



## UK relations with Libya

Standard Note: SN/IA/ 5886

Last updated: 2 March 2011

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Section International Affairs and Defence Section

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In the light of recent unrest in Libya, this note details the sometimes controversial dealings between the UK government and the regime of Muammer Qaddafi and looks at the reasons for Libya's partial rehabilitation by the west, in which the UK was closely involved.

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**Contents**

- 1 UK and US relations with Libya- timeline 3**
- 2 Libya’s partial rehabilitation 3**
- 3 The 2008 prisoner transfer agreement 5**
- 4 Saif al-Islam Qaddafi and the London School of Economics 5**
- 5 The al-Megrahi case 6**
  - 5.1 Background 6
  - 5.2 The role of the Scottish Justice Secretary 7
  - 5.3 Al-Megrahis’ release 7
  - 5.4 Allegations of commercial interests influencing policy 8
  - 5.5 Parliamentary inquiries 9
  - 5.6 US pressure 10
  - 5.7 Al-Megrahi’s health 10
- 6 Arms exports 11**
- 7 Police and military training 12**
- 8 Evacuation efforts 12**
- 9 Sanctions in February 2011 14**
  - David Miliband’s 2009 statement to Parliament 16**

## 1 UK and US relations with Libya- timeline

- 1984 UK breaks off diplomatic relations with Libya after the Yvonne Fletcher killing in April outside the Libyan embassy
- 1988 Pan Am Flight 103 is brought down over Lockerbie, Scotland
- 1992 UN imposes sanctions in response to the Lockerbie bombing
- 1999 UK restores diplomatic relations
- 2003 UN lifts sanctions in response to Libya's undertaking to pay compensation for Lockerbie and the UTA bombing in Chad
- 2004 Tony Blair visits Libya
- 2005 US energy companies return to Libya for an auction of oil exploration licenses
- 2006 US restores full diplomatic relations
- 2007 Tony Blair visits Libya
- 2008 Libya and the United Kingdom sign a prisoners transfer agreement, which allows the return of a prisoner to serve out his sentence in his home country where both jurisdictions are in agreement
- 2009 Abdelbaset al-Megrahi is released on compassionate grounds due to ill health and not as a prisoner transfer
- 2010 - US senators push for inquiry into claims that oil giant BP lobbied for Lockerbie bomber's release. BP begins drilling off Libyan coast.<sup>1</sup>

## 2 Libya's partial rehabilitation

Libya's record as a state sponsor of terrorism was perhaps second to none. During the 1980, the Libyan government was suspected of involvement in

- Support for the Palestinian terrorist organisation Abu Nidal
- Plotting to assassinate the US ambassador to Libya
- Various bombings and attempts in Africa during the 1980s
- the bombing of a nightclub in Berlin frequented by the US military
- shipping weapons to the IRA
- The downing of a French UTA airliner over Chad, in Africa
- The bombing of Pan Am Flight 103 over Lockerbie

In the 1990s, Libya started to distance itself from its sponsorship of terrorism. In 1995, Libya provided critical information to the then UK government on its past links to the IRA. At that

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<sup>1</sup> Based on "Timeline: Libya", *BBC News Online*, 22 February 2011

time, the UK Government wrote to the United Nations declaring that they were "satisfied that they have largely met our expectations" in accounting for their support for the IRA.<sup>2</sup>

In 1999, the suspects of the Lockerbie bombing were handed over to Scottish authorities. Then in December of that year, Libya issued its clearest yet denunciation of terrorism, following a visit by Massimo D'Alema, the then Italian prime minister.

Libya was also known to have a chemicals plant that was used to manufacture chemical weapons; to have tried to obtain nuclear weapons; and had obtained plans for making nuclear weapons from the renegade Pakistani nuclear scientist, A Q Khan.

In 2003 (at around the same time as the US-led invasion of Iraq), it is reported that Saif al-Islam Qaddafi, who was at the time studying in London, approached MI6 with the message that his father was interested in renouncing the Libyan nuclear programme.<sup>3</sup> Negotiations ensued between the US the UK and Libya. In October 2003, a ship was intercepted carrying a cargo of nuclear equipment. Libya made an announcement on 19 December 2003 to the effect that the country would renounce its support for terrorism, its weapons of mass destruction and its ballistic missiles programme. In welcoming the announcement, President George W Bush said:

...leaders who abandon the pursuit of chemical, biological, and nuclear weapons, and the means to deliver them, will find an open path to better relations with the United States and other free nations.<sup>4</sup>

Following the announcement, Libya opened its facilities to inspection, joined the Chemical Weapons Convention (CWC), destroyed unfilled chemical shells and began the process of destroying its chemical weapons stockpile. Libya also committed itself to the destruction in stages of its remaining long-range Scud missiles. American and British officials were very happy with the developments; one US diplomat wrote in 2005:

Libyan cooperation was extremely good. Libyan officials answered questions with candor and volunteered information that provided valuable insight into the global proliferation network. During the course of this cooperative Libyan/U.S./U.K. elimination project, the Libyans demonstrated the good faith of their December 2003 commitment. They made themselves a model for the cooperative return of an isolated state to the broader international community through the verifiable elimination of illicit WMD and long-range missile programs. Libya's clear strategic commitment to a new path also illustrated the centrality of demonstrable cooperation and good faith to verifying the fulfilment of such promises.<sup>5</sup>

As part of the deal whereby Libya's international isolation was ended in return for cooperation on WMD and terrorism, the UK agreed to co-operate with Libya in the fields of education and culture, archaeology, health, judicial co-operation and training, economic and financial development, defence, counter-terrorism, police co-operation and training, tourism, travel visas, migration, development and the environment in Africa.<sup>6</sup>

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<sup>2</sup> HC Deb 12 October 2009, c29-32

<sup>3</sup> "Leader's LSE-educated son no longer a man the west can do deals with", *Guardian*, 22 February 2011

