

Gaddafi and Pan Am 103: How Gaddafi Escaped Justice

The Reagan-ordered bombing of Libya in 1986 was followed by Gaddafi's bombing in 1988 of Pan Am 103, killing 270 people, including 189 Americans. The incoming administration of President George H.W. Bush developed the evidence linking Libya to the crime, but did not pursue military retaliation. Instead, it was turned over to the U.N., which imposed economic sanctions on Libya. The result years later under the Clinton Administration was that a deal was brokered by U.N. Secretary-General Kofi Annan that saw a Scottish court in 2001 convict a top Libyan intelligence agent, Abdel Basset Ali al-Megrahi, of the bombing and sentence him to life imprisonment.

It turned out, of course, not to be life imprisonment. He was released in 2009 by Scottish authorities. The British Government denies that he was released because London was anxious for oil deals with Gaddafi.

But many in the media want to forget the Clinton Administration role in this fiasco.

Libya had surrendered al-Megrahi over for trial after lengthy negotiations with Annan and the Clinton Administration. The deal included an agreement, which was kept secret for over a year, in which Gaddafi was promised that the trial would not "undermine" his regime. This was seen as a guarantee not to charge Gaddafi or his top aides. In effect, Gaddafi was given immunity from prosecution.

This report includes some of the articles about our efforts to seek justice in the case and hold Gaddafi responsible.

Mrs. Susan Cohen

Dear Fellow American,

I am the mother of Theodora Cohen who died in the Pan Am bombing on December 21, 1988.

Theo (that's what I called her) was only twenty years old, attractive, clever, charming, and full of life.

She dreamed of being an actress and singer. She had a beautiful soprano voice and had even won an opera competition.

A Syracuse drama student, she was in London studying theatre and voice through the fall of '88.

Theo was on her way back from that study abroad program when her plane was blown out of the sky by terrorists from the Middle East.

She died because there was an American flag on the tail of the plane she was on. One hundred and eighty-eight other Americans died with her. A total of two hundred and seventy people died in all.

The bombing of Pan Am 103 was an act of war against our country -- a war crime. Two Libyan agents are on trial for this massacre, a tragedy, which has destroyed my life, and my husband Daniel's, and smashed many other lives as well. Yet Libyan terror chief, Colonel Gadhafi, will not be held accountable. Why?

Because of a deal spelled out in a letter U.N. Secretary-General Kofi Annan sent to Gadhafi, signed by our government and the British government, which says "it is not our aim to undermine the Libyan regime." Annan's chief spokesperson admitted to me directly in a phone call that this line is in the letter.

I am outraged that the Clinton Administration is

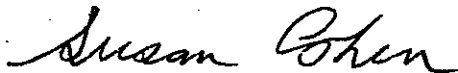
part of this deal. I am devastated that my government -- our government -- is willing to forgive a tyrant and murderer like Gadhafi, and even help shield him.

It is pain beyond pain to see what the government of our once proud country has become. Dictators can murder us and know they have nothing to fear. Terrorists can kill us with impunity.

I am very thankful to Cliff Kincaid who has filed a Freedom of Information act request for a copy of the letter. He is doing everything he can to expose the deal, force the Clinton Administration to make the letters public, and stop the government from appeasing Gadhafi.

I want justice. For Theo. For myself and my husband. And for America.

Sincerely,

A handwritten signature in cursive script that reads "Susan Cohen". The signature is written in dark ink and is positioned above the printed name.

Susan Cohen

Pan Am Documents Concealed A 'Crime Worse Than Treason'

Terrorist Deal Confirmed; Gadhafi Given Immunity from Prosecution in Pan Am 103 Case

AUGUST 26, 2000

CONTACT: CLIFF KINCAID, [REDACTED]

Washington, D.C.: Previously classified documents in the Pan Am 103 bombing case confirm that the Clinton Administration has made a deal with Libya's Moammar Gadhafi, one of the most notorious terrorists the world has ever known. Cliff Kincaid, president of America's Survival, a public policy organization, says the crime is "worse than treason" because the documents clearly outline a secret diplomatic deal that lets Gadhafi off the hook for his alleged role in the bombing, which killed 270 people, including 189 Americans. A trial of two low-level Libyan intelligence agents for the crime is underway in Holland.

