

The Council commends those Burundian parties, including the Government, that demonstrated their commitment to continue negotiations, calls upon those parties that remain outside the process to cease hostilities and calls for their full participation in Burundi's inclusive peace process.

The Council condemns the murder of United Nations personnel in Burundi in October. It calls upon the Government to undertake and cooperate with investigations, and for the perpetrators to be brought to justice. The Council urges all parties to ensure the safe and unhindered access of humanitarian assistance to those in need in Burundi and to guarantee fully the security and freedom of movement of United Nations and humanitarian personnel. The Council recognizes the important role of the States of the region, in particular the United Republic of Tanzania, which is host to hundreds of thousands of

Burundian refugees and home to the Julius Nyerere Foundation, which has provided outstanding support to the talks.

The Council calls upon States of the region to ensure the neutrality and civilian character of refugee camps and to prevent the use of their territory by armed insurgents. It also calls upon the Government of Burundi to halt the policy of forced regroupment and to allow the affected people to return to their homes, with full and unhindered humanitarian access throughout the process. It condemns the attacks by armed groups against civilians and calls for an end to these unacceptable incidents.

The Council recognizes Burundi's dire economic and social conditions and affirms the need for the donor community to expand assistance for Burundi.

## **7. Letters dated 20 and 23 December 1991, from France, the United Kingdom of Great Britain and Northern Ireland and the United States of America**

### **Decision of 18 April 1996 (3655th meeting): statement by the President**

At its 3655th meeting, held on 18 April 1996 in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda the item entitled "Letters dated 20 and 23 December 1991, from France, the United Kingdom of Great Britain and Northern Ireland and the United States of America".<sup>1</sup> in connection with (a) the judiciary inquiry conducted on the attack on the UTA DC-10 airliner, flight 772 of 19 September 1989 (S/23306); (b) the investigation into the destruction of Pan Am flight 103 over Lockerbie, Scotland on 21 December 1988 and a joint declaration by the United States and the United Kingdom; and (c) the text of a tripartite declaration on terrorism issued by the Governments of France, the United Kingdom and the United States on 27 November 1991 following the investigation into the bombings of Pan Am flight 103 and UTA flight 772.

At the same meeting, the President made the following statement on behalf of the Council:<sup>2</sup>

<sup>1</sup> S/23306, S/23307, S/23308, S/23309 and S/23317.

<sup>2</sup> S/PRST/1996/18.

On 16 April 1996, a Libyan-registered aircraft flew from Tripoli, Libyan Arab Jamahiriya, to Jeddah, Saudi Arabia. The Security Council considers this clear violation of Council resolution 748 (1992) of 31 March 1992 as totally unacceptable and calls upon Libyan Arab Jamahiriya to refrain from any further such violations. It recalls that arrangements have been made consistent with resolution 748 (1992) in order to fly Libyan pilgrims to perform the Hajj. The Council will review the matter should further violations occur.

The Council has requested the Committee established pursuant to resolution 748 (1992) to draw to the attention of Member States their obligations under resolution 748 (1992) in the event that Libyan-registered aircraft land in their territory.

### **Decision of 29 January 1997 (3734th meeting): statement by the President**

At the 3734th meeting of the Security Council, held on 29 January 1997 in accordance with the understanding reached in its prior consultations, the President (Japan) drew the attention of the Council to a letter dated 20 January 1997 from the Libyan Arab Jamahiriya, transmitting a letter dated 17 January 1997 addressed to the President of the Council from the Secretary of the General People's Committee for Foreign Liaison and International Co-operation of the Libyan Arab Jamahiriya, concerning the balloonist,

Steve Fossett, who flew over Libyan airspace.<sup>3</sup> The letter stated that a Mr. Steve Fossett, who was flying around the world in a balloon, had asked to be allowed to pass through Libyan airspace. It further stated that despite the aerial embargo on the Libyan Arab Jamahiriya, imposed by the Security Council in response to pressure from the United States, the United States had reproached them for preventing the balloon from passing through Libyan airspace. The letter maintained that it was incomprehensible that the United States should censure the Libyan Arab Jamahiriya while the “United States was behind the aerial embargo”. He therefore informed the Security Council that as long as the United States censured the Libyan Arab Jamahiriya for having prevented the balloon from passing through its airspace because of the aerial embargo imposed on it, they in the Libyan Arab Jamahiriya would not only allow the balloon’s passage through Libyan airspace, but would also approve passage for all aircraft through the airspace of the Jamahiriya and the landing of all aircraft at its airports. Libyan Arab Airways would also immediately resume its flights to all of the world’s countries.

At the same meeting, the President made the following statement on behalf of the Council:<sup>4</sup>

The Security Council notes with concern the letter dated 17 January 1997 from the Secretary of the General People’s Committee for Foreign Liaison and International Cooperation of the Libyan Arab Jamahiriya addressed to the President of the Council, announcing that Libyan Arab Airways would resume international flights out of the Libyan Arab Jamahiriya immediately. The Council considers the position expressed in the letter dated 17 January 1997 to be incompatible with Council resolution 748 (1992). Resolution 748 (1992) does not prohibit overflights of Libyan territory. Paragraph 4 (a) of the resolution does, however, prohibit all international flights to and from the Libyan Arab Jamahiriya. The Council would consider any such flights to be a violation of the terms of resolution 748 (1992).

The Council takes note of the reports that a Libyan-registered aircraft, in apparent violation of resolution 748 (1992), flew from Tripoli to Accra, on 21 January 1997, where it landed and later departed. The Council has requested the Committee established pursuant to resolution 748 (1992) to follow up this matter. The Council draws the attention of Member States to their obligations under resolution 748 (1992) in the event that Libyan-registered aircraft seek to land in their territory.

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<sup>3</sup> S/1997/52.

<sup>4</sup> S/PRST/1997/2.

**Decision of 4 April 1997 (3761st meeting):  
statement by the President**

At the 3761st meeting of the Security Council, held on 4 April 1997 in accordance with the understanding reached in its prior consultations, the President (Portugal), made the following statement on behalf of the Council:<sup>5</sup>

On 29 March 1997, a Libyan-registered aircraft flew from Tripoli, Libyan Arab Jamahiriya, to Jeddah, Saudi Arabia. The Security Council considers this clear violation of Council resolution 748 (1992) of 31 March 1992 as totally unacceptable and calls upon the Libyan Arab Jamahiriya to refrain from any further such violations. It recalls that arrangements have been made consistent with resolution 748 (1992) in order to fly Libyan pilgrims to perform the Hajj. The Council will review the matter should further violations occur.

The Council has requested the Committee established pursuant to resolution 748 (1992) to draw to the attention of Member States their obligations under resolution 748 (1992) in the event that Libyan-registered aircraft land in their territory.

**Decision of 20 May 1997 (3777th meeting):  
statement by the President**

At the 3777th meeting of the Security Council, held on 20 May 1997 in accordance with the understanding reached in its prior consultations, the President (Republic of Korea), made the following statement on behalf of the Council:<sup>6</sup>

The Security Council takes note with concern of reports that Libyan-registered aircraft flew from the Libyan Arab Jamahiriya to Niger on 8 May 1997 and returned to the Libyan Arab Jamahiriya from Nigeria on 10 May in violation of Council resolution 748 (1992). The Council has requested the Committee established pursuant to resolution 748 (1992) to follow up this matter directly with the representatives of the Libyan Arab Jamahiriya, Niger and Nigeria. The Council calls upon all States to fulfil their obligations under resolution 748 (1992) in the event that aircraft flights originating in Libya seek to land in their territory.