<sup>4</sup> Paula A. DeSutter, "Libya Renounces Weapons of Mass Destruction", *E-journalUSA*, 1 March 2005

<sup>5</sup> Paula A. DeSutter, "Libya Renounces Weapons of Mass Destruction", *E-journalUSA*, 1 March 2005

<sup>6</sup> HC Deb 12 October 2009, c44-5W

### 3 The 2008 prisoner transfer agreement

David Miliband, then the Foreign Secretary, made a statement to the House on 12 October 2009 in which he recounted the negotiation and signing of the prisoner transfer agreement, along with other agreements, at Sirte in Libya by Tony Blair and Colonel Qaddafi:

In May 2007, Prime Minister Tony Blair made his second visit to Libya. His summit with Colonel Gaddafi at Sirte covered the full range of our interests with Libya. Mr. Blair signed a defence accord and witnessed the public signature of a major BP exploration contract. Also agreed was a memorandum of understanding on negotiations for a judicial co-operation package, including a prisoner transfer agreement and agreements on mutual legal assistance, extradition, and civil and commercial law.

The UK had a model agreement, based on Council of Europe arrangements, that was the starting point for negotiation on our prisoner transfer agreements with any country and that provided the starting point for negotiations with the Libyans. Four points are relevant. First, a PTA provides for prisoner transfer, not prisoner release. Secondly, it provides a framework for transfer, not a right to transfer. Thirdly, a PTA cannot be used when appeals, including by the prosecuting authority, are outstanding, as in this case. Fourthly, Ministers in the sentencing jurisdiction-in this case Scotland-have an absolute right to veto any transfer.

This standard draft had no provision for any carve-out for any named prisoner. However, the Scottish Executive made strong representations for us to seek to alter the standard PTA so as specifically to exclude Mr. Megrahi. The UK negotiation team, led by the Ministry of Justice, sought in good faith to achieve this goal.

The Libyans insisted that the only PTA that they would sign was a PTA without any exclusions. So the Government had a clear choice. We could agree to a standard PTA with no exclusions, retaining for Scottish Ministers an absolute veto over any request for prisoner transfer in the case of Megrahi-a veto which they used in August this year [2009] or we could have ended the negotiations to prevent an application for prisoner transfer. This would have set back our wider national and commercial interests that flowed from normalised relations, as the Justice Secretary has made clear.<sup>7</sup>

On 17 December 2008, the UK and Libya signed the treaty establishing a regime for prisoner transfers.<sup>8</sup> The agreement with Libya was one of 23 bilateral prisoner transfer agreements with various countries. There are also two multilateral prisoner transfer agreements.

### 4 Saif al-Islam Qaddafi and the London School of Economics

Saif al-Islam, Colonel Qaddafi's most prominent son and supposed leader of the reformists in Libya, has a strong connection with the London School of Economics.

He studied for his PhD under Professor David Held, who introduced Saif al-Islam to an audience in 2010 as "someone who looks to democracy, civil society and deep liberal values for the core of his inspiration." Professor Held renounced Mr Qaddafi in February, saying that he (Mr Qaddafi) had "tragically, but fatefully, made the wrong judgment".<sup>9</sup>

The PhD thesis on global governance was examined by Lord Desai, Labour peer. There were rumours that it was plagiarism. After receiving his doctorate in 2008, Saif al-Islam

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<sup>7</sup> HC Deb 11 January 2011, c58WH

<sup>8</sup> *Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Great Socialist People's Libyan Arab Jamahiriya on the Transfer of Prisoners*, Cm 7540, 17 November 2008

<sup>9</sup> "Dictator's son who charmed his way to the heart of the business and political elite", *Times*, 23 February 2010

announced a £1.5 million donation to the LSE's Centre for the Study of Global Governance through his Gaddafi International Charity and Development Foundation. The LSE says that it has only received £300,000 of the donation and that it intends to use the money to benefit North African students with scholarships.

On 21 February, the LSE issued a statement distancing itself from the Qaddafis: "in view of the highly distressing news from Libya over the weekend of 19-20 February, the school has reconsidered those links as a matter of urgency".<sup>10</sup>

## 5 The al-Megrahi case

### 5.1 Background

Pan Am Flight 103 was blown up over Lockerbie in Scotland on 21 December 1988, resulting in the death of 259 passengers and 11 Lockerbie residents. In November 1991 warrants were issued for the arrest of Abdelbaset Ali Mohamed al-Megrahi and Lamin Khalifa Fhimah. They were accused of placing a bomb on board the aircraft in Malta, and charged with murder. They were finally handed over in 1999.

The Lockerbie trial began on 3 May 2000, and on 31 January 2001 al-Megrahi was found guilty, while the case against Fhimah was found to be not proven.<sup>11</sup> al-Megrahi subsequently appealed against his conviction but his appeal was refused on 14 March 2002. The case was reviewed by the Scottish Criminal Cases Review Commission (SCCRC), and independent body set up in 1999 to review cases where there has been a suspected miscarriage of justice and decide whether to refer them to the High Court of Justiciary.

The SCCRC published its findings on 28 June 2007 and, as predicted by commentators, its decision was that there were grounds for doubting the judgment of 2001, and accordingly the case was referred to the High Court. A summary of reasons for the decision is in the public domain; in it the SCCRC says that it does not find convincing the prosecution's key evidence supporting the conclusion that al-Megrahi was in Malta at the right time and bought materials used in the bomb.<sup>12</sup>

The conviction of al-Megrahi has always been controversial. Not only has the Libyan government said that it only accepted responsibility as the price to pay for reconnecting with the international community, and al-Megrahi always maintained his innocence, but some legal specialists have also cast doubt on the quality of the evidence which led to the conviction.<sup>13</sup> It has been claimed by commentators that the main prosecution witness in Malta was unreliable, that other evidence was withheld, lost or tampered with and that there was political interference in the case, from both sides of the Atlantic. It has also been suggested by some that the intelligence services from a number of countries have strong evidence pointing to a suspect not connected with Libya at all.<sup>14</sup> Some analysts have claimed that Libya was "framed" by western countries because the real suspects were connected with Iran and Syria, and these countries' acquiescence had to be obtained at the time of the ousting of Saddam Hussein from Kuwait.

