



American Model United Nations
ICJ Justice

In the International Court of Justice

United States of America,
Respondent

v.

Libyan Arab Jamahiriya,
Applicant

Memorial of The United States of America

COMES NOW the United States of America for their memorial to the Court
states the following:

Statement of Law:

- a) Universal International Law recognizes that an attack on a Country's nationals, within or without that country, by any persons or agent on behalf of another State is considered an act of aggression against that country.
- b) **Article 4** of the **United Nations General Assembly Resolution 3314 (XXIX)** implicitly grants to the Security Council the power to determine acts of aggression not necessarily outlined in **UNGA Resolution 3314**. Implied is the power to decide, on a case- by- case basis, what acts constitute acts of aggression within the provisions of the Charter.
- c) Under **United Nations Security Council Resolution 731** it has been determined that the acts perpetrated by agents on behalf of the Libyan Government constitute an act of aggression and, more specifically, a threat to international peace and security.
- d) Under **Chapter 5 Article 25** of the **Charter of the United Nations** Libya is compelled as a Member of the United Nations to accept the decisions of the Security Council in accordance to that Charter
- e) Under **Chapter 7 Article 39** of the **Charter of the United Nations** Libya, as a Member of the United Nations, is subject to measures decided upon by the United Nations Security Council in case of a breach of international peace and/ or acts of aggression against a Member State.

- f) According to **Chapter 7 Article 40** of the **Charter of the United Nations** Libya is called as a Member of the United Nations to comply with the provisional measures of the United Nations Security Council.
- g) According to **Chapter 16 Article 103** of the **Charter of the United Nations** the obligations of a Member state to the Charter supersedes any other obligation the Member has under other international agreements.
- h) Libya violated **Article 14 (1)** of the **Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation** (from this point forward referred to as the **Montreal Convention**) to which it is a signatory.

STATEMENT OF THE FACTS:

On 21 December 1988, Pan Am Flight 103 was destroyed over Lockerbie, Dumfries and Galloway, Scotland. This tragic event ended the lives of 259 people. Of these 259 people, 189 were American citizens. After an exhaustive forensic investigation, it has been established that the cause of the crash was an explosion from plastic explosive that had been placed on the plane. English and Scottish investigation agencies, working in tandem with the FBI, found that two Libyan nationals had placed the explosives on the plane. On 14 November 1991, a Grand Jury for the United States District Court indicted two the two Libyan nationals, Abdelbaset Ali Mohamed Al Megrahi and Al Amin Khalifa Fhimah. It has been determined that Megrahi is a Libyan intelligence officer and the head of security for Libyan Arab Airlines. Fhima is also in the employ of Libyan Arab Arilines. Megrahi and Fhima placed the explosives on Pan Am 103 as agents of the government of Libya causing the deaths of 189 American citizens. This vicious and premeditated act constitutes an act of aggression on the part of the Libyan Government againts the United States of America and, therefore, a breach of international peace. On 21 January 1992, the United Nations Security Council drafted and passed Resolution 731 calling for the acquiescence of Libya and the release of the accused. The Libyan Government, acting

under the Montreal Convention, has refused to release the accused and has requested legal assistance from the United Kingdom and the United States.

STATEMENT OF JURISDICTION:

The court does not have jurisdiction to incite provisional measures on the behalf of the Liyan Government because this is a case of a breach of international peace and is clearly under the jurisdiction of the United Nations Security Council. The Charter of the United Nations, of which Libya has been a member since 1955, clearly stipulates that any obligations under other international agreements are void if said obligations conflict with obligations under the Charter.

Furthermore, Libya has not waited the minimum six months to bring this case before the court as stipulated by the Montreal Convention. Therefore, Libya is not only in violation of international law under the Charter but also violated an article of the Montreal Convention.

STATEMENT OF ARGUMENTS:

- (a) Libya has perpetrated an act of aggression against a member of the United Nations.

It is clear that the United Nations Security Council, acting well within the Charter of the United Nations, has declared that Libya has perpetrated an act of aggression and a breach on international peace with the destruction of Pan Am 103 and the murder of innocent civilians.

- (b) Libya must comply with the decisions of the United Nations Security Council

Under Chapter 7 of the Charter of the United Nations acts of aggression are the jurisdiction of the United Nations Security Council. With the drafting and passing of United Nation's Security Council Resolution 731 it is determined that the destruction of Pan Am 103 constitutes an act of aggression on the part of the Libyan Government. Libya is called upon in Chapter 5 Article 25 of the Charter to comply with the decisions of the United Nations Security Council.

(c) Libya does not have the legal right to apply for protection under the Montreal Convention

It is also plainly clear that under the Charter of the United Nations all obligations Libya may have to another international agreement are superceded by obligations to the United Nations as stipulated by Chapter 16 Article 103.

Not only is Libya compelled by obligations to the Charter, the Libyan Government cannot claim legal right to the Montreal Convention because the appeal to the Court violated Convention Article 14 (1). Libya did not wait the minimum six month period before appealing to the court.

SUMMARY AND PRAYER FOR RELIEF:

Libya has no legal standing before this court in regards to interpretations of the Montreal Convention of 1971. Not only are Libya's legal obligations to the Montreal Convention subordinate to legal obligations before the Charter of the United Nations,

Libya does not even have legal right under the Montreal Convention due to the violation of Article 14 (1) of that same Convention. The United States prays that the Court will find that Libya has no legal standing before the United Nations in regards to the interpretation and use of the Montreal Convention. Furthermore, the United States prays that the Court will recognize and respect the jurisdiction of the United Nations Security Council in regards to this case.