As feared, the U.S.-approved U.N. documents promise Gadhafi that the trial of the two scapegoats "will not be used to undermine the Libyan regime." This is seen as a grant of immunity for Gadhafi, who would have ordered the bombing. The documents also promise special U.N. treatment for the two Libyans if they are convicted. Equally important, the documents describe how economic sanctions against Gadhafi were to be suspended and reimposed only if all permanent Security Council members, including Russia and China, agree. This, too, lets Gadhafi off the hook, because Russia and China would never agree to the reimposition of sanctions. However, certain Western interests, including Big Oil companies such as Occidental Petroleum, also wanted the sanctions lifted so they could resume business in Libya.

America's Survival is the organization that sought access under the Freedom of Information Act (FOIA) to these documents, which had been kept secret for more than one year. In order to evade the disclosure requirements of the FOIA, State had put a "classified" stamp on them. They have now been released because the defense counsel for the two Libyans requested them in the trial. Gadhafi, of course, had them all along, and had confirmed the existence of the deal in an interview with British Sky TV.

The FOIA request and State Department response are included in the 44-page America's Survival report, "*Getting Away With Mass Murder*," available on the web site www.usasurvival.org

UN, Brits and Clinton May Have Immunized a Terrorist Regime

Is State Department Hiding Deal With Gadhafi?

BY CLIFF KINCAID

In what may be an effort to cover up a suspected deal with Libyan dictator Moammar Gadhafi, the State Department has classified United Nations documents dealing with the Pan Am 103 terrorism case as national security information and is using that designation as an excuse for refusing to release the documents to the public or Congress.

"If this had happened during a Republican Administration," former Bush Administration official John Bolton told HUMAN EVENTS, "the Democrats would have lynched the secretary of state."

The documents include a U.S.-approved letter to Gadhafi from UN Secretary General Kofi Annan. The families of some of the Pan Am victims who have seen the letter believe it promises Gadhafi that the trial of two Libyans for their role in the bombing will not "undermine" the Libyan regime. That would be a virtual grant of immunity to Gadhafi himself.

The documents also reportedly outline special rights for the defendants if they happen to be convicted. The trial, which begins in May, will take place before a Scottish court in the Netherlands.

Pan Am 103 was destroyed over Lockerbie, Scotland, in December 1988, in an attack that took the lives of 189 Americans. UN economic sanctions, which were imposed on Libya for its role in the affair, were suspended after Gadhafi

Mr. Kincaid runs America's Survival, a public policy group (www.usasurvival.org).

turned over the two Libyan intelligence officials for trial. But hopes for justice were dashed when word of a secret deal with Gadhafi started to leak out.

In response to a Freedom of Information Act (FOIA) request for the documents filed by America's Survival, the State Department on December 15 announced that they had been classified under a presidential executive order "in the interest of national defense and foreign relations." There is no indication, however, that the documents were classified until State received America's Survival's request and was looking for a reason to evade the FOIA.

Ronald Neumann, deputy assistant secretary of state in the Bureau of Near Eastern Affairs, told me on November 30 that the Annan letter wasn't going to be released because "it's not our letter," implying that it was the property of the UN. He made no mention of the material's being classified. In fact, selected parts of the Annan letter and an annex had already been read to some of the family members of Pan Am 103 victims.

The UN has confirmed the existence of the documents but refuses to release them because they constitute "private" correspondence between Annan and Gadhafi. However, the UN insists the documents were approved by both the United States and Great Britain.

The secrecy about the documents' contents has angered some relatives of the Pan Am victims, some of whom have

said they are equally upset with the failure of Republican Rep. Benjamin Gilman (N.Y.), chairman of the House International Relations Committee, to force disclosure of their contents.

Gilman, who has been requesting the material from Secretary of State Madeleine Albright since September 14, has now proposed a special meeting in which some family members, as selected by Albright, would be allowed to view them. But the press, the public and other family members would still be denied access.

Gilman Should Subpoena Letter

Susan Cohen, who lost her 20-year-old daughter Theodora in the bombing, told me, "I don't know why Gilman cannot do the obvious thing, which is hold a hearing and get the documents out." She says Gilman should subpoena the material.