The Council takes note of the letters from the Permanent Representative of Libya to the United Nations dated 16 May 1997 and the Permanent Representative of Niger to the United Nations dated 13 May 1997, and the note verbale from the Permanent Representative of Nigeria to the United Nations dated 15 May 1997. The Council recalls that in paragraph 4 of resolution 748 (1992), it decided that all States shall deny permission to any aircraft to take off from, land in or overfly their territory if it is destined to land in or has taken off from the

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<sup>5</sup> S/PRST/1997/18.

<sup>6</sup> S/PRST/1997/27.

territory of the Libyan Arab Jamahiriya, unless the particular flight has been approved on grounds of significant humanitarian need by the Committee established pursuant to paragraph 9 of the resolution.

**Deliberations of 20 March 1998 (3864th meeting)**

By a letter dated 2 March 1998 addressed to the President of the Security Council,<sup>7</sup> the representative of the Libyan Arab Jamahiriya informed the Security Council of the two judgments delivered on 27 February 1998 by the International Court of Justice on the interpretation and application of the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation in connection with the Lockerbie incident of 1988. The judgments confirmed that the case was legal in nature and that it was the Court, not the Security Council, that had jurisdiction in accordance with the relevant provisions of the Montreal Convention of 1971. They also vindicated the several resolutions on the matter that had been adopted by various regional and international organizations, including the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Non-Aligned Movement, as well as by other States expressing the will of the international community. He then reiterated his country's request pursuant to Articles 31 and 32 of the Charter of the United Nations for a formal meeting of the Security Council to consider the case in all its aspects in the light of those two judgments of the International Court of Justice as well as in the context of the review of the sanctions that was to take place during the first week of March 1998.

By a letter dated 4 March 1998 addressed to the President of the Security Council,<sup>8</sup> the representatives of Algeria, Egypt, the Libyan Arab Jamahiriya, Mauritania, Morocco, the Syrian Arab Republic and Tunisia, writing as the members of the Arab Committee of Seven in New York, requested, as a matter of urgency pursuant to Articles 31 and 32 of the Charter of the United Nations, the convening of a formal meeting of the Security Council to consider all aspects of the dispute between the Libyan Arab Jamahiriya and the United States and the United Kingdom, especially in the light of the two judgments delivered by the Court on 27 February 1998.

By a letter dated 4 March 1998 addressed to the President of the Security Council,<sup>9</sup> the representative of Mali informed the Council that pursuant to the decision of the International Court of Justice pronouncing its competence to deal with the dispute under reference, the Group of African States in New York had convened a meeting on 4 March 1998 to review the position of the Court, especially within the framework of the decision taken by the Council of Ministers at the OAU from 23 to 27 February 1998. At the end of the meeting the Group of African States had requested him to ask the President of the Security Council to use his good offices to have the Security Council hold a public debate on the dispute between the Libyan Arab Jamahiriya and the United States and the United Kingdom, before the Security Council held its session to review sanctions. It was the wish of the Group of African States to see the sanctions against the Libyan Arab Jamahiriya either suspended or lifted altogether.

At its 3864th meeting, held on 20 March 1998 in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda the item "Tribute to the memory of the victims of Pan Am Flight 103 and UTA Flight 772" and observed a minute of silence. Following the minute of silence, the President (Gambia), with the consent of the Council, invited the representatives of Algeria, Colombia, Cuba, the Democratic People's Republic of Korea, Egypt, Ghana, Guinea-Bissau, India, Indonesia, the Islamic Republic of Iran, Iraq, Jordan, Kuwait, the Lao People's Democratic Republic, the Libyan Arab Jamahiriya, Malaysia, Mali, Malta, Mauritania, Morocco, Namibia, Nigeria, Oman, Pakistan, Qatar, the Sudan, the Syrian Arab Republic, Tunisia, Uganda, the United Arab Emirates, the United Republic of Tanzania, Viet Nam, Yemen and Zimbabwe, at their request, to participate in the discussion without the right to vote. The Council also decided, at the requests of the representatives of Indonesia, Bahrain and Gabon, respectively, to extend invitations under rule 39 of its provisional rules of procedure to the Deputy Permanent Observer of the Organization of the Islamic Conference to the United Nations, the Permanent Observer of the League of Arab States and the

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<sup>9</sup> S/1998/199.

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<sup>7</sup> S/1998/179.

<sup>8</sup> S/1998/195.

Permanent Observer of the Organization of African Unity.<sup>10</sup>

At the same meeting the President drew the attention of the Council to the following documents: letters dated 2, 2, 4 and 17 March 1998, respectively, from the representative of the Libyan Arab Jamahiriya addressed to the President of the Security Council;<sup>11</sup> a letter dated 4 March 1998 from the representative of Zimbabwe addressed to the Secretary-General,<sup>12</sup> transmitting a letter of the same date from the Secretary-General of the OAU; a letter dated 5 March 1998 from the representative of Saudi Arabia addressed to the President of the Security Council,<sup>13</sup> supporting the request by the Libyan Arab Jamahiriya for a meeting; a letter dated 5 March 1998 from the representative of Colombia addressed to the President of the Security Council,<sup>14</sup> on behalf of the Non-Aligned Movement, supporting the request for a meeting; a letter dated 15 January 1998 from the Secretary-General addressed to the President of the Security Council,<sup>15</sup> transmitting the report submitted to him by the fact-finding mission to the Libyan Arab Jamahiriya; a letter dated 5 March 1998 from the representative of Zimbabwe addressed to the President of the Security Council,<sup>16</sup> transmitting a letter of the same date from the Minister for Foreign Affairs of Zimbabwe and Chairman of the OAU Committee on the dispute between the Libyan Arab Jamahiriya, and the United Kingdom and the United States; and a letter dated 16 March 1998 from the representatives of the United Kingdom and the United States addressed to the President of the Security Council,<sup>17</sup> giving their comments on the International Court of Justice judgments, noting that the Libyan letter was highly misleading when it suggested that anything in the judgments affected the resolutions of the Security Council.

At the same meeting, the representative of the Libyan Arab Jamahiriya stated that the meeting was

being held in accordance with Articles 31 and 32 of the Charter, in response to their formal request. He noted that the agenda item went back seven years, and that the original letters contained demands from the United States and the United Kingdom upon Libya. Those demands were the extradition of two Libyan citizens suspected of being involved in the incident of the destruction of Pan Am flight 103 over Lockerbie, Scotland, in 1988, the payment of compensation and the provision of evidence proving the guilt of the two suspects. He emphasized that strange as they were, all these demands were related to legal procedures and any dispute over them was a legal one, and the Libyan Government thus had dealt with them on that basis. The representative stated that a new situation had arisen since the issuance of the two judgments by the Court, which should have been binding for all United Nations organs and their members given that, under Article 92 of the Charter, the Court was the principal judicial organ of the United Nations. The Lockerbie matter was a legal dispute between Libya, on the one hand, and the United States and the United Kingdom on the other. The Court had jurisdiction over that dispute in accordance with the Charter and the Statute of the Court. That being the case, the parties to the dispute needed to comply with the two judgments rendered by the Court in that respect. None of them could take unilateral or multilateral measures except through the Court. Since they were parties to the dispute, they needed to abstain in the voting on any decision or recommendation relating to it, in accordance with Article 27, paragraph 3, of the Charter. Libya, as a party to the dispute, had from the beginning taken all the steps needed to resolve it peacefully and had implemented all requests by international organizations, including the Security Council, in relation to it, except for those relating to the interpretation and application of the 1971 Montreal Convention, on which it resorted to the Court, as provided in Article 33 of the Charter and article 14, paragraph 1, of the Convention, where it had been vindicated. He stressed that the sanctions the Security Council had adopted in accordance with its resolutions 748 (1992) and 883 (1993) constituted collective punishment against the entire Libyan people as a result of nothing more than mere suspicion against two of its citizens. The two Libyan citizens were mere suspects who had not been accused, interrogated, brought to trial or convicted by a court of law. The Libyan Arab Jamahiriya had urged the two suspects to agree to

<sup>10</sup> S/PV.3864 and Corr.1, pp. 2-3; and S/1998/251, S/1998/252 and S/1998/253, respectively.

