne ou en perturbe le fonctionnement, si l'un de ces actes est de nature à compromettre la sécurité d'aéronefs en vol;
- e) Communique une information qu'elle sait être fausse et, de ce fait, compromet la sécurité d'un aéronef en vol.

2. Commet également une infraction pénale toute personne qui :

- a) Tente de commettre l'une des infractions énumérées au paragraphe 1^{er} du présent article;
- b) Est le complice de la personne qui commet ou tente de commettre l'une de ces infractions.

Article 2. Aux fins de la présente convention :

a) Un aéronef est considéré comme étant en vol depuis le moment où, l'embarquement étant terminé, toutes ses portes extérieures ont été fermées jusqu'au moment où l'une de ces portes est ouverte en vue du débarquement; en cas d'atterrissage forcé, le vol est censé se poursuivre jusqu'à ce que l'autorité compétente prenne en charge l'aéronef ainsi que les personnes et biens à bord;

b) Un aéronef est considéré comme étant en service depuis le moment où le personnel au sol ou l'équipage commence à le préparer en vue d'un vol déterminé jusqu'à l'expiration d'un délai de vingt-quatre heures suivant tout atterrissage; la

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Ensuite, la Convention est entrée en vigueur pour les Etats énumérés ci-dessous 30 jours après la date du dépôt de leur instrument de ratification ou d'adhésion auprès des Gouvernements des Etats-Unis d'Amérique, du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord ou de l'Union des Républiques socialistes soviétiques, conformément à l'article 15, paragraphe 4 :

Etat	Date du dépôt de l'instrument de ratification ou d'adhésion (a) à Londres (L), Moscou (M) ou Washington (W)	
	Date	Année
Arabie Saoudite* (Avec effet au 14 juillet 1974)	14 juin	1974 a (W)
Argentine (Avec effet au 25 décembre 1973)	26 novembre	1973 (L, M, W)
Australie (Avec effet au 11 août 1973)	12 juillet	1973 (L, M, W)
Autriche (Avec effet au 13 mars 1974)	11 février	1974 (L, M, W)
Bulgarie (Avec effet au 24 mars 1973)	22 février 28 mars 20 mars	1973 (L) 1973 (W) 1974 (M)
Chili (Avec effet au 30 mars 1974)	28 février	1974 a (W)
Chypre (Avec effet au 14 septembre 1973)	27 juillet 30 juillet 15 août	1973 (L) 1973 (M) 1973 (W)
Costa Rica (Avec effet au 21 octobre 1973)	21 septembre	1973 (W)
Côte d'Ivoire (Avec effet au 8 février 1973)	9 janvier	1973 a (W)
Danemark (Avec effet au 16 février 1973. Décision réservée en ce qui concerne l'application de la Convention aux îles Féroé et au Groenland)	17 janvier	1973 (L, M, W)

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période de service s'étend en tout état de cause à la totalité du temps pendant lequel l'aéronef se trouve en vol au sens de l'alinéa *a* du présent paragraphe.

Article 3. Tout Etat contractant s'engage à réprimer de peines sévères les infractions énumérées à l'article 1^{er}.

Article 4. 1. La présente convention ne s'applique pas aux aéronefs utilisés à des fins militaires, de douane ou de police.

2. Dans les cas visés aux alinéas *a*, *b*, *c* et *e* du paragraphe 1^{er} de l'article 1^{er}, la présente convention, qu'il s'agisse d'un aéronef en vol international ou d'un aéronef en vol intérieur, ne s'applique que :

- a)* Si le lieu réel ou prévu du décollage ou de l'atterrissage de l'aéronef est situé hors du territoire de l'Etat d'immatriculation de cet aéronef; ou
- b)* Si l'infraction est commise sur le territoire d'un Etat autre que l'Etat d'immatriculation de l'aéronef.

3. Nonobstant les dispositions du paragraphe 2 du présent article, dans les cas visés aux alinéas *a*, *b*, *c* et *e* du paragraphe 1^{er} de l'article 1^{er}, la présente convention s'applique également si l'auteur ou l'auteur présumé de l'infraction est découvert sur le territoire d'un Etat autre que l'Etat d'immatriculation de l'aéronef.

4. En ce qui concerne les Etats visés à l'article 9 et dans les cas prévus aux alinéas *a*, *b*, *c* et *e* du paragraphe 1^{er} de l'article 1^{er}, la présente convention ne s'appli-

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Etat	Date du dépôt de l'instrument de ratification ou d'adhésion (a) à Londres (L), Moscou (M) ou Washington (W)	
	Date	Année
Fidji	5 mars	1973 (W)
(Avec effet au 4 avril 1973)	18 avril	1973 (L)
	28 avril	1973 (M)
Finlande*	13 juillet	1973 a (L, M, W)
(Avec effet au 12 août 1973)		
Ghana	12 décembre	1973 a (W)
(Avec effet au 11 janvier 1974)		
Grèce	15 janvier	1974 (W)
(Avec effet au 14 février 1974)		
Irak*	10 septembre	1974 a (M)
(Avec effet au 10 octobre 1974)		
Iran	10 juillet	1973 a (L, M, W)
(Avec effet au 9 août 1973)		
Islande	29 juin	1973 (M)
(Avec effet au 29 juillet 1973)	29 juin	1973 a (L, W)
Italie	19 février	1974 (L, M, W)
(Avec effet au 21 mars 1974)		
Japon	12 juin	1974 a (L, W)
(Avec effet au 12 juillet 1974)		
Jordanie	13 février	1973 (L)
(Avec effet au 15 mars 1973)	19 février	1973 (M)
	25 avril	1973 (W)
Mexique	12 septembre	1974 (L, M, W)
(Avec effet au 12 octobre 1974)		
Nicaragua	6 novembre	1973 (W)
(Avec effet au 6 décembre 1973)		
Nigéria	3 juillet	1973 a (W)
(Avec effet au 2 août 1973)	9 juillet	1973 a (L)
	20 juillet	1973 a (M)
Norvège	1 ^{er} août	1973 a (L, M, W)
(Avec effet au 31 août 1973)		
Nouvelle-Zélande	12 février	1974 (L, M, W)
(Avec effet au 14 mars 1974)		
Pakistan	16 janvier	1974 a (M)
(Avec effet au 15 février 1974)	24 janvier	1974 a (L, W)

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que pas si les lieux mentionnés à l'alinéa *a* du paragraphe 2 du présent article sont situés sur le territoire d'un seul des Etats visés à l'article 9, à moins que l'infraction ne soit commise ou que l'auteur ou l'auteur présumé de l'infraction ne soit découvert sur le territoire d'un autre Etat.

5. Dans les cas visés à l'alinéa *d* du paragraphe 1^{er} de l'article 1^{er}, la présente convention ne s'applique que si les installations et services de navigation aérienne sont utilisés pour la navigation aérienne internationale.

6. Les dispositions des paragraphes 2, 3, 4 et 5 du présent article s'appliquent également dans les cas prévus au paragraphe 2 de l'article 1^{er}.

Article 5. 1. Tout Etat contractant prend les mesures nécessaires pour établir sa compétence aux fins de connaître des infractions dans les cas suivants :

- a) Si l'infraction est commise sur le territoire de cet Etat;
- b) Si l'infraction est commise à l'encontre ou à bord d'un aéronef immatriculé dans cet Etat;
- c) Si l'aéronef à bord duquel l'infraction est commise atterrit sur son territoire avec l'auteur présumé de l'infraction se trouvant encore à bord;

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<i>Etat</i>		<i>Date du dépôt de l'instrument de ratification ou d'adhésion (a) à Londres (L), Moscou (M) ou Washington (W)</i>
Paraguay	5 mars	1974 (W)
(Avec effet au 4 avril 1974)		
Pays-Bas	27 août	1973 (L, M, W)
(Avec effet au 26 septembre 1973 pour le Royaume en Europe et le Surinam, et avec une déclaration aux termes de laquelle la Convention s'applique aux Antilles néerlandaises au juin 1974)		
Philippines	26 mars	1973 (W)
(Avec effet au 25 avril 1973)		
Pologne*	28 janvier	1975 (L, M)
(Avec effet au 27 février 1975)		
Portugal	15 janvier	1973 (L)
(Avec effet au 14 février 1973)		
République arabe libyenne	19 février	1974 <i>a</i> (W)
(Avec effet au 21 mars 1974)		
République de Corée*	2 août	1973 <i>a</i> (W)
(Avec effet au 1 ^{er} septembre 1973)		
République Dominicaine	28 novembre	1973 (W)
(Avec effet au 28 décembre 1973)		
République socialiste soviétique de Biélorussie*	31 janvier	1973 (M)
(Avec effet au 2 mars 1973)		
République socialiste soviétique d'Ukraine*	26 février	1973 (M)
(Avec effet au 28 mars 1973)		
République-Unie du Cameroun*	11 juillet	1973 <i>a</i> (W)
(Avec effet au 10 août 1973)		
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord*	25 octobre	1973 (L, M, W)
(Avec effet au 24 novembre 1973. A l'égard du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et des Territoires sous souveraineté territoriale du Royaume-Uni, ainsi que du Protectorat des Iles Salomon britanniques)		
Suède	10 juillet	1973 <i>a</i> (L, M, W)
(Avec effet au 9 août 1973)		
Tchécoslovaquie*	10 août	1973 (L, M, W)
(Avec effet au 9 septembre 1973)		
Union des Républiques socialistes soviétiques*	19 février	1973 (L, M, W)
(Avec effet au 21 mars 1973)		

* Voir p. 223 du présent volume pour le texte des réserves et déclarations faites lors de la ratification ou de l'adhésion.

d) Si l'infraction est commise à l'encontre ou à bord d'un aéronef donné en location sans équipage à une personne qui a le siège principal de son exploitation ou, à défaut, sa résidence permanente dans ledit Etat.

2. Tout Etat contractant prend également les mesures nécessaires pour établir sa compétence aux fins de connaître des infractions prévues aux alinéas *a*, *b* et *c* du paragraphe 1^{er} de l'article 1^{er}, ainsi qu'au paragraphe 2 du même article, pour autant que ce dernier paragraphe concerne lesdites infractions, dans le cas où l'auteur présumé de l'une d'elles se trouve sur son territoire et où ledit Etat ne l'extrade pas conformément à l'article 8 vers l'un des Etats visés au paragraphe 1^{er} du présent article.

3. La présente convention n'écarte aucune compétence pénale exercée conformément aux lois nationales.

Article 6. 1. S'il estime que les circonstances le justifient, tout Etat contractant sur le territoire duquel se trouve l'auteur ou l'auteur présumé de l'infraction assure la détention de cette personne ou prend toutes mesures nécessaires pour assurer sa présence. Cette détention et ces mesures doivent être conformes à la législation dudit Etat; elles ne peuvent être maintenues que pendant le délai nécessaire à l'engagement de poursuites pénales ou d'une procédure d'extradition.

2. Ledit Etat procède immédiatement à une enquête préliminaire en vue d'établir les faits.

3. Toute personne détenue en application du paragraphe 1^{er} du présent article peut communiquer immédiatement avec le plus proche représentant qualifié de l'Etat dont elle a la nationalité; toutes facilités lui sont accordées à cette fin.

4. Lorsqu'un Etat a mis une personne en détention conformément aux dispositions du présent article, il avise immédiatement de cette détention, ainsi que des circonstances qui la justifient, les Etats mentionnés au paragraphe 1^{er} de l'article 5, l'Etat dont la personne détenue a la nationalité et, s'il le juge opportun, tous autres Etats intéressés. L'Etat qui procède à l'enquête préliminaire visée au paragraphe 2 du présent article en communique rapidement les conclusions auxdits Etats et leur indique s'il entend exercer sa compétence.

Article 7. L'Etat contractant sur le territoire duquel l'auteur présumé de l'une des infractions est découvert, s'il n'extrade pas ce dernier, soumet l'affaire, sans aucune exception et que l'infraction ait ou non été commise sur son territoire, à ses autorités compétentes pour l'exercice de l'action pénale. Ces autorités prennent leur décision dans les mêmes conditions que pour toute infraction de droit commun de caractère grave conformément aux lois de cet Etat.