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<sup>10</sup> "Leader's LSE-educated son no longer a man the west can do deals with", *Guardian*, 22 February 2011

<sup>11</sup> A "not proven" verdict is an acquittal used under Scots law when the judge or jury does not have sufficient evidence to convict but thinks the defendant probably committed the crime

<sup>12</sup> Scottish Criminal Cases Review Commission [news release](#), 21 June 2007

<sup>13</sup> See page 6, above

<sup>14</sup> See for example Hugh Miles, "Inconvenient Truths", *London Review of Books*, Vol 29 No 12, 21 June 2007

In October 2008, Al-Megrahi's lawyer announced that the prisoner had been diagnosed with "advanced stage" prostate cancer. Al-Megrahi subsequently applied to be released on bail, pending a court decision on his appeal. The bail bid was rejected, but in May 2009, Libya requested the transfer of al-Megrahi under the prisoner transfer agreements reached between the UK Government and Libya in 2007,<sup>15</sup> (which were opposed by the Scottish Executive).<sup>16</sup> This request was refused by the Scottish Executive on the grounds that the relatives of the victims of the bombing had been led to believe that the prisoner would serve his term in Scotland rather than Libya.

In July 2009, al-Megrahi applied for release on compassionate grounds, owing to his medical condition, and in August he dropped his second appeal against conviction.

## 5.2 The role of the Scottish Justice Secretary

The circumstances in which the Scottish Executive granted the prisoner compassionate release are controversial. Scottish Justice Secretary Kenny MacAskill said at the time that the executive did not want al-Megrahi to die in prison and become a "martyr";<sup>17</sup> for some, this comment undermined his claims that the release was allowed solely on judicial grounds.

The abandonment of al-Megrahi's appeal caused further controversy: the Libyan had a second appeal open, launched after the Scottish Criminal Cases Review Commission's referral of the case to the High Court of Justiciary, but he abandoned this appeal shortly before his release. Controversially, Mr MacAskill travelled to Greenock Prison to meet Mr al-Megrahi on 5 August 2009 (the rules state that applicants for prison transfer should be given an opportunity to present their case, but not necessarily in person). It is reported that the minutes of the meeting show that Mr MacAskill advised Mr al-Megrahi that prisoner transfer could only take place if there were no court proceedings ongoing, and some argue that this is evidence that a deal was struck. However, Scottish Executive officials said that the meeting was arranged to comply with the rules on prisoner transfer, not compassionate release, the process by which al-Megrahi was released,<sup>18</sup> and deny that there had been any deal on dropping the appeal. The Scottish Parliament Justice Committee, on the other hand, reports that Mr al-Megrahi was expressly invited to make representations on both the prisoner transfer application *and* the application for compassionate release.<sup>19</sup>

Critics of the release suggest that the Scottish authorities were keen to have the appeal dropped because there was a clear possibility that al-Megrahi would be cleared and that that would reflect badly on the Scottish legal system.

## 5.3 Al-Megrahis' release

On 20 August 2009, al-Megrahi was released by the Scottish Executive on compassionate grounds; this was not a prisoner transfer, as provided for in the UK/Libya agreement of 2007. The decision that was made in Edinburgh and is said to have been consistent with normal Scottish legal practice, the rules being that prisoners can be released on compassionate grounds if they have only three months to live. The release came 11 months after the

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<sup>15</sup> [Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Great Socialist People's Libyan Arab Jamahiriya on the Transfer of Prisoners](#), Cm 7540, November 2008

<sup>16</sup> For more information on the prisoner transfer agreements, see the Library Standard Note [Libya](#), of July 2007

<sup>17</sup> "MPs demand Commons inquiries into Lockerbie bomber's early release", *Times*, 31 November 2009

<sup>18</sup> "The Megrahi dossier: why he was set free", *Herald*, 2 September 2009

<sup>19</sup> Scottish Parliament Justice Committee, [The decision on Abdelbaset al-Megrahi](#), 3<sup>rd</sup> report, 5 February 2010, para 18

diagnosis of terminal prostate cancer. It was a discretionary decision but almost all similar cases in the last nine years had been decided in the same way.<sup>20</sup>

Al-Megrahi went back to Libya to a hero's welcome, despite the then Prime Minister Gordon Brown's request to the Libyan authorities for a low-key return. US President Barack Obama his release as a "mistake", and the families of some US victims called for a boycott of Scotland. The release was also highly controversial in the Scottish Parliament. Mr Brown made no public comment about the decision, saying it was a matter for the Scottish Executive. US President Obama expressed "disappointment" over the release in a telephone call to Mr Brown, although this was not mentioned in the Downing Street version of the conversation.<sup>21</sup>

The Coalition Government has a different policy from that of the previous government: it says that the decision was a mistake. Nevertheless, ministers are resisting calls for a public inquiry. Secretary of State for Scotland, Michael Moore, said:

The decision to release al-Megrahi was a decision for the Scottish Government—it was entirely theirs, and they answer for that decision—but we, as a Government, have made plain what we felt about it. However, there have been inquiries in the House and the Scottish Parliament, and I do not believe that, at this stage, a public inquiry would be appropriate.<sup>22</sup>

#### 5.4 Allegations of commercial interests influencing policy

It is alleged that Royal Dutch/Shell drafted a letter for then Prime Minister Tony Blair to send to Muammar Gaddafi.<sup>23</sup> According to the reports, Shell agreed a £325 million exploration contract with Libya in 2004, shortly after Tony Blair's visit to Libya in March of that year to seal Libya's reacceptance into the international community.<sup>24</sup>

BP expressed concern to the UK Government in 2007 at the slow progress of negotiations to reach agreement with Libya on a prisoner transfer deal.<sup>25</sup> In July 2009, the Libyan British Business Council warned the Scottish Justice Secretary Kenny MacAskill that the prospect of al-Megrahi's death in prison was of "grave concern".<sup>26</sup> The Council is chaired by Lord Trefgarne, whose son had worked for BP, and has BP and Shell as a prominent members. Mr MacAskill replied to the Council that the decision would be taken "on judicial grounds alone and that economic and political considerations have no place in the process."<sup>27</sup>

Shortly after the release of Mr al-Megrahi, Saif al-Islam Gaddafi, who is the son of the Libyan President, said that the prisoner transfer agreement was specifically intended to allow al-Megrahi to go home, and that it had been linked to trade and oil talks:

The prisoner transfer agreement was on the table all the time. It was part of the bargaining deal with the UK. When Blair came here we signed the agreement. It is not a secret.

