

After Lockerbie: Qadhafi's Diplomatic Resurrection

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Brief Analysis

American and Libyan diplomats are slated to meet tomorrow at the United Nations in what will be the first face-to-face discussions in more than a decade. The purpose of the meeting is to discuss whether sanctions against Libya, which are currently suspended, should be permanently lifted. However this issue is resolved, Libya's deft diplomacy has ensured that the sanctions will not be reimposed.

The Lockerbie Sanctions are Forever Gone. The United Nations Security Council (UNSC) first imposed sanctions on Libya on March 21, 1992, with Resolution 748, and strengthened them on November 11, 1993, with Resolution 883. These resolutions required that Libya do more than hand over the suspects in the bombings of Pan Am flight 103 over Lockerbie, Scotland, and of UTA flight 179 over Africa. Indeed, Resolution 748 stated that "the Libyan Government must commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and that it must promptly by concrete actions demonstrate its renunciation of terrorism."

Yet, in Resolution 883, the UNSC "expresse[d] its readiness to review [the sanctions] with a view to suspending them" if the Lockerbie and UTA bombing cases were resolved. In the end, France accepted a trial in absentia, and the United States and United Kingdom agreed to trial in the Netherlands under Scottish law. On August 27, 1998, the UNSC approved Resolution 1192, stating that the sanctions imposed by Resolutions 748 and 883 "shall be suspended immediately if the Secretary General reports to the Council that the two accused [for Lockerbie] have arrived in the Netherlands." UN Secretary General Kofi Annan did so report on April 5, 1999, and the sanctions were suspended.

The term "suspension" is quite misleading, though. In point of fact, the sanctions can be reimposed only by a new UNSC resolution. As Resolution 883 states, if after suspension Libya refuses to comply with all the UN demands, the UNSC "expresses its resolve to terminate immediately the suspension." This convoluted wording means there is no trigger to reimpose the sanctions, and that they will remain suspended unless the UNSC carries through on its expressed resolve by passing a new resolution. Resolution 1192 is even weaker in its resolve: In deciding to suspend the sanctions, it makes no mention of what will happen if Libya refuses to comply with the other demands made in Resolution 748 concerning the renunciation of terrorism.

Resolution 883 draws a distinction between suspending the sanctions and lifting them permanently. The resolution requests the secretary general to report on Libya's compliance within ninety days of the sanctions suspension, implying that the Security Council will adopt a resolution lifting the sanctions if the report is positive. The U.S.

government is making an issue about lifting the sanctions, as distinct from having them remain suspended. On June 8, Assistant Secretary of State Martin Indyk stressed the administration's determination to "veto a resolution lifting the sanctions if it is presented before we are satisfied with the Libyan actions." He said the United States interprets the UNSC resolutions as requiring, before the sanctions can be lifted, that Libya "end and renounce support for all forms of terrorism, pay appropriate compensation, acknowledge responsibility for the actions of its officials, and cooperate with the investigation and the trial."

It is not clear whether Washington's distinction between suspension and termination of the sanctions makes much difference. The sanctions, now that they have been suspended, cannot be reimposed without a new UNSC resolution, and it is difficult to conceive of circumstances under which the UNSC would adopt such a resolution. In practical terms, the sanctions are likely to remain in abeyance for the foreseeable future.

Libya's leader, Col. Mu'ammar Qadhafi, is unlikely to see much reason to fulfill the conditions Indyk laid out. First, on renouncing terrorism, Libya has categorically denied ever engaging in such activities; Qadhafi has claimed that Libya has supported only legitimate national liberation movements and remains "ready to house all freedom fighters." Second, Libya has already expressed willingness to pay appropriate compensation, though it is unclear what that means. Third, Qadhafi sees no reason to acknowledge the responsibility of Libyan government officials for the bombings; by transforming the Lockerbie affair into a judicial proceeding limited to the two suspects, he effectively concealed the role that he and other key state officials played in the bombing. And finally, concerning demands that Libya cooperate with the investigation, Foreign Minister Omar Mustafa Montasser stressed that such cooperation "would come within the framework of Libyan law and legislation." If the UTA bombing prosecution is any indication, Tripoli will invoke its sovereign rights to dismiss requests for the handover of material evidence and key witnesses. The only salient statement that Qadhafi has made on the Lockerbie proceedings is to malign the families of the Pan Am victims by claiming that "they are Zionists who incorporate in this case the hatred between Jews and Muslims and the hatred between Arabs and Zionists and the claims that Libya is a terrorist state."

Reintegration into the International Arena. Libya has effectively used commercial diplomacy to reintegrate itself into the international arena. Since the suspension of the sanctions, European businesspeople have been flocking to Libya with the hope of securing lucrative contracts for the development of Libya's reserves of 30 billion barrels of oil and 55 trillion cubic feet of natural gas. Five European consortia are competing for a \$5.5 billion contract to develop Libya's gas industry, and leading oil companies have already established a major presence in Tripoli. Meanwhile, Libyan Arab Airlines -- reduced to two operational aircraft during the sanctions -- is planning to purchase as many as thirty planes, chiefly from the European firm Airbus.

Only one day after the Lockerbie suspects were handed over, Italy's foreign minister, Lamberto Dini, arrived in Tripoli proclaiming the historic ties between the two states. Not long after that visit, Libya was invited by Germany, which currently occupies the presidency of the European Union (EU), to attend the meeting of "EU-Med" (European Union and Mediterranean) countries as a "special guest." Given the prospects of great financial gain that close relations with Libya offer, European nations are unlikely to be disturbed by the ebbs and flows of the Lockerbie trial or by Libya's reluctance to accede to the entirety of UN resolutions.

Qadhafi's resurrection among developing nations is even more dramatic. Since the arrest of the Lockerbie suspects, nine African presidents and a procession of high-level functionaries have visited Tripoli. Libya has offered generous contracts to the countries that supported its cause during the sanctions period, with the chief beneficiaries so far being South Africa and Egypt.

Qadhafi's diplomacy has triumphed as Libya has effectively escaped its isolation and reentered the international arena. Symbolic though it may be -- given that the suspension of sanctions is likely to be indefinite -- the United States should still resist the calls for the permanent lifting of the sanctions. More substantively, Washington should

attempt to broaden the parameters of the Lockerbie proceedings to encompass high-ranking Libyan officials who are actually in charge of foreign operations. To do less would be to convert the Lockerbie proceedings into a process for exoneration of a regime that has long defied international norms of behavior.

Ray Takeyh is a recently arrived Soref research fellow at The Washington Institute.

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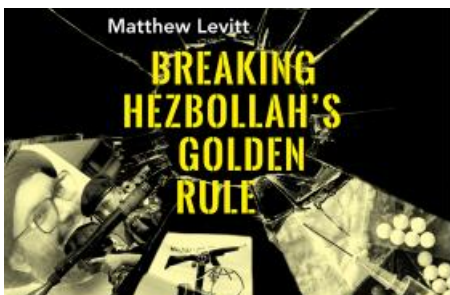
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