Article 8. 1. Les infractions sont de plein droit comprises comme cas d'extradition dans tout traité d'extradition conclu entre Etats contractants. Les Etats contractants s'engagent à comprendre les infractions comme cas d'extradition dans tout traité d'extradition à conclure entre eux.

2. Si un Etat contractant qui subordonne l'extradition à l'existence d'un traité est saisi d'une demande d'extradition par un autre Etat contractant avec lequel il n'est pas lié par un traité d'extradition, il a la latitude de considérer la présente convention comme constituant la base juridique de l'extradition en ce qui concerne les infractions. L'extradition est subordonnée aux autres conditions prévues par le droit de l'Etat requis.

3. Les Etats contractants qui ne subordonnent pas l'extradition à l'existence d'un traité reconnaissent les infractions comme cas d'extradition entre eux dans les conditions prévues par le droit de l'Etat requis.

4. Entre Etats contractants, les infractions sont considérées aux fins d'extradition comme ayant été commises tant au lieu de leur perpétration que sur le territoire des Etats tenus d'établir leur compétence en vertu des alinéas *b*, *c* et *d* du paragraphe 1^{er} de l'article 5.

Article 9. Les Etats contractants qui constituent pour le transport aérien des organisations d'exploitation en commun ou des organismes internationaux d'exploitation qui exploitent des aéronefs faisant l'objet d'une immatriculation commune ou internationale désignent, pour chaque aéronef, suivant les modalités appropriées, l'Etat qui exerce la compétence et aura les attributions de l'Etat d'immatriculation aux fins de la présente convention. Ils aviseront de cette désignation l'Organisation de l'Aviation civile internationale, qui en informera tous les Etats Parties à la présente convention.

Article 10. 1. Les Etats contractants s'engagent, conformément au droit international et national, à s'efforcer de prendre les mesures raisonnables en vue de prévenir les infractions visées à l'article 1^{er}.

2. Lorsque le vol d'un aéronef a été retardé ou interrompu du fait de la perpétration de l'une des infractions prévues à l'article 1^{er}, tout Etat contractant sur le territoire duquel se trouvent l'aéronef, les passagers ou l'équipage facilite aux passagers et à l'équipage la poursuite de leur voyage aussitôt que possible. Il restitue sans retard l'aéronef et sa cargaison à ceux qui ont le droit de les détenir.

Article 11. 1. Les Etats contractants s'accordent l'entraide judiciaire la plus large possible dans toute procédure pénale relative aux infractions. Dans tous les cas, la loi applicable pour l'exécution d'une demande d'entraide est celle de l'Etat requis.

2. Toutefois, les dispositions du paragraphe 1^{er} du présent article n'affectent pas les obligations découlant des dispositions de tout autre traité de caractère bilatéral ou multilatéral qui régit ou régira, en tout ou en partie, le domaine de l'entraide judiciaire en matière pénale.

Article 12. Tout Etat contractant qui a lieu de croire que l'une des infractions prévues à l'article 1^{er} sera commise fournit, en conformité avec les dispositions de sa législation nationale, tous renseignements utiles en sa possession aux Etats qui à son avis seraient les Etats visés au paragraphe 1^{er} de l'article 5.

Article 13. Tout Etat contractant communique aussi rapidement que possible au Conseil de l'Organisation de l'Aviation civile internationale, en conformité avec les dispositions de sa législation nationale, tous renseignements utiles en sa possession relatifs :

- a) Aux circonstances de l'infraction;
- b) Aux mesures prises en application du paragraphe 2 de l'article 10;
- c) Aux mesures prises à l'égard de l'auteur ou de l'auteur présumé de l'infraction et notamment au résultat de toute procédure d'extradition ou de toute autre procédure judiciaire.

Article 14. 1. Tout différend entre des Etat contractants concernant l'interprétation ou l'application de la présente convention qui ne peut pas être réglé par voie de négociation est soumis à l'arbitrage, à la demande de l'un d'entre eux. Si, dans les six mois qui suivent la date de la demande d'arbitrage, les Parties ne parviennent pas à se mettre d'accord sur l'organisation de l'arbitrage, l'une quelconque d'entre

elles peut soumettre le différend à la Cour internationale de Justice, en déposant une requête conformément au Statut de la Cour.

2. Chaque Etat pourra, au moment où il signera ou ratifiera la présente convention ou y adhérera, déclarer qu'il ne se considère pas lié par les dispositions du paragraphe précédent. Les autres Etats contractants ne seront pas liés par lesdites dispositions envers tout Etat contractant qui aura formulé une telle réserve.

3. Tout Etat contractant qui aura formulé une réserve conformément aux dispositions du paragraphe précédent pourra à tout moment lever cette réserve par une notification adressée aux gouvernements dépositaires.

Article 15. 1. La présente convention sera ouverte le 23 septembre 1971 à Montréal à la signature des Etats participant à la Conférence internationale de droit aérien tenue à Montréal du 8 au 23 septembre 1971 (ci-après dénommée «la Conférence de Montréal»). Après le 10 octobre 1971, elle sera ouverte à la signature de tous les Etats à Washington, à Londres et à Moscou. Tout Etat qui n'aura pas signé la convention avant qu'elle soit entrée en vigueur conformément au paragraphe 3 du présent article pourra y adhérer à tout moment.

2. La présente convention est soumise à la ratification des Etats signataires. Les instruments de ratification ainsi que les instruments d'adhésion seront déposés auprès des gouvernements des Etats-Unis d'Amérique, du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et de l'Union des Républiques socialistes soviétiques, qui sont désignés par les présentes comme gouvernements dépositaires.

3. La présente convention entrera en vigueur trente jours après la date du dépôt des instruments de ratification de dix Etats signataires qui ont participé à la Conférence de Montréal.

4. Pour les autres Etats, la présente convention entrera en vigueur à la date de son entrée en vigueur conformément au paragraphe 3 du présent article ou trente jours après la date du dépôt de leurs instruments de ratification ou d'adhésion, si cette seconde date est postérieure à la première.

5. Les gouvernements dépositaires informeront rapidement tous les Etats qui signeront la présente convention ou y adhéreront de la date de chaque signature, de la date du dépôt de chaque instrument de ratification ou d'adhésion, de la date d'entrée en vigueur de la présente convention ainsi que de toutes autres communications.

6. Dès son entrée en vigueur, la présente convention sera enregistrée par les gouvernements dépositaires conformément aux dispositions de l'article 102 de la Charte des Nations Unies et conformément aux dispositions de l'article 83 de la Convention relative à l'Aviation civile internationale (Chicago, 1944)¹.

Article 16. 1. Tout Etat contractant peut dénoncer la présente convention par voie de notification écrite adressée aux gouvernements dépositaires.

2. La dénonciation prendra effet six mois après la date à laquelle la notification aura été reçue par les gouvernements dépositaires.

EN FOI DE QUOI les Plénipotentiaires soussignés, dûment autorisés, ont signé la présente convention.

FAIT à Montréal, le vingt-troisième jour du mois de septembre de l'an mil neuf cent soixante et onze, en trois exemplaires originaux comprenant chacun quatre textes authentiques rédigés dans les langues française, anglaise, espagnole et russe.

¹ Nations Unies, *Recueil des Traités*, vol. 15, p. 295. Pour les textes des Protocoles amendant cette Convention, voir vol. 320, p. 209 et 217; vol. 418, p. 161; vol. 514, p. 209; vol. 740, p. 21, et vol. 893, p. 117.

que pas si les lieux mentionnés à l'alinéa *a* du paragraphe 2 du présent article sont situés sur le territoire d'un seul des Etats visés à l'article 9, à moins que l'infraction ne soit commise ou que l'auteur ou l'auteur présumé de l'infraction ne soit découvert sur le territoire d'un autre Etat.

5. Dans les cas visés à l'alinéa *d* du paragraphe 1^{er} de l'article 1^{er}, la présente convention ne s'applique que si les installations et services de navigation aérienne sont utilisés pour la navigation aérienne internationale.

6. Les dispositions des paragraphes 2, 3, 4 et 5 du présent article s'appliquent également dans les cas prévus au paragraphe 2 de l'article 1^{er}.

Article 5. 1. Tout Etat contractant prend les mesures nécessaires pour établir sa compétence aux fins de connaître des infractions dans les cas suivants :

- a) Si l'infraction est commise sur le territoire de cet Etat;
- b) Si l'infraction est commise à l'encontre ou à bord d'un aéronef immatriculé dans cet Etat;
- c) Si l'aéronef à bord duquel l'infraction est commise atterrit sur son territoire avec l'auteur présumé de l'infraction se trouvant encore à bord;

(Suite de la note 1 de la page 187)

<i>Etat</i>		<i>Date du dépôt de l'instrument de ratification ou d'adhésion (a) à Londres (L), Moscou (M) ou Washington (W)</i>
Paraguay	5 mars	1974 (W)
(Avec effet au 4 avril 1974)		
Pays-Bas	27 août	1973 (L, M, W)
(Avec effet au 26 septembre 1973 pour le Royaume en Europe et le Surinam, et avec une déclaration aux termes de laquelle la Convention s'applique aux Antilles néerlandaises au juin 1974)		
Philippines	26 mars	1973 (W)
(Avec effet au 25 avril 1973)		
Pologne*	28 janvier	1975 (L, M)
(Avec effet au 27 février 1975)		
Portugal	15 janvier	1973 (L)
(Avec effet au 14 février 1973)		
République arabe libyenne	19 février	1974 a (W)
(Avec effet au 21 mars 1974)		
République de Corée*	2 août	1973 a (W)
(Avec effet au 1 ^{er} septembre 1973)		
République Dominicaine	28 novembre	1973 (W)
(Avec effet au 28 décembre 1973)		
République socialiste soviétique de Biélorussie*	31 janvier	1973 (M)
(Avec effet au 2 mars 1973)		
République socialiste soviétique d'Ukraine*	26 février	1973 (M)
(Avec effet au 28 mars 1973)		
République-Unie du Cameroun*	11 juillet	1973 a (W)
(Avec effet au 10 août 1973)		
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord*	25 octobre	1973 (L, M, W)
(Avec effet au 24 novembre 1973. A l'égard du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et des Territoires sous souveraineté territoriale du Royaume-Uni, ainsi que du Protectorat des Iles Salomon britanniques)		
Suède	10 juillet	1973 a (L, M, W)
(Avec effet au 9 août 1973)		
Tchécoslovaquie*	10 août	1973 (L, M, W)
(Avec effet au 9 septembre 1973)		
Union des Républiques socialistes soviétiques*	19 février	1973 (L, M, W)
(Avec effet au 21 mars 1973)		

* Voir p. 223 du présent volume pour le texte des réserves et déclarations faites lors de la ratification ou de l'adhésion.

d) Si l'infraction est commise à l'encontre ou à bord d'un aéronef donné en location sans équipage à une personne qui a le siège principal de son exploitation ou, à défaut, sa résidence permanente dans ledit Etat.

2. Tout Etat contractant prend également les mesures nécessaires pour établir sa compétence aux fins de connaître des infractions prévues aux alinéas *a*, *b* et *c* du paragraphe 1^{er} de l'article 1^{er}, ainsi qu'au paragraphe 2 du même article, pour autant que ce dernier paragraphe concerne lesdites infractions, dans le cas où l'auteur présumé de l'une d'elles se trouve sur son territoire et où ledit Etat ne l'extrade pas conformément à l'article 8 vers l'un des Etats visés au paragraphe 1^{er} du présent article.

3. La présente convention n'écarte aucune compétence pénale exercée conformément aux lois nationales.

Article 6. 1. S'il estime que les circonstances le justifient, tout Etat contractant sur le territoire duquel se trouve l'auteur ou l'auteur présumé de l'infraction assure la détention de cette personne ou prend toutes mesures nécessaires pour assurer sa présence. Cette détention et ces mesures doivent être conformes à la législation dudit Etat; elles ne peuvent être maintenues que pendant le délai nécessaire à l'engagement de poursuites pénales ou d'une procédure d'extradition.