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<sup>20</sup> Scottish Executive, [Compassionate Release - Cases Granted and Refused in Scotland](#), web page

<sup>21</sup> "Obama tells UK of Libya regret", *Financial Times*, 11 September 2009

<sup>22</sup> HC Deb 21 July 2010, c339

<sup>23</sup> "Shell drafted letter Tony Blair sent to Gaddafi while Prime Minister", *Times*, 27 April 2010

<sup>24</sup> "Political help behind Libya arms trade, says official", *Times*, 5 September 2009

<sup>25</sup> "Clarification: BP", *Financial Times*, 15 July 2010

<sup>26</sup> "The West plays Gaddafi's game", *Financial Times*, 5 September 2009

<sup>27</sup> "Business chief Lord Trefgarne urged MacAskill to release al-Megrahi", *Times*, 2 September 2009



We wanted to show Mr Megrahi and the Libyan people that we had been working very hard to find an exit for this innocent man. But this whole process of the PTA has nothing to do with this latest development because, officially, the Scottish authorities said they rejected the request for Mr Megrahi to return on prisoner transfer.

We submitted two requests; one on compassionate grounds because he is sick and the other was under the PTA agreement. At the end, the Scottish (Justice) Secretary said 'we reject the first one but accept the second'. This decision was not based on commerce or trade or industry and is entirely separate.<sup>28</sup>

The release of Mr al-Megrahi may have been on compassionate grounds, but his prostate cancer may have been a 'lucky' development for the UK authorities if, as some observers maintain, the transfer agreement was part of a commercial deal but did not, in the end, have to be used. Critics of the transfer agreement point out that within six weeks of the 2007 decision to agree the prisoner transfer scheme, Libya had ratified an oil and gas exploration deal with BP.<sup>29</sup>

The Scottish Executive has "stated categorically that there was no contact of any kind between the Scottish Government and BP in relation to Mr al-Megrahi."<sup>30</sup> Commentators have pointed out that the oil industry is a big employer in Scotland and Scotland is the home to many offshore oil exploration experts: the Scottish Executive would have been fully aware that oil and gas deals were good for the Scottish economy, not just for the oil companies themselves.

## 5.5 Parliamentary inquiries

In 2009, the UK Parliament's Joint Committee on Human Rights published its report into the Prisoner Transfer Agreement with Libya. The committee had concerns about possible threats to the human rights of those returned to Libya under the agreement, and wanted more time to scrutinise the treaty:

We note that the Secretary of State cited exceptional reasons why ratification of the treaty could not be delayed until we had been able fully to scrutinise the treaty. In our view, when a select committee states that it intends to scrutinise a treaty, ratification should be delayed until the committee's inquiry has concluded.<sup>31</sup>

The Justice Committee of the Scottish Parliament conducted an inquiry in 2010 and published its report on 5 February 2010. The report concluded that Mr MacAskill's decision was taken in good faith. Nevertheless, the committee was:

... extremely concerned about some aspects of the process leading up to the decision, particularly the decision to allow representations in person by Mr al-Megrahi in Greenock prison, the reasoning behind the refusal of the PTA application, the lack of clarity as to the basis on which compassionate release was granted and the fact that the announcement of the decision was not made to the Parliament.<sup>32</sup>

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<sup>28</sup> "I think the Scottish Justice Secretary is a great man. Why be so angry about an innocent man who is dying?", *Herald*, 28 August 2009

<sup>29</sup> "Mystery' added to furore on Lockerbie bomber", *Financial Times*, 1 September 2009

<sup>30</sup> [Letter from Alex Salmond MSP to Senator John Kerry](#) dated 22 July 2010

<sup>31</sup> Human Rights Joint Committee, *Prisoner Transfer Treaty with Libya*, Report, HL 71/HC 398 2008-09, 15 April 2009

<sup>32</sup> Scottish Parliament Justice Committee, *The decision on Abdelbaset al-Megrahi*, 3<sup>rd</sup> report, 5 February 2010, para 66

The committee suggested that Mr al-Megrahi could have been released but required to stay in Scotland and that a second medical opinion could have been sought. The Scottish Executive's position is that to have released al-Megrahi to his then home in Scotland would have required very expensive security protection.

There have been calls for further inquiries at Westminster into the matter.<sup>33</sup>

## 5.6 US pressure

In September 2009, New Jersey Senator Frank Lautenberg wrote to the Senate Foreign Relations Committee urging it to investigate BP's Libyan deal and any potential link with the Lockerbie case.

After BP's Gulf of Mexico oil disaster, the focus on the alleged links between the company and al-Megrahi's release increased sharply. Prime Minister David Cameron visited the US from 19 to 21 July 2010. In his meeting with President Obama, the BP controversy was played down. When he met congressional representatives, however, they urged Mr Cameron to hold an official UK inquiry into BP and the release of al-Megrahi. Downing Street said that an inquiry was "not currently under consideration" but that the Government would engage constructively with the US investigations.<sup>34</sup>

The chairman of the Senate Foreign Relations Committee, John Kerry, announced in July 2010 that the committee would be conducting an inquiry into the release. On 22 July he formally invited the Scottish Justice Secretary to attend a hearing. Scotland's First Minister Alex Salmond declined to allow any Scottish ministers to attend the hearings, saying that he thought that the Scottish Parliament was the right body to scrutinise the decisions of Scottish ministers. He nevertheless offered a constructive approach to the committee's investigations.