<sup>11</sup> S/1998/190, S/1998/191, S/1998/192 and S/1998/242.

<sup>12</sup> S/1998/196.

<sup>13</sup> S/1998/198.

<sup>14</sup> S/1998/200.

<sup>15</sup> S/1998/201.

<sup>16</sup> S/1998/202.

<sup>17</sup> S/1998/239.

appear before a Scottish court in Scotland, but the two suspects had refused to do so because their defence lawyers had advised them not to agree to a trial in the United Kingdom or the United States, as they had already been pre-condemned there by the intensive and concentrated media coverage of the issue and statements made against them by officials of the two countries. The lawyers for the two suspects threatened to sue the Libyan State under local and international law if it surrendered the two suspects against their will to either of the two States. He further underlined that the sanctions provided for in Security Council resolutions 748 (1992) and 883 (1993) had become irrelevant and moot since the Court had accepted jurisdiction in the matter on which the resolutions were based. In conclusion, the representative stressed that for the sake of cooperation between the Court and the Security Council, the Council needed to take the necessary measures to give effect to the two judgments rendered by the Court on 27 February 1998; the Council needed to refrain from renewing the sanctions imposed on the Libyan Arab Jamahiriya pursuant to resolutions 748 (1992) and 883 (1993); those two resolutions needed to be rescinded insofar as they related to the imposition of sanctions on the Libyan Arab Jamahiriya; the two cases before the International Court of Justice needed to be considered the only peaceful means for settling the dispute between the parties, and the Council needed to call on them not to take any unilateral or multilateral measures until the Court rendered its final decision; and finally as an interim measure, the Council needed to suspend implementation of the two resolutions insofar as they related to the sanctions imposed against the Libyan Arab Jamahiriya. Libya also believed that the two judgments by the International Court of Justice had paved the way for a definitive settlement of the Lockerbie dispute and thereby declared once more Libya's continued acceptance of the initiatives of international forums, including the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Movement of Non-Aligned Countries, addressed to the Security Council with regard to settling the dispute.<sup>18</sup>

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<sup>18</sup> S/PV.3864 and Corr.1, pp. 4-12. Libya and other speakers also spoke extensively on the technical and legal issues regarding the imposition of sanctions; this is covered in more detail in a case study in chapter XI in

The representative of the United States of America addressed the issue of the recent decision by the International Court of Justice. He stated that the rulings in no way questioned the legality of the Security Council's actions affecting the Libyan Arab Jamahiriya or the merits of the criminal cases against the two accused suspects, but that they involved technical procedural issues. The Court was not calling for the review or suspension of Security Council resolutions, and had made clear that it was not dealing with the substance or the merits of the case. In reality the Court had said that the parties must now argue the legal merits of the case, and while the case was proceeding, the Libyan Arab Jamahiriya must finally adhere to the will of the international community, comply with its obligations pursuant to Security Council decisions and turn over the two accused suspects for a fair trial. Turning to the claims of humanitarian suffering in Libya, he stated that the United Nations sanctions against Libya were targeted sanctions imposed to address aspects of Libyan involvement in international terrorism but specifically designed to prevent suffering among the Libyan people. Those sanctions did not prohibit the importation of food, medicine or clothing. They did not close the land or sea borders of the Libyan Arab Jamahiriya, and they did not prevent the country from selling its oil on the open market. In fact, Libyan oil production under sanctions remained steady, so if the Libyan Arab Jamahiriya was suffering economically, it was not because of United Nations sanctions. Speaking about the report of United Nations Under-Secretary-General Petrovsky, the representative stated that the Petrovsky mission had adhered to its mandate, which was simply to listen to Libyan views, and did not agree with, endorse, or confirm the claims of the Government of the Libyan Arab Jamahiriya. In fact, the report had underlined that Libya had failed to respond or take advantage of efforts by the United Nations to respond to its complaints. If Libya wanted the sanctions lifted, it could surrender the two suspects so that they could receive a fair trial in the appropriate criminal court.<sup>19</sup>

The representative of the Russian Federation stated that the Security Council and the United Nations as a whole had repeatedly proven their ability to seek compliance with United Nations decisions by showing

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the section on Article 42.

<sup>19</sup> *Ibid.*, pp. 12-14.

firmness on the substance of their demands and flexibility in the methods of attaining the goals. A speedy resolution of the Lockerbie case would be of great importance for United Nations efforts in combating the scourge of terrorism. He maintained that the serious humanitarian consequences of sanctions for the Libyan people were attested to by the recent report on the results of the mission of the Under-Secretary-General, which indicated the need to create humanitarian exemptions to the sanctions regime. He stated that his delegation believed that the findings of the report gave sufficient grounds to discuss the adoption by the Council of humanitarian exemptions to the sanctions regime. The Council needed to give an adequate reaction to the positive steps already undertaken by the Libyan Arab Jamahiriya to comply with the appropriate decisions of the United Nations. While appealing again to the parties to speedily attain a compromise on the basis of the Security Council resolutions, the Russian Federation was in favour of the immediate entry into force of the humanitarian exemptions. He expressed hope that all of their partners would be prepared to work constructively in that area, both within the Council and in the Sanctions Committee.<sup>20</sup>

The representative of China stated that as the Security Council was the main United Nations organ for maintaining international peace and security and since the Council acted on behalf of the entire membership, in accordance with the Charter, it needed to listen to the broad range of views of Member States on the question of the Libyan Arab Jamahiriya. He reiterated that China was opposed to terrorism in any form and was of the view that terrorists should be brought to justice. He stated that the key to resolving the Lockerbie case was for the parties concerned to agree at an early date on the venue and method of the trial of the two suspects. He also took note of the recent decision of the International Court of Justice to accept the Lockerbie case, and expressed his delegation's support of the resolution of the issue through peaceful means, including legal procedures. He emphasized that the sanctions against the Libyan Arab Jamahiriya had brought untold suffering to the Libyan people, had undermined the development of that country, and had affected the economic development of third world countries. He expressed his

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<sup>20</sup> Ibid., pp. 15-16.