Rosemary Wolfe, the president of Justice for Pan Am 103, said that the Gilman proposal is "infuriating" because "it gives the State Department the opportunity to say the Annan letter doesn't mean anything while not releasing it." Wolfe lost her 20-year-old stepdaughter Miriam in the bombing.

The chairman of another group, the Victims of Pan Am Flight 103, approved the Gilman proposal, apparently thinking it might be the only way to obtain access to the documents.

Is State's Pro-Libya Shift A Payback to Gore Ally?

By Cliff Kincaid

George Williams, the president of the Victims of Pan Am Flight 103, has been waiting for more than 11 years to find and punish the killers of his only son. "Geordie" Williams, an Army lieutenant coming home for Christmas on Dec. 21, 1988, was one of 189 Americans killed when Pan Am 103 was bombed out of the sky over Lockerbie, Scotland. But Williams fears that the May 3 trial of two Libyans for the crime may become a sideshow.

"It's a done deal," he says. Regardless of the fate of the two accused — identified as agents of Libyan intelligence — Williams says that Libyan dictator Muammar Qaddafi has been absolved from all responsibility for the crime in an exchange of documents between the United States, Britain, the United Nations and Qaddafi himself.

Williams, whose group represents about 160 of the 189 Americans killed in the attack, is one of many family members who have been told about — but not given — these documents. But they were told that a letter from U.N. Secretary-General Kofi Annan and an annex addressed to Qaddafi promise the Libyan dictator that the trial will not "undermine" his regime. This has been viewed as a guarantee that the suspects will not be questioned about Libyan-government involvement in this or other acts of terrorism. "It's designed to save Qaddafi's bacon," he says.

In light of the recent State Department decision to review the travel ban on Libya, Williams believes that the documents may outline a broader plan to "restore diplomatic relations with Qaddafi."

Former top FBI official Oliver "Buck" Revell, who supervised the Pan Am 103 investigation, says enough is known to conclude that the administration has engaged in obstruction of justice. He says the Annan letter means "that we could not pursue evidence developed in the trial to wherever it led — even if it was to the head



of a foreign government." He adds, "It's not enough to let these two [Libyans] pay the price. They were certainly not acting on their own behalf."

Paul Hudson, who lost a daughter in the bombing, says, "It's like you convict the trigger man but don't go after the person who ordered the hit." The May 23, 1999, London *Sunday Times* revealed that the British government has secret intelligence information implicating Qaddafi personally in the bomb plot. Yet the British already have restored relations with Qaddafi and have prohibited the release of this evidence. And the government of Prime Minister Tony Blair also runs the foreign policy of Scotland, whose prosecutors and judges are handling the upcoming trial in the Netherlands.

In response to my Freedom of Information Act, or FOIA, request, the State Department announced that the U.N. documents were classified under a presidential executive order "in the interest of national defense and foreign relations." The United Nations confirms their existence but says they are "private" correspon-

dence between Annan and Qaddafi.

Democratic Sens. Edward Kennedy of Massachusetts and Frank Lautenberg and Robert Torricelli of New Jersey, as well as House International Relations Committee Chairman Benjamin Gilman of New York, have been requesting copies of the U.N. documents for months. But Secretary of State Madeleine Albright refuses to turn them over. Her hesitation may stem less from the need to practice confidential diplomacy and more from fear of the accusation that she has violated the State Department's own guidelines prohibiting negotiations with terrorists.

Williams believes that the Senate Foreign Relations and House International Relations committees should subpoena the documents. Richard Fontaine, a staffer for Senate Foreign Relations Committee Chairman Jesse Helms, says they've ruled this out because it is "a bludgeon" and too drastic.

As for the issue of motive, *Washington Post* columnist Jim Hoagland has written that oil companies are behind this "stealth" policy shift on

Libya. Four U.S. oil companies — Occidental Petroleum, Conoco, Amerada Hess and Marathon — are reported to be anxious to return to Libya and exploit oil fields they had to abandon when U.S. and U.N. sanctions were imposed. Speaking at a panel on U.S.-Libya relations, Conoco Senior Vice President J. Michael Stinson complained that "we are the ones who have been injured in the name of disciplining Libya" and that Libyans are producing almost half-a-million barrels a day from Conoco

properties and taking all the profits.