Others invited to give evidence to the US committee included Jack Straw, UK Justice Secretary at the time of the release, BP Chief Executive Tony Hayward, Dr Andrew Fraser, the director of health at the Scottish Prison Service at the time of al-Megrahi's release and Sir Mark Allen, once an MI6 officer, who lobbied the British Government on BP's behalf in connection with a Libyan oil contract in 2007. BP has said that it will send a representative, but none of the other invitations have been accepted.

## 5.7 Al-Megrahi's health

Shortly after al-Megrahi was released in 2009, it was widely reported that his health was deteriorating fast, although reports also said that there appeared to be "a concerted effort being made to dramatise his condition".<sup>35</sup>

The UK Government does not officially monitor Mr al-Megrahi's state of health, and little information is available. Jonathan Hinds, criminal justice manager of East Renfrewshire Council, talks to Mr al-Megrahi by telephone once fortnight, as agreed under the terms of his release. Mr Hinds also receives monthly reports on his medical condition but both the council and Scottish Executive refuse to publish them. Mr al-Megrahi's Scottish lawyer also refuses to discuss his client's health.<sup>36</sup>

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<sup>33</sup> "MPs demand Commons inquiries into Lockerbie bomber's early release", *Times*, 31 November 2009

<sup>34</sup> Downing Street, [Morning press briefing from 23 July 2010](#)

<sup>35</sup> Megrahi's 'health deteriorating', *BBC News Online*, 12 September 2009

<sup>36</sup> "'Hero' the Libyan regime wants to keep out of sight", *Times*, 29 July 2010

## 6 Arms exports

After the lifting of sanctions in 2003, arms exporting countries were keen to tap into Libya's rising defence spending.

According to the Campaign Against the Arms Trade's analysis of the Department for Business Industry and Skills most recent report,<sup>37</sup> the UK has approved licences for the following:

In the third quarter of 2010 (the most recent period for which figures are available), equipment approved for export included wall and door breaching projectile launchers, crowd control ammunition, small arms ammunition, tear gas/irritant ammunition, training tear gas/irritant ammunition. Ammunition comprised £3.2m of the £4.7m million of military items licensed.

Sniper rifles were among the other equipment licensed in 2010. No requests for licences were refused in 2010.<sup>38</sup>

Ministerial support for arms exports to Libya caused some controversy. The head of the UK Trade & Investment Defence & Security Organisation (UKTI DSO), the government's defence export promotion body, said in 2009 that the government had pushed for arms sales to Libya:

There have been high-level political interventions, often behind the scenes, in places like Libya, Oman, India and Algeria. The key here is consistent support over time, delivered at key points in a campaign. You'd expect us to deliver Whitehall support and we are doing that.<sup>39</sup>

The response from Downing Street was, "It's hardly surprising UKTI DSO are seeking to promote defence exports - that is their job".<sup>40</sup>

UKTI DSO representatives also met with private security company representatives in Libya between 2005 and 2010.

On 18 February, the government announced that it was revoking eight licences for exports to Libya and several licences for exports to Bahrain. Foreign Office minister Alistair Burt commented, "We have no evidence of British equipment being used in the unrest in Bahrain."<sup>41</sup>

A summary of the criteria for deciding on licence applications is provided by the Export Control Organisation:

The **Consolidated EU and National Arms and Export Licensing Criteria** set out the basis on which the government assesses licence applications for military and Dual-Use goods which are authorised by the Export Control Organisation (ECO). The Criteria include consideration of whether the proposed export would:

- contravene the UK's international commitments
- be used for internal repression

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<sup>37</sup> See the quarterly reports at the FCO's [Strategic export controls web page](#)

<sup>38</sup> "UK arms sales to Middle East include tear gas and crowd control ammunition to Bahrain and Libya" Press release, 17 February 2011

<sup>39</sup> "Political help behind Libya arms trade, says official", *Times*, 5 September 2009

<sup>40</sup> "Political help behind Libya arms trade, says official", *Times*, 5 September 2009

<sup>41</sup> FCO, "[Foreign Office Minister comments on review of arms exports](#)", Press notice, 18 February 2011

- provoke or prolong armed conflicts or aggravate existing tensions in the destination country
- be used aggressively against another country
- adversely affect the national security of the UK or allies
- be diverted or re-exported under undesirable conditions
- seriously undermine the economy
- seriously hamper the sustainable development of the recipient country<sup>42</sup>

A full explanation of the criteria was given by Peter Hain MP to the House of Commons in a written answer on 26 October 2000.<sup>43</sup>

Further information on the UK's arms export control policy can be found in a [Library Standard Note](#).

## 7 Police and military training

The UK has been involved in training the Libyan police and military. The Home Office listed the number of police officers that had been sent to Libya since 2004 in a PQ answer:

- 2004: three police officers and one member of police staff from West Yorkshire police delivered a three-week programme on drugs investigation. This was part of a project coordinated by the United Nations Office on Drugs and Crime
- 2008: one police officer from South Wales police delivered a two-week Major Incident Command Programme organised by the National Policing Improvement Agency (NPIA)
- 2008: two police staff members of the NPIA delivered a two-week forensic awareness training programme
- 2009: two police officers (one seconded to the NPIA) from the Police Service of Northern Ireland delivered a three-week Silver Command and Control Programme.<sup>44</sup>

Military personnel from Libya started training courses in the UK in 2008-09, along with personnel from 105 other countries.<sup>45</sup>

According to a report in the *Financial Times*, Saadi Qaddafi, one of the Qaddafi sons, said recently that the British government had in 2010 sent SAS forces to eastern Libya to “train our special forces because they were expecting to fight al-Qaeda in this part of the country.”<sup>46</sup>

## 8 Evacuation efforts

An estimated 3,500 British citizens were in Libya when the uprising started.<sup>47</sup> The initial efforts of the UK government were criticised as being too slow and not well-organised, and it was reported that other countries had rescued their nationals more quickly.

