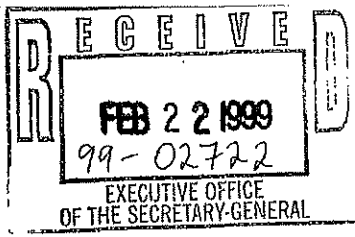
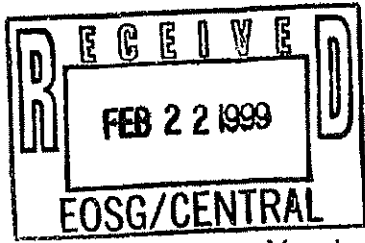


OLA Feb-19
Ref: Terrorism



SJC (has)
File 19/2
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Strictly confidential



Note to the Secretary-General

Subject: UN presence at/in a Scottish prison

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RK (in cover) 19/2

You have asked me, through Mr. Knutsson, to what extent the United Nations can contribute to solving the Libya/Lockerbie issue by offering a presence at/in the Scottish prison.

Observers

As already indicated in the Understanding attached to your letter to Mr. Qaddafi of 17 February 1999, the United Nations will be given a role in monitoring the treatment of the two persons in the Scottish prison. This arrangement will be subject to discussions with the British authorities. However, it could be assumed that the United Nations will be given the right to send its representatives to observe the conditions of imprisonment in order to determine whether all the requirements of applicable Scottish law as well as the arrangements referred to in the Understanding attached to your letter are duly respected. It may also be assumed that United Nations observers should have direct access to the prisoners in accordance with the relevant provisions of Scottish law. Although the prisoners during these contacts may convey to the United Nations observers their complaints, it should be clearly understood that any official representations by the prisoners can only be made to the British authorities. The question arises, of course, what the United Nations observers should do with their findings, whatever they are. It appears that since this matter is consequential to Security Council resolution 1192 (1998), the Secretary-General will be required to report periodically to the Council about this aspect of the implementation of the resolution. Also, there would be the question of financing the observers. Preferably these costs should be absorbed within the existing budget. Otherwise, the General Assembly will have to be approached for additional funding.

UN Guards

It has also been suggested that the two persons, if convicted, could be under the authority of UN Guards. This is a completely different matter; it would mean that the sentences would be executed under UN authority (even if in principle Scottish law could be applied). It is doubtful that the United Kingdom will ever agree to this condition, which will require the adoption of special legislation to that end. In any event, this suggestion cannot be implemented unless the

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Security Council mandates the Secretariat to do so because normal responsibilities of United Nations Secretariat under the Charter do not foresee such a function.

In sum: this alternative raises a host of questions that would have to be examined very carefully and would require extensive consultations with the British authorities.

Flying of UN flag

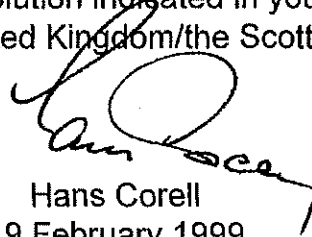
You have also asked me whether it would be possible to fly the UN flag on the prison. One must distinguish between two situations.

(a) If the prisoners were held by United Nations Guards, the prison or part thereof, would be a United Nations prison. If so, the United Nations flag shall be flown (Flag Code, paragraph 4 (1)(a), attached);

(b) If there are only United Nations observers monitoring the conditions of imprisonment, paragraph 4 (2) may apply: "The flag shall be used by any unit acting on behalf of the United Nations such as any Committee or other Commission or other entity established by the United Nations in such circumstances not covered by this Code as may become necessary in the interest of the United Nations" (emphasis added).

It should, however, be remembered that hoisting of the United Nations flag, as any other arrangement, in accordance with the understanding attached to your letter, is subject to discussion with the British authorities and cannot be implemented by the United Nations unilaterally.

The above information is provided on a very short notice. I, therefore, have to reserve my position as to details. Also, any solution indicated in your request would of course have to be agreed to by the United Kingdom/the Scottish authorities.



Hans Corell
19 February 1999

FLAG CODE

The following is the text of the United Nations Flag Code as amended by the Secretary-General on November 11, 1952:

Whereas by resolution 167 (II) of 20 October 1947 the General Assembly decided that the flag of the United Nations should be the official emblem adopted by the General Assembly in resolution 92 (I) of 7 December 1946, centred on a United Nations blue background, and authorized the Secretary-General to adopt a Flag Code, having in mind the desirability of a regulated use of the flag and the protection of its dignity;

Whereas under this authority a Flag Code was issued by the Secretary-General on 19 December 1947; and

Whereas it has become desirable to amend this Flag Code to permit display of the United Nations Flag by organizations and persons desiring to demonstrate their support of the United Nations;

The Secretary-General, by virtue of the authority vested in him, hereby rescinds the Flag Code of 19 December 1947 and adopts the following Flag Code:

1. *Design of flag*

The Flag of the United Nations shall be the official emblem of the United Nations, centred on a

United Nations blue background. Such emblem shall appear in white on both sides of the flag except when otherwise prescribed by regulation. The flag shall be made in such sizes as may from time to time be prescribed by regulation.

2. *Dignity of flag*

The flag shall not be subjected to any indignity:

3. *Flag protocol*

(1) The flag of the United Nations shall not be subordinated to any other flag;

(2) The manner in which the flag of the United Nations may be flown, in relation to any other flag, shall be prescribed by regulation.

4. *Use of flag by the United Nations and specialized agencies of the United Nations*

(1) The flag shall be flown:

(a) From all buildings, offices and other property occupied by the United Nations,

(b) From any official residence when such residence has been so designated by regulation;

(2) The flag shall be used by any unit acting on behalf of the United Nations such as any Committee or Commission or other entity established by the United Nations in such circumstances

not covered in this Code as may become necessary in the interests of the United Nations;

(3) The flag may be flown from all buildings, offices and other property occupied by any specialized agency of the United Nations.

5. Use of flag generally

The flag may be used in accordance with this Flag Code by Governments, organizations and individuals to demonstrate support of the United Nations and to further its principles and purposes. The manner and circumstances of display shall conform, in so far as appropriate, to the laws and customs applicable to the display of the national flag of the country in which the display is made.

6. Use of flag in military operations

The flag may be used in military operations only upon express authorization to that effect by a competent organ of the United Nations.

7. Prohibition

The flag shall not be used in any manner inconsistent with this Code or with any regulations made pursuant thereto. On no account shall the flag or a replica thereof be used for commercial purposes or in direct association with an article of merchandise.

8. Mourning

The Secretary-General will prescribe by regulation or otherwise the cases in which the flag shall be flown at half-mast as sign of mourning.

9. Manufacture and sale of flag

(1) The flag may be manufactured for sale only upon written consent of the Secretary-General;

(2) Such consent shall be subject to the following conditions:

(a) The flag shall be sold at a price to be agreed upon with the Secretary-General,

(b) It shall be the responsibility of the manufacturer to ensure that every purchaser of the flag is furnished with a copy of this Code as well as a copy of any regulations issued pursuant thereto, and that each purchaser is informed that his use of the flag is subject to the conditions contained in this Code and in the regulations made pursuant thereto.

10. Violation

Any violation of this Flag Code may be punished in accordance with the law of the country in which such violation takes place.

11. Regulations

(1) The Secretary-General may delegate his authority under this Code;

(2) The Secretary-General or his duly authorized representative is the only person empowered to make regulations under this Code. Such regulations may be made for the purposes indicated in this Code and generally for the purpose of implementing or clarifying any provision of this Code whenever the Secretary-General or his duly authorized representative considers such implementation or clarification necessary.

Secretary-General

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