

Actions by U.S. 'shock the civilized world'

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Introduction

1. Libya and all Members of the Security Council are parties to the 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, the so-called Montreal Sabotage Convention. The United States, the United Kingdom, and Libya are all parties to the Montreal Convention without any reservations, whereas France has reserved its position as to the compulsory dispute settlement procedures set forth in article 14. It is clear that the Montreal Convention applies to the Lockerbie bombing allegations. . . .

The Montreal Convention

3. Concerning the Lockerbie allegations, it is quite clear that Libya has fully discharged its obligations under article 5 by instituting criminal proceedings against the two Libyan nationals that have been accused by the United States and the United Kingdom. Under these circumstances, there is no obligation whatsoever for Libya to extradite its two nationals to either the United States or the United Kingdom.

4. Article 6 of the Montreal Convention then provides that a contracting state such as Libya must take such subjects into custody or take other measures to ensure their presence "as provided in the law of that state." In other words, it is the domestic law of Libya that clearly applies here, and Libya is already applying its domestic law by taking these two nationals into custody and prosecuting them. Thus, Libya has discharged these obligations under article 6 of the Montreal Convention. . . .

Compulsory dispute settlement procedures

15. The Montreal Convention concludes its operative provisions by including an article 14 on the compulsory settlement of disputes:

Article 14. 1. Any dispute between two or more Contracting States concerning the interpretation or applica-

tion 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. . . .

16. Therefore, it is clear from article 14 that in the event the United States and the United Kingdom have any objections to the manner in which Libya is handling the allegations over the Lockerbie bombing, then it is incumbent upon these two states to demand international arbitration over this dispute with Libya, as is their unilateral right to do so under article 14. So far, both the U.S. and the U.K. have refused to do this.

17. By contrast, Libya has repeatedly offered to submit this dispute to international arbitration, to the International Court of Justice, to an international commission of investigation, or to some other type of *ad hoc* international institutional arrangement for the impartial investigation and adjudication of these allegations. So far, both the United States and the United Kingdom have rejected all of these good faith efforts by Libya to resolve this dispute in a peaceful manner. Hence, both the United States and the United Kingdom have effectively violated most of the provisions of the Montreal Convention when it comes to the handling of this dispute with Libya. . . .

25. During the course of the debate on the adoption of Resolution 731 (1992) by the Security Council, the representatives of the United States and the United Kingdom expressed their opinion that the Montreal Convention did not apply to this situation. To the contrary, article 14 states quite clearly that "any dispute" concerning the "interpretation or application of this Convention" shall be submitted to arbitration. (Emphasis added.) It is for the international arbitration tribunal to decide whether or not the Montreal Convention applies to the circumstances of this case, not the United States and the United Kingdom. Otherwise, the entire Montreal Convention itself could be negated and violated by a contracting state unilaterally proclaiming that the Convention does not apply, according to its self-interested opinion. Such a conclusion would be the exact antithesis of the Rule of International Law and its basic principle that *pacta sunt servanda*.

The violent settlement of international disputes

26. In rejecting the applicability of the Montreal Convention, U.S. Ambassador Thomas Pickering stated: "The issue at hand is not some difference of opinion or approach that can be mediated or negotiated." In other words, the United States government has admitted that it will pay no attention whatsoever to its obligations mandating the peaceful resolu-

tion of international disputes as required by U.N. Charter articles 2(3) and 33(1). In particular, article 33(1) clearly requires "negotiation," "mediation," "arbitration," and "judicial settlement" among the many means mandated for the pacific resolution of international disputes. But the United States government has specifically rejected all these measures.

27. Pickering's high-handed statement should shock the conscience of the civilized world. His illegal rejection of negotiations also expressly violated the terms of Montreal Convention article 14 that specifically requires negotiations between the parties to any dispute that might arise thereunder before resort to international arbitration or adjudication. The United States government has purposefully and illegally made it impossible for there to be a pacific settlement of this dispute precisely because it has rejected negotiations, let alone arbitration or adjudication. It should be clear to the entire world community, therefore, that the United States government is manipulating the Lockerbie bombing allegations for the purpose of preparing the way for aggressive measures against the People and State of Libya and, ultimately, for an armed attack upon Them.

28. The United States government has already threatened the use of military force against Libya over this legal dispute in violation of article 2, paragraph 4 of the United Nations Charter:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

The Members of the Security Council must not permit the United States and the United Kingdom to proceed any further down the path of lawless violence against the People and State of Libya. The very Purposes and Principles of the United Nations Organization itself that are found in Charter articles 1 and 2 demand that this dispute be resolved by any of the pacific means that have so far been proposed by Libya.

Resolution 731 (1992) is 'ultra vires' the Security Council

29. For this reason, the Security Council acted beyond its powers (*ultra vires*) when it adopted Resolution 731 (1992). Charter article 24, paragraph 2 makes this point quite clear. . . . The Security Council did not and still does not have any lawful authority or power to adopt a resolution that ignores, abrogates, or circumvents the basic principle of international law mandating the peaceful resolution of international disputes.

30. This sacrosanct principle of international law and politics goes all the way back to the Treaty Providing for the Renunciation of War as an Instrument of National Policy of

August 28, 1928, the so-called Paris Peace Pact. The United States, Great Britain, and France are all parties to the Paris Peace Pact. . . .

31. The United States, the United Kingdom, and France are now prepared to repudiate the Paris Peace Pact in its entirety when it comes to the aggressive pursuit of their unfounded claims against Libya. In other words, these three states are currently planning, preparing, and conspiring to wage aggressive warfare against Libya in violation of the Paris Peace Pact as well as the Nuremberg Charter of 1945. . . .

The United States, the United Kingdom, and France illegally voted for Resolution 731 (1992)

32. Finally, the Security Council adopted Resolution 731 (1992) pursuant to its powers under Chapter VI of the U.N. Charter, which governs the pacific settlement of international disputes. But in this regard, Charter article 27, paragraph 3 states quite clearly:

Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of article 52, a party to a dispute shall abstain from voting.

In other words, the United States, the United Kingdom, and France were obliged to abstain from the vote on Resolution 731 (1992) because they are parties to this dispute with Libya over allegations surrounding the Lockerbie and UTA bombings that were the very subject matter of this resolution.

33. These three permanent members refused to abstain from the vote and thus violated Charter article 27(3). This flagrant and gross procedural violation of the Charter by the three most powerful members of the Security Council calls into question the validity of the votes cast in favor of Resolution 731 (1992) by the non-permanent members of the Security Council. The world's one self-proclaimed superpower and two of its greatest powers illegally used their overwhelming power and influence to induce and coerce the other Member States of the Security Council to unfairly condemn Libya.

34. It seems that the so-called "New World Order" is to be governed by the sophistic principle that "might is right": The strong do what they will, and the weak suffer what they must. But how long will it be before the permanent members of the Security Council apply this same principle of *realpolitik* against the rest of the world, including the non-permanent members of the Security Council? For the good of themselves and their own Peoples, the other Member States of the Security Council must not permit the United States, the United Kingdom, and France to set themselves up as judge, jury, and executioner of the People and State of Libya.