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<sup>42</sup> Export control Organisation, *The Consolidated Criteria (for export licence applications)*

<sup>43</sup> HC Deb 26 October 2000, c200w

<sup>44</sup> HC Deb 5 November 2009, c1143w

<sup>45</sup> HC Deb 30 March 2010, c868-70w

<sup>46</sup> “Despot expects ‘big father’ role in any new regime”, *Financial Times*, 24 February 2011

The government's policy is to rely on scheduled flights where possible. If the government organises special flights, passengers may cancel their existing bookings and undermine the scheduled flights.

On Tuesday 21, British Airways and BMI cancelled flights to Libya. Thereafter, special flights had to be arranged, but to get landing permission out of the Libyan government was difficult. Other countries reportedly dealt with this problem by landing without permission.<sup>48</sup>

On Wednesday 23, the Foreign Office chartered three planes from brokerage companies but, in the absence of official landing permission, two of the planes were not delivered because of insurance and security concerns on the part of the brokerage companies. The one plane that was made available then reported technical problems and stood at Gatwick Airport most of the day, finally taking off on the evening of the Wednesday. Meanwhile, a plane chartered by BP had already taken many UK nationals out of Tripoli. William Hague made a statement on the difficulties on the 23rd. He said that a review would look at lessons to be learned:

Given today's difficulties with reliably chartering private planes, I will establish a review, directly reporting to ministers, into the FCO's long-standing arrangements for aircraft evacuations. We need to know whether today was a coincidental series of unavoidable setbacks, or a systemic flaw.<sup>49</sup>

On 24 February, David Cameron said that he was "incredibly sorry" for the handling of the evacuation.<sup>50</sup> Both BP and the FCO evacuated people from Tripoli on the Thursday, one of the flights being aboard an RAF transport plane which carried 52 UK nationals and 13 others. HMS Cumberland docked in Benghazi and prepared for evacuations.

On Friday 25 February, Labour leader Ed Miliband said:

There is a worrying whiff of incompetence about the way this government is handling this issue, and it's become a pattern with this government about the way decisions are made and the way things are handled. Frankly, I think Mr Cameron has got to get a grip on the way this Government works.<sup>51</sup>

On the 26<sup>th</sup>, the remaining embassy staff in Libya were evacuated and the embassy was closed. Two Hercules military transport planes landed at an airstrip in southern Libya to rescue stranded oil workers. The airstrips had been made safe by Special Forces in cooperation with local militia. The RAF planes left with 150 people, many of whom were British.

Meanwhile, 53 Britons were among 100 on the last government flight out of Libya, and HMS Cumberland returned to Benghazi to evacuate the remaining people there. HMS York called into Valetta, the capital of Malta, to take on supplies to assist with the evacuation process.

On 27 February, 68 Britons and 140 others arrived in Valetta on HMS Cumberland. Three more Hercules transporters rescued a further 150 people, of whom 20 were British, from southern Libya. One of the planes took small arms fire which entered the cockpit and hit the pilot's helmet. The evacuees were flown to Malta.

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<sup>47</sup> "Libya unrest: Irish plane told to leave Tripoli", *BBC News Online*, 24 February 2011

<sup>48</sup> "Libya rescue: What went wrong with UK response?", *BBC News Online*, 24 February 2011

<sup>49</sup> "Libya unrest: UK's first rescue flight arrives", *BBC News Online*, 24 February 2011

<sup>50</sup> "Libya unrest, David Cameron apology for UK response", *BBC News Online*, 24 February 2011

<sup>51</sup> "Libya evacuation: Cameron pledge on remaining Britons" *BBC News Online*, 25 February 2011

On 28 February, the Prime Minister made a statement to Parliament about the evacuation:

Mr Speaker, we have been working intensively to get our people out. As of now we have successfully removed around 600 British nationals from Libya.

The evacuation has centred on three locations – Tripoli airport, the port at Benghazi and the desert oil fields. At Tripoli airport, a series of six aircraft organised by the Foreign Office and an RAF C130 Hercules flight have brought out more than 380 British nationals and a similar number of foreign citizens. At Benghazi, HMS Cumberland has carried out two evacuations from the port, taking out 119 British nationals and 303 foreign citizens.

The first of these evacuations took place in very difficult sea conditions. The second arrived in Malta earlier today. These evacuations were assisted on the ground by 5 rapid deployment teams, in total nearly 30 extra staff from the Foreign Office, who helped marshal British citizens in the midst of chaotic scenes in and around the airports and ports.

The most challenging part of the evacuation has of course involved those British nationals scattered across over 20 different locations in the oil fields deep in the desert. On Friday evening I authorized a military operation to bring as many as possible out of the desert. On Saturday, two RAF C130 aircraft flew into the Eastern desert and picked up 74 British nationals and 102 foreign nationals at three different locations. A second mission took place yesterday, bringing out a further 21 British nationals and 168 foreign nationals. On this second mission, one of the aircraft involved suffered minor damage from small arms fire. This underlines the challenging environment in which the aircraft were operating.

Indeed Britain has taken on a leading role in coordinating the international evacuation effort. Our AWACS aircraft are directing international aircraft involved. And Brigadier Bashall, who is commanding the operation, has established a temporary joint headquarters in Malta.<sup>52</sup>

The British evacuation process may have been criticised, but it was not all plain sailing for other countries either. One Irish plane was forced to leave empty on the Thursday, for example and on the Friday the same thing happened to a Canadian plane when no Canadians were found at Tripoli airport.