2. Ledit Etat procède immédiatement à une enquête préliminaire en vue d'établir les faits.

3. Toute personne détenue en application du paragraphe 1^{er} du présent article peut communiquer immédiatement avec le plus proche représentant qualifié de l'Etat dont elle a la nationalité; toutes facilités lui sont accordées à cette fin.

4. Lorsqu'un Etat a mis une personne en détention conformément aux dispositions du présent article, il avise immédiatement de cette détention, ainsi que des circonstances qui la justifient, les Etats mentionnés au paragraphe 1^{er} de l'article 5, l'Etat dont la personne détenue a la nationalité et, s'il le juge opportun, tous autres Etats intéressés. L'Etat qui procède à l'enquête préliminaire visée au paragraphe 2 du présent article en communique rapidement les conclusions auxdits Etats et leur indique s'il entend exercer sa compétence.

Article 7. L'Etat contractant sur le territoire duquel l'auteur présumé de l'une des infractions est découvert, s'il n'extrade pas ce dernier, soumet l'affaire, sans aucune exception et que l'infraction ait ou non été commise sur son territoire, à ses autorités compétentes pour l'exercice de l'action pénale. Ces autorités prennent leur décision dans les mêmes conditions que pour toute infraction de droit commun de caractère grave conformément aux lois de cet Etat.

Article 8. 1. Les infractions sont de plein droit comprises comme cas d'extradition dans tout traité d'extradition conclu entre Etats contractants. Les Etats contractants s'engagent à comprendre les infractions comme cas d'extradition dans tout traité d'extradition à conclure entre eux.

2. Si un Etat contractant qui subordonne l'extradition à l'existence d'un traité est saisi d'une demande d'extradition par un autre Etat contractant avec lequel il n'est pas lié par un traité d'extradition, il a la latitude de considérer la présente convention comme constituant la base juridique de l'extradition en ce qui concerne les infractions. L'extradition est subordonnée aux autres conditions prévues par le droit de l'Etat requis.

3. Les Etats contractants qui ne subordonnent pas l'extradition à l'existence d'un traité reconnaissent les infractions comme cas d'extradition entre eux dans les conditions prévues par le droit de l'Etat requis.

4. Entre Etats contractants, les infractions sont considérées aux fins d'extradition comme ayant été commises tant au lieu de leur perpétration que sur le territoire des Etats tenus d'établir leur compétence en vertu des alinéas *b*, *c* et *d* du paragraphe 1^{er} de l'article 5.

Article 9. Les Etats contractants qui constituent pour le transport aérien des organisations d'exploitation en commun ou des organismes internationaux d'exploitation qui exploitent des aéronefs faisant l'objet d'une immatriculation commune ou internationale désignent, pour chaque aéronef, suivant les modalités appropriées, l'Etat qui exerce la compétence et aura les attributions de l'Etat d'immatriculation aux fins de la présente convention. Ils aviseront de cette désignation l'Organisation de l'Aviation civile internationale, qui en informera tous les Etats Parties à la présente convention.

Article 10. 1. Les Etats contractants s'engagent, conformément au droit international et national, à s'efforcer de prendre les mesures raisonnables en vue de prévenir les infractions visées à l'article 1^{er}.

2. Lorsque le vol d'un aéronef a été retardé ou interrompu du fait de la perpétration de l'une des infractions prévues à l'article 1^{er}, tout Etat contractant sur le territoire duquel se trouvent l'aéronef, les passagers ou l'équipage facilite aux passagers et à l'équipage la poursuite de leur voyage aussitôt que possible. Il restitue sans retard l'aéronef et sa cargaison à ceux qui ont le droit de les détenir.

Article 11. 1. Les Etats contractants s'accordent l'entraide judiciaire la plus large possible dans toute procédure pénale relative aux infractions. Dans tous les cas, la loi applicable pour l'exécution d'une demande d'entraide est celle de l'Etat requis.

2. Toutefois, les dispositions du paragraphe 1^{er} du présent article n'affectent pas les obligations découlant des dispositions de tout autre traité de caractère bilatéral ou multilatéral qui régit ou régira, en tout ou en partie, le domaine de l'entraide judiciaire en matière pénale.

Article 12. Tout Etat contractant qui a lieu de croire que l'une des infractions prévues à l'article 1^{er} sera commise fournit, en conformité avec les dispositions de sa législation nationale, tous renseignements utiles en sa possession aux Etats qui à son avis seraient les Etats visés au paragraphe 1^{er} de l'article 5.

Article 13. Tout Etat contractant communique aussi rapidement que possible au Conseil de l'Organisation de l'Aviation civile internationale, en conformité avec les dispositions de sa législation nationale, tous renseignements utiles en sa possession relatifs :

- a) Aux circonstances de l'infraction;
- b) Aux mesures prises en application du paragraphe 2 de l'article 10;
- c) Aux mesures prises à l'égard de l'auteur ou de l'auteur présumé de l'infraction et notamment au résultat de toute procédure d'extradition ou de toute autre procédure judiciaire.

Article 14. 1. Tout différend entre des Etat contractants concernant l'interprétation ou l'application de la présente convention qui ne peut pas être réglé par voie de négociation est soumis à l'arbitrage, à la demande de l'un d'entre eux. Si, dans les six mois qui suivent la date de la demande d'arbitrage, les Parties ne parviennent pas à se mettre d'accord sur l'organisation de l'arbitrage, l'une quelconque d'entre

elles peut soumettre le différend à la Cour internationale de Justice, en déposant une requête conformément au Statut de la Cour.

2. Chaque Etat pourra, au moment où il signera ou ratifiera la présente convention ou y adhérera, déclarer qu'il ne se considère pas lié par les dispositions du paragraphe précédent. Les autres Etats contractants ne seront pas liés par lesdites dispositions envers tout Etat contractant qui aura formulé une telle réserve.

3. Tout Etat contractant qui aura formulé une réserve conformément aux dispositions du paragraphe précédent pourra à tout moment lever cette réserve par une notification adressée aux gouvernements dépositaires.

Article 15. 1. La présente convention sera ouverte le 23 septembre 1971 à Montréal à la signature des Etats participant à la Conférence internationale de droit aérien tenue à Montréal du 8 au 23 septembre 1971 (ci-après dénommée «la Conférence de Montréal»). Après le 10 octobre 1971, elle sera ouverte à la signature de tous les Etats à Washington, à Londres et à Moscou. Tout Etat qui n'aura pas signé la convention avant qu'elle soit entrée en vigueur conformément au paragraphe 3 du présent article pourra y adhérer à tout moment.

2. La présente convention est soumise à la ratification des Etats signataires. Les instruments de ratification ainsi que les instruments d'adhésion seront déposés auprès des gouvernements des Etats-Unis d'Amérique, du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et de l'Union des Républiques socialistes soviétiques, qui sont désignés par les présentes comme gouvernements dépositaires.

3. La présente convention entrera en vigueur trente jours après la date du dépôt de instruments de ratification de dix Etats signataires qui ont participé à la Conférence de Montréal.

4. Pour les autres Etats, la présente convention entrera en vigueur à la date de son entrée en vigueur conformément au paragraphe 3 du présent article ou trente jours après la date du dépôt de leurs instruments de ratification ou d'adhésion, si cette seconde date est postérieure à la première.

5. Les gouvernements dépositaires informeront rapidement tous les Etats qui signeront la présente convention ou y adhéreront de la date de chaque signature, de la date du dépôt de chaque instrument de ratification ou d'adhésion, de la date d'entrée en vigueur de la présente convention ainsi que de toutes autres communications.

6. Dès son entrée en vigueur, la présente convention sera enregistrée par les gouvernements dépositaires conformément aux dispositions de l'article 102 de la Charte des Nations Unies et conformément aux dispositions de l'article 83 de la Convention relative à l'Aviation civile internationale (Chicago, 1944)¹.

Article 16. 1. Tout Etat contractant peut dénoncer la présente convention par voie de notification écrite adressée aux gouvernements dépositaires.

2. La dénonciation prendra effet six mois après la date à laquelle la notification aura été reçue par les gouvernements dépositaires.

EN FOI DE QUOI les Plénipotentiaires soussignés, dûment autorisés, ont signé la présente convention.

FAIT à Montréal, le vingt-troisième jour du mois de septembre de l'an mil neuf cent soixante et onze, en trois exemplaires originaux comprenant chacun quatre textes authentiques rédigés dans les langues française, anglaise, espagnole et russe.

¹ Nations Unies, *Recueil des Traités*, vol. 15, p. 295. Pour les textes des Protocoles amendant cette Convention, voir vol. 320, p. 209 et 217; vol. 418, p. 161; vol. 514, p. 209; vol. 740, p. 21, et vol. 893, p. 117.

List of signatures affixed on the original
of the Convention deposited with the
Government of the United States of
America¹

Liste des signatures apposées sur
l'original de la Convention déposée au-
près du Gouvernement des Etats-Unis
d'Amérique¹

Argentine Republic, the:
[République argentine]² :

[R. TEMPORINI]³
[O. A. AINCHIL]

Australia, the Commonwealth of:
[Australie, Commonwealth d'] :

[J. PLIMSOLL]
12 October 1972⁴

Austria, the Republic of:
[Autriche, République d'] :

[A. HALUSA]
13 November 1972⁵

Barbados:
[Barbade] :

[O. H. JACKMAN]

Belgium, the Kingdom of:
[Belgique, Royaume de] :

[A. X. PIRSON]

Brazil, the Federative Republic of:
[Brésil, République fédérative du] :

[E. C. SANTOS]
Subject to reservation under Article 14, paragraphs 2
and 1⁶

¹ The signatures appearing without dates were affixed at Montreal on 23 September 1971 (Information supplied by the Government of the United States of America)—Les signatures non suivies de dates ont été apposées à Montréal le 23 septembre 1971 (Renseignement fourni par le Gouvernement des Etats-Unis d'Amérique).

² The French translation of the names of States appearing between brackets was supplied by the Secretariat of the United Nations—La traduction française des noms des Etats donnée entre crochets a été fournie par le Secrétariat de l'Organisation des Nations Unies.

³ Names of signatories appearing between brackets were not legible and have been supplied by the Government of the United States of America—Les noms des signataires donnés entre crochets étaient illisibles et ont été fournis par le Gouvernement des Etats-Unis d'Amérique.

⁴ 12 octobre 1972.

⁵ 13 novembre 1972.

⁶ Sous bénéfice de la réserve prévue aux paragraphes 2 et 1 de l'article 14.

Bulgaria, the People's Republic of:
[*Bulgarie, République populaire de*]:

[L. GELIAZKOV]

With a reservation under p. 2, article 14¹

Byelorussian Soviet Socialist Republic:
[*République socialiste soviétique de Biélorussie*]:

[V. I. LUKYANOVICH]

[*For the text of an identical declaration, see p. 213 of this volume — Pour le texte d'une déclaration identique, voir p. 213 du présent volume.*]

Cameroon, the Federal Republic of:
[*Cameroun, République fédérale du*]:

Canada:
[*Canada*]:

[ANDRÉ BISSONNETTE]

Ceylon:
[*Ceylan*]:

Chad, the Republic of:
[*Tchad, République du*]:

[A. AGANAYE]

Chile, the Republic of:
[*Chili, République du*]:

China, the Republic of:
[*Chine, République de*]:

[*Signed — Signé*]²

Colombia, the Republic of
[*Colombie, République de*]:

Congo, the People's Republic of the:
[*Congo, République populaire du*]:

[F. X. OLLASSA]

Costa Rica, the Republic of:
[*Costa Rica, République du*]:

[GEORGIANA DARLINGTON]

¹ Avec une réserve au paragraphe 2, article 14.

² Signed by S. M. Kao — Signé par S. M. Kao.

