



Foreign &
Commonwealth
Office



Department
for International
Development

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Andrew Murrison MP
House of Commons
London
SW1A 0AA

Dear Andrew,

During my evidence session with the Committee on 20th November, I committed to providing additional information in writing to the Committee. Please find that information below.

1. To clarify the veracity of recent press statements which allege the UK Treasury has released interest or dividends accumulated from the frozen Libyan assets. [Q14-19]

I would like to take this opportunity to clarify the role of HM Treasury, which, through its Office of Financial Sanctions Implementation (OFSI), is the responsible Department for the implementation of financial sanctions in the UK. HM Treasury does not hold, freeze or move funds as a result of financial sanctions and the decision to do so rests solely with the financial institutions which hold them, according to their understanding of the law. HM Treasury may grant permission for frozen funds to be released, by issuing a licence where relevant derogations apply, however a licence does not compel financial institutions to release funds and the decision to do so is theirs alone.

With regard to comments made to the Committee regarding Libyan assets frozen in the UK more generally, I would also like to clarify that they reflect a UK policy priority

to protect wherever possible the funds in question from the risk of misappropriation, recalling that the Libya sanctions were put in place to protect the value of the frozen assets until such time as they can be returned to and for the benefit of the Libyan people. The UK is currently engaged in ongoing discussions with partners at the UN and EU to ensure the most effective global implementation of Libyan sanctions.

2. The "history and precedent" which underpins the policy, held by successive UK Governments, of not pursuing Government-to-Government negotiations with Libya on compensation for victims. [Q34, 37]

Whilst the UK Government provided assistance in helping to secure compensation for the victims of the Lockerbie bombing, and for the family of PC Yvonne Fletcher, these were attacks with evidence of direct Libyan planning and execution. In contrast, Libya is considered to be a third party in Qadhafi-sponsored IRA terrorism, providing support to the Provisional IRA but not itself directing or carrying out the attacks. While this in no way diminishes the suffering caused, it makes establishing a causal links more challenging. There is no precedent for HMG espousing victims' claims against a state alleged to have sponsored a terrorist group's activity.

HMG decisions on whether formally to espouse a claim made by an individual against a foreign government are also guided by a set of criteria based on general principles of customary international law. These criteria have appeared in a number of published works, and more recently in the Draft Articles on Diplomatic Protection by the UN International Law Commission. Also relevant are the Draft Articles on Responsibility of States for Internationally Wrongful Acts. There are 11 criteria, including that the UK Government would not normally agree to espouse a claim against another State until all legal remedies in that State have been exhausted.

In the case of British victims of Qadhafi-sponsored IRA terrorism, it does not appear that all legal remedies in Libya have been exhausted, although we recognise that progress is extremely slow and understand the frustration that has caused. Our position is therefore one of support for and facilitation of contacts between victims and the relevant Libyan authorities in order that claims can ultimately be settled directly.

3. The form the frozen Libyan assets take (for instance, property or bank accounts), whether they are currently subject to any UK tax, the yield of the investments and whether transactional fees apply. [Q66-69, 93]

I can confirm that the assets reported to HM Treasury as frozen are made up of a spread of different assets and investments, as was indicated. The Treasury does not hold information about yield. Designated persons are not exempt from tax as a consequence of having their assets frozen.

4. To clarify whether any internal inquiry has been carried out to assess the veracity of press statements which allege Tony Blair reached a secret deal with Libya over trade and compensation. [Q118]

FCO officials have looked into this question on several occasions and found no evidence of any such deal.

I also committed to providing you with a timeline of Government Departments' engagement with one another, along with further information regarding when I will be able to set out some of the options being discussed to support victims. I will do this separately before Christmas.

Yours ever
Alistair

THE RT HON. ALISTAIR BURT MP
Minister of State for the Middle East and North Africa