Williams believes that Occidental Petroleum, a financial patron of Vice President Al Gore, is playing a key role. He called the pro-Libya policy "a payback" for all the support the company has provided to the Clinton-Gore administration. Since 1992, according to the Center for Public Integrity, Occidental has given more than \$470,000 in soft money to various Democratic committees and causes. Two days after Occidental chairman Ray Irani slept in the Lincoln Bedroom of the White

House, his company dropped \$100,000 on the Democratic National Committee. Occidental gave \$50,000 in response to one of Gore's "no-controlling-legal-authority" telephone fund-raising calls.

Williams vows to fight. "I'm not going to let politics and oil stop me from trying until my dying day to make sure that Qaddafi pays for this."

Cliff Kincaid runs the Maryland-based public-policy group *America's Survival* (www.usasurvival.org).

May 8, 2000

Insight

The Libya Thaw

The Washington Post,
editorial,
April 3, 2000, page 16

FOUR AMERICAN diplomats recently returned from Libya, where they were sent by Secretary of State Madeleine Albright to determine whether it is time for the United States to lift the ban on using U.S. passports to visit Moammar Gadhafi's realm. The trip follows other steps hinting at a Clinton administration intention to thaw relations with a regime that remains on the U.S. list of states that sponsor terrorism.

The most notorious terrorist act linked to Tripoli is the Dec. 21, 1988, bombing of Pan Am Flight 103 over Lockerbie, Scotland. The attack killed 270 people, including 189 Americans. After an investigation fingered two Libyan agents, the United States won U.N. Security Council approval for sanctions against Libya. Last year the Clinton administration agreed to "suspend" sanctions after Mr. Gadhafi consented to hand the two men over for a trial under Scottish law at a special court in Holland. The Libyan dictator did so only after being satisfied, via a U.S.-vetted letter from U.N. Secretary General Kofi Annan, that the trial, which opens May 3, would focus on the two suspects and not on his regime.

In striking this compromise, the Clinton administration made clear that it would not approve permanent lifting of the U.N. sanctions or the lifting of unilateral U.S. sanctions until Mr. Gadhafi meets other demands, such as paying compensation, accepting Libyan responsibility for the crime and revealing all that his re-

gime knows about it. But the administration has not pressed those issues at the U.N., and its diplomatic body language suggests it is trying to wrap up a long battle that has often placed the United States at odds with European allies who rely on Libyan oil.

Perhaps the administration believes the economic and diplomatic costs of a hard line on Libya now outweigh the benefits. Perhaps Mr. Gadhafi's recent expulsion from Libya of the Abu Nidal organization deserves to be rewarded. And perhaps it is futile to insist that Mr. Gadhafi tell everything he knows about the case, however contradictory it may be to prosecute the two bombers while settling, at most, for compensation from Mr. Gadhafi, who almost certainly would have ordered such an attack.

Whatever the rationale, the American public is entitled to a full explanation. But, with the exception of a speech by Assistant Secretary of State Ronald Neumann last November, the Clinton administration has kept its Libya decision-making in the shadows. Despite requests from the Pan Am 103 victims' families, it won't release the Annan letter, citing diplomatic privacy. A legitimate point—but it inevitably leaves many wondering whether the letter contains inappropriate promises to Mr. Gadhafi. If there's nothing untoward about the Clinton administration's overall Libya policy, why doesn't Secretary Albright, or, better, the president, do more to help the public understand it?

Promises to a Murderer

"The Libya Thaw" [editorial, April 3] points out that a State Department-approved U.N. letter from Kofi Annan to Moammar Gadhafi about Pan Am Flight 103 may contain "inappropriate promises" that have to be explained. The editorial notes that the letter assures Col. Gadhafi

that the terrorism trial will not focus "on his regime," when he "almost certainly would have ordered such an attack."

I am the journalist whose Freedom of Information Act request for the letter and a related document were denied by the State Department. I was told they were classified in the interest of foreign relations and national security. Yet these documents have been provided to Col. Gadhafi himself.

The documents promise Col. Gadhafi that the trial will not undermine his regime, a commitment seen as a virtual grant of immunity from prosecution for Col. Gadhafi, and that his two intelligence operatives will not be questioned about Libyan government involvement in Flight 103 or other acts of international terrorism.