Czechoslovak Socialist Republic:

[*République socialiste tchécoslovaque*] :

[B. VACHATA]

With reservation under par. 2, Article 14¹

Denmark, the Kingdom of:

[*Danemark, Royaume du*] :

[E. BARTELS]

October 17th-72²

Egypt, Arab Republic of:

[*Egypte, République arabe d'*] :

Ethiopia, the Empire of:

[*Ethiopie, Empire d'*] :

[G. TUNI]

Finland, the Republic of:

[*Finlande, République de*] :

French Republic, the:

[*République française*] :

Gabonese Republic, the:

[*République gabonaise*] :

Germany, the Federal Republic of:

[*Allemagne, République fédérale d'*] :

[H. GROEPER]

Hungarian People's Republic:

[*République populaire hongroise*] :

[SÁNDOR, ISTVÁN]

India, the Republic of:

[*Inde, République de l'*] :

[L. K. JHA]

December 11 1972³

Indonesia, the Republic of:

[*Indonésie, République d'*] :

Ireland:

[*Irlande*] :

¹ Sous la réserve prévue au paragraphe 2 de l'article 14.

² 17 octobre 1972.

³ 11 décembre 1972.

Israel, the State of:
[Israël, *Etat d'*]:

[Signed — Signé]¹

[Signed — Signé]²

Italian Republic, the
[République italienne]:

[V. MARABITO]

Jamaica:
[Jamaïque]:

[K. O. RATTRAY]

[G. B. MORRIS]

Japan:
[Japon]:

Kenya, the Republic of:
[Kenya, *République du*]:

Korea, the Republic of:
[Corée, *République de*]:

Lebanon, the Republic of:
[Liban, *République du*]:

Malagasy Republic, the:
[République malgache]:

Mexican States, the United:
[Mexique, *Etats-Unis du*]:

[J. J. DE OLLOQUI]

January 25th 1973³

Netherlands, the Kingdom of the:
[Pays-Bas, *Royaume des*]:

[W. RIPHAGEN]

[M. R. MOK]

New Zealand:
[Nouvelle-Zélande]:

[G. D. L. WHITE]

September 26th 1972⁴

¹ Signed by N. Ben-Yehuda — Signé par N. Ben-Yehuda.

² Signed by E. Ben-Yakir — Signé par E. Ben-Yakir.

³ 25 janvier 1973.

⁴ 26 septembre 1972.

Norway, the Kingdom of:
[*Norvège, Royaume de*] :

Philippines, the Republic of the:
[*Philippines, République des*] :

[P. AGCAOILI]
[L. T. CADAY]
[R. CARI CRUZ]

Polish People's Republic:
[*République populaire de Pologne*] :

[S. DABROWA]

Portugal, the Republic of:
[*Portugal, République du*] :

Romania, Socialist Republic of:
[*Roumanie, République socialiste de*] :

[G. IONITA]

July 10, 1972¹

1. "The Socialist Republic of Romania states that [she] does not consider herself bound by the provisions of Article 14, point 1, of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on September 23, 1971, which stipulates that the differences concerning the interpretation or the putting into force of the present Convention, which have not been settled through negotiations, to be submitted to the International Court of Justice at the request of each of the parties involved.

"The position of the Socialist Republic of Romania is that such differences should be submitted to the International Court of Justice only with the consent of all the parties involved, for each single case."²

Senegal, the Republic of;
[*Sénégal, République du*] :

South Africa, the Republic of:
[*Afrique du Sud, République de l'*] :

[H. E. M. BOTHA]

¹ 10 juillet 1972.

² [TRANSDUCTION—TRANSLATION] 1. La République socialiste de Roumanie déclare qu'elle ne se considère pas liée par les dispositions du paragraphe 1 de l'article 14 de la Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile, signée à Montréal le 23 septembre 1971, qui stipule que tout différend concernant l'interprétation ou l'application de la Convention qui ne peut pas être réglé par voie de négociation est soumis à la Cour internationale de Justice à la requête de l'une quelconque des parties en cause.

La République socialiste de Roumanie estime que le différend ne devrait être soumis à la Cour internationale de Justice qu'avec le consentement de toutes les Parties en cause dans chaque cas.

Spain:
[*Espagne*] :

Sweden, the Kingdom of:
[*Suède, Royaume de*] :

Swiss Confederation, the:
[*Confédération suisse*] :

[W. GULDIMANN]

Tanzania, the United Republic of:
[*Tanzanie, République-Unie de*] :

Trinidad and Tobago:
[*Trinité-et-Tobago*] :

[ELLIS CLARKE]

9th February, 1972¹

Uganda, the Republic of:
[*Ouganda, République de l'*] :

Ukrainian Soviet Socialist Republic:
[*République socialiste soviétique d'Ukraine*] :

[*Signed — Signé*]²

[*For the text of an identical declaration, see p. 217 of this volume — Pour le texte d'une déclaration identique, voir p. 217 du présent volume.*]

Union of Soviet Socialist Republics:
[*Union des Républiques socialistes soviétiques*] :

[*Signed — Signé*]³

[*For the text of an identical declaration, see p. 218 of this volume — Pour le texte d'une déclaration identique, voir p. 218 du présent volume.*]

United Kingdom of Great Britain and Northern Ireland:
[*Royaume-Uni de Grande-Bretagne et d'Irlande du Nord*] :

[ARNOLD KEAN]

United States of America:
[*Etats-Unis d'Amérique*] :

[CHARLES NELSON BROWER]

[FRANKLIN KNIGHT WILLIS]

[ROBERT PATRICK BOYLE]

¹ 9 février 1972.

² Signed by I. Ilyushchenko — Signé par I. Ilyouchchenko.

³ Signed by N. Osetrov — Signé par N. Ossetrov.

Venezuela, the Republic of:
[*Venezuela, République du*] :

Ad referendum
[J. MÉNDEZ]

Yugoslavia, the Socialist Federal Republic of:
[*Yougoslavie, République fédérative socialiste de*] :

[T. CURUVIJA]

Zambia, the Republic of:
[*Zambie, République de*] :

Luxembourg, the Grand Duchy of:
[*Luxembourg, Grand-Duché de*] :

[JEAN WAGNER]
Le 29 novembre 1971¹

Haiti, the Republic of:
[*Haïti, République d'*] :

[R. CHALMERS]
6 janvier 1972²

Panama, Republic of:
[*Panama, République du*] :

[J. ANTONIO DE LA OSSA]
18 Enero 1972³

Greece, the Kingdom of:
[*Grèce, Royaume de*] :

[B. VITSAXIS]
the 9th of February 1972⁴

Mongolian People's Republic:
[*République populaire mongole*] :

[M. DUGERSUREN]
18 Feb. 1972⁵

Niger, the Republic of:
[*Niger, République du*] :

[O. G. YOUSSEFOU]
6th March 1972⁶

¹ 29 November 1971.

² 6 January 1972.

³ 18 January 1972 — 18 janvier 1972.

⁴ Le 9 février 1972.

⁵ 18 février 1972.

⁶ 6 mars 1972.

Jordan, the Hashemite Kingdom of:
[*Jordanie, Royaume hachémite de*] :

[Z. MUFTI]

2 May, 1972¹

Guatemala, the Republic of:
[*Guatemala, République du*] :

[J. ASENSIO-WUNDERLICH]

May 9, 1972²

Dominican Republic:
[*République dominicaine*] :

[S. ORTIZ]

May 31, 1972³

Rwanda, the Republic of:
[*Rwanda, République du*] :

[FIDÈLE NKUNDABAGENZI]

June 26, 1972⁴

Turkey, the Republic of:
[*Turquie, République de*] :

[MELIH ESENBEL]

July 5, 1972⁵

Laos, the Kingdom of:
[*Laos, Royaume du*] :

[PHÈNG NORINDR]

Nov. 1st 1972⁶

Singapore, the Republic of:
[*Singapour, République de*] :

[E. S. MONTEIRO]

21 Nov. 1972

Cyprus, the Republic of:
[*Chypre, République de*] :

[ZENON ROSSIDES]

28 Nov. 1972

¹ 2 mai 1972.

² 9 mai 1972.

³ 31-mai 1972.

⁴ 26 juin 1972.

⁵ 5 juillet 1972.

⁶ 1er novembre 1972.

Nicaragua, the Republic of:
[*Nicaragua, République du*] :

[Dr. GUILLERMO SEVILLA-SACASA]

Diciembre 22, 1972¹

Paraguay, the Republic of:
[*Paraguay, République du*] :

Ad referendum

[MIGUEL SOLANO LÓPEZ]

Enero 23 de 1973²

¹ 22 December 1972 — 22 décembre 1972.

² 23 January 1973 — 23 janvier 1973.

List of signatures affixed on the original of the Convention deposited with the Government of the United Kingdom of Great Britain and Northern Ireland¹

Liste des signatures apposées sur l'original de la Convention déposée auprès du Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord¹

Argentine Republic, the:
[*République argentine*]² :

ROBERTO TEMPORINI
O. A. AINCHIL

Australia, the Commonwealth of:
[*Australie, Commonwealth d'*]:

ALEXANDER DOWNER
12th October 1972³

Austria, the Republic of:
[*Autriche, République d'*]:

WILFRIED PLATZER
13th November 1972⁴

Barbados:
[*Barbade*]:

OLIVER JACKMAN

Belgium, the Kingdom of:
[*Belgique, Royaume de*]:

PIRSON

Brazil, the Federative Republic of:
[*Brésil, République fédérative du*]:

EDIVIO SANCTOS
Subject to reservation under Article 14, paragraphs 2 and 1⁵

¹ The signatures appearing without dates were affixed at Montreal on 23 September 1971 (Information supplied by the Government of the United Kingdom of Great Britain and Northern Ireland) — Les signatures non suivies de dates ont été apposées à Montréal le 23 septembre 1971 (Renseignement fourni par le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord).

² The French translation of the names of States appearing between brackets was supplied by the Secretariat of the United Nations — La traduction française des noms des Etats donnée entre crochets a été fournie par le Secrétariat de l'Organisation des Nations Unies.

³ 12 octobre 1972.

⁴ 13 novembre 1972.

⁵ Sous bénéfice de la réserve prévue aux paragraphes 1 et 2 de l'article 14.

Bulgaria, the People's Republic of:
[*Bulgarie, République populaire de*]:

Л. ЖЕЛЯКОВ¹

With a reservation under p. 2, article 14²

Byelorussian Soviet Socialist Republic:
[*République socialiste soviétique de Biélorussie*]:

В. ЛУКЬЯНОВИЧ³

«Белорусская Советская Социалистическая Республика не считает себя связанной положениями пункта 1 статьи 14 предусматривающими передачу споров о толковании или применении Конвенции в Арбитраж или Международный Суд по требованию одной из сторон.»⁴

Cameroon, the Federal Republic of:
[*Cameroun, République fédérale du*]:

Canada:
[*Canada*]:

ANDRÉ BISSONNETTE

Ceylon:
[*Ceylan*]:

Chad, the Republic of:
[*Tchad, République du*]:

ADOUM AGANAYE

Chile, the Republic of:
[*Chili, République du*]:

China, the Republic of:
[*Chine, République de*]:

[Signed — Signé]⁵

¹ L. Geliakov.

² Sous la réserve prévue au paragraphe 2 de l'article 14.

³ V. Lukyanovich.

⁴ [TRANSLATION—TRADUCTION**] The Byelorussian Soviet Socialist Republic does not consider itself bound by the provisions of paragraph 1 of Article 14 providing for the reference of disputes concerning the interpretation or application of the Convention to arbitration or to the International Court at the request of one of the parties.

* Translation supplied by the Government of the United Kingdom.

** Traduction fournie par le Gouvernement du Royaume-Uni.

[TRANSLATION—TRANSLATION] La République socialiste soviétique de Biélorussie ne se considère pas liée par les dispositions du paragraphe 1 de l'article 14 prévoyant la soumission des différends concernant l'interprétation ou l'application de la Convention à l'arbitrage ou à la Cour internationale à la requête de l'une quelconque des parties.

⁵ Signed by S. M. Kao — Signé par S. M. Kao.