Government's grave concern about the adverse effects of the sanctions and underlined that facts had proven that sanctions rather than solving the problem only aggravated matters. In their view the sanctions needed to be lifted as soon as possible. Commenting on the Secretary-General's fact-finding mission to Libya, he noted that the report of the mission was essentially an accurate account of the situation there and stated that the Security Council and its Sanctions Committee ought to consider it seriously and take measures to ease the situation.<sup>21</sup>

The representative of Bahrain stated that the judgment of the International Court of Justice, which confirmed its competence in this issue, logically required that the Security Council consider the suspension of sanctions, at least until the Court took a decision on the substance of the matter. The harmful effects of those sanctions in the long term had begun to be felt by the Libyan people in spite of the Libyan Arab Jamahiriya's oil riches. His delegation believed that the Council had to re-examine the sanctions against the Libyan Arab Jamahiriya because of the new factors in the case: the judgment handed down by the International Court of Justice and the options submitted on the matter, which were legal in nature and not political. The Council had to respond by decreeing a suspension of the sanctions until a ruling was handed down.<sup>22</sup>

The representative of Brazil stated that the future decision of the International Court of Justice would be a significant element to be considered by the Security Council in any decision referring to the present case. Brazil hoped that the international community, with the cooperation of the Government of Libya, would be able to ensure that in a fair and transparent way the responsibility for those "heinous acts" would finally be established by a fair trial. He also stressed that humanitarian aspects were especially important with regard to sanctions and that the relevant issues, which were then a part of the discussions in the Sanctions Committee, would benefit from statistical data and verifiable information on the possible links between humanitarian difficulties in the Libyan Arab Jamahiriya and the sanctions imposed by the United Nations.<sup>23</sup>

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<sup>21</sup> Ibid., p. 17.

<sup>22</sup> Ibid., p. 21-22.

<sup>23</sup> Ibid., pp. 26-28.

The representative of France stated that for almost seven years the Security Council had been seized by three Governments, including that of France, of the attacks against Pan Am flight 103 and UTA flight 772. Following the investigations carried out by the competent authorities the Governments concerned had become convinced that Libyan nationals were involved in those terrorist acts. In its first resolution on the matter, the Security Council had urged the Government of the Libyan Arab Jamahiriya to provide a full and effective response to the requests for cooperation in order to establish responsibility for the two attacks in question. The request was not satisfied and the Council therefore decided in resolutions 748 (1992) and 883 (1993) to impose sanctions on Libya. Those sanctions were tough but limited to specific areas. A Security Council committee was established to authorize exemptions to the Council's proscriptions in order, in particular, to allow urgent medical evacuations and to accommodate the religious obligations of the Libyan population. He stated that France had taken note of the two judgments rendered by the International Court of Justice in the Lockerbie case. The Court, under the Charter, was the principal judicial organ of the United Nations, and it was therefore natural for the Court to decide on the petitions submitted to it. Nevertheless they noted that those judgments were basically procedural in nature; the Court had recognized its competence to hear the matter put before it and would rule on the substance of the case later. He underlined that those decisions did not affect the relevant resolutions of the Council. They also took note that for several years a number of States and regional organizations had taken the initiative of putting forward proposals to resolve the impasse over the Lockerbie case, and that the Government of the Libyan Arab Jamahiriya had accepted some of those proposals. He stated that in the meantime, France intended to be sensitive to the humanitarian consequences of the sanctions in force. In the Council, as in the Sanctions Committee, France acted to see to it that the exemptions regime was applied generously and effectively. In conclusion, he reiterated that the point of the debate was not whether to maintain sanctions; the sanctions were very recently renewed, and all knew that there was no agreement within the Council to amend the current sanctions regime.<sup>24</sup>

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<sup>24</sup> Ibid., pp. 28-29.

The representative of the United Kingdom stated that the solution to the issue lay in the hands of the Government of the Libyan Arab Jamahiriya, as they had only to comply with the Security Council resolutions and hand over the two suspects in order for sanctions to be lifted. For whatever reasons, Libya had refused for over six years to comply and had instead sought to enlist other members of the United Nations behind its policies of non-compliance, on the basis of misrepresentations about the trial process, about the impact of sanctions and, most recently, about the preliminary ruling of the International Criminal Court of Justice. He expressed hope that those organizations would not be used to undermine the Council's resolutions and that their influence would eventually be deployed to bring about the Libyan Arab Jamahiriya's acceptance of international law and justice for the victims. He maintained that despite all attempts to muddy the waters, the plain fact remained that the Libyan Arab Jamahiriya was under international obligations adopted under Chapter VII of the Charter, with which it had not yet complied. The Libyan Arab Jamahiriya's claims that the ruling of the Court relieved it of its obligations to hand over the accused for trial in Scotland or the United States were simply false. Indeed, an application by the Libyan Arab Jamahiriya that it should no longer be called upon to surrender the two accused because of those proceedings had already been rejected by the International Court in a 1992 decision. He also stated that, as concluded by the Secretary-General's own mission to Scotland, contrary to Libyan claims, the accused would receive a fair trial under the Scottish judicial system, and that their rights during the pre-trial proceedings would be fully protected in accordance with international standards. He made it clear that for the trial itself in Scotland, the Government of the United Kingdom would also welcome international observers, from the United Nations, from the OAU, from the Arab League and from the Libyan Arab Jamahiriya. The independent United Nations experts had already concluded that their presence could be easily and fully accommodated.<sup>25</sup>

The representative of the League of Arab States stated that within the framework of the international efforts undertaken to reach a peaceful and just solution to the crisis and on the basis of the provisions of

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<sup>25</sup> Ibid., pp. 31-32.

Chapter VII of the United Nations Charter concerning the activities of regional organizations that were in keeping with the objectives of the United Nations, the League of Arab States, in cooperation with the Organization of African Unity and the Organization of the Islamic Conference, had submitted three options to the Security Council as a basis on which to solve the problem. Those proposals consisted of either a trial of the suspects in a neutral country, or at the headquarters of the International Court of Justice, or by a special court, provided that the Security Council would consider approval of provisional measures to except air travel for humanitarian, religious and official purposes from the application of sanctions. The main objective of all the efforts undertaken by the League of Arab States and the other regional and international organizations, such as the Non-Aligned Movement and the Group of 77, which represented the majority of the members of the international community, was to achieve a just, peaceful, and final settlement to the problem in the framework of international legitimacy that would be satisfactory to all the parties concerned, including the families of the victims, and at the same time to safeguard Libyan sovereignty within the framework of law and justice. The time had come to alleviate the suffering of the Libyan people and to allow that sister country to play its positive role fully in the Arab, African, Islamic and Mediterranean context. He noted that the report of the fact-finding mission sent by the Secretary-General to the Libyan Arab Jamahiriya referred to the deteriorating economic and social conditions in the country, particularly in the health, social, agricultural and transportation sectors. The negative consequences of the sanctions also extended to other, neighbouring Arab and African countries, affecting the stability and the welfare of an entire region. He suggested that perhaps that was why many had raised their voices before the Council, declaring that the time had come for the sanctions on the Libyan Arab Jamahiriya to be lifted and for a peaceful settlement of the dispute to be reached.<sup>26</sup>

The representative of the Organization of African Unity stated that the dispute between the Libyan Arab Jamahiriya and the United States and the United Kingdom fell under Article 33 of the Charter of the United Nations. The OAU was convinced that a rapid and just settlement of the dispute in accordance with

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<sup>26</sup> *Ibid.*, pp. 34-36.

international law would make it possible to bring about the justice to which they aspired. He stressed that the consistency of the OAU in that matter was rooted in the principle of the peaceful settlement of disputes. The OAU wanted to see a speedy resolution of the dispute and the immediate lifting of the harsh sanctions measures imposed against the people of the Libyan Arab Jamahiriya. The three options that OAU and the League of Arab States had submitted signalled the willingness and flexibility of the Libyan Arab Jamahiriya to seek a peaceful settlement of the dispute. It was therefore up to the Security Council to choose one of those options.<sup>27</sup>