## **9 Sanctions in February 2011**

The United Nations Security Council passed Resolution 1970 on Saturday 26 February. The Resolution demanded an end to the violence in Libya and decided to refer the situation to the International Criminal Court (ICC). It also imposed, under the mandatory provisions of Chapter VII of the UN Charter, an immediate arms embargo on Libya, a travel ban and an asset freeze on designated persons, who are listed in an annex to the resolution.<sup>53</sup> The travel ban includes several members of the regime, while the assets freeze includes only close family members of Muammer Qaddafi

It is reported that the resolution was drafted mainly by the UK mission to the UN, in consultation with the French. These are the only permanent members of the Security Council to have signed the Rome Statute setting up the ICC. This is the first time that the Security

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<sup>52</sup> HC Deb 28 February 2011, c23-6

<sup>53</sup> [“In swift, decisive action, Security Council imposes tough measures on Libyan regime, adopting resolution 1970 in wake of crackdown on protesters”](#), United Nations Security Council Press release, 26 February 2011

Council has voted unanimously to refer a state to the ICC, and as such is a victory for the UK and France.<sup>54</sup>

Further measures, particularly the establishment of a no-fly zone, were not included in the resolution as this would have delayed a decision or made unanimity less likely. The usefulness of a no-fly zone has been widely questioned. It has been reported that the US tried to get broader authorisation that would permit military action to protect civilians and installations, inserting the phrase “all means necessary”, traditionally code for military action. The resolution does mandate “all measures necessary” to secure the prompt and safe delivery of humanitarian assistance to those in need.

On Friday 25 February, the EU agreed a package of sanctions:

- An arms embargo
- An asset freeze on Colonel Qaddafi and his family and his associates
- A ban on all travel to Europe

The measures were to be agreed on Monday 28 and effective on Tuesday 1 March.

The UK, along with the EU, aims to go further than the UN resolutions in sanctioning the Qaddafi regime. The Government already froze the assets of the Qaddafi family, and has prevented the export of £900 million-worth of Libyan banknotes, printed in the UK, to Libya. An export control order banning such exports for the coming year has now been put in place; it is reported that Customs officials used delaying tactics to prevent the currency leaving the country until the official ban had been enacted.<sup>55</sup>

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<sup>54</sup> “Rendezvous with history as Security Council agrees on Libya”, *Financial Times*, 28 February 2011

<sup>55</sup> “Chancellor freezes Gaddafi assets”, *Financial Times*, 28 February 2011

## David Miliband's 2009 statement to Parliament

### **The Secretary of State for Foreign and Commonwealth Affairs (David Miliband):**

Mr. Speaker, with your permission, I will make a statement on the circumstances surrounding the decision of the Scottish Justice Minister on 20 August to release on compassionate grounds the man convicted of the Lockerbie bombing, Abdelbaset al-Megrahi.

As the Prime Minister has said, Lockerbie was a terrorist act of the gravest brutality. It was the largest peacetime loss of life on British territory. It was a major tragedy, with the killing of 43 Britons in the sky and in Lockerbie, 190 Americans and people of 19 other nations. It was an act, by people and a state, that breached all norms of humanity. That is why the reception for Megrahi on his return in August at Tripoli airport was so unacceptable.

My statement today sets out the events leading up to the Scottish Justice Minister's decision to release Megrahi. I will set out the changes in Libya's relations with the international community since 1988 and address the three central issues raised in respect of the UK Government at the time of his release: first, the decision by the Government to sign a prisoner transfer agreement with Libya that did not exclude Megrahi; secondly, the relationship between the British Government and Scottish Executive in the decision-making process; and thirdly, the separate questions of the investigation into the murder of WPC Yvonne Fletcher and the compensation for victims of Libyan-supported IRA terrorism.

The House will know that today is the 25th anniversary of the Brighton bombing, when the IRA attempted to murder a British Prime Minister and her Cabinet, and did kill five people, including one Member of this House, and injured many others. Throughout the 1980s and 1990s, the Libyan Government were linked to a number of terrorist organisations, including the Provisional IRA. Libya's support for international terrorism defined its relations with the western world.

As right hon. and hon. Members will recall, WPC Yvonne Fletcher's murder in April 1984 led us to cut off diplomatic relations. The bombing of a nightclub in West Berlin in 1986 was followed by US air-strikes on Tripoli and Benghazi. When evidence emerged supporting allegations that Libyan intelligence officers had been involved in the bombing of Pan Am flight 103 over Lockerbie in December 1988, the United Nations Security Council demanded that Libya hand over the accused and imposed sanctions when it failed to comply.

During the 1990s there was evidence from a range of sources that the Libyans were also actively pursuing a range of nuclear, chemical and biological weapons programmes, as well as the development of ballistic missiles. Libya was a pariah state whose activities posed a clear and unambiguous threat to international peace and stability, and to our security in this country. The story of the past decade has been very different. Libya has abandoned its support for international terrorism and stopped its pursuit of weapons of mass destruction, in a series of events that merit the term "unforeseeable".

In 1998, the US and UK Governments put forward a detailed joint proposal for the trial of the two accused of the Lockerbie atrocity. Our joint commitment to close and transparent working in all matters has continued throughout this case. We reported our proposal to the UN Security Council and the UN Secretary-General and, with the support of the Security Council, in 1999 persuaded the Libyans to surrender the two accused to a specially constituted court in the Netherlands where a Scottish panel of judges, without a jury, would try the accused under Scots law. Libya also agreed to pay



\$10 million compensation to each of the families of the victims, whatever their nationality, if the defendants were convicted. Megrahi was found guilty under Scottish law by the court in 2001 and his conviction was upheld on appeal in 2002.

Against that background and, as I will explain later, in particular after the Libyan admission of responsibility for WPC Fletcher's murder, the UK restored diplomatic relations in July 1999. The long-term aim was clear: the normalisation of relations with Libya.