The promises violate State Department guidelines prohibiting negotiations with terrorists and U.N. Resolution 1192, which allowed Mr. Annan to make "physical arrangements" for the transfer of the subjects, not to negotiate a deal with Col. Gadhafi letting him off the hook for the murder of 270 people.

CLIFF KINCAID
Owings

Letter to the Editor,
The Washington Post,
April 20, 2000, page 32

Annan makes vow to Gadhafi in secret letter

U.N. releases Lockerbie papers

By Betsy Pisik
THE WASHINGTON TIMES

NEW YORK — The United Nations yesterday released a secret letter from Secretary-General Kofi Annan to Libyan leader Moammar Gadhafi promising that the trial of two Libyan officials accused in the 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland, "would not be used to undermine the Libyan regime."

The document sparked conspiracy theories and anger when it was sent in February of 1999.

Some families of 270 victims killed in the midair explosion believe the letter included a deal to protect Mr. Gadhafi and said it would therefore make a fair trial impossible.

U.S. officials — who have said the letter was Mr. Annan's private correspondence and therefore not theirs to disseminate — yesterday welcomed the release of the five-paragraph letter and its two-page annex.

The annex outlines the treat-

ment of the two suspects while in custody, and says, in part: "There is no intention to interview them or to allow them to be interviewed, about any issue not related to the trial. There will be no deviation from Scottish law which provides that the two persons have the right to refuse to see any police or intelligence officers."

"The two persons will not be used to undermine the Libyan regime."

In his letter to Mr. Gadhafi, Mr. Annan notes that "the governments of the United Kingdom and the United States have confirmed to me that they share the understanding reflected therein."

The secretary-general's decision should put an end to any speculation that a secret deal was made concerning the turnover of the suspects in the Pan Am 103 case, said American U.N. Ambassador Richard Holbrooke.

"We have long pushed for the letter's release, primarily because

see U.N., page A7

8/26/00 A1

U.N.

From page A1

we take seriously the sensitivities of the families of the Pan Am 103 victims.”

The State Department was non-committal on the letter's release.

“The right to remain silent is afforded to all suspects tried under U.S., British and Scottish law,” said State Department deputy spokesman Philip Reeker.

“That paragraph makes clear the trial is an independent and legitimate trial of the two suspects. This is not some show trial to undermine the Libyan regime.”

Prosecution and defense lawyers had requested that the letter and its annex be made public, according to U.N. officials who coordinated the release with U.S. and British officials.

The letter, dated Feb. 17, 1999, was released yesterday at the request of lawyers for the two Libyan suspects, said U.N. officials.

The U.S. and British governments and the Scottish prosecution had also requested that the documents be made public.

Libyan intelligence officers Abdel Basset al-Megrahi and Lamien Khalifa Fhimah have been on trial for three months on Scottish charges of murder and conspiracy in connection with the bombing, which killed 189 Americans among the 270 dead.

The plane landed in a trail of flaming debris over the town of Lockerbie, in central Scotland, after a bomb exploded in a cargo area.

The U.S. government has long maintained that the Annan letter contained no curbs on the prosecution or protections for the Libyan regime but refused until yesterday to publish the letter or discuss its contents.

However, portions of the letter and annex were read to family members last year.

Several families and members of Congress have accused the State Department of condoning a deal to

spare the Libyan regime.

Hans Corell, the United Nations' top legal adviser, yesterday dismissed accusations of collusion, but he declined to provide any interpretation of the apparent guarantee.

Nor could he say whether the assurance was integral to reaching an agreement with the Libyan government.

“The secretary-general's role was to assist in transferring the two Libyans from Tripoli directly to the Netherlands,” he told reporters, downplaying the U.N. role.

Mr. Corell noted that the letter was released by the British and American governments after Mr. Annan consented to the “extraordinary” request by the defense team.

The Security Council imposed aviation and diplomatic sanctions on Libya in 1994 to compel the hand-over of the two suspects.

The sanctions were suspended days after the men made their first appearance before a Scottish judge.