Colombia, the Republic of:
[*Colombie, République de*] :

Congo, the People's Republic of the:
[*Congo, République populaire du*] :

F-X. OLLASSA

Costa Rica, the Republic of:
[*Costa Rica, République du*] :

GEORGIANA DARLINGTON

Czechoslovak Socialist Republic:
[*République socialiste tchécoslovaque*] :

BOH VACHATA

With a reservation under par. 2, Article 14¹

Denmark, the Kingdom of:
[*Danemark, Royaume du*] :

ERLING KRISTIANSEN

17.10.72

Egypt, Arab Republic of:
[*Egypte, République arabe d'*] :

K. RIFAAT

24/11/1972

Ethiopia, the Empire of:
[*Ethiopie, Empire d'*] :

G. TUNI

Finland, the Republic of:
[*Finlande, République de*] :

French Republic, the:
[*République française*] :

Gabonese Republic, the:
[*République gabonaise*] :

J. N'GOUA

24.11.71

Germany, the Federal Republic of:
[*Allemagne, République fédérale d'*] :

H. GROEPPER

¹ Sous la réserve prévue au paragraphe 2 de l'article 14.

Hungarian People's Republic:
[République populaire hongroise] :

SÁNDOR ISTVÁN

India, the Republic of:
[Inde, République de l'] :

M. RASGOTRA

11 December 1972¹

Indonesia, the Republic of:
[Indonésie, République d'] :

Ireland:
[Irlande] :

Israel, the State of:
[Israël, Etat d'] :

[Signed — Signé]²

[Signed — Signé]¹

Italian Republic, the:
[République italienne] :

UGO MORABITO

Jamaica:
[Jamaïque] :

K. O. RATTRAY

G. B. MORRIS

Japan:
[Japon] :

Kenya, the Republic of:
[Kenya, République du] :

Korea, the Republic of:
[Corée, République de] :

Lebanon, the Republic of:
[Liban, République du] :

Malagasy Republic, the:
[République malgache] :

¹ 11 décembre 1972.

² Signed by N. Ben-Yehuda — Signé par N. Ben-Yehuda.

³ Signed by E. Ben-Yakir — Signé par E. Ben-Yakir.

Mexican States, the United:
[*Mexique, États-Unis du*] :

V. SÁNCHEZ GAVITO
25 January 1973¹

Netherlands, the Kingdom of the:
[*Pays-Bas, Royaume des*] :

W. RIPHAGEN
M. R. MOK

New Zealand:
[*Nouvelle-Zélande*] :

M. NORRISH
26/9/72

Norway, the Kingdom of:
[*Norvège, Royaume de*] :

Philippines, the Republic of the:
[*Philippines, République des*] :

P. V. AGCAOLI
LEON T. CADAY
REMIGIO CARSI-CRUZ

Polish People's Republic:
[*République populaire de Pologne*] :

S. DABROWA

Portugal, the Republic of:
[*Portugal, République du*] :

JOAQUIM RENATO PINTO SOARES

Romania, Socialist Republic of:
[*Roumanie, République socialiste de*] :

V. PUNGAN
10/VII-1972²

Senegal, the Republic of:
[*Sénégal, République du*] :

Y. DIALLO

¹ 25 janvier 1973.

² 10 July 1972 — 10 juillet 1972.

South Africa, the Republic of:
[*Afrique du Sud, République de l'*]:

M. I. BOTHA

Spain:
[*Espagne*]:

SANTA CRUZ
15-2-72

Sweden, the Kingdom of:
[*Suède, Royaume de*]:

Swiss Confederation, the:
[*Confédération suisse*]:

W. GULDIMANN

Tanzania, the United Republic of:
[*Tanzanie, République-Unie de*]:

Trinidad and Tobago:
[*Trinité-et-Tobago*]:

Uganda, the Republic of:
[*Ouganda, République de l'*]:

Ukrainian Soviet Socialist Republic:
[*République socialiste soviétique d'Ukraine*]:

И. ИЛЬЮШЕНКО¹

«Правительство Украинской Советской Социалистической Республики не считает себя связанным положениями пункта 1 статьи 14, предусматривающего, что споры о толковании или применении Конвенции передаются в Арбитраж или в Международный Суд по требованию одной из Сторон в споре.»²

¹ I. Iliuschenko.

² [TRANSLATION*—TRADUCTION**] The Government of the Ukrainian Soviet Socialist Republic does not consider itself bound by the provisions of paragraph 1 of Article 14 providing for disputes concerning the interpretation or application of the Convention to be referred to arbitration or to the International Court at the request of one of the parties to the dispute.

* Translation supplied by the Government of the United Kingdom.

** Traduction fournie par le Gouvernement du Royaume-Uni.

[TRANSLATION—TRANSLATION] Le Gouvernement de la République socialiste soviétique d'Ukraine ne se considère pas lié par les dispositions du paragraphe 1 de l'article 14 prévoyant la soumission des différends concernant l'interprétation ou l'application de la Convention à l'arbitrage ou à la Cour internationale à la demande de l'une quelconque des parties au différend.

Union of Soviet Socialist Republics:
[*Union des Républiques socialistes soviétiques*]:

ОСЕТРОВ¹

«Правительство Союза Советских Социалистических Республик не считает себя связанным положениями пункта 1 статьи 14, предусматривающего, что споры о толковании или применении Конвенции передаются в Арбитраж или в Международный Суд по требованию одной из Сторон в споре.»²

United Kingdom of Great Britain and Northern Ireland:
[*Royaume-Uni de Grande-Bretagne et d'Irlande du Nord*]:

ARNOLD KEAN

United States of America:
[*Etats-Unis d'Amérique*]:

CHARLES NELSON BROWER
FRANKLIN KNIGHT WILLIS
ROBERT PATRICK BOYLE

Venezuela, the Republic of:
[*Venezuela, République du*]:

Ad referendum
J. MÉNDEZ MORENO

Yugoslavia, the Socialist Federal Republic of:
[*Yougoslavie, République fédérative socialiste de*]:

Dr. TODE CURUVIJA

Zambia, the Republic of:
[*Zambie, République de*]:

Luxembourg, the Grand Duchy of:
[*Luxembourg, Grand-Duché de*]:

A. J. CLASEN

24 November, 1971³

¹ Osetrov.

² [TRANSLATION*—TRADUCTION**] The Government of the Union of Soviet Socialist Republics does not consider itself bound by the provisions of paragraph 1 of Article 14 providing for disputes concerning the interpretation or application of the Convention to be referred to arbitration or to the International Court at the request of one of the parties to the dispute.

* Translation supplied by the Government of the United Kingdom.

** Traduction fournie par le Gouvernement du Royaume-Uni.

[TRANSLATION—TRANSLATION] Le Gouvernement de l'Union des Républiques socialistes soviétiques ne se considère pas lié par les dispositions du paragraphe 1 de l'article 14 prévoyant la soumission des différends concernant l'interprétation ou l'application de la Convention à l'arbitrage ou à la Cour internationale à la demande de l'une quelconque des parties au différend.

³ 24 novembre 1971.

Mongolian People's Republic:
[*République populaire mongole*] :

The Mongolian People's Republic does not consider itself bound by the provisions of paragraph 1 of Article 14¹

C. ДАМБАДАРЖААД²

1972.1.25

Jordan, the Hashemite Kingdom of:
[*Jordanie, Royaume hachémite de*] :

WALEED M. SADI

April 17, 1972³

Fiji:
[*Fidji*] :

J. R. RABUKAWAQA

21 August 1972⁴

Botswana, the Republic of:
[*Botswana, République du*] :

G. K. T. CHIEPE

12th October, 1972⁵

Yemen Arab Republic, the:
[*Yémen, République arabe du*] :

AL-SHAMY

23/10/72

Cyprus, the Republic of:
[*Chypre, République de*] :

C. A. ASHIOTIS

3, November, 1972⁶

Singapore, the Republic of:
[*Singapour, République de*] :

LEE YONG LENG

21 November, 1972⁷

Laos, the Kingdom of:
[*Laos, Royaume du*] :

I. SURYADHAY

2-1-73⁸

¹ La République populaire de Mongolie ne se considère pas liée par les dispositions du paragraphe 1 de l'article 14.

² S. Dambadarzhaad.

³ 17 avril de 1972.

⁴ 21 août 1972.

⁵ 12 octobre 1972.

⁶ 3 novembre 1972.

⁷ 21 novembre 1972.

⁸ 2 January 1973 — 2 janvier 1973.

List of signatures affixed on the original of the Convention deposited with the Government of the Union of Soviet Socialist Republics¹

Liste des signatures apposées sur l'original de la Convention déposée auprès du Gouvernement de l'Union des Républiques socialistes soviétiques¹

[RUSSIAN TEXT — TEXTE RUSSE]

КОНВЕНЦИЯ О БОРЬБЕ С НЕЗАКОННЫМИ АКТАМИ, НАПРАВЛЕННЫМИ ПРОТИВ БЕЗОПАСНОСТИ ГРАЖДАНСКОЙ АВИАЦИИ, ОТ 23 СЕНТЯБРЯ 1971 Г. (ОТКРЫТА ДЛЯ ПОДПИСАНИЯ В МОСКВЕ 11 ОКТЯБРЯ 1971 Г.)

За Великое Герцогство Люксембург:
[For the Grand Duchy of Luxembourg]:
[Pour le Grand-Duché de Luxembourg] :

[A. E. MEISH]

7 декабря 1971 г.²

За Монгольскую Народную Республику:
[For the Mongolian People's Republic]:
[Pour la République populaire mongole] :

[Signed — Signé]³

2 февраля 1972 г.⁴

«Монгольская Народная Республика не считает себя связанной положениями пункта 1 статьи 14 Конвенции о борьбе с незаконными актами, направленными против безопасности гражданской авиации, которые предусматривают передачу любого спора, касающегося толкования или применения настоящей Конвенции, в арбитраж или в Международный суд по просьбе одной из Сторон»⁵

За Республику Бурунди:
[For the Republic of Burundi]:
[Pour la République du Burundi] :

[F. KISUKURUME]

6 марта 1972 г.⁶

¹ The translations of the names of States appearing between brackets were supplied by the Secretariat of the United Nations — Les traductions des noms des Etats données entre crochets ont été fournies par le Secrétariat de l'Organisation des Nations Unies.

² 7 December 1971 — 7 décembre 1971.

³ Signed by N. Luvsanchultem — Signé par N. Luvsanchoultém.

⁴ 2 February 1972 — 2 février 1972.

⁵ "The Mongolian People's Republic does not consider itself bound by the provisions of paragraph 1 of article 14 of the Convention for the suppression of unlawful acts against the safety of civil aviation, which stipulates that any dispute concerning the interpretation or application of this Convention shall, at the request of one of the Parties, be submitted to arbitration or to the International Court of Justice."

[TRANSLATION — TRANSLATION] La République populaire de Mongolie ne se considère pas liée par les dispositions du paragraphe 1 de l'article 14 de la Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile qui prévoit que tout différend concernant l'interprétation ou l'application de la Convention est soumis, à la demande de l'une quelconque des Parties, à l'arbitrage ou à la Cour internationale de Justice.

⁶ 6 March 1972 — 6 mars 1972.

За Германскую Демократическую Республику:
[*For the German Democratic Republic*]:
[*Pour la République démocratique allemande*]:

[HORST BITTNER]

10 марта 1972 г.¹

За Иорданское Хашимитское Королевство:
[*For the Hashemite Kingdom of Jordan*]:
[*Pour le Royaume hachémite de Jordanie*]:

[H. IBRAHIM]

4 мая 1972 г.²

За Руандийскую Республику:
[*For the Rwandese Republic*]:
[*Pour la République rwandaise*]:

[T. NTAWINA]

4 мая 1972 года²

За Социалистическую Республику Румынию:
[*For the Socialist Republic of Romania*]:
[*Pour la République socialiste de Roumanie*]:

[GH. BADRUS]

10 июля 1972 года³

За Новую Зеландию:
[*For New Zealand*]:
[*Pour la Nouvelle-Zélande*]:

[K. B. A. SCOTT]

26 сентября 1972 года⁴

За Австралийский Союз:
[*For Australia*]:
[*Pour l'Australie*]:

[L. J. LAWREY]

12 октября 1972 года⁵

¹ 10 March 1972 — 10 mars 1972.