The representative of the Organization of the Islamic Conference stated that their Organization was concerned by the suffering and material and human harm being experienced by the Libyan and neighbouring people because of the sanctions imposed in the implementation of Security Council resolutions 748 (1992) and 883 (1993). The new situation created by the Court's decision and the positions expressed by the various international forums showed that the only action worth taking to stay within the spirit of the Court's judgments was suspension of the air embargo.<sup>28</sup>

The representative of the United Kingdom spoke on behalf of the European Union and the associated and aligned countries.<sup>29</sup> The European Union reiterated its unequivocal condemnation of terrorism in all its forms. He emphasized that terrorism constituted a threat to international peace and security and stressed the need to strengthen international cooperation between States, international organizations, agencies, regional organizations and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed. The decisions taken by the Security Council with regard to the Libyan Arab Jamahiriya were and remained guided by the desire to curb international terrorism and to ensure that justice was done. The European Union regretted that more than nine years after the bombing of Pan Am flight 103 those accused of the crime had still not been brought to

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<sup>27</sup> *Ibid.*, pp. 36-38.

<sup>28</sup> *Ibid.*, pp. 38-39.

<sup>29</sup> *Ibid.*, pp. 39-40 (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia, and Iceland).



justice. The European Union also called on the Government of the Libyan Arab Jamahiriya to comply fully with the resolutions of the Council, in particular to ensure the appearance of those charged with the bombing for trial before the appropriate United Kingdom or United States court, as set forth in resolution 883 (1993). The European Union welcomed the report by independent legal experts appointed by the Secretary-General of the United Nations, whose findings made clear that the judicial system of Scotland was fair and independent; that the two accused would receive a fair trial in Scotland; and that their rights would be fully protected. The European Union also welcomed the offer of the United Kingdom to allow international observers to attend the trial in Scotland. The representative also welcomed the press statement by the Chairman of the Sanctions Committee emphasizing the readiness of that Committee to continue to respond promptly to requests for humanitarian exemptions and its determination to continue to pay special attention to all humanitarian issues arising under the relevant Security Council resolutions, including those pertaining to religious obligations. Finally, he stated that the European Union also noted declaration by the Libyan Arab Jamahiriya that it no longer supported terrorism and the steps it had taken to end its support for terrorism. Nevertheless, that country's failure to comply fully with Council resolutions remained a serious obstacle in the way of the development of its relations with the international community. The requirements of Security Council resolutions 731 (1992), 748 (1992) and 883 (1993) were clear. In the European Union's view, only when the Libyan Arab Jamahiriya had complied fully with those requirements would sanctions be lifted.<sup>30</sup>

The representative of Malta stated that the meeting was an opportunity which allowed States Members of the United Nations who were not members of the Security Council to exercise the right under which justice and respect for the obligations arising from treaties and other sources of international law could be maintained, and to employ international machinery for the promotion of the economic and social advancement of all peoples. As a neighbouring country to a country hit by sanctions, he stated that Malta needed to ensure that any preventive or enforcement measures undertaken by the Security

Council in accordance with Chapter VII of the Charter did not in any way contribute to increased tensions and instability in the Mediterranean region. Together with other countries, Malta felt that a collateral effect of the application and enforcement of the sanctions regime on the Libyan Arab Jamahiriya was undermining the holistic approach of the political, economic and social initiatives launched to achieve security and stability in their region. He maintained that in their case those sanctions had had and continued to have a negative impact on their bilateral business and investment opportunities, on travel arrangements between the two countries, and on other economic and social exchanges. They expressed a strong belief that a serious and open debate should be launched to explore alternative measures for the application of sanctions and on measures that offered built-in incentives that encouraged changes in the behaviour of targeted countries. They also believed that the Council should impose sanctions only as a last resort. In their view the sanctions under the present format were not achieving their desired objective. While the Government of Malta would unequivocally continue to respect the sanctions imposed by the Council and abide by them to the letter, it felt duty bound not to remain silent in the face of undue suffering those sanctions could cause to the civilian populations. He reiterated his country's appeal to all Member States and members of the Council, to exhaust all diplomatic initiatives and all the tools of preventive diplomacy, for the peaceful and equitable solution to problems, be they at the global, regional or national level, before deciding on implementing such measures as were contemplated in Articles 41 and 42 of the Charter.<sup>31</sup>

The representative of Kuwait stated that they believed that the implementation by all States of all relevant Security Council resolutions was essential if they wished to ensure respect for the Charter, and supported international legitimacy and the rule of law while maintaining peace and security in the world. He also stated that a positive view needed to be adopted concerning the decisions of the International Court of Justice and they should be seriously considered by the Council in order to achieve progress. Within the framework of promoting close cooperation between regional organizations and the United Nations in the field of world peace and security, he suggested that the

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<sup>30</sup> Ibid., pp. 39-40.

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<sup>31</sup> Ibid., pp. 43-45.

Council consider positively the options submitted by the regional organizations aimed at a speedy settlement of the case in order to alleviate the suffering of the Libyan people.<sup>32</sup>

A number of speakers welcomed the fact that the problem was being addressed in an open debate; stressed that the Council measures remained in force because the Libyan Arab Jamahiriya had not yet complied with its obligations under the relevant Council resolutions; noted that the recent decisions of the International Court of Justice changed nothing on the substance of the matter and did not question the validity of the relevant resolutions of the Security Council; encouraged the Sanctions Committee to consider favourably requests for humanitarian exceptions under resolution 748 (1992); and called on the Libyan authorities to cooperate with the Council and fulfil their obligations.<sup>33</sup>

Other speakers supported the proposed three options put forward by the OAU and other regional bodies. A number of speakers also stressed that with regard to the judgments of the Court there was no longer any reason for the Security Council to maintain sanctions against the Libyan people. A few speakers maintained that the future ruling of the Court would be a significant element to be considered by the Council.<sup>34</sup>

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<sup>32</sup> *Ibid.*, p. 50.

<sup>33</sup> *Ibid.*, pp. 17-19 (Portugal); pp. 22-23 (Japan); pp. 24-25 (Slovenia); and pp. 25-26 (Sweden).

<sup>34</sup> *Ibid.*, pp. 14-15 (Costa Rica); pp. 19-20 (Kenya); pp. 26-28 (Brazil); p. 28 (Gabon); pp. 32-34 (Gambia, as Secretary of State for Foreign Affairs); pp. 40-42 (Mali); pp. 45-46 (Algeria); pp. 46-47 (Indonesia); p. 47-48 (Syrian Arab Republic); pp. 48-49 (United Arab Emirates); p. 51 (Yemen); pp. 51-52 (Jordan); pp. 53-54 (Egypt); pp. 55-56 (Ghana); pp. 56-57 (Democratic People's Republic of Korea); pp. 57-59 (Iraq); p. 59 (Mauritania); pp. 59-61 (Pakistan); p. 61 (Zimbabwe); pp. 61-62 (Namibia); pp. 62-64 (Morocco); p. 64 (Tunisia); pp. 64-65 (Guinea-Bissau); pp. 65-66 (Sudan); pp. 65-66 (Nigeria); pp. 67-69 (India); pp. 69-70 (India); pp. 70-71 (Cuba); pp. 71-72 (Oman); pp. 72-73 (Islamic Republic of Iran); pp. 73-75 (Malaysia); pp. 75-76 (Colombia); pp. 76-77 (Lebanon); and p. 77 (Lao People's Democratic Republic).