Meanwhile, in the trial itself, Scottish lawyers are waging a somewhat uphill battle in their efforts to prove that the two Libyans did, in fact, plant an explosives-filled Toshiba boombox in the luggage container of the Pan Am flight.

Since the trial began in May, the Crown has had to cope with witnesses that are insubordinate or discredited, and technical delays.

However, the chief prosecutor, called the Scottish lord advocate, has long assured the families that the letter would not stop his office from “following the evidence wherever it leads.”

But Susan Cohen, whose 20-year-old daughter, Theodora, died aboard the London-to-New York jumbo jet, said she believed the letter had set limits to the probe.

“This lays out a deal. It lets him [Mr. Gadhafi] off the hook. . . . We are talking about the mass murder of 270 people. It should go all the way up to the people who ordered it,” she told Reuters news agency.

SOURCE FOR UN DOCUMENTS FROM PAN AM CASE:

The Lockerbie "Extradition by Analogy" Agreement: "Exceptional Measure" or Template for Transnational Criminal Justice?

- Donna E. Arzt

American University
International Law Review
4801 Massachusetts Avenue, NW
Suite 610
Washington, DC 20016

ATTACHED LETTER 1

22 August 2000

Excellency,

I am writing with reference to your meeting with the Secretary-General on 24 July 2000 at which the question of the release of the Secretary-General's letter to Colonel Muammar Al-Qadhafi, dated 17 February 1999, was raised. As agreed at the meeting, I have the honour to forward to you a copy of a letter of the Secretary-General on the subject matter, dated 22 August 2000, addressed to H.E. Ambassador Jeremy Greenstock, Permanent Representative of the United Kingdom to the United Nations, who was also present at the meeting.

Yours sincerely,
Hans Corell
Under-Secretary-General
for Legal Affairs
The Legal Counsel

His Excellency
Mr. Richard Holbrooke
Permanent Representative of
the United States of America
to the United Nations
New York

ATTACHED LETTER 2

22 August 2000

Excellency.

I have the honour to refer to our meeting on 24 July 2000 at which you referred to the trial of the two accused before the Scottish Court sitting in the Netherlands. You raised the question of the release, in response to a request by the defense team, of my letter to Colonel Muammar Al-Qadhafi, dated 17 February 1999. Your Mission subsequently provided a copy of the letter on the subject matter, dated 3 April 2000, which had been sent to the Scottish Lord Advocate by one of the Defence Attorneys writing on the instructions of Senior Counsel.

At the outset I should like to emphasize that, in the performance of my responsibilities, I am frequently engaged in exchanges of correspondence with leaders of Member States of the Organization. Unless the parties concerned agree otherwise, such correspondence would not be disclosed to persons external to the Organization because such unilateral disclosure may undermine the atmosphere of trust that must remain between me and the parties concerned.

However, in view of the exceptional circumstances in the present case, in particular the request of the defence team and the fact that Security Council Resolution 1192 (1998) calls upon all States to cooperate with the Scottish Court sitting in the Netherlands, I have no objection to the release of the letter as requested. The understanding is, however, that it is being released without prejudice to the confidentiality of future correspondence with the leaders of Member States and that it is released together with the present letter which provides the necessary clarifications.

His Excellency
Sir Jeremy Greenstock, KCMG
Permanent Representative of the
United Kingdom of Great Britain and
Northern Ireland to the United Nations
New York

In this latter respect, it is important to place on record the circumstances under which the letter to Colonel Muammar Al-Qadhafi was written. Pursuant to Security Council resolution 1192 (1998) of 27 August 1998, the role of the Secretary-General was limited to providing assistance with the transfer arrangements of the two accused to the Scottish court and to nominating international observers. The transfer was successfully implemented after lengthy negotiations which also involved efforts on the part of the Governments of Saudi Arabia and South Africa. During these negotiations the Libyan authorities sought clarifications regarding various aspects of the implementation of the resolution. These requests were conveyed to the parties concerned, namely France, the Netherlands, the United Kingdom, and the United States of America. The information provided by these parties in response to such requests was then conveyed to the Libyan authorities. In response to one of those inquiries and upon receipt of the necessary clarifications provided by the British authorities, on 17 February 1999 I wrote a letter to Colonel Muammar Al-Qadhafi concerning some of the outstanding issues from the point of view of the Libyan Arab Jamahiriya. To the letter was attached an annex where the clarifications provided by the British authorities were presented.