² 4 May 1972 — 4 mai 1972.

³ 10 July 1972 — 10 juillet 1972.

⁴ 26 September 1972 — 26 septembre 1972.

⁵ 12 October 1972 — 12 octobre 1972.

За Королевство Данию:
[For the Kingdom of Denmark]:
[Pour le Royaume du Danemark] :

[ANKERT SVART]

17 октября 1972 года¹

За Республику Кипр:
[For the Republic of Cyprus]:
[Pour la République de Chypre] :

[D. HADJIMILTIS]

2 ноября 1972 года²

За Австрийскую Республику:
[For the Republic of Austria]:
[Pour la République d'Autriche] :

[HEINRICH HAYMERLE]

13 ноября 1972 года³

За Республику Сингапур:
[For the Republic of Singapore]:
[Pour la République de Singapour] :

21 ноября 1972 года⁴

За Королевство Лаос:
[For the Kingdom of Laos]:
[Pour le Royaume du Laos] :

[LA NORINDR]

27 ноября 1972 года⁵

За Республику Индию:
[For the Republic of India]:
[Pour la République de l'Inde] :

[K. S. SHELVANKAR]

11 декабря 1972 года⁶

За Мексиканские Соединенные Штаты:
[For the United Mexican States]:
[Pour les Etats-Unis du Mexique] :

25 января 1973 года⁷

¹ 17 October 1972 — 17 octobre 1972.

² 2 November 1972 — 2 novembre 1972.

³ 13 November 1972 — 13 novembre 1972.

⁴ 21 November 1972 — 21 novembre 1972.

⁵ 27 November 1972 — 27 novembre 1972.

⁶ 11 December 1972 — 11 décembre 1972.

⁷ 25 January 1973 — 25 janvier 1973.

DECLARATION MADE
UPON SIGNATURE

ROMANIA

"The Government of the Socialist Republic of Romania considers null and void the signing at Montreal of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on September 23, 1971, by the so called Chiang-Kai-Shek authorities in so far as the only Government having the right to assume obligations on behalf of China and to represent her in international relations is the Government of the People's Republic of China."

RESERVATIONS AND DECLARATIONS MADE UPON RATIFICATION OR ACCESSION (a)

BRAZIL

At London, Moscow and Washington:

[Confirming the declaration made upon signature. For the text, see pp. 203 and 212 of this volume.]

BULGARIA

At London and Washington:

[BULGARIAN TEXT — TEXTE BULGARE]

«Народна република България не се счита обвързана с клаузата за задължително предаване споровете по тълкуването или приложението на Конвенцията на арбитраж или на Международния съд в Хага.»

[TRANSLATION¹ — TRADUCTION²]

The People's Republic of Bulgaria does not consider itself bound with the clause of obligatory transfer of the

¹ Translation supplied by the Government of Bulgaria.

² Traduction fournie par le Gouvernement bulgare.

DÉCLARATION FAITE
LORS DE LA SIGNATURE

ROUMANIE

[TRADUCTION — TRANSLATION]

Le Gouvernement de la République socialiste de Roumanie considère comme nulle et non avenue la signature, le 23 septembre 1971, à Montréal, de la Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile par les autorités dites de Chiang-Kai-Shek car le seul Gouvernement autorisé à assumer des obligations au nom de la Chine et à la représenter dans les relations internationales est le Gouvernement de la République populaire de Chine.

RÉSERVES ET DÉCLARATIONS FAITES LORS DE LA RATIFICATION OU DE L'ADHÉSION (a)

BRÉSIL

A Londres, à Moscou et à Washington :

[Avec confirmation de la déclaration formulée lors de la signature. Pour le texte, voir p. 203 et 212 du présent volume.]

BULGARIE

A Londres et à Washington :

[TRADUCTION — TRANSLATION]

La République populaire de Bulgarie ne se considère pas liée par la clause de soumission obligatoire des différends

disputes on the interpretation or application of the Convention to arbitration or to the International Court at The Hague.

**BYELORUSSIAN SOVIET
SOCIALIST REPUBLIC**

At Moscow:

[Same declaration as that on p. 213 of this volume.]

CZECHOSLOVAKIA

At London, Moscow and Washington:

concernant l'interprétation ou l'application de la Convention à l'arbitrage ou à la Cour internationale à La Haye.

**RÉPUBLIQUE SOCIALISTE
SOVIÉTIQUE DE BIÉLORUSSIE**

A Moscou :

[Même déclaration que celle publiée à la p. 213 du présent volume.]

TCHÉCOSLOVAQUIE

A Londres, à Moscou et à Washington :

[CZECH TEXT — TEXTE TCHEQUE]

“Přijímajíce tuto Úmluvu, prohlašujeme v souladu s jejím článkem 14 odstavec 2, že Československá socialistická republika není vázána ustanovením článku 14 odstavec 1 Úmluvy.”

[TRANSLATION¹ — TRADUCTION²]

In accepting this Convention, we declare, in accordance with its Article 14, paragraph 2, that the Czechoslovak Socialist Republic is not bound by the provision of Article 14, paragraph 1, of the Convention.

**GERMAN
DEMOCRATIC REPUBLIC**

At Moscow:

[TRADUCTION — TRANSLATION]

En adhérant à la présente Convention, nous déclarons, conformément au paragraphe 2 de l'article 14, que la République socialiste tchécoslovaque n'est pas liée par la disposition du paragraphe 1 de l'article 14.

**RÉPUBLIQUE
DÉMOCRATIQUE ALLEMANDE**

A Moscou :

[GERMAN TEXT — TEXTE ALLEMAND]

“Nachdem die Konvention entsprechend den innerstaatlichen Bestimmungen der Deutschen Demokratischen Republik bestätigt worden ist, erkläre ich im Namen der Deutschen Demokratischen Republik, daß die Konvention erfüllt und eingehalten wird, mit dem Vorbehalt, daß Artikel 14 Absatz 1 der Konvention für die Deutsche Demokratische Republik nicht verbindlich ist.”

[TRANSLATION]

The German Democratic Republic does not consider itself bound by the

[TRADUCTION]

La République démocratique allemande ne se considère pas liée par les dis-

¹ Translation supplied by the Government of Czechoslovakia.

² Traduction fournie par le Gouvernement tchécoslovaque.

provisions of article 14, paragraph 1, of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

positions de l'article 14, paragraphe 1, de la Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile, signée à Montréal le 23 septembre 1971.

HUNGARY

HONGRIE

At London, Moscow and Washington: A Londres, à Moscou et à Washington :

[HUNGARIAN TEXT — TEXTE HONGROIS]

“A Magyar Népköztársaság Elnöki Tanácsa megerősíti a polgári repülés biztonsága elleni jogellenes cselekmények leküzdéséről szóló, Montréalban az 1971. évi szeptember hó 24. napján aláírt egyezményt, azzal a fenntartással, hogy az egyezmény 14. cikk 1. bekezdésében foglalt rendelkezést nem tekinti magára nézve kötelezőnek.”

[TRANSLATION¹ — TRADUCTION²]

[TRADUCTION — TRANSLATION]

The Presidential Council of the Hungarian People's Republic ratifies the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 24, 1971, and makes the reservation that it does not consider itself bound by the provision in paragraph 1 of Article 14 of the Convention.

Le Présidium de la République populaire de Hongrie ratifie la Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile, signée à Montréal le 24 septembre 1971, et formule une réserve en déclarant qu'il ne se considère pas lié par la disposition du paragraphe 1 de l'article 14 de la Convention.

IRAQ(a)

IRAK(a)

At Moscow:

A Moscou :

[ARABIC TEXT — TEXTE ARABE]

علما أن انضمام الجمهورية العراقية الى الاتفاقية المذكورة لا يعني بأي حال من الأحوال الاعتراف بإسرائيل أو الدخول معها في أية علاقات .

¹ Translation supplied by the Government of Hungary.

² Traduction fournie par le Gouvernement hongrois.

[TRANSDUCTION — TRANSLATION]

“Entry into the above Convention by the Republic of Iraq shall, however, in no way signify recognition of Israel or be conducive to entry into any relations with it.”

L'adhésion à la présente Convention ne signifie pas que la République d'Irak reconnaît Israël ni qu'elle établira des relations avec lui.

MALAWI(a)

MALAWI(a)

At Washington:

A Washington :

[TRANSDUCTION — TRANSLATION]

“It is the wish of the Government of the Republic of Malawi to declare, in accordance with the provisions of paragraph 2 of Article 14, that it does not consider itself bound by the provisions of paragraph 1 of Article 14 of the Convention.”

La République du Malawi souhaite déclarer, conformément aux dispositions du paragraphe 2 de l'article 14, qu'elle ne se considère pas liée par les dispositions du paragraphe 1 de l'article 14 de la Convention.

MONGOLIA

MONGOLIE

At London, Moscow and Washington:

A Londres, à Moscou et à Washington :

[MONGOLIAN TEXT — TEXTE MONGOL]

«Иргэний агаарын тээврийн аюулгүй байдлын эсрэг чиглэсэн хууль бус явдалтай тэмцэх тухай Конвенцийг тайлбарлах буюу хэрэгжүүлэх талаар гарсан аливаа маргааныг зохигчдын аль нэгний хүсэлтээр арбитраж буюу Олон Улсын Шүүхэд шилжүүлж байх тухай уг Конвенцийн 14 дүгээр эвийлийн 1-ийн заалт Бүгд Найрамдах Монгол Ард Улсад үүрэг хүлээлгэхгүй.»

[TRANSLATION¹ — TRANSDUCTION²]

[TRANSDUCTION — TRANSLATION]

The Mongolian People's Republic does not consider itself bound by the provisions of paragraph 1 of Article 14 of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, which stipulates that any dispute concerning the interpretation or application of this Convention shall, at the request of one of the Parties, be submitted to arbitration or to the International Court of Justice.

La République populaire de Mongolie ne se considère pas liée par les dispositions du paragraphe 1 de l'article 14 de la Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile qui prévoit que tout différend concernant l'interprétation ou l'application de la Convention est soumis, à la demande de l'une quelconque des parties, à l'arbitrage ou à la Cour internationale de Justice.

¹ Translation supplied by the Government of Mongolia.

² Traduction fournie par le Gouvernement mongol.

*At Moscow:**A Moscou :*

[RUSSIAN TEXT — TEXTE RUSSE]

«Монгольская Народная Республика не считает себя связанной положениями пункта 1 статьи 14 Конвенции о борьбе с незаконными актами, направленными против безопасности гражданской авиации, которые предусматривают передачу любого спора, касающегося толкования или применения настоящей Конвенции, в арбитраж или в Международный суд по просьбе одной из Сторон.»

[TRANSLATION¹ — TRADUCTION²]

[TRADUCTION — TRANSLATION]

[See translation above.]

[Voir la traduction ci-dessus.]

POLAND

POLOGNE

*At London:**A Londres :*

[POLISH TEXT — TEXTE POLONAIS]

“...że Polska Rzeczpospolita Ludowa nie uważa się za zawiązaną postanowieniami artykułu 14 ustęp 1 tej Konwencji;”

[TRANSLATION³ — TRADUCTION⁴]

[TRADUCTION — TRANSLATION]

...that the People's Republic of Poland does not consider itself bound by the provisions of paragraph 1 of Article 14 of this Convention;

...la République populaire de Pologne ne se considère pas liée par les dispositions du paragraphe 1 de l'article 14 de la présente Convention;

REPUBLIC OF KOREA (a)

RÉPUBLIQUE DE CORÉE (a)

*At Washington:**A Washington :*

[TRADUCTION — TRANSLATION]

“The accession by the Government of the Republic of Korea to the present Convention does not in any way mean or imply the recognition of any territory or regime which has not been recognized by the Government of the Republic of Korea as a State or Government.”