### **Decision of 27 August 1998 (3920th meeting): resolution 1192 (1998)**

By a letter dated 24 August 1998 addressed to the President of the Security Council,<sup>35</sup> the United Kingdom and the United States expressed their grave concern that 10 years after the terrorist bombing of Pan Am flight 103 over Lockerbie, and several years since the Security Council in resolution 731 (1992), 748 (1992) and 883 (1993) had required the Libyan Arab Jamahiriya to ensure the appearance of the two accused for trial in the appropriate United Kingdom or United States court, the accused had not yet stood trial. In the interest of resolving the situation in a way which allowed justice to be done, their Governments were prepared, as an exceptional measure, to arrange for the accused to be tried before a Scottish court sitting in the Netherlands, and the Government of the Netherlands had already agreed to facilitate arrangements for the court. Their two Governments were prepared to support a further Security Council resolution for the purposes of the initiative, which would also suspend sanctions upon the appearance of the two accused for the trial, and which would require all States to cooperate to that end. They were willing to proceed in that exceptional way only on the basis of the terms set out in the letter and provided that the Libyan Arab Jamahiriya cooperated fully by ensuring the timely appearance of the two accused and the production of evidence and witnesses before the court, and complied fully with all the requirements of the Security Council resolutions.

At its 3920th meeting, held on 27 August 1998 in accordance with the understanding reached in its prior consultations, the Security Council included the letter in its agenda. Following the adoption of the agenda, the President (Slovenia), with the consent of the Council, invited the representatives of the Libyan Arab Jamahiriya and the Netherlands, at their request, to participate in the discussion without the right to vote.

At the same meeting the President drew the attention of the Council to a draft resolution prepared in the course of the Council's prior consultations.<sup>36</sup> He further drew the attention of the Council to letters dated 25 and 26 August 1998, respectively,<sup>37</sup> from the Libyan Arab Jamahiriya addressed to the President of

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<sup>35</sup> S/1998/795.

<sup>36</sup> S/1998/809.

<sup>37</sup> S/1998/803 and S/1998/808.

the Security Council, requesting that a decision on the draft resolution presented to the Council be postponed until the Libyan Arab Jamahiriya's judicial authorities had completed their study of the proposal of the United Kingdom and United States and until the Secretary-General of the United Nations had played the role entrusted to him; and transmitting the text of the communiqué issued on 26 August 1998 by the General People's Committee for Foreign Affairs and International Cooperation of the Libyan Arab Jamahiriya, containing the response of the Libyan Arab Jamahiriya to the joint letter dated 24 August 1998 from the Governments of the United Kingdom and the United States.

The representative of the Libyan Arab Jamahiriya welcomed the acceptance by the United States and the United Kingdom of the proposals already made by the League of Arab States and the OAU and supported by the OIC and the Non-Aligned Movement. The acceptance was a positive step likely to result in a satisfactory and just solution to the long-standing dispute. He stated that his country accepted that the two suspects should be tried in a Scottish court in the Netherlands by Scottish judges, according to Scots law. Commenting on the draft resolution, he stated that its language gave legitimacy to their concerns. By recalling previous Security Council resolutions, the first preambular paragraph gave the impression that the resolutions had been implemented neither in part nor in their entirety, although his country had fully responded to those resolutions. By referring to Chapter VII of the Charter of the United Nations, the fifth preambular paragraph again placed the issue outside its proper context, especially since the intervention of the Security Council in the matter might be considered procedural, taking into account the Judgment of the International Court of Justice. Operative paragraph 1 of the resolution demanded once again that the Government of the Libyan Arab Jamahiriya immediately comply with resolutions 731 (1992), 748 (1992) and 883 (1993) and made no mention at all of the Libyan Arab Jamahiriya denunciation and condemnation of terrorism. Operative paragraph 2 welcomed the letter from the representatives of the United Kingdom and the United States, and also referred to arrangements that took place between the United Kingdom and the Netherlands, in which the Libyan Arab Jamahiriya did not participate. Paragraph 3 called on the Governments of the Netherlands and the United Kingdom to undertake the necessary

measures to implement the initiative, without mentioning the United States of America, which might therefore consider that it had not committed itself to any agreement between the Netherlands and the United Kingdom. Paragraph 4 decided that the Libyan Arab Jamahiriya should ensure the appearance in the Netherlands of the two accused for the purpose of trial and that it should present any evidence or witnesses, but it did not provide for any assurances or special arrangements with regard to the two accused or the witnesses. Paragraph 5 requested the Secretary-General to assist the Libyan Arab Jamahiriya with transferring the two accused from there to the Netherlands. However, there were no guarantees or arrangements pertaining to the period of the trial itself. Paragraph 6 did not set out the tasks of the international observers. Paragraph 7 did not mention the Libyan Arab Jamahiriya or any arrangements with the Netherlands on transferring the two accused, nor did it mention their safety or residence or provide any guarantees to them. Paragraph 8 referred to the appearance of the two accused before an appropriate court in the United Kingdom or the United States at any time. Paragraph 9 pertained to additional measures that might be undertaken; this was particularly worrying as no dialogue or consultations had taken place with the Libyan Arab Jamahiriya to date. In conclusion, he reaffirmed their seriousness and eagerness to close the file and open a new page in its relations with the United States and the United Kingdom, based on mutual respect, non-interference in internal affairs, and dialogue and mutual benefit, instead of embargo.<sup>38</sup>

The representative of the United States stated that the arrangements endorsed in the draft resolution would assure a fair trial for the two Libyan suspects. The terms of the draft resolution and modalities of the trial had been carefully crafted by legal experts and were based on the decisions of the international community, as reflected in Security Council resolutions 731 (1992), 748 (1992), and 883 (1993). He expressed thanks to the Netherlands for helping bring about the arrangements endorsed in the draft resolution. He also stated that they deeply regretted the "hostile and negative content" of the Libyan representative's statement. He called upon those nations and organizations to urge the Libyan Arab Jamahiriya in the strongest terms to turn over the two defendants for

<sup>38</sup> S/PV.3920, pp. 2-5.

trial regarding Pan Am flight 103 without delay. He reaffirmed the United States' support for France in its ongoing investigation of the UTA bombing, and supported their demand for Libya's full cooperation on the question of UTA flight 772. He also stressed that the draft resolution spelled out exactly what Libya had to do and noted the Security Council's intention to consider further measures if the two suspects did not appear for trial promptly.<sup>39</sup>

The representative of France noted their satisfaction with the decision by the United Kingdom and United States to try the two suspects in the Netherlands. He stated that the French authorities had regularly kept the Security Council and the Secretary-General informed about developments in the investigation into the attack on UTA flight 772, most recently on 6 November 1997 and would continue to transmit new information that needed to be brought to their attention. He also recalled that the draft resolution modified the conditions for suspending the sanctions as regarding the holding of the trial in the attack of Pan Am flight 103. However, the other provisions of resolution 883 (1993) relating to cooperation with the French judicial authorities and to the final lifting of sanctions against Libya were not affected by the draft resolution.<sup>40</sup>