It is also worth noting that given the sensitive nature of matters relating to the implementation of Security resolution 1192 (1998), all the aforementioned parties concerned, including the United Kingdom and the United States, were kept apprised by the United Nations Secretariat of the contents of the correspondence between the United Nations and the Libyan authorities. In the case of my letter to Colonel Muammar A-Qadhafi of 17 February 1999, the United Kingdom and the United States were apprised of the letter and, as it appears from it, confirmed that they shared the understanding reflected in its annex.

Please accept, Excellency, the assurances of my highest consideration.

Kofi A. Annan

ATTACHED LETTER 3

THE SECRETARY-GENERAL

17 February 1999

His Excellency
Colonel Muammar Al-Qadhafi
Leader of the Revolution
Socialist People's Libyan Arab Jamahiriya
Tripoli

Excellency,

I have been greatly encouraged by the reports I have received on the outcome of your recent meetings with the envoys despatched [sic] by the leaders of Saudi Arabia and South Africa. In particular, I was very pleased to learn from President Mandela himself about Your Excellency's letter to him dated 9 February 1999 confirming the understanding reached on outstanding issues.

In pursuance of the understanding reached with the envoys, I attach a document setting forth the relevant details thereof. After reviewing this document, the Governments of the United Kingdom and the United States have confirmed to me that they share the understanding reflected therein. It is now my intention to report this understanding to the Security Council without delay to facilitate the immediate implementation of resolution 1192 (1998).

As Your Excellency is aware, the Security Council is due to undertake, on 26 February 1999, a review of the sanctions imposed on the Libyan Arab Jamahiriya. Hence, it would be most helpful if the practical arrangements already agreed upon between the Libyan legal team and my own Legal Counsel could be set in motion before that date.

Excellency,

I am deeply conscious and appreciative of your own personal efforts in seeking solutions to the outstanding issues. It is heartening, indeed, that the efforts made jointly by all concerned, as well as the

leaders of South Africa and Saudi Arabia, are now about to result in a satisfactory conclusion.

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

(signed)
Kofi A. Annan

Understanding on the Issues outstanding from the point of view of the Libyan Arab Jamahiriya

As provided for in Security Council resolution 1192 (1998) the two persons concerned will be transferred from Libya to the Netherlands and tried under Scottish law before a Scottish court sitting in the Netherlands.

If found guilty, after any necessary appeals process, they will serve their prison sentence in Scotland. If the two are not convicted, they will be free to return to Libya unimpeded.

There is no intention to interview them, or to allow them to be interviewed, about any issue not related to the trial. There will be no deviation from Scottish law which provides that the two persons have the right to refuse to see any police or intelligence officers. The two persons will not be used to undermine the Libyan regime.

The prisoners would be held in a distinct portion of a Scottish prison to provide maximum security. All necessary measures will be taken to ensure the safety and well-being of the two persons, if convicted. This facility will be given a special international designation, and special arrangements will be introduced to provide for a role for the United Nations in monitoring the treatment of the two persons concerned. These arrangements, which will be subject to discussions with the United Nations, will be regularly reviewed by the British Government to ensure that they worked effectively and satisfied the legitimate concerns of all parties.

The two prisoners would have unfettered access to legal and diplomatic representatives. An official Libyan presence in Scotland for that purpose will be allowed. Pursuant to the conditions of imprisonment set out in the relevant Scottish law, religious, health and dietary requirements of the two prisoners would be fully met.

Visits by clerics and the supply of religious books would be arranged.

The two prisoners or their representatives will have the right to make representations to the authorities of the United Kingdom if they consider that some aspect of their place of imprisonment was contrary to humanitarian concerns. Any such representation would be very carefully considered by the United Kingdom authorities.

With reference to the measures set forth in Security Council resolutions 748 (1992) and 883 (1993), these measures shall be suspended immediately if the Secretary-General reports to the Council that the two persons concerned have arrived in the Netherlands for the purpose of trial before the Scottish court sitting in the Netherlands. These measures could only be reimposed by a new decision of the Council taken by an affirmative vote of nine Members of the Council, including the concurring votes of all the Permanent Members.