L'adhésion du Gouvernement de la République de Corée à la présente Convention ne signifie ni n'implique en aucune façon la reconnaissance de tout territoire ou régime qui n'a pas été reconnu par le Gouvernement de la République de Corée en tant qu'Etat ou Gouvernement.

¹ Translation supplied by the Government of Mongolia.

² Traduction fournie par le Gouvernement mongol.

³ Translation supplied by the Government of Poland.

⁴ Traduction fournie par le Gouvernement polonais.

SAUDI ARABIA (a)

ARABIE SAOUDITE (a)

At Washington:

A Washington :

[ARABIC TEXT — TEXTE ARABE]

١- ان انضمام المملكة العربية السعودية لهذه الاتفاقية لا يعني ولا يتضمن ولا يفرض
بانه اعتراف باسرائيل بصفة عامة او في نطاق هذه الاتفاقية .

٢- ان المملكة العربية السعودية تتحفظ على الفقرة (١) في المادة الرابعة عشره في هذه
الاتفاقية ، وبخاصة بالتحكم وذلك طبقا للفقرة (٢) من نفس المادة ، والتي تجبر
التحفظ ايضا .

[TRANSLATION¹ — TRADUCTION²]

[TRADUCTION — TRANSLATION]

1. That the accession of the Kingdom of Saudi Arabia to the said Convention does not mean or imply, and shall not be interpreted as, recognition of Israel generally or in the context of this Convention;

1. L'adhésion du Royaume d'Arabie saoudite à ladite Convention ne signifie ni n'implique la reconnaissance d'Israël et ne pourra être interprétée comme signifiant ou impliquant une telle reconnaissance, ni de façon générale ni dans le cadre de la présente Convention;

2. That the Kingdom of Saudi Arabia has a reservation with regard to Article 14, Paragraph 1, of this Convention concerning arbitration, in accordance with the second paragraph of the same article, which also permits having reservations.

2. Le Royaume d'Arabie saoudite formule une réserve à propos du paragraphe 1 de l'article 14 de la présente Convention relatif à l'arbitrage, conformément au deuxième paragraphe de ce même article qui permet également de formuler des réserves.

SOUTH AFRICA

AFRIQUE DU SUD

At Washington:

A Washington :

[TRADUCTION — TRANSLATION]

“...subject to a reservation in respect of Article 14 paragraph 1 of the Convention, as provided for in paragraph 2 of the said Article.”

...avec réserve à l'égard de l'article 14, paragraphe 1, de la Convention, conformément au paragraphe 2 dudit article.

¹ Translation supplied by the Government of the United States of America.

² Traduction fournie par le Gouvernement des Etats-Unis d'Amérique.

**UKRAINIAN SOVIET
SOCIALIST REPUBLIC**

At Moscow:

[Same declaration as that on p. 217 of this volume.]

**UNION OF SOVIET
SOCIALIST REPUBLICS**

At London, Moscow and Washington:

[Same declaration as that on p. 218 of this volume.]

**UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN
IRELAND**

At London:

In a statement dated 8 October 1971 and communicated to all States recognised by the United Kingdom, Her Majesty's Government recalled their view that if a régime is not recognised as the Government of a State, neither signature nor the deposit of any instrument by it, nor notification of any of those acts will bring about recognition of that régime by any other State.

**UNITED REPUBLIC
OF CAMEROON(a)**

At Washington:

"In accordance with the provisions of the Convention of September 23, 1971 for the Suppression of Unlawful Acts directed against the Security of Civil Aviation, the Government of the United Republic of Cameroon declares that in view of the fact that it does not have any relations with South Africa and Portugal, it has no obligation towards these two countries with regard to the implementation of the stipulations of the Convention."

**RÉPUBLIQUE SOCIALISTE
SOVIÉTIQUE D'UKRAINE**

A Moscou :

[Même déclaration que celle publiée à la p. 217 du présent volume.]

**UNION DES RÉPUBLIQUES
SOCIALISTES SOVIÉTIQUES**

A Londres, à Moscou et à Washington :

[Même déclaration que celle publiée à la p. 218 du présent volume.]

**ROYAUME-UNI DE GRANDE-
BRETAGNE ET D'IRLANDE DU
NORD**

A Londres :

[TRADUCTION — TRANSLATION]

Dans une déclaration en date du 8 octobre 1971 communiquée à tous les Etats reconnus par le Royaume-Uni, le Gouvernement de Sa Majesté a rappelé que, dans le cas où un régime n'est pas reconnu en tant que gouvernement d'un Etat, ni la signature, ni le dépôt d'un instrument, ni la notification de l'un de ces actes n'impliquent la reconnaissance de ce régime par un autre Etat.

**RÉPUBLIQUE-UNIE
DU CAMEROUN(a)**

A Washington :

[TRADUCTION — TRANSLATION]

Conformément aux dispositions de la Convention signée le 23 septembre 1971 pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile, le Gouvernement de la République-Unie du Cameroun déclare qu'en raison du fait qu'il n'entretient aucune relation avec l'Afrique du Sud et le Portugal il n'est tenu à aucune obligation envers ces deux pays en ce qui concerne l'application des stipulations de la Convention.

FINAL ACT OF THE INTERNATIONAL CONFERENCE ON AIR LAW HELD
UNDER THE AUSPICES OF THE INTERNATIONAL CIVIL AVIATION
ORGANIZATION AT MONTREAL IN SEPTEMBER 1971

The Plenipotentiaries at the International Conference on Air Law held under the auspices of the International Civil Aviation Organization met at Montreal from 8 to 23 September 1971 for the purpose of considering a draft convention on acts of unlawful interference against civil aviation other than acts of unlawful seizure of aircraft prepared by the Legal Committee of the International Civil Aviation Organization. The Governments of the following 60 States were represented at the Conference:

Argentine Republic, the	Jamaica
Australia, the Commonwealth of	Japan
Austria, the Republic of	Kenya, the Republic of
Barbados	Korea, the Republic of
Belgium, the Kingdom of	Lebanon, the Republic of
Brazil, the Federative Republic of	Malagasy Republic, the
Bulgaria, the People's Republic of	Mexican States, the United
Byelorussian Soviet Socialist Republic	Netherlands, the Kingdom of the New Zealand
Cameroon, the Federal Republic of	Norway, the Kingdom of
Canada	Philippines, the Republic of the
Ceylon	Polish People's Republic
Chad, the Republic of	Portugal, the Republic of
Chile, the Republic of	Romania, Socialist Republic of
China, the Republic of	Senegal, the Republic of
Colombia, the Republic of	South Africa, the Republic of
Congo, the People's Republic of the	Spain
Costa Rica, the Republic of	Sweden, the Kingdom of
Czechoslovak Socialist Republic	Swiss Confederation, the
Denmark, the Kingdom of	Tanzania, the United Republic of
Egypt, Arab Republic of	Trinidad and Tobago
Ethiopia, the Empire of	Uganda, the Republic of
Finland, the Republic of	Ukrainian Soviet Socialist Republic
French Republic, the	Union of Soviet Socialist Republics
Gabonese Republic, the	United Kingdom of Great Britain and Northern Ireland
Germany, the Federal Republic of	United States of America
Hungarian People's Republic	Venezuela, the Republic of
India, the Republic of	Yugoslavia, the Socialist Federal Republic of
Indonesia, the Republic of	Zambia, the Republic of
Ireland	
Israel, the State of	
Italian Republic, the	

The Government of the Kingdom of Greece was represented by an Observer.

The United Nations was represented by an Observer.

The following international organizations were also represented by Observers:

- International Air Transport Association
- International Chamber of Commerce

- International Criminal Police Organization
- International Federation of Air Line Pilots Associations
- International Law Association
- International Transport Workers' Federation

The Conference elected as President Mr. W. Guldemann (Swiss Confederation) and further elected as Vice-Presidents Messrs. P. A. Bissonnette (Canada), B. Vachata (Czechoslovak Socialist Republic), V. C. Gunatilaka (Ceylon) and E. C. Sanctos (the Federative Republic of Brazil).

The Secretary General of the Conference was Mr. Assad Kotaite, Secretary General of the International Civil Aviation Organization. Mr. P. K. Roy, Director of the Legal Bureau of the International Civil Aviation Organization acted as Secretary General in the absence of Mr. Assad Kotaite. He was assisted by Messrs. G. F. FitzGerald, Principal Legal Officer of the Organization, G. Bonilla, M. Milde and L. Aillaud, Legal Officers of the Organization, as Secretaries of the Conference and by other officials of the Organization.

The Conference established a Commission of the Whole and the following Committees:

Credentials Committee

Chairman:	Mr. M.H. Mugizi	(United Republic of Tanzania)
Members:	Mr. L.R. Edwards	(Australia)
	Mr. V.I. Lukyanovich	(Byelorussian Soviet Socialist Republic)
	Mr. J.A. de Yturriaga	(Spain)
	Mr. J. Méndez	(Venezuela)

Drafting Committee

Chairman:	Mr. G. Guillaume	(France)
Members:	Mr. J. Warnant	(Belgium)
	Mr. D. Kostov	(Bulgaria)
	Mr. P. Valdés	(Chile)
	Mr. M.A. Viennois	(France)
	Mr. N. Museux	(France)
	Mr. J.W. Roh	(Korea, Republic of)
	Mr. C. Gómez Jara	(Spain)
	Mr. J.A. de Yturriaga	(Spain)
	Mr. R.S. Nyaga	(Uganda)
	Mr. Y. Kolossov	(Union of Soviet Socialist Republics)
	Miss G.M.E. White	(United Kingdom)
	Mr. F.K. Willis	(United States of America)
	Mr. R. Boylan	(United States of America)
	Mr. M. Sánchez	(Venezuela)

Committee on Final Clauses

Chairman:	Mr. F.X. Ollasa	(People's Republic of the Congo)
Members:	Mr. A.R.M. Watson	(Australia)
	Mr. L.R. Edwards	(Australia)
	Mr. R. Charry	(Colombia)

Mr. G. Guillaume	(France)
Mr. S. Oshima	(Japan)
Mr. K. Shidara	(Japan)
Mr. T. Wasilewski	(Polish People's Republic)
Mr. M. Nowossilzev	(Union of Soviet Socialist Republics)
Mr. K.J. Chamberlain	(United Kingdom)
Mr. C. Brower	(United States of America)

The Commission of the Whole established the following Working Groups:

Working Group on Article 1

Chairman:	Mr. W. Riphagen	(Kingdom of the Netherlands)
Members:	Mr. R. Temporini	(Argentina)
	Mr. O.A. Ainchil	(Argentina)
	Mr. L.S. Clark	(Canada)
	Mr. P. Sorokan	(Canada)
	Mr. F.X. Ollassa	(People's Republic of the Congo)
	Mr. P.J.V. Lindholm	(Finland)
	Mr. V.M. Metsalampi	(Finland)
	Mr. M.A. Viennois	(France)
	Mr. K.O. Rattray	(Jamaica)
	Mr. G.B. Morris	(Jamaica)
	Mr. H. Yamaguchi	(Japan)
	Mr. S. Tobetto	(Japan)
	Mr. K. Shidara	(Japan)
	Mr. J. Akl	(Lebanon)
	Mr. M.R. Mok	(Kingdom of the Netherlands)
	Mr. J.P. Honig	(Kingdom of the Netherlands)
	Mr. A.P. Mateescu	(Romania)
	Mr. C. Gómez Jara	(Spain)
	Mr. G. Goloubov	(Union of Soviet Socialist Republics)
	Mr. Y. Kolossov	(Union of Soviet Socialist Republics)
	Mr. M. Nowossilzev	(Union of Soviet Socialist Republics)
	Mr. A.W.G. Kean	(United Kingdom)
	Mr. K.J. Chamberlain	(United Kingdom)
	Miss G.M.E. White	(United Kingdom)
	Mr. R. Boylan	(United States of America)
	Mr. R.P. Boyle	(United States of America)
	Mr. F.K. Willis	(United States of America)

Working Group on the expression "In Service"

Chairman:	Mr. A.W.G. Kean	(United Kingdom)
Members:	Mr. M. Agésilas	(France)
	Mr. C. Gómez Jara	(Spain)
	Mr. J.A. de Yturriaga	(Spain)

Mr. Y. Kolossov	(Union of Soviet Socialist Republics)
Mr. V. Galtchouk	(Union of Soviet Socialist Republics)
Mr. R.P. Boyle	(United States of America)
Mr. J. Landry	(United States of America)

Following its deliberations, the Conference adopted the text of a Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. The said Convention has been opened for signature by the States participating in the Conference at Montreal this day, and after 10 October 1971 shall be open for signature to all States in London, Moscow and Washington, until it comes into force.