On 19 December 2003, following months of secret discussions with the UK and US, the Libyans announced that they would eliminate their weapons of mass destruction and nuclear weapons programmes, and restrict the range of their missiles. They also agreed to immediate international inspections and to be bound by all the relevant international agreements, which they now are. Today, we share information and co-operate in our efforts to disrupt and dismantle terrorist groups in Europe and north Africa, in particular al-Qaeda in the Maghreb, which was responsible for the kidnap and murder of Edwin Dyer in May. We also try to find common ground in the UN and elsewhere on matters of common concern.

There is also an entirely legitimate commercial dimension to our ties. With the largest proven oil reserves in Africa and extensive gas reserves, Libya is potentially a major energy source for the future. We work hard to support British business in Libya, as we do worldwide.

We continue to have serious concerns about human rights in Libya, including about freedom of expression, arbitrary detention, political prisoners and the mistreatment of migrants. There are a number of important outstanding issues, in particular concerning the investigation into the murder of WPC Fletcher and the campaign for compensation by the victims of IRA terrorism.

In May 2007, Prime Minister Tony Blair made his second visit to Libya. His summit with Colonel Gaddafi at Sirte covered the full range of our interests with Libya. Mr. Blair signed a defence accord and witnessed the public signature of a major BP exploration contract. Also agreed was a memorandum of understanding on negotiations for a judicial co-operation package, including a prisoner transfer agreement and agreements on mutual legal assistance, extradition, and civil and commercial law.

The UK had a model agreement, based on Council of Europe arrangements, that was the starting point for negotiation on our prisoner transfer agreements with any country and that provided the starting point for negotiations with the Libyans. Four points are relevant. First, a PTA provides for prisoner transfer, not prisoner release. Secondly, it provides a framework for transfer, not a right to transfer. Thirdly, a PTA cannot be used when appeals, including by the prosecuting authority, are outstanding, as in this case. Fourthly, Ministers in the sentencing jurisdiction-in this case Scotland-have an absolute right to veto any transfer.

This standard draft had no provision for any carve-out for any named prisoner. However, the Scottish Executive made strong representations for us to seek to alter the standard PTA so as specifically to exclude Mr. Megrahi. The UK negotiation team, led by the Ministry of Justice, sought in good faith to achieve this goal.

The Libyans insisted that the only PTA that they would sign was a PTA without any exclusions. So the Government had a clear choice. We could agree to a standard PTA with no exclusions, retaining for Scottish Ministers an absolute veto over any request for prisoner transfer in the case of Megrahi-a veto which they used in August this year-or we could have ended the negotiations to prevent an application for prisoner transfer. This would have set back our wider national and commercial interests that flowed from

normalised relations, as the Justice Secretary has made clear. Since the PTA involved no prejudice to the rights of the Scottish Executive, nor pressure on the Scottish Executive, the Government decided it was right to go ahead. The PTA finally took effect in April 2009.

In September 2008, a new factor came into play. Megrahi was diagnosed with terminal cancer. The Libyans became increasingly concerned at the prospect of Mr. Megrahi dying in a Scottish prison. They communicated this to the Government and to the Scottish Executive. It was repeatedly made clear in reply, including in the Prime Minister's meeting with Colonel Gaddafi on 10 July this year, that the decision on Mr. Megrahi's fate was exclusively for Scottish Ministers and the Scottish judicial system.

Notwithstanding that any decision on release was for Scottish Ministers and the Scottish judicial system, the UK Government had a responsibility to consider the consequences of any Scottish decision. We assessed that although the decision was not one for the UK Government, British interests, including those of UK nationals, British businesses and possibly security co-operation, would be damaged-perhaps badly-if Megrahi were to die in a Scottish prison rather than in Libya. Given the risk of Libyan adverse reaction, we made it clear to them that as a matter of law and practice it was not a decision for the UK Government and that as a matter of policy we were not seeking Megrahi's death in Scottish custody.

In Scotland, compassionate release generally comes into play in the last three months of a prisoner's life. Scottish Justice Secretary MacAskill has set out the process by which he arrived at his decision in August this year to refuse the PTA transfer but to grant Megrahi compassionate release. He also set out the grounds on which he did so. As the Scottish Justice Secretary repeatedly stated in his announcement, this was a decision for him and him alone to take. The Government were clear that any attempt by us to pressure the Scottish Executive would have been wrong. At the press conference announcing his decision, the Scottish Justice Secretary confirmed that there was "no pressure from Westminster".

It is also important to address the unfounded allegation that we ended our search for progress in dealing with the legacy of Libya's past support for terrorism. Admission of responsibility for WPC Fletcher's murder and the payment of compensation were necessary for the restoration of diplomatic relations in 1999. Four years later, we secured Libyan agreement to a joint investigation into the murder. It was clear, including to the family, that anyone prosecuted for the murder would have to be tried in Libya. Since 2007, the Libyans have refused to allow the Metropolitan police to return to complete their work. We share the determination of the Fletcher family to find answers, and continue to work on this case.

In 1995, Libya provided critical information on its past links to the IRA. At that time, the then UK Government wrote to the United Nations declaring that they were

"satisfied that they have largely met our expectations"

in accounting for the extent of their support for the Provisional IRA. Libya has since then considered the issue a closed matter. Nevertheless, in respect of the campaign involving hon. and right hon. Members to secure compensation from Libya in respect of its past support for the Provisional IRA, we have created a dedicated unit in the Foreign Office to facilitate the families' renewed campaign. The unit is currently working with hon. and right hon. Members to secure a visit to Libya soon.

Twenty-one years on, the ongoing pain of the Lockerbie atrocity remains a testament to Libya's past association with international terrorism. Her re-entry into the community of nations does not and cannot absolve her of this responsibility. It does, however,

represent a major step forward. The Government make no apology for their part in securing this progress and we reject the charges repeatedly made but not justified. The PTA was not an agreement for Megrahi's release. The Scottish Justice Minister said he was not pressurised to release him. We did not forget the victims of IRA terrorism, or WPC Fletcher. On that basis, I commend this statement to the House.<sup>56</sup>

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<sup>56</sup> HC Deb 12 October 2009, c29-32