The representative of the Russian Federation observed that since the imposition of sanctions, Libya had made progress towards fulfilling the requirements set out in resolutions 731 (1992) and 748 (1992), which related to the condemnation of terrorism and to the provision of information on the subject. In addition thanks to the Libyan Arab Jamahiriya cooperation, the investigation into the UTA flight 772 incident was being successfully concluded. He stated that the draft resolution would ensure a fair trial, with proper guarantees of the legal rights of the accused or witnesses. He stressed that it was extremely important that as soon as the two suspects arrived in the Netherlands, the sanctions regime against the Libyan Arab Jamahiriya be terminated. He noted that agreement on the draft resolution confirmed that stepping up all-round interaction among States on the basis of the norms of international law was the only way they could put a firm halt to international

terrorism. Noting the importance of the cooperation of all sides, he welcomed the Libyan Arab Jamahiriya's expression of willingness to cooperate with the Secretary-General in order to fulfil the procedures envisaged in the draft resolution.<sup>41</sup>

The representative of China expressed hope that the current positive development on the Lockerbie case would facilitate the early lifting of sanctions against the Libyan Arab Jamahiriya. He pointed out that some elements of the text could have been improved, so as to create a better climate for resolving the question. He expressed regret that the sponsors had not incorporated some other constructive proposals from their side in the text. Finally, he reiterated that there had been no change in China's reservations concerning resolutions 748 (1992) and 883 (1993) referred to in the text.<sup>42</sup>

A number of other speakers made statements, noting that the draft resolution would open the way to bringing to trial the persons charged with the bombing of Pan Am flight 103 and welcoming the step by the United Kingdom and United States and the positive response of the Government of the Libyan Arab Jamahiriya. Several speakers reiterated the call upon the Government of the Libyan Arab Jamahiriya to ensure the prompt appearance of the two accused for trial.<sup>43</sup>

At the same meeting the draft resolution was put to the vote and adopted unanimously as resolution 1192 (1998), which reads:

*The Security Council,*

*Recalling* its resolutions 731 (1992) of 21 January 1992, 748 (1992) of 31 March 1992 and 883 (1993) of 11 November 1993,

*Taking note* of the report of the independent experts appointed by the Secretary-General,

*Having regard* to the contents of the letter dated 24 August 1998 from the Acting Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and of the United States of America to the Secretary-General,

<sup>41</sup> *Ibid.*, pp. 8-9.

<sup>42</sup> *Ibid.*, pp. 12-13.

<sup>43</sup> *Ibid.*, pp. 6-7 (Portugal); pp. 7-8 (Brazil); p. 9 (Japan), pp. 9-10 (Sweden); p. 10 (Gambia); pp. 10-11 (Bahrain); pp. 11-12 (Costa Rica); p. 12 (Gabon); and p. 13 (Slovenia).

<sup>39</sup> *Ibid.*, pp. 5-7.

<sup>40</sup> *Ibid.*, p. 7.

*Noting*, in the light of the above-mentioned resolutions, the communications of the Organization of African Unity, the League of Arab States, the Movement of Non-Aligned Countries and the Islamic Conference as referred to in the letter dated 24 August 1998,

*Acting* under Chapter VII of the Charter of the United Nations,

1. *Demands once again* that the Libyan Government immediately comply with the above-mentioned resolutions;

2. *Welcomes* the initiative for the trial of the two persons charged with the bombing of Pan Am flight 103 (“the two accused”) before a Scottish court sitting in the Netherlands, as contained in the letter dated 24 August 1998 from the Acting Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and of the United States of America (“the initiative”) and the attachments thereto, and the willingness of the Government of the Netherlands to cooperate in the implementation of the initiative;

3. *Calls upon* the Government of the Netherlands and the Government of the United Kingdom to take such steps as are necessary to implement the initiative, including the conclusion of arrangements with a view to enabling the court described in paragraph 2 above to exercise jurisdiction in the terms of the intended agreement between the two Governments, attached to the said letter dated 24 August 1998;

4. *Decides* that all States shall cooperate to this end and, in particular, that the Libyan Government shall ensure the appearance in the Netherlands of the two accused for the purpose of trial by the court described in paragraph 2 above, and that the Libyan Government shall ensure that any evidence or witnesses in Libya are, upon the request of the court, promptly made available at the court in the Netherlands for the purpose of the trial;

5. *Requests* the Secretary-General, after consultation with the Government of the Netherlands, to assist the Libyan Government with the physical arrangements for the safe transfer of the two accused from Libya direct to the Netherlands;

6. *Invites* the Secretary-General to nominate international observers to attend the trial;

7. *Decides* that, on the arrival of the two accused in the Netherlands, the Government of the Netherlands shall detain the two accused pending their transfer for the purpose of trial before the court described in paragraph 2 above;

8. *Reaffirms* that the measures set forth in its resolutions 748 (1992) and 883 (1993) remain in effect and binding on all Member States, and in this context reaffirms the provisions of paragraph 16 of resolution 883 (1993), and decides that the aforementioned measures shall be suspended immediately if the Secretary-General reports to the Council that the two accused have arrived in the Netherlands for the purpose of trial before the court described in paragraph 2 above or have appeared for trial before an appropriate court in the United

Kingdom or the United States, and that the Libyan Government has satisfied the French judicial authorities with regard to the bombing of UTA 772;

9. *Expresses its intention* to consider additional measures if the two accused have not arrived or appeared for trial promptly in accordance with paragraph 8 above;

10. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of the United Kingdom stated that the adoption of the resolution was an opportunity to resolve the matter with justice in a manner acceptable to the families and to all the parties concerned. While he welcomed that the Libyan representative had clearly stated his Government’s acceptance that the two accused be tried in a Scottish court in the Netherlands by Scottish judges under Scottish law, he emphasized that what was then required was that the Libyan Arab Jamahiriya confirm through the Secretary-General of the United Nations its clear and unequivocal acceptance of that and its willingness to do so speedily and without prevarication. If the Government of the Libyan Arab Jamahiriya ensured the appearance of the accused in the Netherlands everything else would flow from that. He also stressed that the resolution clearly said that sanctions would be suspended as soon as the Secretary-General was able to confirm that the accused had been delivered to the Netherlands and that the requirements of French justice had also been met. The Governments of the United Kingdom and the United States had stated their commitment to that clearly in the letter to the Secretary-General. Once the Libyan Arab Jamahiriya accepted the proposal in its entirety they were prepared to do everything necessary to implement speedily the legal and other arrangements.<sup>44</sup>

**Decision of 8 April 1999 (3992nd meeting):  
statement by the President**

By a letter dated 5 April 1999 addressed to the President of the Security Council,<sup>45</sup> which constituted the report to be submitted pursuant to paragraph 8 of Security Council resolution 1192, the Secretary-General informed the Council that on 18 September 1998, the Governments of the Netherlands and the United Kingdom had signed an agreement concerning a trial in the Netherlands before a Scottish court and had

<sup>44</sup> *Ibid.*, pp. 14-15.