IN WITNESS WHEREOF the Delegates have signed this Final Act.

DONE at Montreal on the twenty-third day of September of the year One Thousand Nine Hundred and Seventy-One in four authentic texts in the English, French, Russian and Spanish languages in a single copy which shall be deposited with the International Civil Aviation Organization and a certified copy of which shall be delivered by the said Organization to each of the Governments represented at the Conference.

ACTE FINAL DE LA CONFÉRENCE INTERNATIONALE DE DROIT
AÉRIEN TENUE SOUS LES AUSPICES DE L'ORGANISATION DE L'AVIA-
TION CIVILE INTERNATIONALE À MONTRÉAL EN SEPTEMBRE 1971

Les Plénipotentiaires à la Conférence internationale de droit aérien tenue sous les auspices de l'Organisation de l'Aviation civile internationale se sont réunis à Montréal du 8 au 23 septembre 1971 pour examiner un projet de convention relative aux actes d'intervention illicite dirigés contre l'aviation civile, autres que les actes de capture illicite d'aéronefs, préparé par le Comité juridique de l'Organisation de l'Aviation civile internationale. Les gouvernements des soixante Etats ci-après étaient représentés à la Conférence :

Afrique du Sud (République sud-africaine)	Israël (Etat d')
Allemagne (République fédérale d')	Italie (République italienne)
Argentine (République Argentine)	Jamaïque
Australie (Le Commonwealth d'Australie)	Japon
Autriche (République d')	Kenya (République du)
Barbade	Liban (République libanaise)
Belgique (Royaume de)	Mexique (Etats-Unis du)
Biélorussie (République socialiste soviétique de)	Norvège (Royaume de)
Bésil (République fédérative du)	Nouvelle-Zélande
Bulgarie (République populaire de)	Ouganda (République de l')
Cameroun (République fédérale du)	Pays-Bas (Royaume des)
Canada	Philippines (République des)
Ceylan	Pologne (République populaire de)
Chili (République du)	Portugal (République portugaise)
Chine (République de)	République malgache
Colombie (République de)	Roumanie (République socialiste de)
Congo (République populaire du)	Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
Corée (République de)	Sénégal (République du)
Costa Rica (République du)	Suède (Royaume de)
Danemark (Royaume du)	Suisse (Confédération suisse)
Egypte (République arabe d')	Tanzanie (République-Unie de)
Espagne	Tchad (République du)
Etats-Unis d'Amérique	Tchécoslovaquie (République socialiste tchécoslovaque)
Ethiopie (Empire d')	Trinité-et-Tobago
Finlande (République de)	Ukraine (République socialiste soviétique d')
France (République française)	Union des Républiques socialistes soviétiques
Gabon (République gabonaise)	Venezuela (République du)
Hongrie (République populaire hongroise)	Yougoslavie (République fédérative socialiste de)
Inde (République de l')	Zambie (République de)
Indonésie (République d')	
Irlande	

Le gouvernement du Royaume de Grèce était représenté par un observateur.
Les Nations Unies étaient représentées par un observateur.

Les organisations internationales ci-après étaient aussi représentées par des observateurs :

- Association de droit international
- Association du transport aérien international
- Chambre de commerce internationale
- Fédération internationale des associations de pilotes de ligne
- Fédération internationale des ouvriers du transport
- Organisation internationale de police criminelle

La Conférence a élu président M. W. Guldemann (Confédération suisse) et vice-présidents MM. P. A. Bissonnette (Canada), B. Vachata (République socialiste tchécoslovaque), V. C. Gunatilaka (Ceylan) et E. C. Sanctos (République fédérative du Brésil).

Le Secrétaire général de la Conférence était M. Assad Kotaite, Secrétaire général de l'Organisation de l'Aviation civile internationale. M. P. K. Roy, Directeur des Affaires juridiques de l'Organisation de l'Aviation civile internationale, a fait fonction de secrétaire général en l'absence de M. Assad Kotaite. Il était assisté de MM. G. F. FitzGerald, conseiller juridique principal de l'Organisation, G. Bonilla, M. Milde et L. Aillaud, conseillers juridiques de l'Organisation, qui remplissaient les fonctions de secrétaires de la Conférence, et d'autres fonctionnaires de l'Organisation.

La Conférence a institué une Commission plénière et les comités suivants :

Comité de vérification des pouvoirs

Président :	M. M. H. Mugizi	(République-Unie de Tanzanie)
Membres :	M. L. R. Edwards	(Australie)
	M. J. A. de Yturriaga	(Espagne)
	M. V. I. Lukyanovich	(République socialiste soviétique de Biélorussie)
	M. J. Méndez	(Venezuela)

Comité de rédaction

Président :	M. G. Guillaume	(France)
Membres :	M. J. Warnant	(Belgique)
	M. D. Kostov	(Bulgarie)
	M. P. Valdés	(Chili)
	M. J. W. Roh	(Corée, République de)
	M. C. Gómez Jara	(Espagne)
	M. J. A. de Yturriaga	(Espagne)
	M. F. K. Willis	(Etats-Unis d'Amérique)
	M. R. Boylan	(Etats-Unis d'Amérique)
	M. M. A. Viennois	(France)
	M. N. Museux	(France)
	M. R. S. Nyaga	(Ouganda)
	Mlle G. M. E. White	(Royaume-Uni)
	M. Y. Kolossov	(Union des Républiques socialistes soviétiques)
	M. M. Sánchez	(Venezuela)

Comité des dispositions protocolaires

Président :	M. F. X. Ollassa	(République populaire du Congo)
Membres :	M. A. R. M. Watson	(Australie)

M. L. R. Edwards	(Australie)
M. R. Charry	(Colombie)
M. C. Brower	(Etats-Unis d'Amérique)
M. G. Guillaume	(France)
M. S. Oshima	(Japon)
M. K. Shidara	(Japon)
M. T. Wasilewski	(République populaire de Pologne)
M. K. J. Chamberlain	(Royaume-Uni)
M. M. Nowossilzev	(Union des Républiques socialistes soviétiques)

La Commission Plénière a institué les groupes de travail suivants :

Groupe de travail de l'article 1^{er}

Président :	M. W. Riphagen	(Royaume des Pays-Bas)
Membres :	M. R. Temporini	(Argentine)
	M. O. A. Ainchil	(Argentine)
	M. L. S. Clark	(Canada)
	M. P. Sorokan	(Canada)
	M. F. X. Olassa	(Congo, République populaire du)
	M. C. Gómez Jara	(Espagne)
	M. R. Boylan	(Etats-Unis d'Amérique)
	M. R. P. Boyle	(Etats-Unis d'Amérique)
	M. F. K. Willis	(Etats-Unis d'Amérique)
	M. P. J. V. Lindholm	(Finlande)
	M. V. M. Metsalampi	(Finlande)
	M. M. A. Viennois	(France)
	M. K. O. Rattray	(Jamaïque)
	M. G. B. Morris	(Jamaïque)
	M. H. Yamaguchi	(Japon)
	M. S. Tobetto	(Japon)
	M. K. Shidara	(Japon)
	M. J. Akl	(Liban)
	M. A. P. Mateescu	(Roumanie)
	M. M. R. Mok	(Royaume des Pays-Bas)
	M. J. P. Honig	(Royaume des Pays-Bas)
	M. A. W. G. Kean	(Royaume-Uni)
	M. K. J. Chamberlain	(Royaume-Uni)
	Mlle G. M. E. White	(Royaume-Uni)
	M. G. Goloubov	(Union des Républiques socialistes soviétiques)
	M. Y. Kolossov	(Union des Républiques socialistes soviétiques)
	M. M. Nowossilzev	(Union des Républiques socialistes soviétiques)

Groupe de travail de l'expression « en service »

Président :	M. A. W. G. Kean	(Royaume-Uni)
Membres :	M. C. Gómez Jara	(Espagne)
	M. J. A. de Yturriaga	(Espagne)

M. R. P. Boyle	(Etats-Unis d'Amérique)
M. J. Landry	(Etats-Unis d'Amérique)
M. M. Agésilas	(France)
M. Y. Kolossov	(Union des Républiques socialistes soviétiques)
M. V. Galtchouk	(Union des Républiques socialistes soviétiques)

A l'issue de ses délibérations, la Conférence a adopté le texte d'une Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile. Ladite convention a été ouverte ce jour, à Montréal, à la signature des Etats qui ont participé à la Conférence. Après le 10 octobre 1971, elle sera ouverte à la signature de tous les Etats à Londres, Moscou et Washington, jusqu'à son entrée en vigueur.

EN FOI DE QUOI les délégués ont signé le présent Acte final.

FAIT à Montréal le vingt-troisième jour de septembre de l'an mil neuf cent soixante et onze, en un seul exemplaire comprenant quatre textes authentiques dans les langues française, anglaise, espagnole et russe qui sera déposé auprès de l'Organisation de l'Aviation civile internationale, laquelle en transmettra copie certifiée conforme à chacun des gouvernements représentés à la Conférence.

Exhibit 18

Resolution 731, United Nations Security Council,
3033rd meeting, 21 January 1992
(United Nations Document S/RES/731)



Security Council

Distr.
GENERAL

S/RES/731 (1992)
21 January 1992

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 aérens flight 772;

Determined to eliminate international terrorism,

1. Condemns the destruction of Pan American flight 103 and Union de tranports aérens 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 tranports aérens 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.

1/ S/23306.

2/ S/23309.

3/ S/23307.

4/ S/23308.

5/ S/23317.

Exhibit 19

Provisional Verbatim Record of the Three Thousand and Thirty
Third Meeting of the Security Council
(United Nations Document S/PV.3033; 21 January 1992)



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. MUMBENEGWI

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."

(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. Belgasem 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. Belgasem 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. Belqasem 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. Belqasem 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. Belgasem 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. Belgasem 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. Belqasem 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 many 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 divers 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. Belqasem 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. S158 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. MUMBENGEWI (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.

Exhibit 20

Report by the Secretary-General Pursuant to Paragraph 4 of
Security Council Resolution 731
(United Nations Document S/23574; 11 February 1992)



Security Council

Distr.
GENERALS/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.

Exhibit 21

Further Report by the Secretary-General Pursuant to Paragraph 4
of Security Council Resolution 731
(United Nations Document S/23672; 3 March 1992)



Security Council

Distr.
GENERAL

S/23672
3 March 1992

ORIGINAL: ENGLISH

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. 1/ The Security Council may wish to consider this in deciding on its future course of action.

Notes

1/ 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

Exhibit 22

Provisional Verbatim Record of the Three Thousand
and Sixty-Third Meeting of the Security Council
(United Nations Document S/PV.3063; 31 March 1992)



Security Council

PROVISIONAL

S/PV.3063
31 March 1992

ENGLISH

748

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.

<p><u>President:</u> Mr. ARRIA</p> <p><u>Members:</u> 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 Zimbabwe</p>	<p>(Venezuela)</p> <p>Mr. HOHENFELLNER Mr. NOTERDAEME Mr. JESUS Mr. LI Daoyu Mr. AYALA LASSO Mr. MERIMEE Mr. ERDOS Mr. GHAREKHAN Mr. HATANO Mr. SNOUSSI Mr. LOZINSKY Sir David HANNAY Mr. PICKERING Mr. MUMBENGEGWI</p>
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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

(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

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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?

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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 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

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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".

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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.

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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

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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

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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

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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.

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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

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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

(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.