<sup>45</sup> S/1999/378.

enacted the necessary legislation. He also informed the Council that all the necessary assistance as requested in resolution 1192 (1998) had been provided to the Government of the Libyan Arab Jamahiriya and that on 5 April 1999, the two accused had safely arrived in the Netherlands and been detained by the Dutch authorities, as provided for in paragraph 7. He also noted that he had been informed by the French authorities that in regard to the requests in the letter from the French authorities dated 20 December 1991,<sup>46</sup> in reporting to the Council under paragraph 8 of Security Council resolution 1192 (1998), he might indicate that the conditions set forth in resolution 1192 (1998) had been met, without prejudice to the other requests concerning the bombing of Pan Am flight 103. He stated that the measures set forth in Security Council resolution 748 (1992) and 883 (1993) should be suspended immediately as the conditions in Paragraph 8 of Security Council resolution 1192 (1998), that the two accused had arrived for trial in the Netherlands and that the Government of the Libyan Arab Jamahiriya had satisfied French judicial authorities with regard to the bombing of UTA 772, had been met. Paragraph 8 of resolution 1192 (1998) also reaffirmed paragraph 16 of Security Council resolution 883 (1993), which requested the Secretary-General to report, within 90 days of the suspension of measures, on compliance by the Libyan Arab Jamahiriya with the remaining provisions of resolution 731 (1992) and 748 (1992) so that the measures could be lifted immediately if he reported that they had fully complied. Therefore, he would proceed as expeditiously as possible with the preparing of the report.

At its 3992nd meeting, held on 8 April 1999 in accordance with the understanding reached in its prior consultations, the Security Council included the letter in its agenda. Following the adoption of the agenda, the President (France) drew the attention of the Council to a letter dated 8 April 1999 from Tunisia, transmitting a statement on behalf of the States members of the Council of the League of Arab States.<sup>47</sup>

At the same meeting, the President made the following statement on behalf of the Council:<sup>48</sup>

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<sup>46</sup> S/23306.

<sup>47</sup> S/1999/397.

<sup>48</sup> S/PRST/1999/10.

The Security Council recalls its resolutions 731 (1992) of 21 January 1992, 748 (1992) of 31 March 1992, 883 (1993) of 11 November 1993 and 1192 (1998) of 27 August 1998.

The Council welcomes the letter dated 5 April 1999 from the Secretary-General to the President of the Security Council, reporting that the two persons accused of the bombing of Pan Am flight 103 have arrived in the Netherlands for the purpose of trial before the court described in paragraph 2 of resolution 1192 (1998) and that, with regard to the bombing of UTA 772, the French authorities had informed the Secretary-General that he might indicate, in reporting to the Council under paragraph 8 of resolution 1192 (1998), that the conditions set forth in resolution 1192 (1998) had been met, without prejudice to the other requests concerning the bombing of Pan Am flight 103.

The Council expresses its deep appreciation to the Secretary-General, the Governments of the Republic of South Africa and the Kingdom of Saudi Arabia and other countries for their commitment towards reaching a satisfactory conclusion relating to Pan Am flight 103.

The Council further notes the role played by the League of Arab States, the Organization of the Islamic Conference, the Organization of African Unity and the Movement of Non-Aligned Countries in this regard.

The Council notes that, with the letter from the Secretary-General dated 5 April 1999, the conditions set forth in paragraph 8 of resolution 1192 (1998) for the immediate suspension of the measures set forth in resolutions 748 (1992) and 883 (1993) have been fulfilled. In this regard, the Council recalls that, in accordance with resolution 1192 (1998), the measures set forth in resolutions 748 (1992) and 883 (1993) were immediately suspended upon receipt of the letter from the Secretary-General on 5 April 1999 at 1400 hours Eastern Standard Time. This development was immediately acknowledged through a statement by the President of the Security Council to the press on 5 April 1999 following consultations of the whole.

The Council remains seized of the matter.

**Decision of 9 July 1999 (4022nd meeting):  
statement by the President**

On 30 June 1999, the Secretary-General submitted a report pursuant to paragraph 16 of Security Council resolution 883 (1993) and paragraph 8 of resolution 1192 (1998), on the compliance of the Libyan Arab Jamahiriya with the remaining measures.<sup>49</sup> He observed that the requirements referred to in document S/23306 relating to the bombing of UTA flight 772 had been met. He further noted that since the Scottish court had granted a request by defence lawyers of the two persons concerned to delay

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<sup>49</sup> S/1999/726.

the trial for six months he was not in a position to provide any factual information on compliance with requirements emanating from document S/23308, as those requests related to actions which could only be undertaken during and following the conclusion of the trial. He stated that it appeared that under the circumstances the Libyan Arab Jamahiriya might only be expected to provide assurances of its commitment to comply with those requirements, particularly as regards access to witnesses, relevant documents and other material evidence. However, he pointed out that the Libyan authorities had indeed provided assurances that they would cooperate with the Scottish court. As for the requirement in document S/23309 that the Libyan Arab Jamahiriya commit itself definitely to cease all forms of terrorist action and all assistance to terrorist groups, he noted that they had stated so on numerous occasions. Finally, he reported that he had hosted a tripartite meeting between the Libyan Arab Jamahiriya, the United States and the United Kingdom in order to assist the participants in clarifying the positions of their Governments regarding the requirements of the aforementioned Security Council resolutions for the lifting of measures.

At its 4022nd meeting, held on 9 July 1999 in accordance with the understanding reached in its prior consultations, the Security Council included the report of the Secretary-General of 30 June 1999 in its agenda. Following the adoption of the agenda the President (Malaysia) drew the attention of the Council to a letter dated 6 July 1999 from the Libyan Arab Jamahiriya

reiterating that the Security Council was obliged, according to its decision, to lift the sanctions imposed on the Libyan Arab Jamahiriya upon the receipt of the Secretary-General's report.<sup>50</sup>

At the same meeting, the President made the following statement on behalf of the Council:<sup>51</sup>

The Security Council recalls its resolutions 731 (1992) of 21 January 1992, 748 (1992) of 31 March 1992, 883 (1993) of 11 November 1993 and 1192 (1998) of 27 August 1998 and the statement by its President of 8 April 1999.

The Council welcomes the report of the Secretary-General of 30 June 1999 submitted in fulfilment of the request contained in paragraph 16 of resolution 883 (1993).

The Council welcomes the positive developments identified in the report and the fact that the Libyan Arab Jamahiriya has made significant progress in compliance with the relevant resolutions. It welcomes also the commitment given by the Libyan Arab Jamahiriya to implement further the relevant resolutions by continuing cooperation in order to meet all the requirements contained therein. It encourages all parties concerned to maintain their spirit of cooperation. The Council recalls that the measures set forth in resolutions 748 (1992) and 883 (1993) have been suspended, and reaffirms its intention to lift those measures as soon as possible, in conformity with the relevant resolutions.

The Council expresses its gratitude to the Secretary-General for his continued efforts in his role as set out in paragraph 4 of resolution 731 (1992) and paragraph 6 of resolution 1192 (1998), and requests him to follow developments regarding this matter closely and to report to the Council accordingly.

The Council remains actively seized of the matter.

<sup>50</sup> S/1999/752.

<sup>51</sup> S/PRST/1999/22.

## 8. The situation in Sierra Leone

### **Decision of 15 February 1996 (3632nd meeting): statement by the President**

At the 3632nd meeting, held on 15 February 1996, the Security Council included in its agenda without objection the item entitled "the situation in Sierra Leone".<sup>1</sup> The President (United States), with the consent of the Council, then invited the representative

<sup>1</sup> S/PV.3632, p. 2.

of Sierra Leone, at his request to participate in the discussion without the right to vote.

At the same meeting, the President made the following statement on behalf of the Council:<sup>2</sup>

The Security Council welcomes the results of the meeting of the National Consultative Conference on 12 February 1996 that overwhelmingly supported the decision to maintain

<sup>2</sup> S/PRST/1996/7.